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Contact

Canadian Parliamentary Review
c/o Ontario Legislative Library
Queen's Park
Toronto, ON M7A 1A9

E-Mail: revparl@ola.org
Web: <http://www.revparlcan.ca> (New)
<http://www.revparl.ca>

Editor: (416) 325-0231
Fax: (416) 325-3505
E-Mail: wstos@ola.org

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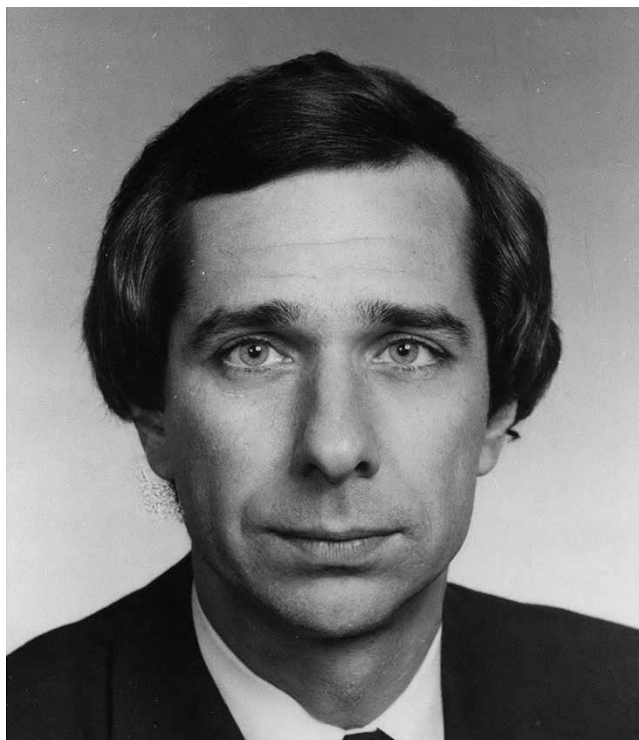
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Official photograph of Pierre Marc Johnson, 1981.
National Assembly of Quebec fonds, photographer: Kedl.

This example is impressive, but what about families whose members served as provincial representatives or legislative advisors exclusively in Quebec, also in consecutive generations? This is the case for both the Tessier family and one branch of the Taschereau family – not the same branch as Louis-Alexandre, mentioned above. Ulric-Joseph Tessier became a Member of the Legislative Assembly in 1851. Three subsequent generations served in Quebec City, ending with his great-grandson Maurice, who left the National Assembly in 1973. The Taschereau family legacy dates back



Official photograph of Daniel Johnson (son), 1981.
National Assembly of Quebec fonds, photographer: Kedl.

even earlier. In 1792, Gabriel-Elzéar sat in the House of Assembly of Lower Canada, while the fourth generation and last representative, Henri-Elzéar, served until 1867.

Another interesting family legacy is that of Fabien Bélanger, the MNA for Mégantic-Compton from 1980 to 1983 at the National Assembly of Quebec. When he passed away, his wife, Madeleine Bélanger (née Audet) succeeded him and held the seat until 2003. Four years later, their daughter, Johanne Gonthier, was elected in the same riding.

Jacques Gagnon
Director, National Assembly
Library of Quebec

Chagnon v. Syndicat de la fonction publique et parapublique du Québec: Implications of the Supreme Court of Canada's Decision for the Law of Parliamentary Privilege

The Supreme Court of Canada's decision in *Chagnon v. Syndicat de la fonction publique et parapublique du Québec* is the most significant development in Canadian law regarding parliamentary privilege since *Canada (House of Commons) v. Vaid*, 2005 SCC 30. The *Chagnon* decision provides useful insights regarding the fundamental nature of parliamentary privilege, the management of employees, and when and how a statute may demonstrate Parliament's intent to waive the application of privilege.

Philippe Dufresne and Dara Lithwick

Introduction

The Supreme Court of Canada's decision in *Chagnon v. Syndicat de la fonction publique et parapublique du Québec*,¹ rendered on October 6, 2018, is the most significant development in Canadian law regarding parliamentary privilege since *Canada (House of Commons) v. Vaid*, 2005 SCC 30. In a majority decision (six justices in the majority, one concurring, and two dissenting), the Supreme Court held that the dismissal of three security guards employed by the Quebec National Assembly was not protected by parliamentary privilege and could be challenged before a grievance arbitrator. Overall the decision reiterates the central role of parliamentary autonomy as a *raison d'être* for parliamentary privilege.

Philippe Dufresne is the Law Clerk and Parliamentary Counsel of the House of Commons, Parliament of Canada. Prior to his appointment as Law Clerk, Mr. Dufresne served as Senior General Counsel for the Canadian Human Rights Commission and was the lead counsel before the Supreme Court of Canada in the Canada (House of Commons) v. Vaid case. Dara Lithwick serves as Special Advisor and Counsel in the Office of the Law Clerk and Parliamentary Counsel at the House of Commons.

There are three main implications from the decision regarding the scope of parliamentary privilege in Canada. First, *Chagnon* reiterates that the demonstration of a claimed privilege's necessity requires proof that immunity from outside review for a decision is necessary for Parliament to fulfill its fundamental role as a legislative and deliberative body. Second, *Chagnon* makes clear that, to date, the Supreme Court has not recognized privilege over the management of any parliamentary employees. Finally, the decision confirms that a statutory waiver of privilege must be explicitly expressed or at least inevitable in terms of outcome.

Background

Three National Assembly security guards who had inappropriately used the Assembly's surveillance cameras to look inside the rooms of an adjacent hotel in Quebec City were subsequently dismissed by the President of the Assembly. Their union grieved their dismissal before a labour arbitrator in accordance with provisions in the *Act respecting the National Assembly*, CQLR, c. A-23.1 (ARNA) which regulates the operations of the Assembly. The President objected to the grievances, asserting that the decision to dismiss the guards was immune from outside review as it was protected by the parliamentary privilege over

the management of employees and the parliamentary privilege to exclude strangers from the Assembly.

The arbitrator held that the dismissals were not protected by parliamentary privilege and that the grievances could proceed. The President applied to the Quebec Superior Court for judicial review, which allowed the application and held that the arbitrator did not have jurisdiction to decide the grievances due to parliamentary privilege.

The union appealed to the Quebec Court of Appeal, which allowed the appeal. In a 2-1 decision, the majority held that the privilege over the management of employees did not apply to the guards because their tasks were not closely and directly connected to the National Assembly's deliberative and legislative functions. It concluded that it was not necessary for the President to have unreviewable authority over the management of the guards in order to ensure the proper functioning of the Assembly. In dissent, Justice Morin would have found privilege to apply, reasoning that guards provide front-line security services that are necessary for the Assembly to carry out its mandate.

The President appealed to the Supreme Court of Canada, which dismissed the appeal and confirmed that the matter could be grieved before a labour arbitrator.

Writing for the majority, Justice Karakatsanis rejected the argument that the dismissal of the guards fell under a parliamentary privilege for the management of staff or the exclusion of strangers. The majority reiterated the important role of privilege in preserving the separation of powers and the ability of legislative assemblies to fulfil their functions. The majority also recognized that the insulation from outside review that privilege provides is a key component of our constitutional structure and the law that governs it and confirmed that the establishment of an inherent privilege required the demonstration of the privilege's necessity, and in particular, that the claimed immunity was necessary.

In concurring reasons, Justice Rowe agreed with the majority that the grievance could proceed but did so on the basis that any potential privilege had been waived by the adoption of the ARNA which regulates the operations of the Assembly. This conclusion was rejected by both the majority and the dissent on the basis that privilege could only be waived by express language or necessary implication, which were absent here.

In dissent, Justices Côté and Brown would have found that privilege applied to the management of the employees at issue and was not ousted by the adoption of the ARNA.

First Implication: The Nature of Parliamentary Privilege: The Necessity of Immunity/ Autonomy

The first implication of the *Chagnon* decision is a recognition that immunity from outside review is a key component of privilege and of our constitutional law. At its essence, parliamentary privilege is an expression of Parliament's autonomy to regulate itself in order to ensure that it can properly discharge its constitutional functions (legislating, deliberating, and holding the government to account). The outside review of a decision falling under privilege is problematic because, even if a legislature's decision were to be upheld, the fact of having been reviewed and confirmed by an outside body would have practical and symbolic impacts on the legislature's dignity and ability to function.²

In *Chagnon*, the Supreme Court confirmed that parliamentary privilege is not outside the law but is an important part of the law, and indeed of the rule of law, as a central pillar of the constitutional architecture of Canada. Writing for the majority, Justice Karakatsanis reiterated the definition of parliamentary privilege found in *Vaid*, as "the sum of the privileges, immunities and powers enjoyed by the Senate, the House of Commons and provincial legislative assemblies, and by each member individually, without which they could not discharge their functions" (para 19, citing *Vaid* at para. 29(2)). She observed that parliamentary privileges "help preserve the separation and balance of power between the different branches of government" (at para 21) by enabling the legislative branch to hold the executive branch of government to account. Courts determine the existence and scope of a privilege, while the legislative branch has full control over determining whether the exercise of a privilege is necessary or appropriate (para 32)).

Necessity

In Canada, particularly in cases affecting the *Charter* rights of non-members of Parliament or a legislature, a purposive approach based on **necessity** is used to evaluate the existence and scope of a claimed inherent parliamentary privilege. Such an approach helps reconcile claimed privileges with individuals' rights under the *Canadian Charter of Rights and Freedoms*. As noted by Justice Karakatsanis:

A purposive approach to parliamentary privilege recognizes the *Charter* implications of parliamentary privilege. It strives to reconcile privilege and the *Charter* by ensuring that the privilege is only as broad as is necessary for the proper functioning of our constitutional democracy (at para 28).

The majority reiterated that the party claiming the privilege has the onus of establishing its existence and that the establishment of an inherent privilege³ required a demonstration of the privilege's necessity to the proper functioning of the assembly. Citing *Vaid*, the majority confirmed that to meet the necessity test, a claimed privilege must be

so closely and directly connected with the fulfillment by the assembly or its members of their functions as a legislative and deliberative body... that outside interference would undermine the level of autonomy required to enable the assembly and its members to do their work with dignity and efficiency (emphasis added) (para 29, citing *Vaid* at para 46).

In other words, immunity from outside review must be necessary for the assembly to fulfil its constitutional functions.

"Necessity" must further be assessed in the contemporary context. In other words, an inherent privilege can only continue to operate "if it remains necessary to the independent functioning of our legislative bodies today" (para 31). The party seeking to rely on an inherent parliamentary privilege and the immunity it provides must establish its necessity and "demonstrate that the scope of the protection it claims is necessary in light of the purposes of parliamentary privilege" (para 32).

Because immunity from outside review is a key component of privilege, this immunity must also be shown to be necessary in order for the necessity test to be met. Hence, it is not enough to show that a given activity is closely and directly linked with an assembly or legislature's core functions. The majority confirmed that this is only part of the equation. It is just as important to demonstrate that the immunity being sought from the executive and judicial branches of government is necessary in that "outside interference would undermine the level of autonomy required to enable the assembly and its members to do their work with dignity and efficiency" (*Chagnon* at par 41, citing *Vaid* at para 46).

In applying this test to the Assembly's claim of privilege over the management of the guards, the majority framed the question as follows: "does the National Assembly require unreviewable authority over the management of security guards in order to maintain its 'sovereignty' as a legislative and deliberative assembly?" (at para 43)

A similar approach was taken to address the claim of a privilege over the exclusion of strangers. The majority confirmed that

the issue here is not whether the President has the power to delegate the exercise of the inherent parliamentary privilege to exclude strangers to the Assembly's employees. Rather, it is whether the dismissal of employees who implement this privilege on the President's behalf must be immune from external review for the Assembly to be able to discharge its legislative mandate. (At para 55, citing *Vaid* at para 56).

In the end, the majority dismissed both claims, finding that such an immunity from outside review had not been shown to be necessary.

In their dissent, Justices Côté and Brown suggested that more judicial deference should be given to legislative assemblies to assert the scope of their privileges.

Second Implication: Whither Parliamentary Privilege Over the Management of Employees

The second implication of the *Chagnon* decision is the clarification that the Supreme Court has not, as of yet, recognized a privilege over the management of any group of parliamentary employees.

The majority in *Chagnon* dismissed the claim of a privilege over the management of the security guards as it found that immunity from outside review of the guards' dismissal had not been shown to be necessary.

In *Vaid*, the Supreme Court had dismissed a claim of privilege over the management of the Speaker's chauffeur. However, writing for the unanimous court, Justice Binnie had stated that privilege 'no doubt ... attaches to the House's relations with some of its employees'. This had been cited by proponents of a more narrow privilege over the management of key parliamentary employees.⁴

The majority in *Chagnon* downplayed this statement, stressing that the *Vaid* decision had not established the existence of any form of privilege over the management of employees and that the Court in *Vaid* had only concluded that the definition of a more limited category of privilege must await a case in which the question truly arises (para 35). Noting that the UK courts had not yet recognized the management of any employees to be protected by parliamentary privilege, the majority in *Chagnon* confirmed that *Vaid* had not determined whether privilege over the management of some employees existed. The majority likewise declined to answer the question of whether privilege could apply to the management of any employee.

As a result, while Justice Binnie's statement in *Vaid* may have been seen as suggesting the existence of a narrower privilege over the management of some employees, the *Chagnon* decision makes clear that, to date, the Supreme Court has not recognized a privilege over the management of any employee.

Third Implication: The ARNA, Waiver and Parliamentary Privilege

The third implication is a recognition that a statutory waiver of privilege will require an express or an inescapable removal of the immunity from outside review provided by privilege. However, the statutory removal of an assembly's exclusive control over certain matters could be seen as an indication that such immunity from outside review is not necessary and that therefore the necessity test had not been met.

Sections 110 and 120 of the ARNA provide that employees of the National Assembly are members of the civil service and are generally subject to a labour relations regime unless exempted by regulation made by the Assembly. At the time of the *Chagnon* litigation, the Assembly had not made any regulatory exemption for security guards at the National Assembly.

The majority, the concurrence, and the dissent in *Chagnon* adopted different approaches with regard to the impact of the ARNA on the analysis of the scope of the claimed parliamentary privileges. The majority considered the existence of the ARNA to be indicative of what the National Assembly thought was (or was not) necessary in terms of its exclusive jurisdiction/autonomy. By contrast, both the concurrence and the dissent considered whether the ARNA could have constituted a *waiver* of parliamentary privilege, though they arrived at different conclusions.

Regarding waiver, the question remains as to the level of clear legislative intent that will be required to demonstrate Parliament's desire to waive a parliamentary privilege.

Majority: Not Waiver, But Necessity

For the majority, the adoption of the ARNA by the assembly did not constitute a waiver of privilege. However, Justice Karakatsanis noted that the ARNA reflects a general understanding held by the National Assembly itself that employment matters will normally be addressed in accordance with the applicable employment regimes, particularly as it has not sought to exclude any classes of employees from outside review: "Thus, as reflected in the ARNA, the Assembly does not appear to view exclusive control over the management of its security guards to be necessary to its autonomy" (para 50).

The adoption of the ARNA therefore weakened the claim to necessity made by the proponents of the privilege. Given the Assembly's clear opportunity to exclude certain positions from the outside review flowing from the ARNA, the Assembly's regulatory inaction was seen as confirmation that it did not view exclusive authority as being necessary to its proper functioning.

Dissent: Waiver of the Exercise of a Privilege Must Be Explicit

In their dissenting opinion, Justices Côté and Brown agreed with the majority on the issue of statutory waiver and would have held that the National Assembly did not abolish or waive its privileges by enacting the ARNA. Citing the Supreme Court's recognition that parliamentary privileges have constitutional status, the dissent noted that the ARNA must be "interpreted in such a way that it does not implicitly abrogate some of these privileges" (para 159). According to Justices Côté and Brown, it would be "undesirable to adopt an interpretation to the effect that the Assembly implicitly considers a privilege unnecessary, thereby denying its existence" (ibid).

Concurrence: Implicit Waiver is Possible

In concurring reasons, Justice Rowe, would have taken a different view on the impact of the ARNA. For him the Assembly's decision to allow the statutory regulation of its internal operations constituted a waiver of any privilege that could have otherwise

applied to the operations in issue. He argued that “when a legislative body subjects an aspect of privilege to the operation of statute, it is the provisions of the statute that govern” (para 59). For Justice Rowe, it followed that “while the relevant statutory provisions remain operative, a legislative body cannot reassert privilege so as to do an end-run around an enactment whose very purpose is to govern the legislature’s operations” (ibid). Justice Rowe found that

...expecting a legislature to comply with its own legislation cannot be regarded as an intrusion on the legislature’s privilege. It is not an impediment to the functioning of a legislature for it to comply with its own enactments. Accordingly, when a legislature has set out in legislation how something previously governed pursuant to privilege is to operate, the legislature no longer can rely on inherent privilege so as to bypass the statute. (para 66)

Justice Rowe would have found that the enactment of a statutory obligation on the legislature to govern itself in a given way would oust privilege and grant courts or other outside bodies jurisdiction to determine the rightness or wrongness of the legislature’s decision. In doing so, he acknowledged but distanced himself from the decision in *Bradlaugh v. Gosset* (1884) 12 QBD 271 which had found that the House is not subject to her Majesty’s Courts in the application of statute law with respect to its internal operations (i.e. privilege).⁵

Analysis: Implications of Waiver

The majority view stands for the proposition that mere statutory regulation of an activity will not be enough to oust a privilege. This is consistent with *Bradlaugh*, that parliamentary privilege is not immunity from the law but from outside review. Hence mere statutory regulation would do nothing to remove exclusive authority of a legislature to have the final word on a matter protected by privilege.

Interestingly, the ARNA arguably went further than mere regulation of an activity as it resulted (by application of the *Public Service Act*, CQLR, c. F-3.1.1, s. 64) in the Commission or labour arbitrator being given authority unless legislatively removed by the Assembly enacting a regulation exempting a position from the scheme.

For the majority even this was insufficient to amount to a statutory waiver of privilege. However, it

was found to be evidence that the legislature did not consider exclusive autonomy over the management of employees to be necessary. This was further confirmation that the necessity test was not met.

Given that the absence of outside review is at the core of privilege, the statutory waiver would, at a minimum, need to rule out this absence of review by granting clear and express jurisdiction to an outside body to determine and interpret the legislature’s compliance with the statute. Merely imposing statutory legal obligations on a legislature cannot be a waiver of privilege as privilege does not render legislation inapplicable but instead gives the legislature the autonomy to determine how to comply with the legislation. An explicit or, at a minimum, an inescapable indication that the assembly has decided to grant jurisdiction to an outside body is required given the constitutional status of privilege and its *raison d’être* which is to grant autonomy to the legislative body in issue.

Accepting that the mere setting out of rules for the assembly’s conduct would oust privilege would mean that any codification of privilege would risk waiving that privilege.

As stated by Justice Binnie in *Vaid*, the “immunity from external review flowing from the doctrine of privilege is conferred by the nature of the function (the Westminster model of parliamentary democracy), not the source of the legal rule (i.e. inherent privilege versus legislated privilege).”⁶

Conclusion

Chagnon is a significant addition to the Canadian parliamentary privilege landscape, providing insights regarding the fundamental nature of parliamentary privilege, the management of employees, and when and how a statute may demonstrate Parliament’s intent to waive the application of privilege.

First, the Court in *Chagnon* stressed the concept of necessity as central justification for an inherent privilege, with the understanding that the overarching principle behind any privilege is autonomy and immunity from outside review. Just as courts require judicial independence from the legislative and executive branches, so too does the legislature require its own autonomy in the form of parliamentary privilege. In this respect, privilege or immunity may be misleading terms. The legislature is no more immune from the law than the courts

are immune from the law. Instead, what is in issue here is who will be the ultimate decision-maker with respect to the law's interpretation or application. In many instances, the courts will play this role; but not always. This point is well addressed in *Bradlaugh v. Gossett*:

If its [the House's] determination is not in accordance with law, this resembles the case of an error by a judge whose decision is not subject to appeal. There is nothing startling in the recognition of the fact that such an error is possible. If, for instance, a jury in a criminal case give a perverse verdict, the law has provided no remedy. [...] In my opinion, the House stands with relation to such rights and to the resolutions which affect their exercise, in precisely the same relation as we the judges of this Court stand in to the law which regulate the rights of which we are the guardians, and to the judgments which apply them to particular cases; that is to say, they are bound by the most solemn obligation which can bind men to any course of conduct whatever, to guide their conduct by the law as they understand it. If they misunderstand it, or (I apologize for the supposition) willfully disregard it, they resemble mistaken or unjust judges; but in either case there is no appeal of their decision.⁷

Hence, the Supreme Court is not immune from the law when it interprets the law. But it is the last level of appeal (since it became Canada's court of last resort in 1949). The SCC (and any ultimate decision-maker) is not given the last word because they are always right; they are always right because they have been given the last word. The same goes for legislative assemblies in matters falling under privilege. Because of this, the proof of necessity will require a demonstration that immunity from outside review is necessary for the fulfillment of a legislative assembly's constitutional functions.

Second, the Supreme Court's decision in *Chagnon* confirms that, to date, the Supreme Court has not recognized privilege over the management of any employee. Ultimately, it confirms that the Court will be more reluctant to find parliamentary privilege to apply over persons who are not members of a legislative assembly, particularly when the parliamentary immunity would negatively impact individuals' *Charter* rights. In the employment context, the decision suggests that courts will apply existing employment and labour regimes to the management

of parliamentary employees, unless a strong case can be made for parliamentary privilege to apply. As noted by Justice Karakatsanis, an example of a type or class of parliamentary employee for whom parliamentary privilege would apply to a decision regarding their dismissal has not yet been found or determined in law.

Third, regarding statutory waiver, the majority confirmed that clear legislative intent to waive privilege will be required before a waiver can be found. The mere statutory imposition of obligations on the assembly will not waive its privilege to have the last word on how to comply with the statutory obligations. However, the statutory granting of authority to an outside body, or the failure to use certain tools to remove the outside body's jurisdiction could risk the legislature losing its autonomy by courts finding that necessity was not established.

Notes

- 1 <https://scc-csc.lexum.com/scc-csc/scc-csc/en/item/17287/index.do>
- 2 On the separation of powers between different branches of government see also Justice Karakatsanis' reasons in *Mikisew Cree First Nation v. Canada (Governor General in Council)*, 2018 SCC 40, at paragraph 35:

Longstanding constitutional principles underlie this reluctance to supervise the law-making process. The separation of powers is "an essential feature of our constitution" (*Wells v. Newfoundland*, [1999] 3 S.C.R. 199, at para. 52; see also *Ontario v. Criminal Lawyers' Association of Ontario*, 2013 SCC 43, [2013] 3 S.C.R. 3, at para. 27). It recognizes that each branch of government "will be unable to fulfill its role if it is unduly interfered with by the others" (*Criminal Lawyers' Association*, at para. 29). It dictates that "the courts and Parliament strive to respect each other's role in the conduct of public affairs"; as such, there is no doubt that Parliament's legislative activities should "proceed unimpeded by any external body or institution, including the courts" (*Canada (House of Commons) v. Vaid*, 2005 SCC 30, [2005] 1 S.C.R. 667, at para. 20).

See also Justice Brown's concurrence at paragraph 122.

- 3 As opposed to the Federal Parliament's legislated privileges which can be established with historical evidence alone. See *Canada (Board of Internal Economy) v. Boulerville*, 2019 FCA 33 (leave to appeal to the Supreme Court dismissed), at paragraph 6.

- 4 For example it was cited by Quebec Superior Court Justice Bolduc in the initial *Chagnon* judicial review hearing, in his determination that the arbitrator did not have jurisdiction to decide the grievances due to parliamentary privilege over the management of employees: *Chagnon c. Fortin*, 2015 QCCS 883, see paragraphs 18 and 26. At the Quebec Court of Appeal, in his dissent Appeal Justice Morin relied on *Association des juristes de l'État c. Québec (Procureur général) (Secrétariat du Conseil du Trésor)*, 2013 QCCA 1900, at paras 23 to 31 and its citation of *Vaid* to argue that parliamentary privilege took precedence over the legislative provisions of the ARNA: *Syndicat de la fonction publique et parapublique du Québec (SFPQ) c. Chagnon*, 2017 QCCA 271 at para 106.
- 5 In *Bradlaugh*, the UK Court of Queen's Bench recognized that the jurisdiction of the Houses of Parliament over affairs that are wholly internal to Parliament's proceedings is absolute and exclusive, and cannot be inquired into in a court of law (at p. 275). In that case the UK House of Commons had resolved not to allow Charles Bradlaugh, an elected Member, to take the oath prescribed under the *Parliamentary Oaths Act, 1866*, and prevented him from entering the House). The Court held that the House's interpretation of the Act was not subject to review before courts as this would interfere with its privileges and would risk interference by the judiciary or the executive branches in the exclusive realm of Parliament [see UK Joint Select Committee 2013-2014 para 19].
- 6 *Vaid* at para 34.
- 7 *Bradlaugh v Gossett*, *supra* (1884) 12 QBD 271 at 285-286. In *New Brunswick Broadcasting Co. v. Nova Scotia (Speaker of the House of Assembly)*, [1993] 1 SCR 319, Justice McLachlin (as she then was) quoted Bradlaugh with approval, at p. 386.

Assessing The Reform Act as a tool of parliamentary reform: one step forward, one step back

Two general elections have been held since the 2015 Reform Act was passed by Canada's Parliament. In this article the authors assess its success in rebalancing the relationship between individual MPs and their parties, discuss why many MPs remain reluctant to openly challenge their leaders' authority, and conclude that institutional or legislative changes alone will likely not change the culture that has permitted power to be concentrated in a leader's office.

Paul EJ Thomas, Adelina Petit-Vouriot, and Michael Morden

Introduction

In 2014, Conservative MP Michael Chong introduced a private member's bill called the *Reform Act* with the goal of rebalancing the relationship between individual MPs and their parties. After months of debate and amendments, the final version required party caucuses to vote after each general election on whether to reclaim certain powers for caucus and party management that had been assumed by parties and party leaders. In early 2015, the *Act* passed the House of Commons with overwhelming cross-party support, and Mr. Chong and his supporters hoped that MPs would use these post-election votes to give themselves more independence and autonomy.

However, within less than a year, this hope had turned to dismay. Following Canada's 2015 federal election, two of the three officially recognized party caucuses not only failed to take up the powers on offer, they did not even hold the required votes at their first post-election caucus meetings.¹

Now, after two federal elections, the time has come to evaluate the *Reform Act* as a tool for parliamentary reform and to draw lessons from the experience. This

process has not been straightforward, as much of the information publicly available on the results of the *Reform Act* votes is either incomplete or inaccurate. This article, therefore, draws both on media reports and on direct correspondence with current and former MPs to provide a definitive account of the votes held by each party caucus following the 2015 and 2019 elections. It also presents the results of the Samara Centre for Democracy's survey of 2019 federal election candidates to explore whether the caucus votes reflect MPs' true beliefs about the proper relationship between caucus members and party leaders.

This review found that compliance with the *Act* improved over time, with all parties holding the votes as required after the 2019 election. Yet, despite following the proper procedures, the votes still do not appear to offer MPs an effective way to empower themselves relative to their respective leaders. Although the vast majority of the 2019 election candidates who responded to our survey favoured giving themselves more independence, MPs largely failed to take up the powers when given the chance.

All told, the experience of the *Reform Act* highlights the difficulty of implementing parliamentary reforms using tools that require ongoing expressions of independence by MPs. No matter what MPs may personally believe, many remain reluctant to openly challenge their leaders' authority, particularly as the votes regularly come to be interpreted in light of short-term political developments. However, before presenting these results in full, this article first explores the challenges the *Reform Act* sought to overcome, and the development of the *Act* itself.

The authors are all researchers at the Samara Centre for Democracy, a non-partisan charity dedicated to improving Canadian democracy. Paul E.J. Thomas is a Senior Research Associate, Michael Morden is the Research Director, and Adelina Petit-Vouriot is a Research Associate.

The problem: discipline creep

For decades, observers and MPs themselves have warned that power was increasingly being concentrated in the hands of party leaders; as a result, individual MPs had less capacity to represent their constituents and to hold the government to account for its actions.² As with other Westminster-style legislatures using the single-member plurality electoral system, Canada's MPs are officially elected as individuals, not party members, and can theoretically choose how to vote on every item of parliamentary business. In reality, however, only one MP in the last two decades was first elected without a party affiliation.³

Within Parliament, MPs from the same party vote together over 99 per cent of the time on average.⁴ While it is not surprising that MPs from the same party have similar views on most things, this level of unity is not spontaneous. Given the range of issues that MPs debate and the diverse communities they represent, there are many times when MPs in the same party will disagree. To ensure unity in these situations, parties "whip" potentially rebellious MPs to make sure they stay in line. MPs who fail to conform face discipline, including limits on their ability to speak in Parliament, removal from committees, and even expulsion from the party.

The number of "whipped votes"—where parties require their MPs to vote together—used to be comparatively limited, and parties were more accepting when MPs did vote against the party line.⁵ Now, however, parties expect unity on nearly every issue. Moreover, this uniformity is increasingly demanded outside of Parliament as well, with MPs expected to promote their parties' messages in communications with constituents and social media posts.⁶ This creeping expansion of party discipline has led to growing concerns among the public and MPs themselves that the quality of parliamentary representation is being eroded, with more and more power going to the party leaders instead.

What enabled party discipline to expand in this way? While researchers identify several factors that contributed to the increasing influence of party leaders at the expense of MPs since Confederation (for example, the rise of national television news), there are two institutional changes that greatly tilted the balance of power in favour of party leaders. The first was the change from having party leaders chosen solely by the parliamentary caucuses to having

them elected by party members. While theoretically increasing internal party democracy, this move reduced leaders' accountability to caucus since they could claim to have a broader mandate. Caucuses also lost the ability to remove or launch a review of leaders, removing the threat of sanction or caucus revolt.

The second change was the 1974 amendment to the *Canada Elections Act* that gave party leaders the final sign-off on who could run for the party in a given constituency. Party leaders now had the ability to override the result of local candidate nominations and to veto the candidacy of any MP who challenged their leadership. Together, these changes meant that instead of MPs having the power to choose the party leader, the leader effectively had the power to choose who could serve as the party's MPs.

The Reform Act: a compromise (or compromised?) solution

The *Reform Act* seeks to empower MPs by countering the institutional changes described above. To do so, it amended the *Parliament of Canada Act* to require the MPs in each officially recognized party caucus to hold four votes on caucus and party management at their first meeting following a general election.⁷ Specifically, the MPs must choose:

1. Whether membership in the caucus should be controlled through votes by caucus members themselves;
2. Whether caucus members should choose who serves as caucus chair;
3. Whether caucus members should have the right to trigger a review of the party leader; and
4. Whether caucus members should have the right to choose the interim party leader, should the position become vacant.

If MPs choose not to give themselves these powers, then control over caucus membership and the selection of the caucus chairs generally falls to the party leaders (although several parties observe an uncodified practice of electing caucus chairs), while leadership reviews are confined to votes by delegates at biennial party conventions, and interim leaders are selected by party executives.

The *Reform Act* measures might seem like minor administrative changes, but adopting them could go a long way towards giving MPs more independence to represent the communities that elected them.

For instance, if caucus membership is controlled by MPs themselves, then party leaders can no longer threaten to expel those who vote against the party line. An independent caucus chair is also more likely to foster an environment where MPs can voice their concerns about party decisions. Moreover, leaders would know that failing to listen to such concerns could eventually result in the launch of a leadership review.

Some critics may also contend that MPs already possess some of the powers the *Reform Act* spells out. Even before it was adopted, several parties already allowed caucuses to elect their own chairs. Likewise, the experiences of former Liberal Leader Jean Chrétien and former Canadian Alliance leader Stockwell Day make it clear that party leaders who have lost significant caucus support find it difficult to remain in office. Yet the prolonged internal conflict needed to achieve the removal of those leaders, and the divisions that continued afterwards, also demonstrate the benefits of providing a clear mechanism for such challenges to take place. Moreover, the *Reform Act* provides a mechanism to ensure all parties at least have the opportunity to adopt similar measures of internal democracy, instead of relying on ambiguous or neglected conventions.

But if the *Reform Act's* provisions are potentially so powerful, why make them optional? As originally introduced, the *Act* would have automatically

applied the four rules to each party caucus. However, several MPs objected to this approach on the basis that the *Act* would limit internal party democracy by imposing a “one-sized fits all” solution on every caucus. Consequently, the *Act* was amended so that each caucus is instead required to vote after each election on whether to opt in or out of the various provisions. The votes must be held under the direction of each caucus’ longest serving member at its first post-election meeting. The results must then be reported to the Speaker of the House of Commons.

From the beginning, then, the *Reform Act* was a compromise between some MPs’ desire to achieve greater independence from their parties, and other MPs’ desire to maintain flexibility in the way that caucuses operate.

No independence for me, thanks—I’m an MP

So how has the *Reform Act* performed in practice? Table 1 records the outcome of votes held under the *Act* after the 2015 and 2019 elections.

As can be seen, only the Conservative caucus held the 2015 votes as required. Despite Parliament adopting the law just months earlier with support from 88% of New Democrats and 83% of Liberals, both parties delayed their votes on the basis that they needed more time to study the issue.⁸ The NDP eventually held its votes in January 2016, long after its

Table 1:
Outcome of Reform Act votes by party caucuses from 2015 to 2019

Official Party	Date of Votes	#1: Control caucus membership	#2: Elect Caucus Chair	#3: Launch leadership review	#4: Choose Interim leader
42 nd Parliament (2015)					
Liberal ⁹	Not held	-	-	-	-
Conservative ¹⁰	5 Nov 2015	Yes	Yes	No	Yes
NDP ¹¹	19 Jan 2016	No	No	No	No
43 rd Parliament (2019)					
Liberal ¹²	11 Dec 2019	No	No	No	No
Conservative ¹³	6 Nov 2019	Yes	Yes	No	No
Bloc ¹⁴	Fall 2019	Yes	Yes	No	Yes
NDP ¹⁵	20 Nov 2019	No	No	No	No

first caucus meeting. However, the Liberals ignored the law altogether by apparently not conducting the votes.

Much like compliance with the *Act*, the outcome of the 2015 votes was also mixed. While the Conservatives adopted all of the powers on offer except the ability to launch a leadership review, the NDP opted out of each rule.

Fast forwarding to 2019, all four officially recognized parties obeyed the law by holding the votes as required following the election. Yet despite the jump in compliance, MPs still showed little appetite to embrace the democratizing provisions that the *Reform Act* offers. Most notably, the Liberals and NDP voted against taking up any of the measures. While each has its own provisions for MPs to elect their own caucus chair, the votes left power over caucus membership squarely under the control of their party leader. This choice is surprising given that, in the previous Parliament, Liberal leader Justin Trudeau and NDP leader Jagmeet Singh each expelled MPs from their respective parties without consulting their wider caucus.

As for the other two parties, the Conservative caucus took up one fewer power than in 2015, opting against the right to select an interim leader. Interestingly, the Bloc Québécois embraced the provisions of the *Reform Act* most enthusiastically, taking up three of the four powers. However, to date, no caucus has ever adopted the authority to force a leadership review—the most significant provision for decentralizing power within the party.

What happens in caucus stays in caucus?

In addition to the parties' compliance with the *Reform Act* and the results of the votes, assessing the impact and potential of the *Act* requires an examination of the manner in which parties managed the voting process. Although the *Act* states that the vote results must be reported to the Speaker of the Commons, no party proactively released the information to the public. Nevertheless, on both occasions, the Conservative party readily provided the results of the votes to journalists, who reported them on the day they took place. Similarly, the Bloc and NDP Caucus Chairs provided the Samara Centre with the results of their 2019 votes after we inquired. As such, it was highly surprising to find that the Liberal party sought to keep the outcomes of its 2019 votes from the public, citing caucus confidentiality

(although caucus members eventually leaked the information to the media).¹⁶ With three of four party caucuses openly sharing the results of their votes and the fourth's eventually leaking out anyway, we hope that the precedent is now established that Caucus chairs should willingly disclose the results of the *Reform Act* votes to the public.

Importantly, the secrecy surrounding the *Reform Act* votes also confounded media attempts to report the outcomes, leading to some competing and incorrect claims.¹⁷ At the same time, the media also misrepresented the nature of the votes. For instance, many articles after the 2019 election framed Conservative MPs' vote on whether they should have the power to launch a leadership review as a referendum of Andrew Scheer's leadership of the party.¹⁸ In reality, the vote determined only if MPs should have the power to launch a leadership review at a later point.

Tell us what you really think

The results described thus far present a puzzle: how did MPs move from overwhelming support for the *Reform Act* during its passage in early 2015 to largely opting out of the most meaningful powers? Had MPs' views on party discipline and the relationship between MPs and their leaders changed over that period?

To explore these issues, the Samara Centre surveyed candidates for Canada's 2019 federal election regarding their views on representation and the appropriate balance of power between MPs, party leaders, and other party actors. The survey was conducted online, with invitations sent to the candidate email addresses listed on the various party websites. Invitations were sent on October 4, and each candidate received two reminder messages. After initially planning to close the survey on election day, we extended the submission window to October 31 in response to requests from candidates who indicated they were too busy to complete the questions while campaigning.

Table 2 summarizes the responses received from the four parties that achieved official party status in the 2019 election.¹⁹ While over 20 percent of NDP candidates took part, the response rate was uneven across the parties. Moreover, the low number of Bloc and Conservative responses mean that weighting the data to equalize the parties could yield unrealistic results. As such, all respondents are grouped together

Table 2:
Participation in the Samara Centre for Democracy's 2019 federal election candidate survey

Party	Candidates running	Emails located	Reform Act response ²⁰
Bloc Québécois	78	78	3 (4%)
Conservative	337	319	10 (3%)
Liberal	338	289	29 (10%)
NDP	337	337	70 (21%)
Total	1090	1023	112 (10%)

Figure 1: Who should decide if an MP is expelled or re-admitted to the party caucus?

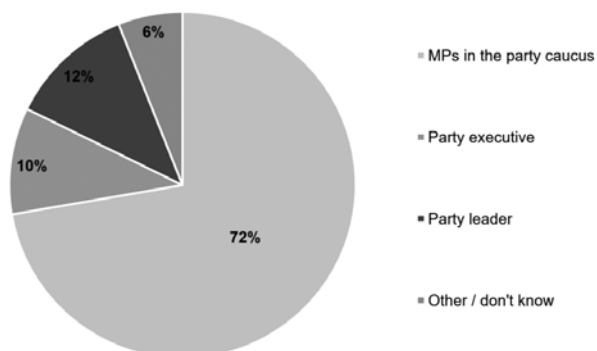


Figure 2: Who should select the chair of each party's caucus?

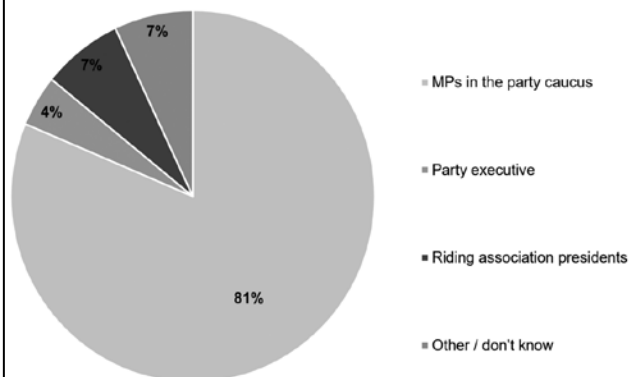


Figure 3: Should MPs in a party caucus be able to remove the party leader and start a competition for a new one?

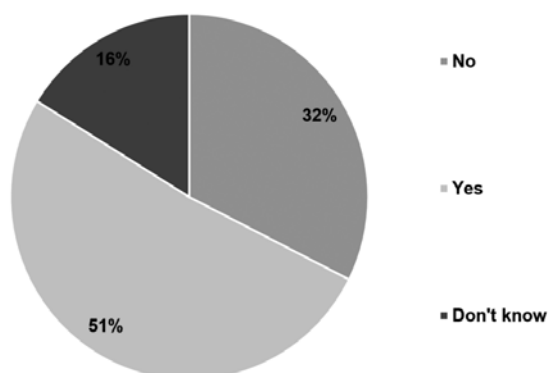
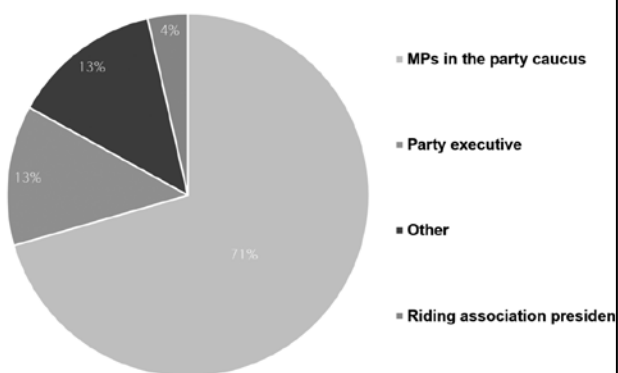


Figure 4: If the post of party leader becomes vacant, who should choose the interim leader?



for the results presented in Figures 1 to 4 below. Given that respondents were self-selecting, it is also not possible to provide confidence intervals or margins of error for the data.

Despite these limitations, the figures show that respondents overwhelmingly believed that MPs should take the powers offered by the *Reform Act*. The only exception was on the question of whether MPs should be able to launch a leadership review, with just a bare majority supporting the idea. Importantly, this was the only question where there was any disagreement among the majority of the respondents from each party: while nearly 60 percent or more of Bloc, Conservative, and NDP respondents replied that MPs should have the power to launch a leadership review, over 50 percent of Liberal respondents were opposed.

It is certainly possible that candidates who supported the *Reform Act* were more likely to respond to the survey. However, there may be a less significant skew in the sample than would otherwise be assumed, given that just 54% of respondents indicated they were aware of the *Act* before the survey. Therefore, while the uneven response rate prevents us from drawing precise conclusions about each party except perhaps the NDP, we can safely assume that a substantial proportion of candidates in Canada's 2019 federal election believed that MPs should give themselves most, if not all, of the powers available under the *Reform Act*.²¹

This situation where 2019 election candidates appeared supportive of the *Reform Act* and yet failed to take up the powers mirrors that from 2015, when MPs first passed the *Act* before the election but then largely failed to comply with its provisions afterwards. How can we account for this repeated disconnect between MPs' apparent preferences and their subsequent actions?

Overall, MPs' engagement with the *Reform Act* since 2015 would suggest that no matter their personal views, MPs are reluctant to support the provisions of the *Act* out of the fear that such support will be seen as challenging the authority of their party leader. In particular, such reluctance would help to explain why the provision that would most effectively curtail the leaders' power (starting a leadership review) is the only one that no caucus has ever voted to take. However, further research, including interviews with MPs, is needed to confirm what led to this disconnect between MPs' views and their actions.

Where to next?

The Reform Act may not be totally dead. Compliance with the law is at least up, even if there has been no discernible movement on the part of MPs toward seizing the democratizing powers. One bright spot is that the presence of the *Act* does at least provide for a moment following each election to encourage MPs to think about their relationship with their party. It's a small counterbalance to a process—the orientation of new MPs, the convening of a new caucus—that is heavily led by the party leadership. But in isolation, it is unlikely to drive significant change.

Those of us who concern ourselves with parliamentary reform should look for lessons in the *Reform Act* experience. The major one may be that culture can prevail over institutional and legislative reforms. In this case, strong norms about the subservience of caucus to the leadership—or fear of retribution from the leader—interacted with the weakness in the law (requiring votes rather than simply applying the provisions), resulting in little effective change. Given the power of culture, fixing Parliament's problems will likely require action on many fronts—including trying to embolden MPs, and to engender new or stronger norms among Members about what their job is and what their relationship to the party should be.

We've also learned that acceptable can be the enemy of good. The version of the *Reform Act* that ultimately passed was weakened, and party leaders have exploited that weakness. Its ultimate legacy is not yet decided. But when the next reformers look to democratize parties, they will have to confront difficult strategic questions, like whether losing on principle is preferable to winning on a palatable (but compromised) measure.

Notes

1. Lee Berthiaume, "Liberals, NDP Delay Vote on Much-Debated Caucus Reforms," *Ottawa Citizen* (blog), November 6, 2015, <https://ottawacitizen.com/news/politics/liberals-ndp-delay-vote-on-much-debated-caucus-reforms>.
2. Jeffrey Simpson, *The Friendly Dictatorship* (Toronto: McClelland & Stewart, 2001); Donald Savoie, *Governing from the Centre: The Concentration of Power in Canadian Politics* (Toronto: University of Toronto Press, 1999); Alison Loat and Michael MacMillan, *Tragedy in the Commons: Former Members of Parliament Speak Out About Canada's Failing Democracy* (Toronto: Random House, 2014).

3. André Arthur served as the independent MP for Portneuf—Jacques-Cartier from 2006 to 2011.
4. Paul EJ Thomas, Adelina Petit-Vouriot, and Michael Morden, *House Inspection: A Retrospective of the 42nd Parliament* (Toronto: Samara Centre for Democracy, 2020).
5. Jean-François Godbout and Bjørn Høyland, "Unity in Diversity? The Development of Political Parties in the Parliament of Canada, 1867–2011," *British Journal of Political Science* 47, no. 03 (July 2017): 545–69, <https://doi.org/10.1017/S0007123415000368>.
6. Alex Marland, *Brand Command: Canadian Politics and Democracy in the Age of Message Control* (Vancouver ; Toronto: UBC Press, 2016).
7. The *Parliament of Canada Act* defines a recognized caucus as one with at least 12 Members of Parliament.
8. Berthiaume, "Liberals, NDP Delay Vote on Much-Debated Caucus Reforms."
9. Kady O'Malley, "Process Nerd: Did Liberals Break the Law by Not Voting on Caucus Expulsions?," *IPolitics*, April 10, 2019, <https://ipolitics.ca/2019/04/10/process-nerd-did-liberals-break-the-law-by-not-voting-on-caucus-expulsions/>.
10. Berthiaume, "Liberals, NDP Delay Vote on Much-Debated Caucus Reforms."
11. Correspondence with former NDP caucus member.
12. Campbell Clark, "Liberal MPs Still Seem to Think They Operate like a Private Club," *The Globe and Mail*, December 11, 2019, <https://www.theglobeandmail.com/politics/article-liberal-mps-still-seem-to-think-they-operate-like-a-private-club/>.
13. Rachel Aiello, "Scheer Says Caucus United after Conservative MPs Decide against Leadership Vote," CTV News, November 6, 2019, <https://www.ctvnews.ca/politics/scheer-says-caucus-united-after-conservative-mps-decide-against-leadership-vote-1.4672597>.
14. Correspondence with current Bloc Québécois caucus member. Note: the Bloc did not hold the votes in 2015 since it did not have official status.
15. Correspondence with current NDP caucus member.
16. Clark, "Liberal MPs Still Seem to Think They Operate like a Private Club."
17. For instance, some articles reported that the NDP did not hold the Reform Act votes after the 2015 election, when they did in fact eventually hold them in early 2016. For an example, see Chris Selley, "The Reform Act Is Back, and Ready for More Abuse, Thanks to SNC-Lavalin Affair," *National Post*, April 9, 2019, <https://nationalpost.com/opinion/chris-selley-the-final-humiliation-for-michael-chongs-reform-act>.
18. Aiello, "Scheer Says Caucus United after Conservative MPs Decide against Leadership Vote."
19. An additional 94 Green Party and 60 People's Party candidates also completed the survey.
20. Some respondents completed the demographic information but then failed to answer the substantive sections of the survey.
21. At least 60 percent of the 70 NDP candidates who responded favoured opting in to each of the powers available, but the party's MPs failed to take up any of the powers when they conducted the *Reform Act* votes after the election.

Visible Minority Candidates and MPs in the 2019 Federal Election

Fifty individuals with visible minority origins won their way into Parliament in the federal election of October 31, 2019 – the largest number of such MPs ever to be elected. However, the achievement is tempered somewhat by the fact that the increase from the 2015 election is fairly modest and the population-based deficit in representation is about where it had been in that previous election. On the other hand, when candidates are taken into consideration, the picture that emerges for 2019 is somewhat more positive. The evidence points to the parties, at least in their local guises, continuing to do more to champion visible minority candidacies. Indeed, it is possible that the candidate data yield a better indication of the openness of the electoral process to minorities than simply a tally of the number of visible minority MPs elected.

Jerome H. Black

There are multiple reasons to pay attention to the progress that racialized minorities or, in official government parlance, visible minorities make in getting elected to Parliament.¹ Any compact list would include the implications that their presence as MPs has for the representation of immigrant and minority communities. More visible minority legislators can potentially bring about better substantive representation as these MPs give voice to, and undertake actions regarding, policy matters that are of disproportionate concern to these population segments. But even absent such responsiveness, minority populations can find symbolic or psychological value in “feeling” more represented as they identify and relate to legislators with backgrounds that they share. In doing so, they gain a sense of being recognized as part of a multicultural and inclusive society. Symbolic representation is also relevant for the institution of Parliament itself, since the legitimacy it can claim is, at least partially, bound up with how well it captures the growing heterogeneity that characterizes Canadian society. Finally, paying attention to the electoral trajectory of visible minority MPs affords perspectives on how well minorities are integrating into Canadian political life. Just as it is

important to investigate their involvement in more ordinary political activities, there is also great value in comprehending the dynamics of political engagement at the elite level. Such inquiries can have something to say about how open and accessible the political process is to categories of Canadians who have been traditionally absent and/or excluded.

So what do the numbers look like in the wake of the latest federal election, held on October 31, 2019, and how do they stack up compared to previous elections?² The short answer is that additional progress was made in 2019 but hardly in astonishing fashion. On the positive side, and not unimportantly, a record-setting 50 MPs³ with visible minority origins were elected, a number that translates into 14.8 per cent of the House’s membership. What is also notable about 2019 is that it is the third consecutive election to witness an increase from one election to the next. This consistency stands out as a relatively new phenomenon: elections covering the period from 1993 – when visible minority MPs were first elected in detectable numbers – until as late as 2008 featured a mix of increments and decrements across election pairings.

On the other side, the increase in the number of visible minority MPs elected in 2019 relative to the last two elections is quite modest. From 2008 to 2011, their numbers bumped up considerably from 22 to 29, and then much more so to 47 in 2015⁴ -- with percentage equivalents of 7.1, 9.4, and 13.9, respectively, of the House of Commons seats available. By contrast, the 50 MPs elected in 2019 constitute only a modest up-tick.

Jerome H. Black is retired from McGill University’s Department of Political Science.

A tempered outlook on the 2019 election is also warranted when the figure of 14.8% is juxtaposed against the incidence of visible minorities in the population at large. According to the 2016 census, visible minorities comprised 22.3% of the Canadian population, which yields a “ratio of representation” of approximately two-thirds.⁵ Full representation -- a ratio of one -- would have hypothetically occurred had 75 visible minority MPs won their way into Parliament. More to the point, the ratio of two-thirds is about the same as it was following the 2015 election, so the representation deficit measured this way has not altered very much over the four-year period.⁶

The lack of any major turnover in individual MPs elected from 2015 to 2019 might also suggest that change was limited between the two elections. Of the 50 MPs elected in 2019, fully 36 were re-elected to the House. As for personnel changes, some occurred through party wins and losses: a visible minority replacing a non-visible minority incumbent (three), and vice versa (two) and minority individuals from different parties winning in 2019 (two). Another part of the turnover can be attributed to incumbent/candidate alterations within the same party: a visible minority replacing a non-visible minority incumbent (four), and vice versa (two) and different minority individuals elected but from the same party (five).

Table 1 speaks to party connections. It presents the visible minority MP numbers broken down by party affiliation for the 2019 and the four previous elections. Plainly, the Liberals, with 37 minorities elected, continued to be the party with the largest number of such MPs. This was also true in 2015 (39 MPs). These back-to-back feats reversed a period of decline, which culminated in 2011 when the party found itself with only two minority MPs in its caucus. The Conservatives continued to be a distant second with 10 minority MPs elected in 2019, though this does represent an improvement over their 2015 tally when the party elected only six such individuals. The only other party to have any of their minority candidates elected is the NDP. Three were elected in 2019, one more than in 2015. In the 2011 election, however, it was the NDP that ended up having the most visible minority MPs – 14 out of a total of 29. This occurred as a by-product of the NDP’s larger accomplishment of gaining official opposition status, the result of a dramatic upswing in support towards the end of the campaign. If the particularity of the NDP’s surge helps account for the 2008 to 2011 boost in the overall number of minority MPs elected, the Liberal party’s victory in 2015 might be similarly identified, as it brought about an even larger

advance in minority representation. While the polls at the outset of the campaign pointed to a three-way competitive race, the Liberals did pull ahead decisively in the closing stages of the contest.

In 2019, there were no similarly exceptional developments that took place during the campaign – the minority outcome perhaps reflecting this electoral flatness. Most surveys pegged the Conservatives and Liberals as competitive with one another as early as six months out from the election, each with roughly a third of the projected vote, and it was a pattern that mostly held throughout the campaign and more or less characterized the final vote. The NDP lagged well behind with a level of support that remained fairly horizontal throughout the period. Exceptionally, the BQ, did markedly increase its standing over the course of the campaign; the jump in its support over the last three weeks ultimately translated into a major legislative comeback for the party. However, its fortunes could not have had much of an impact on overall visible minority MP numbers, since the party has had only a limited association with minority office-seekers and (as will be seen) the 2019 election was no exception.

Visible Minority Candidates

This reference to candidates raises an obvious point, but no less important because of it, namely, the need to take the candidate teams into account as part of any understanding of the relationship between party success (or failure) and visible minority MP numbers. After all, the NDP’s impact on increasing minority representation in 2011 was mostly due to the party’s substantial promotion of many minority candidates (in districts where the party was not expected to win but ultimately did so). As well, in 2015, the relatively larger impact on minority MP numbers tied to the Liberal’s success reflected the party’s greatly enhanced efforts, certainly compared to 2011, to field minority candidates. This is not to say that the other two national parties were wanting in this regard. Indeed, both parties (as will be seen) improved upon their promotional efforts in 2011. It seems highly plausible that heightened inter-party competition to win over minority votes is at least partly responsible for the stepped-up advancement of visible minority candidacies from 2011 to 2015.

In turn, this makes consideration of the 2019 election all the more compelling. Did the parties’ efforts increase even further, as might be suggested by an emphasis on “competition?” Certainly, the incentives have only grown. According to the 2016 census, fully 41 federal districts were comprised of populations where visible

minorities formed a majority (compared to 33 such constituencies in 2011) and, more generally, about 20 per cent of all ridings had minorities making up at least a third of the districts' populations. Candidate teams also merit attention because they might plausibly yield a better indication of how open the electoral process is to minorities, as compared to an *ex post facto* tally of the number of visible minority MPs elected. After all, most Canadian voters do not discriminate against visible minority candidates. Ultimately, how many get elected will more strongly depend on the way that the larger, fluctuating, and often unpredictable campaign electoral forces at the regional and national levels play out. The number of MPs elected may go up or down a bit but it is not strongly tied to whether a candidate is a visible minority or not. The final MP tally is to a significant degree hostage to other factors including, as noted above, the unexpected success or failure of parties with more or less visible minority candidates. On the other hand, prior to the dropping of the writ, the parties (in their local guises) can exert more direct control on the first important outcome they are preoccupied with, namely, whom they nominate. Their promotional efforts can have a lot to say about the openness of the political process and how much access is afforded minority office-seekers.

Table 2 sets out the principal candidate information. As background, the first row reveals that for the three elections spanning the 2004-2008 period, the overall percentages of visible minority candidates running for the four largest parties, the BQ, Conservatives, Liberals, and NDP, stood at around nine or 10 points and at 9.7 per cent did not alter much in 2011. However, the 2015 election saw a sizeable increase, up about four points to 13.9 per cent. Importantly, the 2019 election is similarly associated with a notable increase of visible minority candidates; such contestants comprised a record-setting 18.2 per cent of the total four-party candidate base. Once again, the BQ, with 5.2 per cent, had the fewest minority candidates. In fact, if that party is put to the side, then the percentage figure among the three remaining parties rises to 19.2; in other words, nearly one in five of the candidates who competed for the larger pan-Canadian oriented parties in 2019 have visible minority origins. For the sake of completeness, it can be noted that minorities made up 11.6 per cent of the candidates running for the Greens and 16.3 per cent for the People's Party. As for the three national parties taken individually, the entries in the next three rows of Table 2 make it clear that the contemporary trend to nominate more and more visible minority candidates is true of each one, even if there are variations across the

Table 1
Visible Minority MPs, 2006-2019

	2006	2008	2011	2015	2019
Party					
Bloc Québécois	4	3	1	--	--
Conservative	6	8	12	6	10
Liberal	14	10	2	39	37
NDP	1	1	14	2	3
(N)	(25)	(22)	(29)	(47)	(50)

Includes Argentinian and Chilean origins. See footnote 3.

Source: For 2006-2015 data, see Jerome H. Black, "The 2015 Federal Election: More Visible Minority Candidates and MPs" *Canadian Parliamentary Review* Vol. 40, No. 1, 2017, pp. 16-23. For 2019, see footnote 2.

Table 2
Visible Minority Candidates, 2004-2019

	Range: 2004-2008	<u>2011</u>	2015	2019
All Candidates ^a (%)	9.3-10.1	9.7	13.9	18.2
By Party (%)				
Conservative	8.1-10.7	10.1	14.2	16.6
Liberal	8.4-11.0	9.1	16.9	18.6
NDP	7.8-10.7	10.4	13.4	22.4
New Candidates (%)				
Conservative	9.2-12.0	13.4	18.0	19.7
Liberal	7.8-13.2	9.1	17.5	18.4
NDP	7.3-12.3	12.0	14.3	24.6

^aIncludes Bloc Québécois, Conservative, Liberal, and NDP parties. Source: For 2004-2015 data, see Jerome H. Black, "The 2015 Federal Election: More Visible Minority Candidates and MPs" *Canadian Parliamentary Review* Vol. 40, No. 1, 2017, pp. 16-23. For 2019, see footnote 2.

parties. In the case of the Conservative party, the shares of minority contestants within its ranks over the 2011-2019 interval rose from 10.1 to 14.2 per cent, and then to 16.6 per cent. The Liberal experience is even sharper with the party's nomination of minority candidates mushrooming from 9.1 per cent of its contestants to 16.9 per cent in 2015, followed by another increase in 2019 to 18.6 per cent. Unlike the Liberals, the largest increment for the NDP was between the 2015 and 2019 elections. In fact, in 2019, the NDP led all parties in nominating the most visible minorities – 22.4 per cent of all its candidates. This represents a sharp rise of nine percentage points from four years earlier.

First-Time Visible Minority Candidates

These patterns align with the proposition that the promotion of visible minority candidacies bears a connection to vote-searching in response to the growing electoral significance of minority communities in the competitive urban environments. The suggestion gains

more backing when the analysis drills down to focus on the subset of new candidates who ran for the parties. Examining first-time candidates has the advantage, as this author has repeatedly pointed out in previous reports in the *Review*,⁷ of gauging the party's latest commitment to the promotion of visible minorities as an upcoming election looms. Thus, it is net of whatever efforts may or may not have been made in earlier elections. Relatedly, factoring out repeating candidates also neutralizes any effects associated with the tendency of previous candidates to be re-nominated.

It turns out that the three larger national parties did take steps to add more new visible minorities to their candidate line-ups for the 2019 election. While, as noted, minorities formed 19.2 per cent of these parties' overall collections of candidates, they comprised an even greater 21.5 per cent among their first-time contestants. The bottom panel of Table 2 reveals that, once again, this is true for each of the three parties and further indicates that the advancement of minority candidacies

has consistently increased over the last few elections. In the Conservative Party, visible minorities comprised 13.4 per cent of its new candidates in 2011, 18 per cent in 2015, and 19.7 per cent in 2019. For the Liberals, the corresponding sequence of percentages jumps sharply from 9.1 to 17.5 and then up to 18.4. In the case of the NDP, minorities comprised 12 per cent of the party's ensemble of new candidates in 2011, 14.3 per cent in 2015, and (again) a leading 24.6 per cent in 2019.

New Visible Minority Candidates and Constituency Competitiveness

The notion that parties are doing more to promote visible minority candidacies is also evident when the nomination of candidates in winnable or competitive ridings is taken into account. It is one thing for a party to promote minority candidacies in constituencies with dismal electoral prospects; it is quite another matter to have them carry the party's banner in districts with some chance of victory (even if it remains true that the

party undertakes this exercise under varying degrees of uncertainty). At the very least, the equal or near-equal promotion of visible minority and non-visible minority candidates might well be expected as part of any reasonable approach to the championing of the former. In order to investigate this, federal electoral districts were apportioned between those that, from each party's perspective, could be considered as relatively non-competitive or competitive based on its 2015 performance. In particular, non-competitive districts were deemed to be ones where the party lost by 11 per cent or more; districts that could be judged to be competitive were ones where the party either won the riding in 2015 or, if they lost, they did so by a margin of 10 points or less. The combined results for the three parties and their new candidates indicate the parties were more likely to favor non-visible candidates over their visible minority counterparts in competitive ridings, but only by a slight margin of 28 to 25 per cent. This actually represents a reversal of what occurred in 2015 when the three parties gave the advantage

Table 3
Visible Minority Candidates, Parties, and Constituency Competitiveness, 2019
(New Candidates Only)

	Non-Competitive Constituencies	<u>Competitive Constituencies</u>		(N)
		Incumbent MP?		
		Yes	No	
Visible Minorities				
Conservative	80	11	9	(46)
Liberal	43	23	33	(30)
NDP	84	12	4	(74)
Non-Visible Minorities				
Conservative	70	21	9	(188)
Liberal	53	30	17	(133)
NDP	85	11	4	(227)

Row percentages.

See text for definition of competitive and non-competitive constituencies.

to their new visible minority candidates (33 per cent to 26 per cent). But not all parties favoured non-visible minorities in 2019. Table 3 sets out the results for each party and also bifurcates the competitive category according to whether or not an incumbent MP competed. This is based on the assumption that an open constituency would be more prized. Looking at the row results for visible minority candidates only, it is quite evident that the Liberals did the most to promote new minority contestants. More than half of them (57 per cent) were nominated in competitive ridings, with the largest subset in open constituencies (33 per cent). This compares with figures of 20 and 16 per cent for the Conservatives and NDP, respectively, in connection with competitive districts taken as a whole; among the sub-category of open seats, the percentages are only nine per cent for the Conservatives and four per cent for the NDP. Still, the Liberal advantage might not be altogether unexpected given that the party could identify many more potentially winnable constituencies going into the 2019 election, stemming from its commanding victory in 2015. What really matters is what the parties did given what they had to work with, which, in turn, directs attention to intra-party comparisons.

The Conservatives were the least promotional of their visible minority candidates; among their new recruits, they nominated more non-visible than visible minority candidates in competitive districts (30 per cent vs. 20 per cent), though, importantly, the same levels (nine per cent) in those particular ridings without an incumbent running. For its part, the NDP's placement for the two categories was similar: one in seven of both their non-visible minority and visible minority candidates were selected in competitive ridings (and four per cent, each, in open districts). As for the Liberals, the intra-party assessment merely confirms that the party did, by far, the most to support the cause of minority candidacies. They nominated more of them in competitive districts by a 10-point margin (57 vs. 47 per cent) and recruited them much more frequently in the more attractive open constituencies. Indeed, one in three of the party's first-time minority candidates ran in these potentially most advantageous ridings, while this was true of only 17 per cent of the party's non-visible minority contenders. While there are significant differences among the parties, on balance, it does seem that the parties were at least fair, and sometimes more than fair, in their placement of visible minority candidacies. Again, this leans toward a characterization of the local parties as being caught up in 2019, as they had been in 2015, with the facilitation of visible minority candidacies.

Constituency Diversity

One of the constant ways that racial diversity plays out in contemporary electoral politics in Canada is a very strong predilection on the part of the parties to concentrate their visible minority candidates in districts with large minority populations. This relationship can be explained from a "bottom up" perspective: minority office-seekers are more likely to pursue the nomination of the local parties in diverse ridings because they are able to rely on the resources and supportive networks that accompany their growing and increasingly established minority communities. However, it is also feasible to understand the positive relationship between district and candidate diversity from a "top down" standpoint, as being driven by competition among parties for the minority vote. Again, the presumption is that there is an impulse to nominate minority candidates in order to win the more tightly fought urban districts. In reality, the two accounts interact with one another but it does seem that the former vantage point does not completely exclude the latter perspective. One author, for instance, finds that both constituency diversity and the presence of visible minority local party presidents, understood as *enabling* gatekeepers, have *independent* effects with both contributing in their own way to the emergence of more minorities contesting nomination battles.⁸ So there is at least the suggestion that a competition-based narrative also underpins the concentration of visible minority candidates in heterogeneous districts.

The evidence for the relationship itself is at least as strong in 2019 as it has been in earlier elections and in some cases stronger. Visible minority candidates newly recruited by the Conservatives competed in districts where the minority population averaged 53 per cent, compared to 15 per cent in ridings where their non-visible minority counterparts ran. This is a gap that is slightly larger than it was in 2015 (47 vs. 12 per cent, respectively). For the Liberals, the 2019 divide is noticeably larger than it was in 2015; in the previous election, their minority candidates ran in districts with a minority population mean of 27 per cent compared to 12 per cent for their non-visible minority candidates. In 2019, the spread was significantly wider: 39 vs. 12 per cent. As far as the NDP goes, the spread remained about the same in 2019 as it was in 2015, but still amounted to a substantial differential: 39 vs. 16 per cent in 2019 and 35 vs. 12 per cent in 2015. Finally, it can be noted that the pattern of concentration in 2019 holds for all of the parties, including the BQ and the People's Party.⁹

Summing Up

A review of how visible minorities fared in getting elected to Parliament in 2019 reveals a mixed picture. On the one hand, the 50 visible minority MPs elected, comprising 14.8 per cent of the House's membership, established a high water mark in both absolute and relative terms. On the other hand, this amounted to a bump up of only three MPs compared to the number elected in 2015. Moreover, comparing the 2019 numbers with the visible minority population at large yields a representation ratio that indicates no further progress beyond what had been achieved in the previous election.

However, a more positive picture emerges when information about candidates is brought to bear. In fact, while the outcome of visible minority MPs elected, taken at face value, seems to imply only a modest endeavour by the parties to promote visible minorities, the candidate information implies a more, and continuing, pronounced effort. Altogether, the parties, and especially the three most electorally successful national-oriented parties, distinctly added to the advances they had already made in 2015. They nominated even more visible minority candidates in 2019 and the same is true in connection with the key group of new candidates. The Liberals did the most to promote new visible minority candidates in electorally attractive constituencies; for their part, the two other parties were more or less even-handed in the placement of candidates, the Conservatives a little less so.

These patterns, along with the ongoing heavy concentration of visible minority candidates in diverse constituencies, suggest that the rivalry for minority votes in key urban centres continues to motivate parties to provide more space for visible minority candidacies. The candidate focus also suggests a possible corrective to any conclusion that might be drawn about diversity and the openness of the political process based solely on the MP numbers. Taking into account candidacies yields a rather more optimistic perspective about minorities gaining access to potential entry points as they aspire to join the legislative elite. Where the parties, organized in their local electoral districts, have more say, the response to visible minorities office-seekers has been somewhat more progressive.

Notes

- 1 The "official" term "visible minorities" is employed here; the term "minorities" is used alternatively to ease repetition.
- 2 The information reported here comes from a larger data set gathered and put together by Andrew Griffith, the Hill

Times, Samara, and myself. The sources of information used to determine racial origins included official party biographies, media articles, social media platforms, and last name and, especially, photo analysis.

- 3 This number includes an individual of Argentinian origin and one of Chilean background. This constitutes a change in classification. The author's first study of visible minority MPs was for the 1993 election and followed Statistics Canada's approach (in the 1986 and 1991 census) to exclude these origins from the Latin American category; for the sake of consistency, this practice was followed for subsequent elections until 2015. However, most students of politics and diversity in Canada now include the two origins and this practice is followed here. The effect is relatively minor. The change adds one MP to the visible minority count in each election reported here (as shown in Table 1).
- 4 This includes one additional MP who was originally misidentified as a non-visible minority in the analysis of the 2015 election.
- 5 An alternative benchmark that tallies only visible minority citizens from the 2016 census (17.2 per cent) naturally yields a narrower and more optimistic MP-population difference. This reference group could be justified on the grounds that only citizens can become candidates (and MPs) and thus is the relevant population recruitment pool. (Conversation with Andrew Griffith.) The preferred, broader (total) population approach adopted here is based on, among other things, an emphasis on MP representativeness that embraces non-citizens as well. Non-citizens can also derive symbolic satisfaction from witnessing fellow community members being included in elite settings and they can also benefit from the substantive representation that community-based legislators might provide on issues of particular concern.
- 6 Not considered here, but an important matter on its own right, is that the differential is highly uneven among the composite groupings. South Asians are actually overrepresented among MPs, but most categories are variously underrepresented, for example, Blacks, or not at all represented, for example, Filipinos.
- 7 For instance, Jerome H. Black, "The 2015 Federal Election: More Visible Minority Candidates and MPs," *Canadian Parliamentary Review* Vol. 40, No. 1, 2017, pp. 16-23.
- 8 Erin Tolley, "Who you know: Local party presidents and minority candidate emergence," *Electoral Studies*, Vol. 58, April, 2019, pp. 70-79.
- 9 The Bloc's non-visible minority candidates ran in constituencies where visible minorities formed about 12 per cent of the population, while their – admittedly small number of – visible minority candidates ran in districts where their population counterparts formed 24 per cent of the district. Interestingly, the spread is much greater in the case of the PPC: a visible minority population averaging 18 per cent in the districts where their non-visible minority candidates ran compared to an average of 42 per cent where their visible minority candidates ran. The pattern for the Greens also displays a significant spread in the same direction: a visible minority population of 20 per cent vs. 37 per cent.

The Foundations of Parliamentarism in Quebec, 1764–1791

Employing research from his doctoral dissertation, the author breaks with the consensus position that the first meeting of the House of Assembly of Lower Canada on December 17, 1792, marks the beginning of parliamentarism in Quebec. Instead, he traces a rudimentary form of parliamentarism back to 1764 and shows how it developed over nearly 30 years.

Christian Blais

On December 17, 1792, the first members of the House of Assembly of Lower Canada met in the chapel of the episcopal palace in Quebec City. This historic event is considered the beginning of parliamentarism in Quebec. But I must break with this consensus interpretation. In my doctoral dissertation on the origins of parliamentarism in Quebec, entitled *Aux sources du parlementarisme dans la Province de Québec, 1764–1791*, I show that the foundations of parliamentarism in the province precede the *Constitutional Act* of 1791.¹

I do not contest the fact that “parliamentarism” and “democracy” are concepts that have commingled since 1758 in Nova Scotia, 1773 in Prince Edward Island, 1786 in New Brunswick and 1792 in Lower Canada and Upper Canada. However, in the period after a British civilian government was installed in the Province of Quebec in 1764, it seems that parliamentarism could be separated from elective democracy.

A review of the minutes of the Council of Quebec (1764–1775)² and the minutes of the Legislative Council of the Province of Quebec (1775–1791) reveals that the members of these institutions legislated by following British parliamentary practice.³ This means that, in the Province of Quebec between 1764 and 1791, there existed a rudimentary parliamentarism, but a parliamentarism nonetheless, in its form, conventions, practices, and traditions.

Christian Blais is a historian at the Library of the National Assembly of Québec.

Parliamentarism in the XVIII century

What was parliamentarism in the Great Britain of King George III? What was parliamentarism in the royal provinces of North America in the XVIII century? What was parliamentarism in the Province of Quebec between 1764 and 1791? Three different answers to these three questions are needed to fully explain the unique characteristics of parliamentarism in each of these locations during this period.

British parliamentarism was malleable. It was flexible enough to address and adjust to the various colonial experiences. The specific context in the Province of Quebec gave rise to a more rudimentary parliamentarism than that of the Thirteen Colonies. And the specific context of the Thirteen Colonies gave rise to a more rudimentary parliamentarism than that of Westminster. Parliamentarism existed in multiple forms in the XVIII century.

The Province of Quebec’s legislative history begins with an interpretation of Governor James Murray’s royal instructions which, as of 1764, gave the Council of Quebec the power to make ordinances. While the Council of Quebec exercised both legislative and executive powers, its members did not hesitate to call their institution a “legislature.”

The Westminster Parliament changed the constitution of the Province of Québec in 1774. The *Quebec Act* stipulated that the Council of Quebec did not have the power to legislate. This constitutional law established the Legislative Council of the Province of Quebec. This legislature made up of unelected members was legally empowered to legislate from 1775 to 1791.



Source: <http://cimetieretredamecemetery.blogspot.com/p/alphabetical-list-liste-alphabetique.html>.

Former clerk Arthur Beauchesne was, along with the author of this article, born in Carleton-sur-Mer, on the Gaspé Peninsula. However, they would not agree on the strict definition of “Parliament.”

The issue turns on the definition of these concepts. What is a parliament? What is a legislature? In my dissertation, I accept the idea that there may be differences between a parliament and a legislature. Or, rather, I can identify the many similarities between a parliament and a legislature.

A legislature is defined as “a country’s legislative body.” Is the National Assembly of Québec a parliament or a legislature? It is both according to the *Act respecting the National Assembly* of 1982: “The National Assembly and the Lieutenant-Governor form the Parliament of Québec. The Parliament of Québec assumes all the powers conferred on the Legislature of Québec.”⁴ The concepts of “Parliament” and “Legislature” are portrayed as being on a continuum.

Does this mean that “Parliament” and “Legislature” are two sides of the same coin? Arthur Beauchesne, Clerk of the House of Commons in Ottawa from 1925 to 1949, argued that Canadian provincial legislatures are not parliaments.⁵ Today, provincial legislative assemblies are recognized as parliaments. Moreover, I am entirely comfortable placing the adjective “parliamentary” next to the practices, procedures and traditions of the legislators of the Province of Quebec from 1764 to 1791.

Accordingly, I am calling into question the strict definition of parliamentarism, in the specific context of the administration of the Province of Quebec from 1764 to 1791. Under the Second British Empire, parliamentarism and democracy did not necessarily go hand in hand.

Parliamentary frameworks

The Canadian *Compendium of Procedure* states that the “parliamentary framework” is defined by the fact that Canada’s parliamentary system stems from the British, or “Westminster,” tradition. This definition encompasses those of “Constitution,” “Crown,” “legislative branch,” “executive branch,” “responsible government,” “political party” and “opposition.” The compendium highlights another fundamental aspect of parliamentary practice: “Some of Canada’s most important rules are not matters of law but are conventions or practices.”⁶

Most of these key parliamentary principles underpinned the operation of the Council of Quebec and the Legislative Council. In other words, a parliamentary backdrop was set up in Quebec City in 1764. As for the actors who came onto the capital’s stage, I found that they immersed themselves in their roles as parliamentarians.

It should be noted at the outset that debating and legislating is associated with jargon unique to British parliamentary practice. To determine whether the nouns and verbs that emerged from customs at the Westminster Parliament were transplanted to the Province of Quebec, my corpus was submitted to a battery of lexicographical analyses.

The main terms of the parliamentary lexicon in use in Lower Canada and Westminster were identified. A bank of 126 terms was established. Next, 30 terms specifically associated with speech, debate, deliberation and parliamentary actions and procedures were selected. The frequency of these terms in the minutes of the Council of Quebec was determined, and the analysis was repeated for the minutes of the Legislative Council. In all, these 30 terms occurred more than 3,500 times in the minutes of the Council of Quebec and over 13,000 times in the minutes of the Legislative Council.

This growing use of the parliamentary lexicon by the members of the Council of Quebec and, to an even larger degree, the members of the Legislative Council is telling because parliamentary terms are necessarily associated with a parliamentary framework and parliamentary practice.

Parliamentary calendar and ceremonies

Today, parliamentary proceedings in Quebec and Canada unfold by sitting, session and parliament. A similar parliamentary calendar was established in the Province of Quebec.

First, the constitutional framework of 1763 provided for the 280 sessions of the Council of Quebec. Second, the constitutional framework of 1774 led to the 18 parliamentary sessions of the Legislative Council. Third, the constitutional framework of 1791 resulted in the 15 parliaments punctuated by the same number of general elections.

The advent of parliamentary sessions at the Legislative Council explains the appearance of parliamentary ceremonies. After 1775, ceremonies marked the opening of a session with the Speech from the Throne and following the Address in Reply to the Speech from the Throne. Finally, a ceremony marked the conclusion of parliamentary proceedings when the governor issued a prorogation.

By 1791, the British parliamentary framework was nearly complete. To summarize, in 1764, the setting was ready. The members of the Council of Quebec sat in a room of the Castle St. Louis that had the look of a parliament, with seats, a table in the centre, and a throne for the chairperson. In 1775, at the Legislative Council, speeches—such as the Speech from the Throne—and actions—such as the councillors’ journey from the episcopal palace to the Castle St. Louis to give the Address in Reply to the Speech from the Throne—constituted the parliamentary ceremonies of the Province of Quebec. All that was missing was elected members and various accessories, such as the mace and the black rod, which appeared in the Parliament of Lower Canada in 1792.

Written and unwritten rules

The minutes of the Council of Quebec and the Legislative Council contain resolutions, standing orders, and rules adopted to expedite routine business. These written rules, but also unwritten ones, governed the debates and deliberations of the members of these political bodies.

In 1764, none of the members of the Council of Quebec had prior parliamentary experience in London or in other British colonies. Out of necessity, the councillors nevertheless had to adopt a work routine to deal with their regular business. They did not need to invent new parliamentary practices. They simply imitated the “mother of all parliaments.” It seems that these politicians learned by reading the *Quebec Gazette* and works of parliamentary doctrine.

For example, during votes, the practice of the House of Lords was followed. Voting began with

the most junior councillors and ended with the most senior ones. Another custom adopted by the Council of Quebec was to refer matters to a special committee or committee of the whole for study. The same was true of concurrence in the reports that resulted from committee studies.

The Council of Quebec adopted only two written rules. The first (which would not even be adhered to) was passed in 1765 and stated that the council would meet every Wednesday at 10 a.m. The second, passed in 1768, provided that draft ordinances must be translated into French and adopted during the council's proceedings.

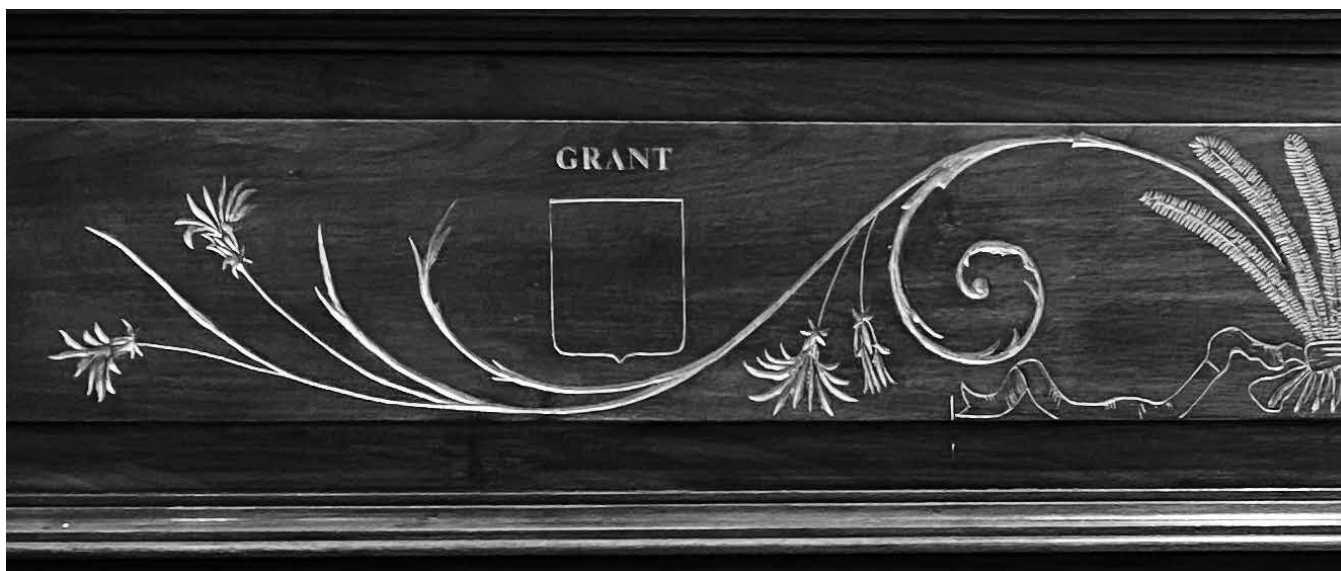
While the members of the Council of Quebec did not feel the need to pass many rules of procedure, this was not the case for the Legislative Council, which better defined itself as a legislature after 1775. New practices appeared.

Among the unwritten rules was the first recorded vote in 1777. During this vote, the legislative councillors used the terms "Aye" and "Naye" from the British House of Commons. Later, in 1782, the first recorded division was noted. In addition, like the lords at Westminster, the legislative councillors had the privilege of registering protests to explain their votes.

However, legislative councillors at the time were aware of the gaps in their procedural knowledge. Accordingly, in 1780 legislative councillor Hugh Finlay tabled in the council chamber a document entitled *The manner of debating and passing Bills in Parliament*; this was a seven-paragraph article taken from an encyclopedia. It was read in English and translated into French to educate councillors about practices at Westminster. The document would serve as the basis for parliamentary procedure in Quebec.⁷ A committee was then struck to draft written rules to ensure the council's business was conducted in a more consistent fashion.

<i>Names of the Members</i>		<i>Aye</i>	<i>Noes</i>
Major Holland	1	—	
M ^r . De Longueuil	2	—	
M ^r . Baby	3	—	
M ^r . S ^t . Ours	4	—	
M ^r . Grant	—	1	
M ^r . Drummond	—	2	
Colonel LaBrosse	—	3	
M ^r . Bellisle	5	—	
M ^r . De Lery	—	4	
M ^r . S ^t . Luc	6	—	
M ^r . Alloupp	—	5	
M ^r . Pennell	—	6	
M ^r . Mabane	—	7	
M ^r . Collins	8	—	
M ^r . Harrison	—	7	
M ^r . Levesque	—	8	
M ^r . Dunn, President	9	—	

The minutes of the Legislative Council of the Province of Quebec first noted a recorded division during the sitting of February 11, 1782. Source: Library and Archives Canada. Journals of the Legislative Council.



William Grant was a legislative councillor from 1777 to 1791 and a member of the House of Assembly of Lower Canada from 1792 to 1796 and 1804 to 1805. Grant was behind improvements to the Legislative Council's legislative procedure in 1789 and was without a doubt the main architect of the Rules of the House of Assembly of Lower Canada of 1793. His name was carved into the woodwork of the Parliament Building in Quebec City in 2017. Source: National Assembly collection.

The written Rules of the Legislative Council were adopted on March 23, 1784. These were the first parliamentary rules in the history of Quebec. The rules had 11 provisions and were genuine parliamentary rules—nine of them would be codified in Lower Canada in 1793 as part of the Rules of the House of Assembly or the Rules of the Legislative Council.

Legislative procedure

Starting in 1792, the passage of laws in Lower Canada was governed by rules of procedure. The same was true for ordinances in the Province of Quebec between 1764 and 1791.

The Council of Quebec considered 67 draft ordinances in 67 different ways. The minutes nonetheless show that some aspects of the Westminster Parliament's procedure were followed. However, between 1766 and 1775, the Council of Quebec did less legislative work. The councillors therefore did not find it necessary to adopt formal legislative rules.

After 1775, parliamentary procedure developed at a remarkable pace. Yet, not until 1778 did procedure move beyond the complacency of the Council of Quebec era. Then, starting in 1779, most draft ordinances were

read three times, as at Westminster, but some were still read four times.

The adoption of written rules in 1784 established the required practice. Rule 9 set out an eight-step legislative procedure:

1. Introduction of the draft by the chair of the committee and first reading (no member may comment);
2. Clause-by-clause consideration at committee and consideration of its report;
3. Second reading;
4. Optional step: Referral to attorney general;
5. Order to engross;
6. Third reading (adoption of the ordinance title);
7. Adoption; and
8. Royal Assent.

In 1787, Chief Justice William Smith noted an important difference between the way ordinances were adopted in Quebec and the way bills were passed in London and the other colonies. Smith—who was

a member of the Legislative Council of the Province of New York before the American Revolution—lamented that, in Quebec, bills were considered at committee after first reading rather than after second reading, which had the effect of limiting debate.

This issue was corrected in 1789. Legislative Councillor William Grant spearheaded the unanimous adoption of a motion to have draft ordinances read twice before being referred to committee. The written rules of the Legislative Council would not be amended again until 1791, simply because they were basically consistent with legislative practice at Westminster.

Finally, let us compare the legislative procedure the Legislative Council of the Province of Quebec used to consider a draft ordinance in 1791 to that used by the Parliament of Lower Canada for a bill in 1793. This comparison will use a single legislative proposal introduced by Councillor René-Amable Boucher de Boucherville in 1791 and 1793: the bill “for repairing and amending the Public Highways and Bridges in the Province of Quebec.”

In 1791, this measure was read twice; it was considered at committee; it was adopted at third reading; and, finally, it was reserved by the governor. Guy Carleton refused to grant it Royal Assent to give it force of law.

After the *Constitutional Act* of 1791, Boucher de Boucherville was still a legislative councillor, but in the Parliament of Lower Canada. He introduced the same bill in the Upper House: the bill of “An Act to give effect to the regulations relating to Highways and Bridges.” Forgive the repetition, but this measure respecting public highways and bridges was read twice; it was considered at committee; it was adopted at third reading; and—this part is new—it was sent to the Lower House. There, once again, this measure respecting public highways and bridges was read twice by the members; it was considered at committee; it was adopted at third reading. Finally, the legislation was granted Royal Assent by the lieutenant governor to give it force of law.

This comparison raises a question. Why would a legislative process that led to the adoption of the same legislation be considered parliamentary in 1793 but not in 1791? There is no reason to accept this distinction.

Conclusion

Parliamentarism existed in the Province of Quebec between 1764 and 1791. It was a rudimentary parliamentarism that did not involve elections, but it was still parliamentarism in its form and legislative practice. One could say that “the Legislative Council of Quebec continued the genesis of parliamentarism in Quebec begun by the Council of Quebec in 1764 and that it laid the foundation for the operation of future representative institutions.”⁸ [translation]

The members of the Council of Quebec (1764–1775) and the Legislative Council (1775–1791) used many aspects of the procedure, practice, principles and customs of the Westminster Parliament. Although some of the structures and functions of Quebec’s parliamentary regime were undeveloped compared with those of the British Parliament, this was the consequence of the constitutions of the British royal colonies being different from those of the home country or the parliaments of modern states.

Notes

- 1 Christian Blais, *Aux sources du parlementarisme dans la Province de Québec, 1764–1791*, Dissertation (PhD), Quebec, Laval University, 2019, 431 p. <https://corpus.ulaval.ca/jspui/handle/20.500.11794/37604> [in French only].
- 2 Christian Blais (ed.), *Procès-verbaux du Conseil de Québec, 1764–1775*, Quebec, Library of the National Assembly of Québec, 2019. <http://www.bibliotheque.assnat.qc.ca/guides/fr/document/183> [partly in French only].
- 3 Christian Blais (ed.), *Procès-verbaux du Conseil législatif de la Province de Québec, 1775–1791*, Quebec, Library of the National Assembly of Québec (forthcoming) [partly in French only].
- 4 <http://legisquebec.gouv.qc.ca/en/ShowDoc/cs/A-23.1>.
- 5 Arthur Beauchesne, *The Provincial Legislatures are not Parliaments*, s. l., *The Canadian Bar Review*, 1944, p. 1.
- 6 https://www.ourcommons.ca/About/OurProcedure/ParliamentaryFramework/c_g_parliamentaryframework-e.htm.
- 7 *Cyclopædia: or, An Universal Dictionary of Arts and Sciences [...]*, 5th Edition, London, D. Midminter [...], 1752, Vol. II.
- 8 Christian Blais, Gilles Gallichan, Frédéric Lemieux and Jocelyn Saint Pierre, *Québec: quatre siècles d’une capitale*, Québec, Les Publications du Québec/National Assembly of Québec, 2008, p. 175 [in French only].

Working together: Parliamentary, cabinet, caucus, and/or representative collaboration across the levels in Canada

On January 17, 2020, the Canadian Study of Parliament Group held a seminar entitled “Working Together: Parliamentary, Cabinet, Caucus, and/or Representative Collaboration Across the Levels in Canada” to hear from academics and politicians on the challenges and opportunities involved in cooperation and collaboration between jurisdictions.

David Groves

Academic Perspectives

The seminar began with a panel of academics, who each offered observations on what kinds of conditions drive or impede intergovernmental collaboration and why true collaboration in Canada is so rare.

Jennifer Wallner, an associate professor at the School of Political Studies at the University of Ottawa, spoke first. Her work focuses on, among other things, intergovernmental relations from a comparative perspective. Ms. Wallner drew from her recent experience in the Intergovernmental Affairs Secretariat at the Privy Council Office to enrich her presentation, which advocated for investments in increasing intergovernmental relations.

She began by arguing that cooperation can lead to significant benefits but also stressed that there are significant obstacles to federal-provincial engagement in Canada. First, there are few formal structures in Canada that encourage intergovernmental collaboration. Second, governments often face a collective action problem – interests differ from province to province and shift depending on elections – that is aggravated by Canada’s size and regional diversity. As a result, Canadian governments engage in what she refers to as “ostrich federalism,” ignoring their counterparts entirely.

To overcome these obstacles, Ms. Wallner made three recommendations: first, making intergovernmental interactions more predictable and consistent, including fixed, regular first minister’s meetings; second, the establishment of “inter-legislative councils” to connect provincial and federal legislators and eliminate the executive monopoly on intergovernmental relations; and third, mechanisms to give legislators more insight into, and scrutiny over, executive-level federalism.

Noura Karazivan, an associate professor of Public Law at the University of Montreal’s Faculty of Law, spoke next. She focused on the claim among some constitutional scholars that federal-provincial cooperation requires protection by the courts. Picking up on Ms. Wallner’s observations, Ms. Karazivan observed that intergovernmental agreements in Canada are not binding and can thus be undone anytime any party changes their mind. Their voluntary nature – a reflection of the sovereignty of individual governments and the inability of one to impose upon or control another – makes them unpredictable and, from a policy perspective, unattractive.

According to Ms. Karazivan, some scholars argue that “cooperative federalism” – an ideal to which the Supreme Court often refers when adjudicating jurisdictional disputes – requires that governments be bound by the agreements they make. As such, there should be a duty of loyalty or good faith that prevents governments who are involved in cooperative inter-jurisdictional policy schemes from withdrawing suddenly or without negotiations. This would enhance both the predictability and attractiveness of intergovernmental cooperation.

David Groves is legal counsel for the Senate of Canada.



Academic Perspectives

Ms. Karazivan, however, cautioned against this approach as it would be seeking a judicial solution to a political problem. She also questioned whether a “duty of good faith” could ever be defined or applied in a clear and consistent manner and whether it would be compatible with a constitution that prevents legislatures from binding each other or themselves in the future. Ultimately, she suggested that judicial intervention in intergovernmental agreements could be something all parties would regret.

Daniel Béland, a professor in the Department of Political Science at McGill University and Director of the McGill Institute for the Study of Canada, used two examples of intergovernmental negotiations to demonstrate that policy outcomes in the world of federal-provincial politics are highly dependent on partisan shifts at the provincial level.

First, Professor Béland looked at the recent history of Canada Pension Plan reform. The CPP can only be reformed with the support of two-thirds of the provinces, representing two-thirds of the population. This makes inter-governmental collaboration essential, which would in turn suggest that successful CPP reform is nearly impossible. Mr. Béland noted, however, that it was reformed in 2016 by the Trudeau government and he attributes this to positive relations between the federal government, the New Democratic Party government in Alberta, and the Liberal Party government in Ontario.

Mr. Béland contrasted this with the conversation around equalization payments, comparing Prime Minister Harper’s successful attempt to get provincial buy-in for his changes to the equalization formula with Prime Minister Trudeau’s decision to make changes unilaterally. The former, he argues, was received without political resistance, while the latter has

aggravated poor relations with Alberta, Manitoba, and other provinces, even prompting talk of a referendum in Alberta on the topic.

In discussion after the panel, Ms. Wallner added that there is also a difference in the communication on CPP and equalization, which she argues affects the likelihood of collaboration. While the CPP is seen as a net benefit for all Canadians, most conversations around equalization describe it as zero-sum, with winners and losers.

Political Perspectives

The second panel of the day drew from a wealth of direct experience among its participants on the politics, practicalities, and possibilities of modern intergovernmental relations in Canada.

Graham Steele served as a member of the Nova Scotia legislature from 2001 to 2013 and as Minister of Finance, Minister of Acadian Affairs, and Minister of Economic and Rural Development and Tourism during that time. He offered several observations on why executive-level intergovernmental collaboration is so challenging. First, ministers rarely start with direct experience in their portfolios; as such, they need time to acclimate before they can even identify areas of potential cooperation. Second, they are representatives first and ministers second – they only have so much bandwidth in their day to add more responsibilities, particularly when they may have no effect on their future electability. Third, ministers rarely hold their portfolio for long enough to master it, and negotiations can be impossible when your negotiating partner changes abruptly. Fourth, personal relationships play an enormous role – some kind of good rapport is necessary to get anything done, which cannot be easily established.



Political Perspectives

Mr. Steele stated that, over his time as a minister, he attended nine or 10 “FPTs,” or annual meetings of federal, provincial, and territorial ministers with similar portfolios. He found that the formal portions of the meetings are pre-determined and thus not very useful, but that the conversations that took place over dinner, or during breaks, have far more value. These were the times to build the kinds of relationships that were necessary for success. Mr. Steele pointed to examples of this success – including the harmonization of provincial securities regulations – as the product of hard work and dedicated leadership from specific ministers with longevity, experience, and vision, who built the relationships and were trusted by their counterparts.

Deborah Matthews, who served as a member of the Ontario legislature from 2003 to 2018, spoke next. She held several cabinet positions, including Minister of Health and Long-Term Care, President of the Treasury Board, and Deputy Premier. Like Mr. Steele, Ms. Matthews found that the formal aspects of FPTs rarely advanced any policy file, but informal meetings and conversations around the meeting were extremely helpful. She described them as, at times, a “therapy group”, allowing ministers the opportunity to speak about their challenges and their portfolios with peers.

Ms. Matthews argued that intergovernmental collaboration can work, but that as a minister you must be clear-eyed about the other parties involved, their goals and interests, and what might be driving them. She said that communication between ministers is crucial and that, when united, a group of ministers from different provinces can achieve far more in a negotiation than they could alone. She recalled that negotiations with pharmaceutical companies were much easier when provinces were aligned in their interests and positions.

Last, Ms. Matthews spoke about joint cabinet meetings, in which cabinets from two or more provinces meet together. She argued that they offer an opportunity for ministers to get a deep and detailed sense of the issues in another province and were immensely valuable.

Ian Brodie, author of *At The Centre of Government*, associate professor at the University of Calgary, and former Chief of Staff to Stephen Harper, spoke last. He reiterated Mr. Béland’s assertion that political parties are a significant factor in the success or failure of intergovernmental collaboration, but noted that even between nominally aligned parties, like the Liberal Party in Quebec and the federal Liberal Party, there can be significant ideological divergence. He observed that intergovernmental relations have always been fraught, focusing in particular on recent tensions and challenges in the relationship between Alberta and the federal government.

Ultimately, Mr. Brodie pointed to two elements that make cooperation – or at least co-existence – possible. The first is the federal government’s financial capacity. According to Professor Brodie, one can never discount the importance of “a nice round billion” for a provincial premier, and the political weight this might carry with their constituents. That is, a significant infusion of federal funds to a province may strongly influence a premier’s desire to cooperate with Ottawa. Second, the presence of pre-existing, long-standing ties between representatives from different levels of government matters. He noted, for example, that many people involved in the Conservative Party during the Harper era have since left Ottawa and entered provincial politics – like Premier Jason Kenney – and that the network that these politicians and staff developed during their time in power will increase collaboration and cooperation in the near future (at least among politically aligned governments).

The Canadian Region

Appointment of Clerk of the Legislative Assembly

On March 2, the Legislative Assembly unanimously appointed **Kate Ryan-Lloyd** Clerk of the Legislative Assembly following the recommendation of a special committee. Since that time, there have been two additions to the newly-established Clerk's Leadership Group. They are **S. Suzie Seo**, who assumed the functions of Law Clerk and Parliamentary Counsel on a permanent basis in April 2020, and **Artour Sogomonian**, who was appointed to the new position of Clerk Assistant, Parliamentary Services in May 2020.

Ms. Ryan-Lloyd has served the Legislative Assembly of British Columbia for many years, beginning in the Legislative Library, then the Parliamentary Committees Office and had served as Acting Clerk since November 2018.

This was the first time a special committee was appointed to select and unanimously recommend a candidate for the position of Clerk of the Legislative Assembly. The special committee appointment process in BC is typically used for statutory officers in accordance with statutory provisions and established practice.

Ms. Ryan-Lloyd is the first woman in British Columbia's history to be appointed to the role.



Kate Ryan-Lloyd

Regional Executive Committee, CPA*

PRESIDENT

Kevin Murphy, Nova Scotia

FIRST VICE-PRESIDENT

Ted Arnott, Ontario

SECOND VICE-PRESIDENT

Vacant, Québec

PAST PRESIDENT

Yasmin Ratansi, Federal Branch

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Laura Ross, Saskatchewan

EXECUTIVE SECRETARY-TREASURER

Michel Patrice, House of Commons

Members of the Regional Council*

HOUSE OF COMMONS

Anthony Rota, Speaker

Charles Robert, Clerk

SENATE

George Furey, Speaker

Richard Denis, Clerk (Interim)

ALBERTA

Nathan Cooper, Speaker

Shannon Dean, Secretary

NOVA SCOTIA

Kevin Murphy, Speaker

Neil Ferguson, Secretary

BRITISH COLUMBIA

Darryl Plecas, Speaker

Kate Ryan-Lloyd, Secretary

ONTARIO

Ted Arnott, Speaker

Todd Decker, Secretary

CANADIAN FEDERAL BRANCH

Yasmin Ratansi, Chair

Rémi Bourgault, Secretary

PRINCE EDWARD ISLAND

Colin LaVie, Speaker

Joey Jeffrey, Secretary

MANITOBA

Myrna Driedger, Speaker

Patricia Chaychuk, Secretary

QUÉBEC

François Paradis, Speaker

Simon Bérubé, Secretary

NEW BRUNSWICK

Daniel Guitard, Speaker

Donald Forestell, Secretary

SASKATCHEWAN

Mark Docherty, Speaker

Gregory Putz, Secretary

NEWFOUNDLAND AND LABRADOR

Scott Reid, Speaker

Sandra Barnes, Secretary

NORTHWEST TERRITORIES

Frederick Blake Jr., Speaker

Tim Mercer, Secretary

NUNAVUT

Paul Quassa, Speaker

John Quirke, Secretary

YUKON

Nils Clarke, Speaker

Dan Cable, Secretary

*As of June 30, 2020

Canadian Region Commonwealth Parliamentary Association

Alberta

Office of the Clerk
3rd Floor, 9820-107 Street
Edmonton, Alberta T5K 1E7
780 427-2478 (tel)
780 427-5688 (fax)
clerk@assembly.ab.ca

Newfoundland and Labrador

Office of the Clerk
Confederation Building
P.O. Box 8700
St John's, NL A1B 4J6
709 729-3405 (tel)
709 729-4820 (fax)
sbarnes@gov.nl.ca

Ontario

Office of the Clerk
Room 104,
Legislative Bldg.
Toronto, ON M7A 1A2
416 325-7341 (tel)
416 325-7344 (fax)
clerks-office@ola.org

British Columbia

Office of the Clerk
Parliament Buildings
Room 221
Victoria, BC V8V 1X4
250 387-3785 (tel)
250 387-0942 (fax)
ClerkHouse@leg.bc.ca

Northwest Territories

Office of the Clerk
P.O. Box 1320
Yellowknife, NT X1A 2L9
867 669-2299 (tel)
867 873-0432 (fax)
tim_mercer@gov.nt.ca

Prince Edward Island

Office of the Clerk
Province House
P.O. Box 2000
Charlottetown, PE C1A 7N8
902 368-5970 (tel)
902 368-5175 (fax)
jajeffrey@assembly.pe.ca

Federal Branch

Executive Secretary
131 Queen Street, 5th Floor
House of Commons
Ottawa, ON K1A 0A6
613 992-2093 (tel)
613 995-0212 (fax)
cpa@parl.gc.ca



Québec

Direction des relations inter-
parlementaires
Assemblée nationale
Québec, QC G1A 1A3
418 643-7391 (tel)
418 643-1865 (fax)
simonb@assnat.qc.ca

Manitoba

Office of the Clerk
Legislative Building
Room 237
Winnipeg, MB R3C 0V8
204 945-3636 (tel)
204 948-2507 (fax)
patricia.chaychuk@leg.gov.mb.ca

Nova Scotia

Office of the Clerk
Province House
P.O. Box 1617
Halifax, NS B3J 2Y3
902 424-5707 (tel)
902 424-0526 (fax)
fergusnr@gov.ns.ca

Saskatchewan

Office of the Clerk
Legislative Building
Room 239
Regina, SK S4S 0B3
306 787-2377 (tel)
306 787-0408 (fax)
cpa@legassembly.sk.ca

New Brunswick

Office of the Clerk
Legislative Building
P.O. Box 6000
Fredericton, NB E3B 5H1
506 453-2506 (tel)
506 453-7154 (fax)
don.forestell@gnb.ca

Nunavut

Office of the Clerk
Legislative Assembly of Nunavut
P.O. Box 1200
Iqaluit, NU X0A 0H0
867 975-5100 (tel)
867 975-5190 (fax)

Yukon

Office of the Clerk
Legislative Building
P.O. Box 2703
Whitehorse, YT Y1A 2C6
867 667-5494 (tel)
867 393-6280 (fax)
clerk@gov.yk.ca

Parliamentary Bookshelf: Reviews

Parliamentary Practice in British Columbia, Fifth Edition. Editor: Kate Ryan-Lloyd, Acting Clerk of the Legislative Assembly. Assistant Editors: Artour Sogomonian, Procedural Clerk; Susan Sourial, Clerk Assistant, Committees and Interparliamentary Relations; and Ron Wall, Manager, Committee Research Services.

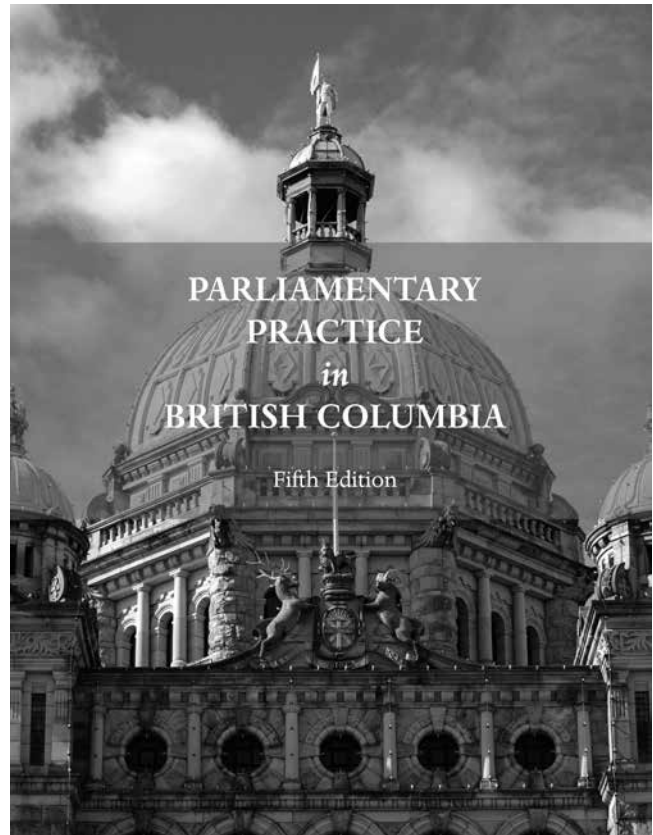
It is an ancient adage that one should not judge a book by its cover. In the case of the fifth edition of *Parliamentary Practice in British Columbia* (hereafter referred to as PP5), the cover does provide a clue as to content. Not because of its look but because of its size. PP5 is a large format book that reveals, upon reading, large ambitions.

For PP5, editor Kate Ryan-Lloyd (now Clerk of the BC Legislative Assembly) and her team built on the ground-breaking work of E. George MacMinn, the long-serving and much-admired former Clerk who authored the first four editions. But while Ryan-Lloyd acknowledges her debt to MacMinn, she has also constructed a very different work.

In the preface to the third edition (published in 1997), MacMinn writes that a new edition was required (after 10 years) because “if a parliamentary authority is to remain useful to a Legislative Assembly, it must be current” (iii).

The organization and content of the first four editions shows books intended as a reference work for parliamentary practitioners. Like *Beauchesne’s Parliamentary Rules & Forms of the House of Commons of Canada*, these editions contained concise passages of germane procedural information ready-made for inclusion in rulings or statements from the Chair. These editions did not contain much historical or constitutional context because the persons using them already knew that information.

In her preface, Ryan-Lloyd makes it clear that PP5 is aimed at a broader audience and is intended to serve a broader purpose: “More comprehensive content, numbered sections, callouts with key information, an improved index and modern design are hallmarks of this edition. It is my hope that these elements make



the content more user-friendly and accessible to Members **and all British Columbians**”(v) (*emphasis added*)...I trust that [PP5] will continue to serve as a useful reference tool for Members, Table Officers and staff. It is also my hope that this edition will contribute to further transparency and understanding of how the Legislative Assembly operates. The online availability of this book is a step toward ensuring greater accessibility to this public institution, which is of importance to all British Columbians” (vi).

So, PP5 is designed to provide the same utility as the first four editions while also providing a more encyclopedic narrative of parliamentary procedure, its origins and evolution. This makes PP5 more like *Erskine May* and *House of Commons Procedure and Practice*, and less like *Beauchesne* or its four predecessors in BC.

Does PP5 achieve its ambitious goals? PP5 is a very attractive book. Each page is a full 8.5" by 11" sheet of paper bordered by broad margins. While the first four editions were text based without graphics, flow charts, and other visual assists, a casual flip through PP5 reveals colour photographs, architectural drawings, and different coloured text to draw attention to certain pieces of information. PP5 is certainly a step forward when it comes to the visual appeal of a procedural manual.

In terms of content, the first four editions were organized numerically by standing order. PP5 is organized into 18 thematic chapters. Chapter One is an historical and constitutional overview. Subsequent chapters proceed from general themes (the basis of procedure, the role of Members, etc.) to more specific ones. Each chapter also begins with an introductory section followed by others that take the reader into matters that are increasingly specific and technical.

No matter how visually appealing and well-organized PP5 is, few British Columbians will read an entire procedural manual. But they don't have to in order to better understand their Legislative Assembly. An interested non-practitioner could learn a lot by reading the introductory chapter and the introductory sections of subsequent chapters.

That being said, PP5's value as a public education tool will probably come from its on line presence, not from the hardcopy versions of the book. The key is to make potential users aware that the resource exists, where it can be found and how it can be used.

Designing a procedural manual to appeal to a general audience runs the risk of making the work less useful, or more difficult to use, for Members, Table Officers and other practitioners. But this hurdle has also been overcome.

For example, organizing the chapters thematically may leave the practitioner spending time searching the text for information regarding a specific standing

order. However, PP5 contains an index to the standing orders by number indicating the page on which each standing order is referenced.

Other important features include: a detailed table of contents and index; chapters that are separated into numbered sections for easier reference; the Standing Orders and relevant legislation current to January 1, 2020; seven appendices containing historical information and a bibliography of sources cited.

Content needed for a useful reference work is here and organized in a way that maximizes utility. Of course, each practitioner will quickly customize their personal copy with dog-eared pages, highlighting, underlining, flags, and marginal notes to mark and annotate those portions most relevant to them.

Assembling a procedural manual is a daunting task at the best of times and the last couple of years have not been the best of times for the BC Legislative Assembly. Ryan-Lloyd and her team deserve credit for forging ahead with PP5 in the face of other distractions.

In the preface Ryan-Lloyd also expresses gratitude to Speaker Darryl Plecas and all Members of the Legislative Assembly Management Committee "who supported the production of the fifth edition" (vi). The gratitude is well extended. An updated version of the fourth edition would have been, one suspects, a less costly venture. Fortunately, the Speaker and LAMC agreed that a more ambitious work was needed. Their confidence in Ryan-Lloyd and her team is well-founded. Members, Table Officers, staff and all British Columbians will be well-served by PP5. The challenge will be to get as many as possible to take advantage of the great resource that is now at their disposal.

Floyd McCormick

Retired Clerk, Yukon Legislative Assembly

New and Notable Titles

A selection of recent publications relating to parliamentary studies prepared with the assistance of the Library of Parliament (March 2020 - May 2020)

Defty, Andrew. "From committees of parliamentarians to parliamentary committees: comparing intelligence oversight reform in Australia, Canada, New Zealand and the UK." *Intelligence and National Security* 35 (3), 2020: 367-84.

- Some form of legislative oversight of intelligence has become the norm in most democratic states. The near universal acceptance of the need for democratic oversight does not, however, mark the end of a process of intelligence accountability. In many states, following a period of establishment and then consolidation, intelligence oversight mechanisms have begun to evolve as oversight committees have sought extra powers and developed new roles. This article examines reforms in parliamentary intelligence oversight committees in Australia, Canada, New Zealand and the UK, focusing on the form, mandate, membership, powers and resources of the committees as well as their engagement with other parliamentary actors.

Feldman, Charlie. "Preliminary observations on parliamentary and judicial use of *Charter* Statements." *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique*, May/mai 2020: 587.

- Parliamentarians now have access to *Charter*-related information for every government bill introduced in Parliament because of a new statutory obligation recently enacted by Bill C-51, *An Act to amend the Criminal Code and the Department of Justice Act and to make consequential amendments to another Act*. This enactment enshrined in law a recent practice whereby 'Charter statements' – information on the *Charter* effects of a bill – were voluntarily tabled in Parliament by the government for certain legislative proposals. Bill C-51 received Royal Assent in December 2018 and its *Charter* statement obligation applies to bills introduced in or presented to either

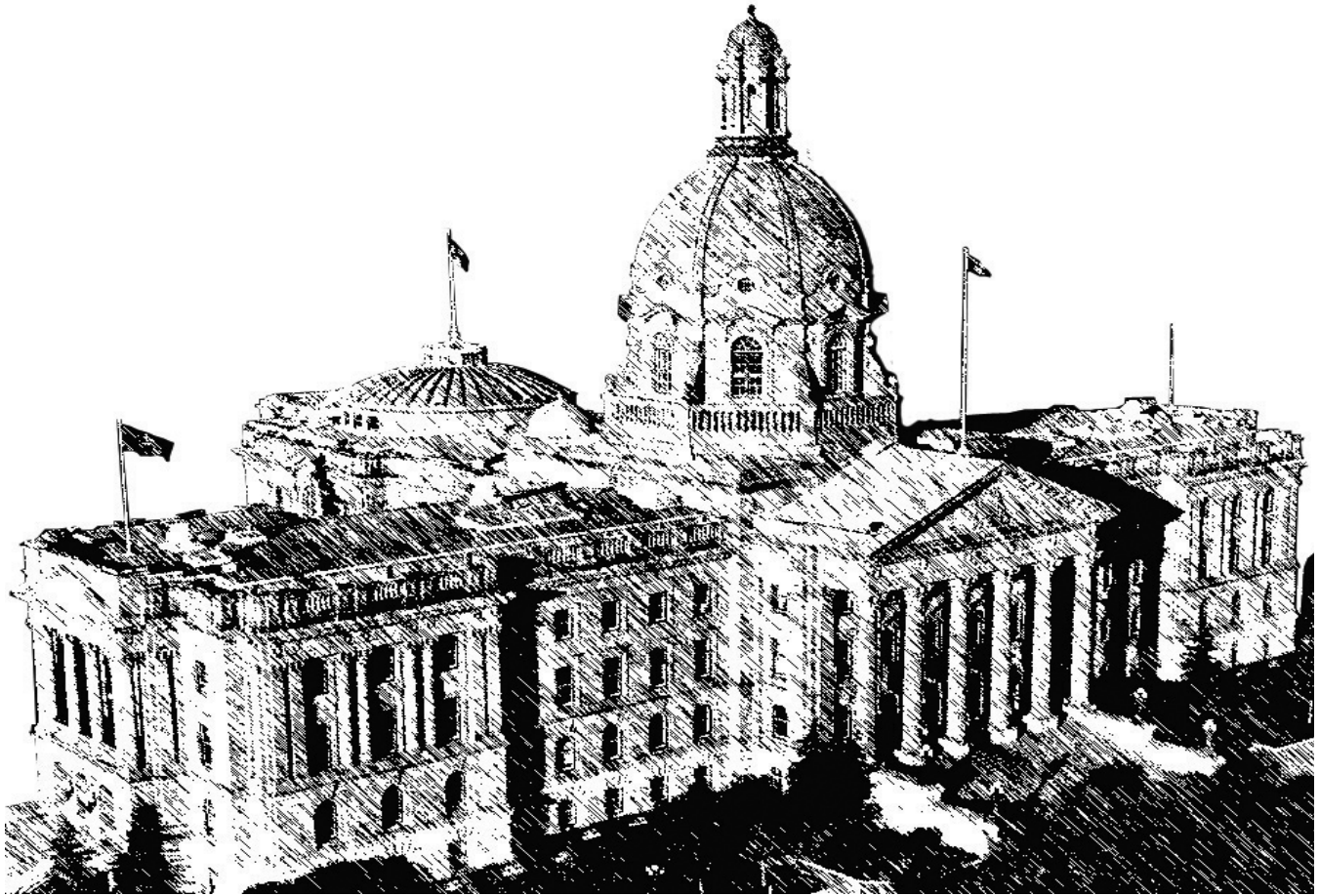
House of Parliament by a minister or other representative of the Crown on or after the first anniversary of Bill C-51 receiving Royal Assent. While parliamentary and judicial experience with *Charter* statements from the voluntary era is limited, it offers some insight as to the use and impact of these new statements. These patterns of practice will be important to observe going forward as *Charter* statements enter their statutory era. This work situates the new requirement for *Charter* statements within the broader context of pre-enactment constitutional scrutiny of legislation. It then presents practice observations from the voluntary era and outlines some issues for future consideration.

Keyes, John Mark, "Challenges of teaching legislative interpretation in Canada: tackling scepticism and triviality." *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique* 13 (2), May/mai 2020: 479.

- The author's aim is to examine the challenges of teaching the interpretation of legislation, particularly as they relate to Canadian legislation and law schools.

St-Hilaire, Maxime. « Affaire « Boulerice » : le privilège parlementaire comme modification constitutionnelle judiciaire et (donc) inconstitutionnelle. » *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique* 13 (2), May/mai 2020 : 521.

Le privilège, au sens générique, ou les privilèges que le droit canadien reconnaît aux parlementaires pourraient-ils être détournés de leur objet afin de voir, en matière disciplinaire et de contrôle des dépenses notamment, la majorité d'un parlement en opprimer la minorité ? Tel est l'enjeu institutionnel de l'affaire *Boulerice et al. c. Bureau de régie interne de la Chambre des communes* et al...



Alberta

2nd Session of the 30th Legislature

Lois E. Mitchell, Lieutenant Governor of the Province of Alberta, opened the Second Session of the 30th Legislature on February 25, 2020. In the Throne Speech, Her Honour highlighted the Government's plans for job creation, a three per cent overall reduction in government spending, protection of critical infrastructure, and democratic reforms including recall legislation.

Bills

In the first two weeks of session, the government introduced six Bills:

- Bill 1, *Critical Infrastructure Defence Act* – provides for new offences related to trespassing, damaging or obstructing the use of essential infrastructure.
- Bill 2, *Gaming, Liquor and Cannabis Amendment*

Act, 2020 – intention is to simplify and modernize existing legislation.

- Bill 3, *Mobile Home Sites Tenancies Amendment Act, 2020* – permits tenants and landlords of mobile home sites to use the dispute resolution service available to renters and landlords of apartments.
- Bill 4, *Fiscal Planning and Transparency (Fixed Budget Period) Amendment Act, 2020* – proposes a fixed budget period to occur in February of each year.
- Bill 5, *Fiscal Measures and Taxation Act, 2020* – implements amendments from Budget 2020, including changes to education funding and the application of the tourism levy to online hospitality services such as AirBnB.
- Bill 6, *Appropriation Act, 2020* – authorizes funding for the Legislative Assembly, independent Officers of the Legislature, and the Government of Alberta for the 2020-21 fiscal year.

At the time of writing, of these six Bills, only Bill 5 and Bill 6 have completed the legislative process and received Royal Assent.

Two Private Members' Public Bills have also been introduced and referred to the Standing Committee on Private Bills and Private Members' Public Bills for review. Bill 201, *Strategic Aviation Advisory Council Act, 2020* was reviewed on March 3, 2020, and the Committee has reported its recommendation that the Bill proceed. Bill 202, *Conflicts of Interest (Protecting the Rule of Law) Amendment Act, 2020*, has been referred to the Committee; however, the deadline for the Committee to report back to the Assembly on the Bill has been postponed until October 2020 pursuant to the provisions of a Government Motion passed on March 17, 2020.

Legislative Offices

On February 14, 2020, the Standing Committee on Legislative Offices released its report on the review of the *Office of the Child and Youth Advocate, 2018-2019 Annual Report*. This is the first review of the Advocate's report conducted pursuant to recent legislative changes that require the annual reports of this Office to be reviewed by a committee of the Legislative Assembly. Then, on February 26, 2020, the Committee tabled reports recommending the reappointment of **Del Graff** as Child and Youth Advocate and **Glen Resler** as Chief Electoral Officer. Both reappointments have proceeded.

Main Estimates 2020-21

The Government presented Budget 2020-21 on February 27, 2020, and consideration of the main estimates by the Legislative Policy Committees (LPCs) was scheduled to occur over the weeks of March 2, 2020, and March 16, 2020, with the final vote in Committee of Supply on March 19, 2020. The first week of consideration proceeded as scheduled; however, the onset of the COVID-19 pandemic required adjustments to many of the Assembly's procedures.

COVID-19

During the week of March 9, 2020, a "constituency week" scheduled to enable Members to tend to local matters in their constituencies, the number of COVID-19 cases in Alberta grew significantly from single digits to nearly 100 confirmed cases. On March 15, 2020, the Government announced the immediate closure of all K-12 schools and post-secondary facilities; two days later the province declared a public health emergency and instituted additional virus containment measures.

The Legislative Assembly responded quickly to the

rapid changes occurring as a result of the COVID-19 pandemic. On March 16, 2020, the remaining consideration of the main estimates by the LPCs was cancelled and the Government introduced revised estimates which included an additional \$500 million for the Ministry of Health to respond to the COVID-19 pandemic. The regular business of the Assembly was also set aside that day in favour of an emergency debate regarding COVID-19. Notice was also given for Government Motion 10 (GM10) which proposed broad, temporary changes to the rules governing the procedures of the Legislative Assembly in order to permit greater flexibility throughout the pandemic. GM10 passed, with amendments, the following day.

GM10 included measures to allow the Government House Leader to inform the Speaker that it is in the public interest for the Assembly to be adjourned or for an adjournment to be extended. Additionally, after consulting with the Official Opposition, the Government House Leader may also advise the Speaker that it is in the public interest for the Assembly to reconvene. The motion also brought in immediate changes to the way the remaining main estimates were to be considered. Responsibility for considering the main estimates was transferred from the LPCs, which had already completed 35 hours of consideration, to the Committee of Supply. In Committee of Supply, the estimates of the remaining nine ministries received a combined total of three hours of consideration.

Bill 6, *Appropriation Act, 2020*, was introduced immediately following completion of the estimates process and, under GM10, it was able to proceed through all stages of consideration that day. The new rules also permitted Bill 5, *Fiscal Measures and Taxation Act, 2020*, to advance two or more stages in one day. Having received First Reading on March 3, 2020, Bill 5 proceeded through all remaining stages of consideration on March 17, 2020. Both Bills received Royal Assent three days later on March 20, 2020.

With funding authorized for the 2020-21 fiscal year, the Government proceeded to introduce multiple Bills to address the urgent matters facing the province as a result of the COVID-19 pandemic, including:

- Bill 9, *Emergency Management Amendment Act, 2020* – ensures local governments can maintain responsibility for emergency management within their communities and permits both a local state of emergency and a provincial state of emergency to be in place at the same time.
- Bill 10, *Public Health (Emergency Powers) Amendment*

Act, 2020 – increases fines and enforcement measures available to discourage violations of public health orders.

- Bill 11, *Tenancies Statutes (Emergency Provisions) Amendment Act, 2020* – prohibits retroactive enforcement or implementation of rent increases and late fees after the state of public health emergency ends.
- Bill 13, *Emergency Management Amendment Act, 2020 (No. 2)* – permits local state of emergency periods for up to 90 days from 7 days, broadens available enforcement measures for a broader range of orders, permits the Minister of Municipal Affairs to override local decisions to protect the public interest.

At the time of writing, Bills 9, 10, and 11 have received Royal Assent.

Jody Rempel
Committee Clerk



British Columbia

Demonstrations and the Spring Sitting

Throughout much of February and early March, a number of demonstrators gathered on the parliamentary precinct in support of the hereditary chiefs of the Wet'suwet'en Nation and their opposition to the Coastal GasLink natural gas pipeline project in northwest BC. The demonstrators congregated in the steps and archway of the ceremonial entrance used by the Lieutenant Governor, including camping overnight at times. Demonstrators also lit a ceremonial fire which affected air quality for offices in the front of the Parliament Buildings at times.

Demonstrators blocked entrances to the Parliament Buildings on February 11 when the House was scheduled to prorogue the Fourth Session of the 41st Parliament and open the Fifth Session, preventing some Members and staff from entering the buildings.

The demonstration also postponed the prorogation ceremony, which had been scheduled for 10:00 am that morning but continued in the afternoon. The Fifth Session commenced approximately 45 minutes later at its originally scheduled time of 2:00 pm with a Speech from the Throne delivered by Lieutenant Governor **Janet Austin**.

Due to security concerns, the Legislative Assembly first closed public access to the Parliament Buildings on February 6. Following the events of opening day, the Legislative Assembly sought and was granted an anticipatory injunction on February 13. The injunction prevented further impeding protests, including actions interfering with and obstructing access of Members and staff at the Parliament Buildings and surrounding buildings and grounds within the Legislative Precinct. The injunction did not prohibit peaceful and lawful protest in the traditional protest area, being the front lawn of the Parliament Buildings. Public access briefly resumed from February 19 until the afternoon of February 24 and then was closed again until March 6 after demonstrators vacated the precinct.

Budget Presentation

On February 18, the Minister of Finance, **Carole James**, presented the provincial 2020-21 budget. The budget proposed additional capital infrastructure spending, increased investments in health care and education, the creation of a needs-based grant for post-secondary students, a new benefit for low and middle-income families with children, a new tax bracket for individuals making more than \$1 million, and the application of the provincial sales tax to sweetened carbonated beverages.

In her response, **Shirley Bond**, the Official Opposition Co-Critic for Finance, expressed concerns with respect to new taxes and increases in spending. She questioned the government's efforts to foster a competitive business environment and encourage growth, drawing specific attention to challenges in the forestry and resource industries. The Leader of the Third Party, **Adam Olsen**, expressed his overall support for the budget, highlighting progress on shared priorities, such as early childhood education

and post-secondary education, while also expressing disappointment that some measures and investments, particularly with respect to climate change, did not go further.

The first confidence vote of the Fifth Session was held on February 27 on the motion “That the Speaker do now leave the Chair” for the House to go into Committee of Supply. The motion passed by a vote of 44 to 39.

Legislation

In the first few weeks of the Fifth Session, the Legislative Assembly considered and passed four pieces of legislation. Bill 3, *Environmental Management Amendment Act, 2020*, enhances oversight of soil relocation. Bill 7, *Arbitration Act*, modernizes BC’s domestic arbitration regime and harmonizes it with international practice. Bill 8, *Education Statutes Amendment Act, 2020*, amends two statutes to achieve several objectives, including supporting reconciliation in BC’s school system and implementing a funding review. It also enables boards of education to directly offer before- and after-school child care, and, in order to support policy decisions around capacity for enrolment, authorizes the issuance of personal education numbers to children before they formally start school. Finally, Bill 10, *Municipal Affairs and Housing Statutes Amendment Act, 2020*, creates an interim business property tax relief program that enables municipalities to adopt bylaws to relieve eligible commercial properties from higher property taxes resulting from paying taxes on the potential of the land value.

Presiding Officers

At the beginning of the Fifth Session, **Raj Chouhan** and **Spencer Chandra Herbert** were re-appointed Deputy Speaker and Deputy Chair of Committee of the Whole respectively. **Simon Gibson** was appointed Assistant Deputy Speaker.

Party Standings

In January, **Andrew Weaver** stepped down as Leader of the BC Green Party and later stepped away from the Green Party caucus to sit as an Independent Member. **Adam Olsen** was named Interim Leader and serves as Leader of the Third Party in the House, while the party conducts a leadership campaign. The current party standings are: 41 BC NDP, 42 BC Liberal, two BC Green Party, and two independents.

While no longer part of the BC Green Party caucus, Mr. Weaver indicated he will continue to support the Confidence and Supply Agreement signed between the BC NDP and BC Green Party.

COVID-19 Special Sitting

Following a scheduled two-week constituency break in March, during which the World Health Organization declared COVID-19 a pandemic and BC declared a provincial state of emergency, the Legislative Assembly resumed for a one-day sitting on March 23 to consider and adopt urgent budgetary and legislative measures to address the pandemic.

House leaders from all three parties worked collaboratively in advance of this one-day sitting to manage proceedings in a manner that respected physical distancing requirements while also allowing Members to fulfill their parliamentary responsibilities to debate and scrutinize the business before the House. Only 14 Members were present (quorum in BC is 10) with the Deputy Chair of the Committee of the Whole, **Spencer Chandra Herbert**, taking the Chair as Speaker; the Speaker and the Deputy Speaker were both unavailable due to self-isolation. Seating was adjusted to ensure Members were at least two metres apart from one another, and the House adopted a motion for the sitting permitting Members to speak and vote from a seat other than their assigned place.

During the sitting, the House unanimously approved 2020-21 supplementary estimates of \$5 billion to support the government’s COVID-19 action plan. The plan includes: a one-time, tax free \$1,000 emergency benefit to anyone who has been laid off, is sick or is quarantined, or who has to stay home to care for sick family members; investments in critical health services; housing, shelter, and rental support; increased income and disability assistance; and an increase in the Climate Action Tax Credit.

The House also considered and adopted two bills. Bill 15, *Supply Act (No. 2)*, provides funding for ministry operations for the first nine months of the 2020/2021 fiscal year; the previously introduced Bill 12, *Supply Act (No. 1)*, which would have provided funding for ministry operations for three months, was withdrawn with unanimous consent.

Bill 16, *Employment Standards Amendment Act (No. 2)*, allows workers to immediately take unpaid, job-protected leave if they are unable to work due to COVID-19. This covers people who are sick, need

to self-isolate, or need to take care of a child or dependent, and is retroactive to January 27, 2020. The bill also implements three days of unpaid sick leave for all workers in the province. Lieutenant Governor **Janet Austin** granted Royal Assent to both bills that day.

At the end of the sitting, the House adjourned until further notice. The adjournment motion included provisions allowing for the location of sittings and the means of conducting sittings of the House to be altered due to an emergency situation or public health measures by agreement of the Speaker and the House Leaders of each recognized caucus. The motion further provides that other presiding officers or another Member so designated by the House Leaders of each recognized caucus may act in the Speaker's stead if the Speaker is unable to act owing to illness or other cause for the purposes of the order.

Following the sitting, Premier **John Horgan**, Leader of the Official Opposition **Andrew Wilkinson**, Interim Leader of the Third Party **Adam Olsen**, and Independent MLA **Andrew Weaver** released a joint statement with respect to the COVID-19 pandemic. In the statement, they described how all Members are united in working together to support British Columbians affected by COVID-19, and encouraged all British Columbians to do their part to stop the spread of the virus.

At the time of writing, the Legislative Assembly was adjourned for the foreseeable future and was exploring opportunities to facilitate parliamentary proceedings by alternative means, including potential remote sittings. Parliamentary committees have shifted to using Zoom videoconferencing technology for their meetings, and to date, five parliamentary committees have held meetings using the technology.

Legislative Assembly Governance

Since 2012, the Legislative Assembly Management Committee has had one advisory subcommittee: the Finance and Audit Committee. While initially intended to focus on financial management and audit-related matters, the Finance and Audit Committee's role and work had expanded considerably in recent years to also cover administrative oversight including operational, policy, and human resources matters.

As part of the ongoing review of governance matters, on February 13, the Legislative Assembly Management Committee adopted a new

subcommittee advisory structure to separate the two oversight roles with a subcommittee on finance and audit, and a second subcommittee on administration and operations. Membership on both subcommittees includes: the Speaker (as Chair), at least one Member of the Government Caucus, at least one Member of the Official Opposition Caucus, the Member of the Third Party Caucus, and the Clerk of the Legislative Assembly (ex-officio).

Members' Remuneration

At their March 31 meeting, the Legislative Assembly Management Committee adopted a motion to withhold the statutory increase to Members' basic compensation that was to come into effect on April 1, notwithstanding section 2(2) of the *Members' Remuneration and Pensions Act*. The motion effectively negates the statutory cost-of-living increase to Members' salaries until such a time as the Legislative Assembly considers a statutory amendment in this regard and was adopted in recognition of the financial challenges currently confronting the province in light of the COVID-19 pandemic.

Appointment of Clerk of the Legislative Assembly

On March 2, the Legislative Assembly unanimously appointed **Kate Ryan-Lloyd** Clerk of the Legislative Assembly following the recommendation of a special committee. Ms. Ryan-Lloyd has served the Legislative Assembly of British Columbia for many years, beginning in the Legislative Library, then the Parliamentary Committees Office and had served as Acting Clerk since November 2018.

This was the first time a special committee was appointed to select and unanimously recommend a candidate for the position of Clerk of the Legislative Assembly. The special committee appointment process is typically used for statutory officers in accordance with statutory provisions and established practice.

Ms. Ryan-Lloyd is the first woman in British Columbia's history to be appointed to the role.

Appointment of Auditor General

On March 23, the Legislative Assembly appointed **Michael A. Pickup** Auditor General of British Columbia for a term of eight years commencing July 27, 2020. Mr. Pickup's appointment was unanimously recommended by a special committee tasked with

selecting and recommending a candidate for the position following former Auditor General Carol Bellringer's resignation at the end of December 2019. Mr. Pickup has been serving as Nova Scotia's Auditor General since 2014.

Parliamentary Practice in BC 5th Edition

In February, the Legislative Assembly published the fifth edition of *Parliamentary Practice in British Columbia*, the primary procedural authority for BC. The new book captures 12 years of developments in parliamentary practice and procedure and is organized thematically with content and commentary significantly expanded (previous editions had been organized numerically by Standing Order). It is available for purchase from Crown Publications and the Legislative Assembly Gift Shop.

Karan Riarh

Senior Research Analyst



Manitoba

2nd Session of the 42nd Legislature – Spring Sitting

The Second Session of the 42nd Legislature resumed on March 4th, 2020.

The Government introduced nine Bills in the first week of the sitting in order to meet the criteria for obtaining Specified Bill status. These Bills, together with the Bills introduced during the past November sitting, were on track to have guaranteed passage in June, but the cessation of sittings due to the pandemic has moved the deadline dates from June.. As of the March 18 deadline, a total of 29 Specified Bills were introduced in the House.

On March 11, Finance Minister **Scott Fielding** was scheduled to deliver the 2020/2021 budget for the Province of Manitoba. However, starting immediately after the Prayer, Members of the Official Opposition raised a consecutive series of Matters of Privilege which prevented the House from reaching Orders of the Day. The Government House Leader then announced in the House the Government's decision to schedule the delivery of the Budget in the House for the following day.

In interviews after the House raised for the day, the Leader of the Official Opposition, **Wab Kinew**, announced to the media that it was their intention to hold up the House for several days. As stated by Mr. Kinew, the goal of his party was to prevent the government from introducing all of its legislative packages prior to the March 18 deadline, thereby rendering those Bills ineligible for guaranteed passage by the end of the Session. In the following four sitting days in the House, Members of the Official Opposition continued to raise Matters of Privilege, which the Speaker took under advisement, with a total of 27 Matters of Privilege raised during the course of five days. This prevented the House from reaching Routine Proceedings and also from reaching Orders of the Day. Not only were no Bills introduced, but due to the House not reaching Orders of the Day, the government was prevented from presenting its budget for a week.

Budget Debate

Prior to the start of the sitting day on March 19, 2020, the Government, the Official Opposition, and the Independent Liberals reached an agreement in order to complete certain business by the end of the day and to suspend the sitting of the House indefinitely, due to the COVID-19 Pandemic. Early in the sitting day, Government House Leader, **Kelvin Goertzen** sought and received leave to skip some of the steps of the Budget Procedure to allow Members to speak to the motion immediately after the Minister of Finance concluded his speech. Due to this agreement, Finance Minister, **Scott Fielding**, was able to present his budget address.

The Budget debate lasted less than 30 minutes. During the debate, the Leader of the Official Opposition, **Wab Kinew**, moved an amendment to the budget speech motion, followed by a sub-amendment moved by the Member for St. Boniface, **Dougald Lamont**, during his speech. Both the sub-amendment and the amendment were defeated on division, while the main motion passed on a recorded vote of yeas 31, nays 17.

Interim Supply

At the beginning of the sitting day on March 19, the Government House Leader also obtained leave to consider Interim Supply, and for the House to not see the clock until the *Interim Appropriation Act, 2020* had received Royal Assent. The passage of this Bill is required by the end of the fiscal year on March 31 to provide interim funding for operating and capital expenditures effective April 1, until the budget processes and the main supply Bills are completed later in the session.

In a short time and with reduced debate the House went through the consideration and passage of the resolutions respecting the Interim Supply Bill and through all the steps to pass the *Interim Appropriation Act, 2020*. The unusual sitting day concluded with Royal Assent of this Bill granted by Lieutenant Governor **Janice C. Filmon**. In these unprecedented times, the Lieutenant Governor decided to depart from usual practice and addressed the Assembly as follows:

"I'm going to break protocol right now. Apparently, I have that opportunity. In unprecedented times, as they are, I think the reset button has been pushed. The question has been asked. How will we respond? There will be new ways of doing and being. It's a transformative time and we are being asked to care for other people before ourselves. I want to, on behalf of all Manitobans and myself, thank you for the role that you play in giving the leadership that you give, the thoughtfulness and the care, because there is no good reason for not caring, and you do. Thank you."

Suspension of the House

On March 16, the Government House Leader introduced in the House the following motion as a response to the COVID-19 pandemic:

"THAT during any sitting of the Manitoba Legislative Assembly called under the sessional calendar, or by government emergency recalls, or by agreement of the House Leaders to sit outside of sessional calendar periods, the Speaker, the Government and Opposition House Leaders and the Honourable Member for River Heights, as a group, are authorized to vary the sitting hours, days and location of sittings of the Manitoba Legislative Assembly

as required by emergency public health measures, with the authorization to be in effect until rescinded by the Legislative Assembly."

The motion unanimously passed after a brief debate where the Government House Leader, the Opposition House Leader **Nahanni Fontaine**, and the Member for River Heights **Jon Gerrard** briefly explained the reasons for this agreement among the parties represented in the Legislative Assembly.

On March 19, the House agreed by leave to suspend its sittings indefinitely after the end of the sitting day. Members also agreed, despite the motion passed a few days earlier on March 16, to adjourn until the call of the Speaker. The agreement also encompassed that the Speaker would call the House back upon the request of the Government House Leader, or on the request of the collective group of the Government House Leader, the Opposition House Leader and the Member for River Heights (acting as representative of Independent Members).

Special Sitting – April 15th 2020

The House resumed on April 15th with the agreement that only one-third of all parties' members would be sitting in the Chamber, several seats apart to respect physical distancing. Twelve Members from the Government, six from the Official Opposition and one Independent Member were present in the Chamber. When the public galleries closed on March 16 the Assembly switched from video broadcasting only Routine Proceedings, to broadcasting the entire sitting day. Accordingly, on this unusual sitting day all other members were able to follow what was happening in the House. In accordance to the agreement reached by the three MLAs noted above, the House sat for three two-hour periods starting at 10:00 am, with cleaning staff disinfecting the Chamber during each break period. The Government sought to pass a number of COVID-19 related Bills, as well as some other Bills previously introduced.

Considerable thought and planning were needed to create the conditions for a sitting of the House that was both safe and productive. The Speaker also consulted with Manitoba's Chief Medical Officer of Health for the safety measures to be taken. Among the various agreements reached for the day, some of the most interesting aspects included:

All Bills introduced were not distributed directly to Members but were instead placed on a table on

the west side of the Chamber for Members to pick up copies for themselves. This measure reduced the number of hands touching each document to minimize the risk of transmission.

Usually Question Period lasts 40 minutes; however, on this day it was agreed to a limited Question Period. Opposition parties asked a total of 12 questions, with no follow-up questions. The Official Opposition asked 9 questions while three questions came from Independent Members. This special version of Question Period lasted about 20 minutes

Leave was granted to waive Rule 92(7) for any Bills with individuals registered to present at Committee Stage. Usually, two day's notice of the meeting would be required in the presence of registered presenters. By waiving the rules, committee consideration happened immediately after second reading in the Committee of the Whole House rather than in Standing Committee. Registered presenters were also allowed to provide a written submission to be included in the day's Hansard transcript, provided they could submit their document before 4:30 p.m., April 16.

During committee consideration of bills, staff from Legislative Counsel present to help drafting possible amendments. However, in the rare events when a bill is considered in the Committee of the Whole, only the Law Officer attends the meeting in the Chamber. Due to the number of bills considered on this particular sitting, Legislative Counsel needed to be fully prepared to assist all MLAs with questions or amendments. Accordingly, when the House resolved into the Committee of the Whole, additional staff from Legislative Counsel was seated on two tables placed near the east Loge along with their laptops and equipment.

The following bills received Royal Assent on that day:

- *Bill 4 – The Manitoba Hydro Amendment Act*, amending *The Manitoba Hydro Act* to increase the borrowing authority granted to the crown corporation for temporary purposes from \$500 million up to \$1.5;
- *Bill 15 – The Liquor, Gaming and Cannabis Control Amendment and Manitoba Liquor and Lotteries Corporation Amendment Act*, allowing the holder of a specified type of liquor service licence to sell beer, wine, cider and coolers to customers who order food for delivery or takeout from the licensed premises;
- *Bill 30 – The Fisheries Amendment, Forest Amendment and Provincial Parks Amendment Act*, amending *The Forest Act*, *The Provincial Parks Act*, and *The Fisheries Act* to enable licences and permits under these Acts to be issued using the Internet;
- *Bill 54 – The Emergency Measures Amendment Act*, giving the Lieutenant Governor in Council the power to make three types of orders when a state of emergency is declared: Emergency Orders, Temporary Suspension Orders, and Reporting Deadline Variation Orders;
- *Bill 55 – The Employment Standards Code Amendment Act*, adding a temporary job-protected leave for employees who are unable to work due to circumstances related to the COVID-19 pandemic;
- *Bill 56 – The Family Maintenance Amendment Act*, enabling maintenance enforcement officials to make more frequent inquiries to determine if a maintenance obligation for an adult child remains eligible for enforcement;
- *Bill 57 – The Regulated Health Professions Amendment Act*, allowing a regulated health profession college to re-register former members, without complying with the usual registration requirements;
- *Bill 58 – The Residential Tenancies Amendment Act*, freezing rents at the amount payable immediately before April 1, 2020; limiting evictions to specific circumstances that infringe, interfere with or adversely affect the security, safety, health or well-being of other tenants, such as engaging in unlawful activity; prohibiting late fees for failure to pay rent;
- *Bill 59 – The Public Health Amendment Act*, allowing for the implementation of new prohibitions or requirements in a public health emergency order to prevent the spread of a communicable disease. The bill also added measures to assist in the enforcement of public health emergency orders and increased fines for failing to comply with public health emergency orders;
- *Bill 62 – The Fuel Tax Amendment and Retail Sales Tax Amendment Act*, which amends *The Fuel Tax Act* to suspend, for the duration of the 2020 public health emergency, the requirements that a carrier who is not licenced under the International Fuel Tax Agreement pay a tax and obtain a single-trip permit upon entering Manitoba. The bill also amends *The Retail Sales Tax Act* to eliminate retail sales tax on premiums payable for insurance related to real property.

During this unprecedented sitting day, the House also passed two financial bills, which received Royal

Assent before the House rose. *The Loan Act, 2020 (COVID-19 Response)* will increase the Provincial Government's borrowing authority up to \$5 billion, while *The Appropriation Act, 2020 (COVID-19 Response)* provides spending authority to government of up to \$1 billion in additional funds beyond those in the Budget 2020 Estimate of Expenditures. The spending authority is divided into three parts: Health, Seniors and Active Living at \$500 million, Enabling Appropriations at \$400 million, Emergency and Other Appropriations at \$100 million.

100th anniversary of the first session of the Manitoba Legislature held in the current Chamber

January 22, 2020, marked the 100th anniversary of the first session of the Manitoba Legislature held in the current Chamber. At the beginning of the first sitting day following the winter break, copies of the Votes and Proceedings from that first sitting day on January 22, 1920, were provided to Members. This allowed all 57 MLAs to see what issues Members were considering in the same exact place 100 years ago.

Madam Speaker read part of the announcement for the opening:

"A cordial invitation is extended to all Citizens to take advantage of this opportunity to inspect the New Parliament Building; and the Civil Service of the Province are specially invited to attend in the evening and bring their friends.

An orchestra will attend on both occasions, and light refreshments will be served during the evening. The Premier and Executive Council are desirous that the Citizens should take advantage of the invitation issued on this occasion."

Madam Speaker also shared with the House some interesting figures related to the history of the room and all that it signifies;

Since January 1920, the Chamber has experienced 121 Legislative sessions for a total of 6,709 sitting days;

Six Clerks of the House, along with many Deputy Clerks and Clerk Assistants, expertly managed each of these sessions. Seventeen Sergeants-at-Arms have carried the same Mace and placed it on the same Table before all Members;

548 citizens, including 65 women and one non-binary person, have served in this same room as Members of the Legislative Assembly. Of those MLAs, 17 have served as Speaker of the House and 12 as Premier.

Standing Committees

Since the last submission, the Standing Committee on Legislative Affairs met on January 14, 2020, to undertake the hiring process of a new Auditor General. During the meeting, a motion was passed to strike a sub-committee to manage the process. The sub-committee consists of four Government Members, two Official Opposition members, and one Liberal Party member and has the authority to call their own meetings and meet in camera. The sub-committee must report its unanimous recommendation to the Standing Committee.

On January 20, the Legislative Affairs Committee met to consider annual reports and to hear from the Manitoba Advocate for Children and Youth.

Finally, on March 11, the Standing Committee on Public Accounts held a training session for its members, some of them newly assigned to this committee following the Fall 2019 General Election. This session saw a presentation from representatives of the Canadian Audit and Accountability Foundation, within attendance members of the Committee, the Deputy Auditor General and some of his office staff, as well as procedural staff.

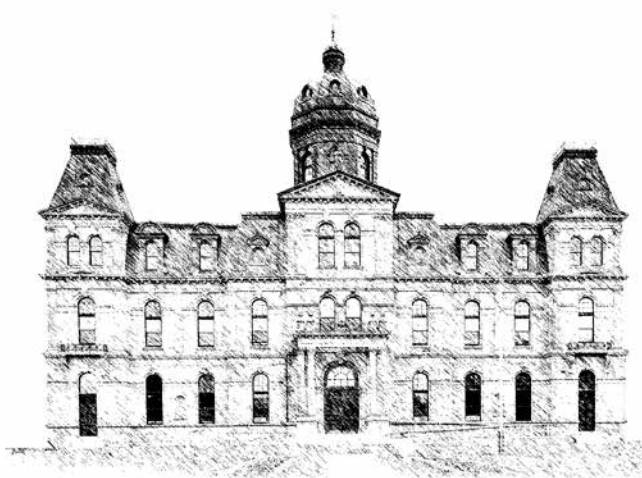
Current Party Standings

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

The House is currently suspended, but may be called back for special sittings over the coming months. As well, there have been some preliminary discussions and arrangements made to allow the House to meet virtually, but at the time of publication, this has not yet been implemented. The next submission will provide a further update on this development.

Andrea Signorelli

Clerk Assistant/Clerk of Committees



New Brunswick

Official Languages Commissioner

The new Official Languages Commissioner for New Brunswick, **Shirley MacLean**, was sworn-in on January 22, after being recommended by the Legislative Assembly and appointed by government in November. The swearing-in and reception were hosted by Speaker **Daniel Guitard** and held in the Legislative Council Chamber.

Standing Committees

The Standing Committee on Economic Policy, chaired by **Gary Crossman**, considered various government bills in January. In February, the Standing Committee on Public Accounts, chaired by **Roger Melanson**, reviewed Auditor General report sections and the annual reports of various government departments, Crown corporations, and other provincial entities.

Also, in February, the recently created Standing Committee on Climate Change and Environmental Stewardship, chaired by **Bruce Fitch**, met with representatives from various government departments and NB Power regarding their use of pesticides and herbicides, including glyphosate, in the province and to receive updates on their progress towards the implementation of New Brunswick's Climate Change Action Plan. The Committee was expected to hold public hearings in March on herbicide and pesticide use; however, based on the recommendation of New

Brunswick's Chief Medical Officer of Health, aimed at limiting the spread of the coronavirus, the public hearings were postponed indefinitely.

Resignation and Changes to Cabinet

On February 14, following the announcement of a government initiative for the nightly closures of certain hospital emergency rooms, **Robert Gauvin** announced his resignation from Cabinet as Deputy Premier; Minister of Tourism, Heritage and Culture; and Minister responsible for La Francophonie. He also left the Progressive Conservative caucus to sit as an Independent Member. He was first elected to the Legislature in the 2018 provincial election to represent the riding of Shippagan-Lamèque-Miscou.

On February 21, Premier **Blaine Higgs** announced two additions to Cabinet. **Bruce Fitch** became Minister of Tourism, Heritage and Culture. He has held various Cabinet positions since he was first elected to the Legislature in the 2006 provincial election to represent the riding of Riverview. **Glen Savoie** became Minister responsible for La Francophonie in addition to his role as the Government House Leader. First elected in the 2010 provincial election, he now represents the riding of Saint John East. The new Cabinet members were sworn-in to the Executive Council on February 24 by Lieutenant-Governor **Brenda Murphy**.

Budget

The Third Session of the 59th Legislature adjourned on December 20 and resumed on March 10, when Finance and Treasury Board Minister **Ernie Steeves** tabled the 2020-2021 Budget. This was the second budget of the Progressive Conservative minority government.

New Brunswick's \$10.2 billion 2020-2021 Budget was balanced with a projected surplus of \$92.4 million. The net debt was expected to be reduced by \$129.3 million. Revenues were projected to grow by 3.4 per cent, while spending was expected to grow by 3.5 per cent. The Department of Finance and Treasury Board projected the New Brunswick economy to expand by 1.2 per cent during the 2020-2021 fiscal year.

Highlights of the Budget included a 3.9 per cent increase in health care funding with \$5.5 million going toward mental health programs in social development, health care, and education and \$5 million for a rural incentive program to maintain physician resources for the future; \$7.1 million to

hire more teachers for the upcoming school year; \$6.1 million to address the growth in demand for educational assistants in schools; a wage increase of 75 cents-per-hour for early childhood educators; \$36 million for investments in climate change initiatives; \$1.6 million to the New Brunswick Legal Aid Services Commission to improve access to legal services for those who need the support; a 25 per cent increase in the rates paid to foster caregivers to assist them in providing a safe and secure home to children under their care; \$800,000 to ensure core funding for resource development consultation co-ordinator positions within First Nation communities; and as part of the made-in New Brunswick carbon plan, effective April 1, 2020, the gasoline tax would decrease by 4.63 cents per litre and the motive fuel (diesel) tax would decrease by 6.05 cents per litre.

On March 12, Finance Critic, **Roger Melanson**, delivered the Official Opposition's Reply to the Budget. Melanson argued that the government's approach to health care spending reduces health care access for rural New Brunswickers; the tax decreases were in fact increases; and despite social assistance rates going up, there was less funding in the income security budget overall compared to the 2018 budget. In summation, the Official Opposition argued the projected surplus was based on unrealistic assumptions about the province's economic growth rate.

After three days of debate, it was agreed by unanimous consent to conclude the Budget debate. The Main and Capital Estimates were subsequently adopted by the Legislature on March 13, as well as the *Appropriations Act 2020-2021*. After the debate was concluded and the estimates were adopted, Premier Higgs addressed the House and expressed his appreciation to the Members for their cooperation in expediting the business of the House due to the evolving situation with the COVID-19 pandemic.

Further Sitings and Precautions

The Legislature met again, briefly, with only a quorum present to maintain social distancing, on March 17 and April 17. On both days, Routine Proceedings were dispensed with and certain necessary legislation was introduced and quickly passed second and third reading without committee consideration. The April sitting also involved enhanced screening, including temperature checks of Members and staff by a health professional, limited staffing, and restricted access to the building.

Legislation

During the abbreviated Spring sitting, noteworthy legislation introduced included:

- Bill 33, *An Act Respecting Security for the Legislative Assembly*, introduced by Public Safety Minister **Carl Urquhart**, seeks to broaden security measures at the Legislative Assembly to include the utilization of deputy sheriffs and the possession of firearms.
- Bill 35, *Sexual Orientation and Gender Identity Protection Act*, introduced by Green Party House Leader **Megan Mitton**, would ban conversion therapy in New Brunswick, making it illegal for regulated health professionals to practice conversion therapy on a minor. The bill would also prevent any organizations that provide or advocate for conversion therapy from receiving government funds.
- Bill 38, *An Act Respecting Elections in 2020*, introduced by Environment and Local Government Minister **Jeff Carr**, postpones the dates for various spring elections, including provincial by-elections and municipal, district education council, regional health authority, and local service district elections, in light of the COVID-19 pandemic.
- Bill 40, *An Act to Amend the Employment Standards Act*, introduced by Post-Secondary Education, Training and Labour Minister **Trevor Holder**, protects the employment of private and public sector workers requiring leave due to issues related to the COVID-19 pandemic.
- Bill 41, *An Act to Amend the Emergency Measures Act*, introduced by Minister **Carl Urquhart**, provides emergency childcare services and suspends limitations and deadlines related to court and tribunal proceedings.

Adjournment and Standings

The House stands adjourned until May 5, 2020. The standings in the House are 20 Progressive Conservatives, 20 Liberals, three Greens, three People's Alliance, two vacancies, and one Independent Member.

Alicia R. Del Frate
Parliamentary Support Officer



Newfoundland and Labrador

The House of Assembly convened on March 3, 2020, for the continuation of the First Session of the 49th General Assembly, a day later than scheduled owing to inclement weather.

Further to the resolution adopted by the House on December 5, 2019, the Member for St. Barbe - L'Anse aux Meadows began serving the two-week suspension ordered by that resolution.

The Member for Humber-Bay of Islands raised a point of privilege regarding a matter which was first raised as a point of privilege on March 3, 2019, and ruled not to be *prima facie* privilege.

The Member stated in raising the matter again that he had become aware of new evidence bearing on the case which had to do with an investigation carried out by the Commissioner for Legislative Standards. The Speaker took the matter under advisement.

On March 5 the House passed unanimously a resolution standing in the name of the Government House Leader striking a Select Committee on Democratic Reform. This followed from a Private Member's resolution moved by the Leader of the Third Party and adopted by the House on December 5, 2019, urging Government to disband an All-Party Committee on Democratic Reform established in February of 2019 and support instead a Select Committee of the House of Assembly comprising two members from each of the three caucuses and one independent Member.

On the same day, the House passed amendments to the *House of Assembly Accountability, Integrity And Administration Act* to give legal effect to the Legislature-Specific Harassment-Free Workplace Policy Applicable To Complaints Against Members recommended in the Report of the Privileges and Elections Committee adopted by the House in December 2019. The new policy comes into effect on April 1, 2020.

On March 11, the Minister of Natural Resources gave notice of a resolution that the House support the referral of the Report of Commissioner Justice **Richard D. Leblanc** regarding the Muskrat Falls hydro development project, *Muskrat Falls: A Misguided Project*, to the RCMP and RNC for potential criminality and the further referral of the report to the Department of Justice and Public Safety for potential civil litigation.

On March 11, the House passed Bill 26 the *Interim Supply Act, 2020*, which as introduced would have provided sufficient funding for Government needs for six months rather than the traditional three. The Bill was amended and sub-amended to provide for an amount sufficient for three months.

Before the House adjourned for constituency week on March 12, the House adopted a motion permitting the extension of the adjournment if it became necessary to do so in light of the COVID-19 situation. In the event the House did extend the adjournment to March 26, rather than March 23, the date when the House would have reconvened in accordance with the parliamentary calendar.

The sitting on March 26, was unprecedented in that it was conducted in accordance with the public health requirements occasioned by the COVID – 19 Pandemic. There were 10 Members in the Chamber, three Table Officers, and the Sergeant-at-Arms. The public galleries were closed. The purpose of the sitting was to pass several measures including two Interim Supply Bills, one to address contingencies, the other to provide funding for an additional three months as proposed in the first Interim Supply Bill. The House also passed a *Loan Act* to provide funding required to deal with COVID-related expenditures.

The House also passed an omnibus Bill amending three statutes and creating a new statute:

- The *Hydro Corporation Act, 2007*, was amended to increase the Corporation's borrowing authority and the Crown's debt guarantee to address a reduction in revenues anticipated as a result of COVID-19;

- The *Labour Standards Act* was amended to provide job protection for individuals who miss work as a result of the public health emergency; and,
- The *Residential Tenancies Act, 2018*, was amended to extend the time period in which a tenant is required to vacate a residential premises after notice is served on a tenant where the tenant suffers a loss of employment or a reduction in work hours as a result of the pandemic.
- The *Temporary Variation of Statutory Deadlines Act*, which will allow a minister, the Premier, the Speaker or the Lieutenant-Governor in Council to vary a statutory deadline or time period for not more than six months, effective March 14, 2020. The *Act* shall cease to have effect at the end of the next sitting of the House.

The House then adjourned to the call of the Chair.

It is expected that the House will meet again in the near future.

Elizabeth Murphy



Northwest Territories

Session

The Second Session of the 19th Legislative Assembly began on February 5, 2020. This sitting was scheduled to conclude on April 2, 2020; however, in response to the developing COVID-19 pandemic the house was adjourned on March 16, 2020.

On February 25, 2020, the Minister of Finance, **Caroline Wawzonek**, delivered her inaugural Budget Address and tabled the Main Estimates 2020-2021. Conclusion of these estimates was not possible prior to the March 16, 2020 adjournment, and, as a result, on March 16, 2020, the Minister of finance tabled the

Interim Estimates (Operations Expenditures) April 1 to June 30, 2020.

The interim estimates provide the necessary appropriation authority to support the government's operations for the three-month period of April 1 to June 30, 2020.

On February 27, 2020, the Government House Leader, **R.J. Simpson**, raised a Point of Order per Rule 24 suggesting that comments by the Member for Monfwi seriously violated the rules of order and decorum in this House.

On March 10, 2020 the Speaker ruled there was indeed a Point of Order and called upon the Member for Monfwi to apologize to the House. Due to the unexpected absence of the Tłıchq interpreter, the ruling was deferred until the next day, when a Tłıchq interpretation was available.

On March 11, 2020, the Speaker returned to his ruling on the Point of Order and again directed the Member for Monfwi to apologize and withdraw his remarks. The Member for Monfwi refused and was named by the Speaker and asked to leave the Chamber for the remainder of the sitting day pursuant to Rule 26(2).

On February 27, 2020, the Member for Monfwi raised a Point of Privilege suggesting that the Premier acted beyond her authority when terminating the appointment of the president of Aurora College. It was suggested that the Premier had breached the collective privileges of the House and acted against the dignity and authority of the Assembly as per Rule 20. The Member also suggested that the Premier obstructed the ability of the Legislature in carrying out its lawmaking functions. On March 10, 2020, the Speaker ruled there was no *prima facie* breach of privilege, and the point of privilege is dismissed.

On March 10, 2020, when the Speaker delivered his ruling on the aforementioned Point of Order, the Member for Monfwi raised a point of privilege regarding the lack of Tłıchq interpretation due to the unexpected absence of the Tłıchq interpreter. On March 11, when Tłıchq interpretation was available the Speaker permitted debate on this Point of Privilege and subsequently found that there had been a *prima facie* breach of privilege. Following this ruling, the Member for Tu Nedhé-Wiilideh moved that the Speaker's ruling be referred to the Standing Committee on Rules and Procedures for their consideration.

Legislation

During the February-March sitting, the following appropriation acts were considered and received Assent:

- Bill 1, *Supplementary Appropriation Act (Infrastructure Expenditures)*, No. 3, 2019-2020;
 - Bill 2, *Supplementary Appropriation Act (Operations Expenditures)*, No. 4, 2019-2020;
 - Bill 4, *Supplementary Appropriation Act (Infrastructure Expenditures)*, No. 1, 2020-2021; and
 - Bill 5, *Interim Appropriation Act (Operations Expenditures)*, 2020-2021.
- Bill 3, *An Act to Amend the Public Highways Act* received second reading and was referred to the Standing Committee on Economic Development and Environment for review on March 13, 2020.

Standing Committees

Prior to the COVID-19-related adjournment of the Assembly on March 16, 2020, Standing Committees were active. Following the adjournment, the Standing Committee on Accountability and Oversight remained active via video-conference and tele-conference, meeting several times per week, in accordance with the Committees' *Policy on Attendance and Participation by Video and Phone Conference*.

Cynthia James
Committee Clerk



Ontario

The First Session of the 42nd Parliament resumed for the spring meeting period on February 18, 2020. The return of the House and resumption of legislative business was noteworthy, as several new Standing

Orders came into effect at 12:01 a.m. Among the changes to the Standing Orders, the Speaker is now authorized to alter the application of any Standing Order or practice of the House in order to permit the full participation in proceedings of any Member with a disability. In addition, there is now written authorization for Members to use electronic devices such as laptops and smartphones in the House and committee rooms. Previously, the use of electronic devices in these spaces was technically prohibited. However, it had been a longstanding unwritten practice that Speakers ignored them, provided they operated silently. The House adopted these and other changes to the Standing Orders in December 2019.

Provincial By-elections

Two by-elections were held on February 27, 2020, to fill the vacancies left by the resignations of Liberal MPPs **Nathalie Des Rosiers** and **Marie-France Lalonde**. The Ontario Liberal Party held onto both seats with the election of **Lucille Collard** in the riding of Ottawa-Vanier and **Stephen Blais** in the riding of Orléans.

With the addition of MPP **Amanda Simard**, who joined the Liberal caucus in January 2020 after sitting as an Independent Member, the Liberals now hold eight seats in the Legislature.

Ontario Liberal Party Leadership

The Ontario Liberal Party held its leadership convention on March 7, 2020, to choose a successor for Interim Leader **John Fraser**. Former MPP and Cabinet Minister **Steven Del Duca** was elected as leader on the first ballot. He does not currently hold a seat in the Legislature.

Response to COVID-19

The House has taken a number of measures to respond to the COVID-19 pandemic. On March 12, 2020, the last sitting day before what was scheduled to be a constituency week, the House adopted a motion moved by Government House Leader **Paul Calandra**. The motion indicated that during any time the House is adjourned for the remainder of the spring sessional period, the Government House Leader may give written notice to the Speaker that the Assembly shall not meet; and the Assembly will therefore remain adjourned until written notice is given to reconvene the Assembly. The provisions of the motion will expire at 11:59 p.m. on June 4, 2020.

On March 19, 2020, the House was reconvened through Order in Council to conduct government business in response to the pandemic. With unanimous consent, it was ordered that Members present for the proceedings were permitted to speak and vote from any Member's desk in the Chamber in order to observe recommended physical distancing guidelines. Similarly, only the minimum number of required legislative staff were present in the Chamber for the proceedings.

Also with unanimous consent, the House ordered that all standing committees remain adjourned until the Government House Leader indicates to the Speaker that it is in the public interest for committees to meet again.

The Government introduced two bills on March 19, 2020: Bill 186, *An Act to amend the Employment Standards Act, 2000*, and Bill 187, *An Act to amend the Municipal Act, 2001 and the City of Toronto Act, 2006*.

With the unanimous consent of the House, it was ordered that both bills be expedited through the three readings required for passage. For Bill 186, the House agreed to allocate 45 minutes to debate at Second Reading divided equally between the Government, Official Opposition, and Independent Members as a group. After passing Second Reading, the Bill immediately proceeded to a vote at Third Reading without any further debate.

A similar process was followed for Bill 187. In this instance, 15 minutes were allotted to the debate at Second Reading of the Bill, followed by the votes on Second and Third Reading. Both bills carried on a voice vote.

After the bills passed, the House adjourned until March 25, 2020 and Lieutenant Governor **Elizabeth Dowdeswell** granted Royal Assent to the bills in her office at Queen's Park.

March 2020 Economic and Fiscal Update

On March 25, 2020, Minister of Finance **Rod Phillips** delivered an economic and fiscal update as part of Ontario's Action Plan in response to COVID-19. This date had originally been slated for the release of the 2020 Budget, but the changing circumstances of COVID-19 led the Government to postpone the release of a full Budget to a future date.

The Economic and Fiscal Update was preceded by the introduction of Bill 188, *An Act to enact and amend various statutes*. With the unanimous consent of the House, 55 minutes were allotted to the debate at Second Reading of the Bill, with 20 minutes allotted to the Government, 20 minutes allotted to the Official Opposition, and 15 minutes allotted to the Independent Members as a group. After passing Second Reading, the Bill immediately proceeded to a vote at Third Reading without any further debate, and carried on a voice vote. The Bill was granted Royal Assent later that day.

The House also agreed with unanimous consent that the leaders of parties represented in the Legislative Assembly, as well as Independent Members, could file letters with the Speaker regarding Bill 188. The letters would contain recommendations made to the Minister of Finance with regards to the economic and fiscal measures each thought should be included in the Bill. Any letters filed with the Speaker will be referred to the Standing Committee on Finance and Economic Affairs when committee meetings resume, and the Committee will be authorized to consider the letters together with the provisions enacted by the Bill. The first witness to appear before the Committee is to be the Minister of Finance.

After passing Bill 188, the House adjourned until April 14, 2020, the date the House would be required to meet in order to consider a motion to extend the declaration of a provincial emergency, and other orders concerning COVID-19, pursuant to provisions of the *Emergency Management and Civil Protection Act*.

Committee Activities

Standing committees were busy in the early months of 2020, with some committees traveling to hold public hearings during the winter adjournment in January and February.

Standing Committee on Finance and Economic Affairs

The Standing Committee on Finance and Economic Affairs conducted Pre-Budget Consultations in January 2020. The Committee held public hearings in Toronto, Sioux Lookout, Thunder Bay, Belleville, Kitchener-Waterloo and Niagara. On March 9, 2020, the Committee tabled its final report on the Pre-Budget Consultation 2020.

Standing Committee on Justice Policy

On December 11, 2019, Bill 159, *An Act to amend various statutes in respect of consumer protection*, was referred to the Standing Committee on Justice Policy after First Reading.

In January, the Committee travelled to Brampton, Windsor and Ottawa for public hearings on the Bill. The Committee then met for clause-by-clause consideration of the Bill on February 27 and reported the Bill back to the House, as amended, on March 2, 2020.

The Bill focuses on various consumer protection issues, making amendments to the *Condominium Management Services Act*, the *New Home Construction Licensing Act*, the *Ontario New Home Warranties Plan Act*, and the *Technical Standards and Safety Act*, among others.

Standing Committee on Social Policy

The Standing Committee on Social Policy met to consider Bill 141, *An Act respecting registration of and access to defibrillators*. The Committee held public hearings in Sudbury and Toronto before meeting for one day of clause-by-clause consideration of the Bill on February 25, 2020. The Bill was reported back to the House, as amended, the following day.

Bill 141 would impose certain requirements respecting the installation, maintenance, testing and availability of defibrillators on designated premises or public premises. The *Act* would also create a provincial registry for the defibrillators at such premises.

Standing Committee on General Government

The Standing Committee on General Government met to consider Bill 145, *An Act to amend the Real Estate and Business Brokers Act, 2002*. The Committee held one day of public hearings and one day of clause-by-clause consideration of the Bill before reporting the Bill back to the House, as amended, on February 20, 2020. The Bill carried at Third Reading on February 27 and received Royal Assent on March 4, 2020.

The Bill makes various amendments to the *Real Estate and Business Brokers Act, 2002*. Among other measures, the Bill renames the *Act* as the *Trust in Real Estate Services Act, 2002*, and updates the Real Estate Council of Ontario's regulatory powers.

Standing Committee on Public Accounts

In February 2020, the Standing Committee on Public Accounts tabled two reports in the House: Public Accounts of the Province (Chapter 2 of the Auditor General's 2018 Annual Report), and Metrolinx—LRT Construction and Infrastructure Planning (Section 3.07 of the 2018 Annual Report).

The Committee also held hearings on the location of GO Train stations (GO Transit is the regional public transit service for the Greater Toronto and Hamilton Area), which was covered in a section of the Auditor General's 2018 Annual Report. In addition, hearings were held on two sections of the Auditor's 2019 Annual Report pertaining to climate change and the Food Safety Inspection Program.

Eric Rennie
Committee Clerk



Québec

Proceedings of the National Assembly

Early adjournment of proceedings

In the context of the COVID-19 pandemic, at the March 17, 2020 sitting the parliamentarians agreed that the proceedings would adjourn until 1:40 p.m. on Tuesday, April 21, 2020 and that they would remain adjourned if the President received notice from the leaders of the four parliamentary groups that it was in the public interest that the Assembly remain adjourned until a later date or until further notice was given to the President by the leaders of the four parliamentary groups.

In addition, on March 12, 2020, after consulting the Premier and the leaders of the parliamentary groups, **François Paradis**, President of the National Assembly, announced that the National Assembly would be closed to visitors as of March 13, 2020 and that only activities related to parliamentary proceedings and administration would be maintained.

Extraordinary sitting

At the request of Premier **François Legault**, the Assembly met for an extraordinary sitting on Friday, February 7, 2020 to introduce an exceptional legislative procedure in order to conclude consideration of Bill 40, *An Act to amend mainly the Education Act with regard to school organization and governance*. The Bill was passed on the following vote: Yeas 60, Nays 35, Abstentions 0.

Budget Speech

On March 10, 2020, **Éric Girard**, Minister of Finance, delivered the Budget Speech, and the estimates of expenditure for 2020–2021 were tabled. At the next sitting on March 11, 2020, interim supply was granted, and Bill 57, *Appropriation Act No. 1, 2020–2021* was passed. The Assembly's 25-hour debate on the Budget Speech began the next day, but it was shortened by the motion moved by **Simon Jolin-Barrette**, Government House Leader, to adjourn the proceedings until April 21, 2020 due to the exceptional circumstances resulting from COVID-19. The motion was carried unanimously. The motion moved by the Minister of Finance that the Assembly approve the Government's budgetary policy was therefore carried at the March 17, 2020 sitting.

Bills passed

The National Assembly passed eight bills after proceedings resumed on February 4, 2020. Five of them were passed at the March 17, 2020 sitting after the motion by the Government House Leader was carried unanimously, which resulted in their consideration being shortened:

- Bill 31, *An Act to amend mainly the Pharmacy Act to facilitate access to certain services* (title modified a second time);
- Bill 37, *An Act mainly to establish the Centre d'acquisitions gouvernementales and Infrastructures technologiques Québec*;
- Bill 40, *An Act to amend mainly the Education Act with regard to school organization and governance*;
- Bill 41, *An Act respecting mainly the implementation of certain provisions of the Budget Speeches of 17 March 2016, 28 March 2017, 27 March 2018 and 21 March 2019*;
- Bill 43, *An Act to amend the Nurses Act and other provisions in order to facilitate access to health services*;
- Bill 48, *An Act mainly to control the cost of the farm property tax and to simplify access to the farm property tax credit*;
- Bill 57, *Appropriation Act No. 1, 2020–2021*; and
- Bill 58, *Appropriation Act No. 3, 2019–2020*.

Tabling of proposals for parliamentary reform

On February 20, 2020, Mr. Jolin-Barrette, Government House Leader and Minister Responsible for Laicity and Parliamentary Reform, tabled a document entitled *Réforme parlementaire – Cahier de propositions* ("Parliamentary Reform – Proposals").

The proposals are grouped under four objectives: (1) Fostering enhanced collaboration, (2) Strengthening transparency and accountability, (3) Making Parliament more effective and more attentive, and (4) Modernizing the National Assembly. Acknowledging the changes in political dynamics over the last few years, particularly with increased number of recognized political parties, the proposals aim to "encourage [...] the Members to engage in new discussions in order to respond not only to criticism of [the National Assembly], but also to the key challenges of our times on both the political and institutional levels." [TRANSLATION]

Tabling of the Office of the National Assembly's report on the independent process for determining Members' conditions of employment

On February 20, 2020, the President of the National Assembly tabled the report of the Office of the National Assembly on the independent process for determining Members' conditions of employment. The report followed a motion on the process for determining the employment conditions of Members and Ministers that was carried unanimously on June 14, 2019, and that was mandated the Office of the National Assembly to set up a committee for that purpose.

The Committee on Members' Working Conditions and Allowances examined how other parliaments determine the employment conditions of their Members and Ministers. The Committee also considered other committees created by the National

Assembly in the past. On that basis, it was determined that the process should involve setting up an independent committee responsible for analyzing Members' conditions of employment and making recommendations as needed.

At the end of its mandate and following the proceedings of the Committee on Members' Working Conditions and Allowances, the Office of the National Assembly established that it would be best to set up a fully independent committee with a mandate to perform a regular, comprehensive assessment of Members' working conditions and make recommendations.

The discussions within the Committee and the Office on Members' conditions of employment and allowances led to a consensus on an independent process for determining Members' conditions of employment. In particular, the consensus covers the mandate, composition and completion schedule of the independent committee, consultations to be held by the committee within its mandate, consideration of certain indicators and, lastly, the procedure for adopting and implementing recommendations. Those provisions correspond to best practices applied in other parliaments and comply with the guidelines set out in the motion carried unanimously by the National Assembly.

Ruling from the Chair

February 11, 2020 – Statements by the Minister of Health and Social Services on tabling an action plan to address the shortage of orderlies

On February 11, 2020, the President ruled on the point of privilege or contempt raised by the Official Opposition House Leader on December 7, 2019 concerning certain statements made by the Minister of Health and Social Services to the effect that she would eventually table an action plan and concerning a motion carried unanimously at the November 29, 2019 sitting asking the Minister to table such a plan before the end of the fall sessional period.

Parliamentary jurisprudence has established that deliberately misleading the Assembly or its committees can constitute contempt of Parliament. To reverse the presumption that a Member's word must be accepted, the Member in question must have misled the Assembly or a committee when speaking and subsequently acknowledge having done so deliberately. Jurisprudence has also established that,

in the context of parliamentary proceedings, giving two contradictory statements regarding the same facts may result in misleading the House and give rise to contempt of Parliament. In this case, the question was whether the statement the Minister made during question period constituted an acknowledgment of her having deliberately misled the Assembly during the division on the motion, or whether it was a case of there being two conflicting statements regarding the same facts.

None of the Minister's statements quoted by the Official Opposition House Leader could be considered as an admission that she intended to mislead the Assembly by voting in favour of the motion. Nor was it a case of two contradictory statements on a specific fact. Moreover, the Minister's vote on the motion could not be construed as a statement that was allegedly contradicted the following week, and the facts brought to light did not suggest that the Minister intended to mislead parliamentarians when she cast her vote.

The motion of November 29, 2019 provided that the Assembly "request" that the Minister table her action plan. Under Standing Order 186, every motion becomes either an order or a resolution once it has been carried. However, the motion as drafted cannot be likened to an order of the Assembly: it must rather be considered as a simple resolution on which the Government was not strictly required to follow up. The Assembly may ask the Minister to explain herself, but a point of privilege or contempt is not the appropriate means to do so. Points of privilege or contempt are intended for serious breaches and violations of the rights of the Assembly and its Members, and not for parliamentary oversight.

When a motion is carried unanimously, there is a legitimate expectation that it will be complied with. In this respect, Members can rightfully expect a certain degree of government consistency. However, this facet is not within the purview of the Chair. When the Government does not follow up on a moral commitment, it falls on the Government to explain itself in the aftermath. The Chair concluded that the point of privilege or contempt raised by the Official Opposition House Leader was inadmissible.

Special events

Laurent Duvernay-Tardif awarded the Medal of Honour of the National Assembly of Québec

The President of the National Assembly, François Paradis, and the parliamentarians paid tribute to **Laurent Duvernay-Tardif** by awarding him the Medal of Honour of the National Assembly at a public ceremony. Mr. Duvernay-Tardif played for the Kansas City Chiefs in the National Football League (NFL) championship game, in which his team defeated the San Francisco 49ers 31–20 and won the 54th Super Bowl (LIV). He was the first Quebecer and first medical school graduate to win this major championship and raise the Vince Lombardi Trophy.

28th Legislature of the Student Forum

On January 13 to 17, 2020, the National Assembly hosted the 28th Legislature of the Student Forum, chaired by Vice-President **Marc Picard**. This parliament simulation made it possible for some 145 college students to put themselves in the shoes of a Member or journalist for a few days. The Student Forum has been held at the National Assembly annually since 1992. Over the years, more than 3,000 college students have attended the Forum to learn about parliamentarism and experience, for the time of the simulation, what it is like to work at the heart of Québec's foremost democratic institution.

Committee Proceedings

Here are some committee proceeding highlights for January to March 2020:

Bills

From the end of January to early February 2020, the Committee on Culture and Education (CCE) continued its clause-by-clause consideration of Bill 40, *An Act to amend mainly the Education Act with regard to school organization and governance*. The purpose of the Bill is to change the organization and governance of school boards, which will become school service centres administered by a board of directors composed of parents, community representatives and staff members. After some 70 hours of clause-by-clause consideration in Committee, the Bill was made the object of an exceptional legislative procedure and passed by the Assembly on February 8, 2020.

At the end of January and in early February 2020, the Committee on Institutions (CI) held special consultations and public hearings on Bill 39, *An Act to establish a new electoral system*, which is intended to replace the first-past-the-post system by a mixed electoral system with regional compensation. The

total number of seats will remain 125, with 80 division seats allocated by majority vote, and 45 regional seats allocated on a proportional basis. The Bill also includes provisions relating to election expenses and promoting gender parity at the National Assembly. The new electoral system will not come into force unless it receives a majority of votes through a referendum during the next general election.

In January and February 2020, the Committee on Transportation and the Environment (CTE) held special consultations on Bill 44, *An Act mainly to ensure effective governance of the fight against climate change and to promote electrification*. The Bill puts the Minister of the Environment and the Fight Against Climate Change in charge of coordinating governmental and ministerial measures for the fight against climate change. It also entrusts the Minister with governance of the "Electrification and Climate Change Fund," which would replace the Green Fund and abolish its management board. Clause-by-clause consideration of the Bill began on February 19, 2020.

In February 2020, the Committee on Agriculture, Fisheries, Energy and Natural Resources (CAPERN) held special consultations on Bill 48, *An Act mainly to control the cost of the farm property tax and to simplify access to the farm property tax credit*. The Bill amends the terms governing registration of agricultural operations, empowers the Government to determine by regulation the maximum taxable value of the land of an agricultural operation that is included in an agricultural zone, and establishes measures to facilitate the exchange of information between the Ministère de l'Agriculture, des Pêcheries et de l'Alimentation and La Financière agricole du Québec. After four sittings, clause-by-clause consideration of the Bill ended on March 11, 2020.

On February 20, 2020, the Committee on Planning and the Public Domain (CAT) heard the interested parties and undertook clause-by-clause consideration of Private Bill 209, *An Act respecting Ville de Saint-Tite*. The Bill grants the town certain powers for regulating the holding of special events in its territory, in particular the Festival western de Saint-Tite. Unusually, consideration was not concluded after one sitting, and it was agreed that Ville de Saint-Tite, in collaboration with the Ministère des Affaires municipales et de l'Habitation, would provide the Committee with additional proof that the community endorses the Bill before the Committee would continue its clause-by-clause consideration.

Order of initiative

After special consultations and a study mission to Europe within the framework of the order 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 on Agriculture, Fisheries, Energy and Natural Resources (CAPERN) was required to table its report. For want of agreement on the content of the report, the parliamentary groups forming the Official Opposition and the Second Opposition Group made public a "shadow report" containing 50 recommendations at a press conference on February 6, 2020. After holding a deliberative meeting, the Committee members reached a consensus on 32 recommendations to be integrated into the order of initiative report tabled in the Assembly on February 19, 2020.

Select Committee on the Sexual Exploitation of Minors

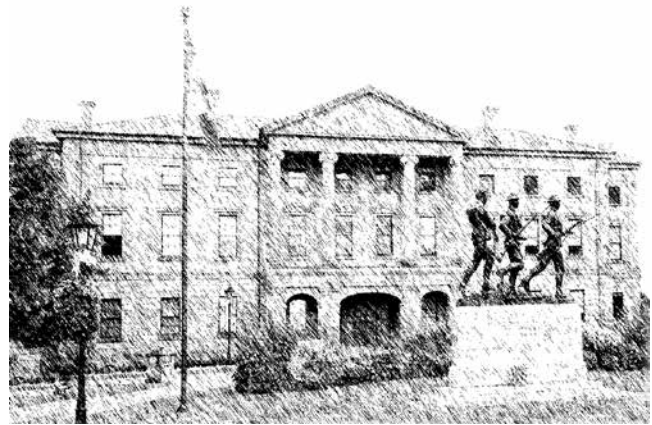
The Select Committee on the Sexual Exploitation of Minors, created by the National Assembly on June 14, 2019, continued its public hearings. The Committee travelled to Montréal and Val-d'Or to hold hearings on January 20 and 21, 2020 and on January 23, 2020, respectively. It was an opportunity for the Committee members to get closer to the Indigenous and community stakeholders. The Committee must table its report in the fall of 2020.

Karim Chahine

Sittings and Parliamentary Procedure Directorate

Astrid Martin

Parliamentary Committees Directorate



Prince Edward Island

Cabinet Appointment

On February 21, 2020, **Natalie Jameson**, MLA for Charlottetown-Hillsborough, was appointed to Cabinet as Minister of Environment, Water and Climate Change. This portfolio was previously held by **Brad Trivers** alongside his role as Minister of Education and Lifelong Learning, which he retained upon Ms. Jameson's appointment. The Cabinet now stands at 10 members.

Suspension of the First Session of the 66th General Assembly and Other Measures in Response to Pandemic

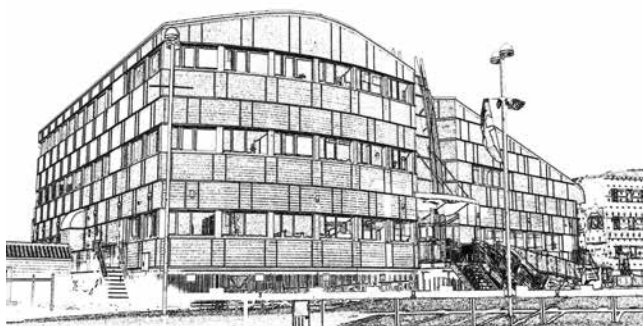
On November 28, 2019, the First Session of the 66th General Assembly adjourned to the call of the Speaker. The session was set to reconvene on April 7, 2020. However, on March 18, 2020, Speaker **Colin LaVie** announced that the Assembly would not reconvene on that date due to the COVID-19 pandemic, and that the session was suspended. The *Rules of the Legislative Assembly of Prince Edward Island* permit the Speaker, in urgent or extraordinary circumstances, to waive the requirement that the House open for a spring sitting during the first week of April and that 60 days' notice of the opening be provided by the Speaker or Executive Council. Waiving the 60 days' notice requirement will allow the House to reconvene at shorter notice if necessary, but as of this writing no date has been set for the session's resumption.

In keeping with public health measures, the buildings of the Legislative Assembly were closed to the public in mid-March. Personnel of the Assembly began working from home whenever possible at that point.

The standing and special committees of the Legislative Assembly had been meeting regularly throughout early 2020, but committee Chairs cancelled all meetings after March 13, 2020.

Ryan Reddin

Clerk Assistant – Research and Committees



Nunavut

House Proceedings

The winter 2020 sitting of the 2nd Session of the 5th Legislative Assembly convened on February 18, 2020, and concluded on March 12, 2020. The proceedings of the Committee of the Whole during the winter 2020 sitting were dominated by the consideration of the government's proposed 2020-2021 main estimates. Five bills received Assent during the winter 2020 sitting:

- Bill 39, *Appropriation (Operations and Maintenance) Act, 2020-2021*;
- Bill 40, *Supplementary Appropriation (Operations and Maintenance) Act, No. 3, 2019-2020*;
- Bill 41, *An Act to Amend the Guardianship and Trusteeship Act*;
- Bill 42, *An Act to Amend the Cannabis Act*; and
- Bill 43, *An Act to Amend the Cannabis Act Respecting Consultation Periods*.

New Speaker of the Legislative Assembly

On February 24, 2020, Speaker **Simeon Mikkungwak** announced his decision to resign his seat as the Member of the Legislative Assembly for the constituency of Baker Lake. In his announcement, Mr. Mikkungwak reflected on the importance of focusing on the needs of his family.

The Nunavut Leadership Forum, which consists of all Members of the Legislative Assembly, gathered on the morning of February 26, 2020, to select a new Speaker. Two Members accepted nominations. Aggu MLA **Paul Quassa** was declared elected following one round of balloting. Mr. Quassa was subsequently dragged to the Chair following the passage of a formal motion of appointment when the House convened that afternoon.

On March 5, 2020, the date of the Baker Lake by-election was announced for April 27, 2020.

Appointment of Languages Commissioner

On February 18, 2020, the Legislative Assembly unanimously adopted a motion to recommend the appointment of **Karliin Aariak** as Languages Commissioner of Nunavut.

Resignation of the Member for Kugluktuk

On March 31, 2020, Kugluktuk MLA **Mila Kamingoak** declared, by way of correspondence to the Speaker, her decision, for personal reasons, to resign her seat as a Member of the Legislative Assembly of Nunavut, effective April 3, 2020. The by-election is scheduled to be held on August 24, 2020.

Impact of COVID-19 (as of April 16, 2020)

A formal public health emergency, under the territorial *Public Health Act*, was declared for Nunavut on March 18, 2020.

On March 20, 2020, the Legislative Assembly announced a number of measures in response to COVID-19, including the suspension of public tours and restricted access to the Precinct.

Following a formal request from the Municipal Council of Baker Lake, the date of the by-election for the constituency of Baker Lake was rescheduled to August 24, 2020.

Beginning on March 23, 2020, the Government of Nunavut's regular COVID-19 public updates by Premier **Joe Savikataaq** (Arviat South) and Health Minister **George Hickes** (Iqaluit-Tasiluk) have been broadcast from the floor of the Chamber. The updates have been televised across the territory on local community cable stations and direct-to-home satellite service on the Bell and Shaw networks. The use of the Legislative Assembly's broadcast infrastructure

for this purpose was authorized by Speaker Quassa, pursuant to the Canadian Radio-television and Telecommunications Commission's *Broadcasting Order 2012-349*, which was issued on June 26, 2012. The Order amended the *Parliamentary and Provincial or Territorial Legislature Proceedings Exemption Order* to provide that "the programming service provided by the undertaking may be used to transmit video, audio and text information to the general public concerning emergency situations, the content of which may originate from itself or be accessed from other authorized sources."

Alex Baldwin

Office of the Legislative Assembly of Nunavut



Saskatchewan

Spring Sitting of the Fourth Session of the Twenty-Eighth Legislature

The Fourth Session of the Twenty-Eighth Legislature resumed on March 2, 2020. Typically, the spring sitting focuses on the presentation of the budget, budget debate, and the scrutiny of the estimates in the standing committees. Based on the parliamentary calendar as outlined in *The Rules and Procedures of the Legislative Assembly of Saskatchewan*, the budget presentation was planned for March 18, 2020.

As the spring sitting proceeded, the COVID-19 pandemic necessitated the attention of the Legislative Assembly and executive government. On March 12, 2020 Premier **Scott Moe** announced Saskatchewan had its first presumptive COVID-19 case. The following day, March 13, 2020, the chief medical health officer issued his first order under *The Public*

Health Act, 1994 of Saskatchewan restricting the number of people that can gather in one location. In accordance with the order, the premier announced that the presence at the budget day events scheduled for March 18, 2020 would be limited to Members of the Legislative Assembly, authorized employees, and accredited media.

That same day, Speaker **Mark Docherty**, announced that visitor access to the Legislative Building would be suspended effective March 13 at 5:00 p.m. All tours, educational events, and public events in the building were cancelled until further notice. Only Members of the Legislative Assembly, authorized employees, accredited media, authorized service contractors, and the public service conducting parliamentary and ministerial work would be permitted access to the building.

The following week, the gravity of the pandemic impacted the mood and the regular transaction of the business of the Assembly. On March 16, Royal Assent was given to 13 bills and the regular business under routine proceedings and orders of the day for the remainder of the week was either shortened or dispensed with.

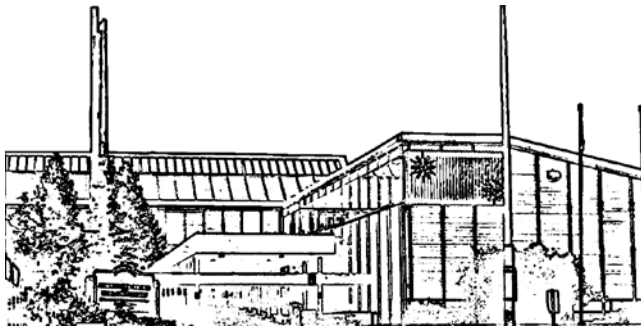
On March 17, the government and opposition passed Bill No. 207, *The Saskatchewan Employment (Public Health Emergencies) Amendment Act, 2020* through all stages. This *Act* ensures employees can access unpaid leave during a public health emergency while maintaining their employment. Upon adoption of third reading, Lieutenant Governor **Russ Mirasty** returned to the Assembly and gave Royal Assent to the bill. Furthermore, he took the opportunity to address the Assembly and offer words of encouragement during this unprecedented time.

On March 18, 2020, the planned budget presentation, was cancelled, and the Assembly adjourned to the call of the Chair. The recess is considered a break in the parliamentary calendar, and the rules for the completion of session will apply when the Assembly reconvenes.

After the proceedings, the government declared Saskatchewan in a state of emergency and publicly released their spending plans for the 2020-2021 fiscal year, including the estimates.

Stacey Ursulescu

Procedural Clerk



Yukon

2020 Spring Sitting

The 2020 Spring Sitting of the Third Session of the 34th Legislative Assembly began on March 5. Although it was anticipated that the 2020 Spring Sitting would comprise 30 sitting days, in light of the evolving coronavirus pandemic situation, on March 19 the House considered and carried a special adjournment motion. The special adjournment Order, adopted notwithstanding a rule stipulating that a Sitting must be a minimum of 20 days, provided for the House on its rising that day to stand adjourned until October 1, 2020.

Pursuant to an Order of the House adopted last November, the Assembly had been scheduled to stand adjourned during what would otherwise have been a sitting week (March 16-19, 2020) due to the Arctic Winter Games (to have been held in Yukon this year). However, following the cancellation of the Arctic Winter Games on March 7 due to coronavirus concerns, on March 10, the House rescinded that Order.

Bills

Eight government bills were introduced during the 2020 Spring Sitting (no private members' bills were introduced):

- Bill No. 8, *Budget Measures Implementation Act, 2020*;
- Bill No. 9, *Sexual Orientation and Gender Identity Protection Act*;
- Bill No. 10, *Act to Amend the Employment Standards Act (2020)*;
- Bill No. 11, *Act to Amend the Land Titles Act, 2015*;
- Bill No. 12, *Act to Amend the Wills Act (2020)*;

- Bill No. 201, *Third Appropriation Act 2019-2020*
- Bill No. 202, *Interim Supply Appropriation Act 2020-21*; and
- Bill No. 203, *First Appropriation Act 2020-21* (the bill, providing for a record budget of over \$1.6 billion, was introduced by Yukon's Premier and Finance Minister, **Sandy Silver**)

Four bills – the budget measures implementation bill (as amended) and the three appropriation bills – were assented to by Yukon Commissioner **Angélique Bernard** during the 2020 Spring Sitting.

Within the context of the pandemic, consideration of the main appropriation bill in Committee of the Whole took place over four sitting days. On March 19, Bill No 203, *First Appropriation Act 2020-21* was reported by the Committee without amendment, passed third reading (10 yea, 7 nay) in the House, and was granted assent before the Legislative Assembly adjourned at 9:29 p.m. (the normal adjournment time is 5:30 p.m.) until October 1, 2020.

While Bills No. 9, 10, 11 and 12 were not further considered during the abbreviated 2020 Spring Sitting, they remain on the Order Paper.

The Sitting also marked the first time since 2003 that the government did not invoke the guillotine clause (Standing Order 76) to clear government bills on the final day of a spring or fall sitting.

Motion of Urgent and Pressing Necessity

On March 9, **Stacey Hassard**, Leader of the Official Opposition (and Acting Yukon Party Leader), received unanimous consent to move a motion of urgent and pressing necessity under Standing Order 28 to establish a Select Committee on the Economic Effects of COVID-19, "to examine and address adverse economic effects in Yukon" of the coronavirus disease.

Speaking to the motion, **Kate White**, Leader of the Third Party, stated that the Yukon NDP supported the motion to establish the committee. In his remarks, Premier Silver (the Yukon Liberal Party Leader), said that while supportive of the principle of working together in a non-partisan way, hasty decisions were not advisable. The Premier stated that the government was actively monitoring the global economic effect of the coronavirus and "working closely with our partners inside and outside the territory...to mitigate potential economic concerns as well as medical concerns."

The motion to establish the select committee was defeated along party lines (8 yea, 10 nay).

Deputy Sergeant-at-Arms

On the first day of the 2020 Spring Sitting, Speaker **Nils Clarke** introduced **Terry Grabowski**, the new Deputy Sergeant-at-Arms. The Speaker noted that Mr. Grabowski had served in the Canadian Armed Forces and continues to serve as a Canadian Forces Ranger and a Royal Canadian Air Cadet Squadron instructor.

Linda Kolody
Deputy Clerk



House of Commons

This account covers events in the continuing First Session of the 43rd Parliament from January to the end of March 2020.

Legislation

Having considered the Address in Reply to the Speech from the Throne during the few sittings in December, the government called it for debate on January 27. The House adopted the Address without amendment later that day.

On January 29, **Chrystia Freeland** (Deputy Prime Minister and Minister of Intergovernmental Affairs) introduced Bill C-4, *An Act to implement the Agreement between Canada, the United States of America and the United Mexican States*, after the House adopted Ways and Means motion No. 2. The Bill went through second reading and to the Standing Committee on International Trade, which reported it back to the House without amendment on February 27. Debate on the Bill at third reading, however, was overtaken

by events surrounding the coronavirus (COVID-19) pandemic (see below). It received Royal Assent by written declaration on March 13.

Procedure / Privilege

On December 13, 2019, **Peter Julian** (New Westminster—Burnaby) rose on a question of privilege to allege that the government was in contempt of the House by failing to comply with an opposition motion adopted by the House that called on the government to comply with a Canadian Human Rights Tribunal decision.

On January 27, the Speaker ruled that the motion had been worded in such a way as to constitute a non-binding resolution rather than an order. He further ruled that the House does not have the power to compel the government to act in this area.

In his ruling, the Speaker also outlined how he envisioned hearing from Members when a question of privilege has been raised. He noted that, in the interests of timeliness, Members should refrain from citing precedents already available in the authorities. He also reserved the right to cut off interventions when he felt he had heard enough. He further noted his desire to rule on questions of privilege as quickly as possible so that matters would not be left in abeyance.

On February 19, 2020, following Routine Proceedings, **Earl Dreeshen** (Red Deer—Mountain View) rose on a question of privilege to allege that **Seamus O'Regan** (Minister of Natural Resources) had misled the House in his response to a question on the Order Paper. He asserted that the government's statement regarding contracts awarded to the Pembina Institute were inconsistent with statements made by the government in other public documents.

The next day, **Kevin Lamoureux** (Parliamentary Secretary to the President of the Queen's Privy Council for Canada and to the Leader of the Government in the House of Commons) rose to respond to the question, saying that the question concerned contracts, not grants, made to the institute, that there was a clear difference between a contract and a grant, and that the government had responded appropriately to the question as put. Later that same day Mr. O'Regan rose to apologize, admitting that the government's response was incorrect and stating that he would prepare a corrected response for tabling in the House. He also apologized to Mr. Dreeshen.

On February 21, Mr. Lamoureux tabled a revised response to the question and extended his personal apology to Mr. Dreeshen. Following that, the Speaker announced that he considered the matter closed.

On February 25, 2020, **Rob Moore** (Fundy Royal) rose on a question of privilege concerning the premature disclosure of Bill C-7, *An Act to amend the Criminal Code (medical assistance in dying)*. According to Mr. Moore, press reports showed that details of the Bill were made public before it was introduced in the House. He noted that the reports explicitly stated that the source of the information was not authorized to reveal details of the Bill before its introduction, which Mr. Moore suggested was proof that a contempt had occurred. The Speaker took the matter under advisement.

On February 28, Mr. Lamoureux apologized for the premature disclosure and noted that no one from the government had been authorized to speak publicly on the Bill before its introduction.

On March 10, the Speaker ruled that there were sufficient grounds to conclude that there was a *prima facie* breach of the privilege of the House. The Speaker noted that it seemed clear that the content of the Bill was disclosed prematurely while it was on notice and before it was introduced in the House, and that everything indicated that the act of premature disclosure was deliberate. The Speaker then asked Mr. Moore to move the appropriate motion, namely, "That the matter of the premature disclosure of the contents of Bill C-7, *An Act to amend the Criminal Code (medical assistance in dying)* be referred to the Standing Committee on Procedure and House Affairs.". The Assistant Deputy Speaker (**Carol Hughes**, Algoma—Manitoulin—Kapuskasing) put the question and the House agreed to the motion.

On February 27, Mr. Lamoureux raised a question of privilege that **Bob Saroya** (Markham—Unionville) was attempting to do indirectly what he could not do directly by placing a bill on notice, making public the content of the bill, then placing another bill on notice with a slightly different title to avoid a charge of premature disclosure of the content of a bill, using this approach to subvert the principle that Members should be the first to see the contents of a bill.

On Tuesday, March 10, 2020, the Speaker delivered his ruling. He reminded members that, on February 28, Mr. Saroya had apologized and admitted that he had indeed discussed the contents of the Bill with fellow Members and journalists and that he had been ignorant

of the rule prohibiting the disclosure of contents of bills on notice. Noting that it did not matter that the bill was subsequently withdrawn and never introduced in the House, the Speaker nevertheless gave the benefit of the doubt to Mr. Saroya, saying that he believed that the member's remarks were sincere and that the Member believed he was advancing his cause in a legitimate fashion. Consequently, the Speaker ruled that this had not constituted a *prima facie* case of privilege.

Financial Procedures

On February 28, the sixth of seven days in the supply period ending March 26, **Candice Bergen** (Portage—Lisgar) moved an opposition motion that three additional allotted days be added for a total of 10, and that, if necessary to accommodate the additional days, the supply period run until April 2, 2020. The House adopted the motion on March 9 and began to follow the revised procedure.

On March 11, during Oral Questions, **Bill Morneau**, Minister of Finance, requested that an order of the day be designated for the consideration of a budget presentation on March 30. The usual financial processes, however, would subsequently be altered as the House responded to the COVID-19 pandemic.

COVID-19

On March 13, the House adopted by unanimous consent a motion moved by the Leader of the Government in the House of Commons, **Pablo Rodriguez** (Honoré-Mercier), to adjourn until April 20. Among other measures included in the motion, the House agreed to regard the eighth allotted day (March 10) as the final allotted day; to concur in Supplementary Estimates (B) for the fiscal year ending March 31, 2020, and interim supply for the fiscal year ending March 31, 2021; to increase to 10 the number of allotted days for the supply period ending on June 23, 2020; to adopt at all stages Bill C-12, *An Act to amend the Financial Administration Act (special warrant)*; to cancel any scheduled committee meetings; to un-designate March 30, for the budget presentation; to grant the Speaker the authority to extend the date the House stands adjourned (following notice of agreement from the House leaders of all four recognized parties); to deem Bill C-4, *An Act to implement the Agreement between Canada, the United States of America and the United Mexican States* read a third time and passed; to permit the deposit of any special warrants issued with the Clerk of the House during the period the House is adjourned and to refer those special warrants to

the Standing Committee on Public Accounts for their consideration within 20 sitting days; and finally to call on the Auditor General of Canada to conduct an audit of special warrants issued and present his findings to the House no later than June 1.

Pursuant to Standing Order 28(3), the Speaker recalled the House to sit on March 24. That day, the Deputy Speaker (**Bruce Stanton**, Simcoe North) took the Chair and informed the members present that, in accordance with physical-distancing best practices, Standing Order 17 would be suspended from the duration of the sitting, meaning that members could speak or address the Chair from any seat in the House, that the sitting would be suspended every 45 minutes in order for staff supporting the sitting to substitute safely, and that members who were tabling a document or proposing a motion should sign the document and bring it to the table themselves.

The House adopted by unanimous consent a motion moved by Mr. Rodriguez to, among other measures, concur in Ways and Means motion No. 4, notice of which Mr. Morneau laid upon the table earlier that day; and to deem introduced, read a first time and ordered for consideration at Second Reading later in the day Bill C-13, *An Act respecting certain measures in response to COVID-19*. Pursuant to the same order, the House went into Committee of the Whole to consider matters related to the COVID-19 pandemic for an hour. The Chair presided from the Speaker's chair and called Members in a fashion consistent with the practices observed during Oral Questions.

After the Committee of the Whole rose, again according to the order adopted earlier that day, the House began second reading debate of Bill C-13. The Bill was then read a second time and referred to a Committee of the Whole, deemed considered in committee of the whole, deemed reported without amendment, deemed concurred in at report stage, and deemed read a third time and passed.

The House again adjourned until April 20. The House's order again included the provision that empowered the Speaker to prolong the adjournment following notice of agreement from the House leaders of all four recognized parties to that effect.

Committees

To deal with current events, the House's committees began their work by various means as soon as the House resumed in the new year. It established its Standing

Committees on Finance, on International Trade, and on Health by special order on January 27, ordering the whips to provide the committee clerks with the names of their parties' members and the committees to meet to organize on January 29. The finance committee was to proceed with its pre-budget consultations; the international trade committee was expected to consider a bill to implement the Canada–United States–Mexico Agreement; and the health committee was ordered to proceed directly to a briefing from officials on the Canadian response to the outbreak of the coronavirus.

The Standing Committee on Procedure and House Affairs reported to the House the proposed membership of the remaining standing committees on February 5, in which the House then concurred.

In the motion adopted by the House on March 24, the House ordered that the Chairs of the Standing Committee on Health and of the Standing Committee on Finance each convene a meeting of their respective committee at least once per week (unless the whips of all four recognized parties agreed that a meeting should not be held) or within 48 hours of receipt by the committee clerk of a request signed by any four members of the committee, and that during such meetings, committee members attend and witnesses participate via either videoconferencing or teleconferencing. The order restricted the committees to meeting for the sole purpose of receiving evidence concerning the government's response to the COVID-19 pandemic.

Starting the week of March 30, the Minister of Finance (or his delegate) was to provide the Standing Committee on Finance with a bi-weekly report on all actions undertaken pursuant to parts 3, 8 and 19 of the *COVID-19 Emergency Response Act* and was ordered to appear before the committee to discuss the report. The House also instructed the Standing Committee on Finance to review of the provisions and operation of the *COVID-19 Emergency Response Act* (Bill C-13) within six months of the day on which the *Act* received Royal Assent and to report its findings to the House no later than Wednesday, March 31, 2021.

Pursuant to the motion adopted by the House on March 24, the Standing Committee on Health met by teleconference on March 31, and its audio feed was webcast via the House of Commons website. This was the first time ever a House of Commons committee had met virtually.

Andrew Bartholomew Chaplin

Table Research Branch



The Senate

Legislation

On the evening of March 12 the Speaker of the Senate issued a memorandum indicating that the public interest required that the Senate meet earlier than, March 24, as had been provided in the order of adjournment adopted earlier that day. The Senate was recalled the following morning.

On March 13, Bills C-4, *An Act to implement the Agreement between Canada, the United States of America and the United Mexican States*; C-10, *An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2020*; C-11, *An Act for granting to Her Majesty certain sums of money for the federal public administration for the fiscal year ending March 31, 2021*; and C-12, *An Act to amend the Financial Administration Act (special warrant)*, were introduced and read a first time, adopted at second and third reading stages, without being referred to committee, and received Royal Assent by written declaration. The latter was enacted in response to the COVID-19 pandemic to allow for a special warrant, authorizing payments out of the Consolidated Revenue Fund, to be issued while Parliament is not sitting and a payment is urgently required for the public good.

The Speaker recalled the Senate again on March 25 to pass Bill C-13, *An Act respecting certain measures in response to COVID-19*. Prior to the second and third reading stages of the bill, the Senate resolved into a Committee of the Whole for consideration of the subject matter of the bill and heard from the Minister of Finance. The bill was then passed at second and third reading, and received Royal Assent by written declaration the same day. While awaiting the declaration of Royal Assent, the Senate resolved into a second Committee of the Whole to consider the government's response

to the COVID-19 pandemic. This second Committee of Whole allowed the Senate to hear from the Minister of Public Safety and Emergency Preparedness, the Minister of Health, as well as the Chief Public Health Officer of Canada.

Prior to these recalls, the Senate had last been recalled on June 26, 2011, during the First Session of the Forty-First Parliament, in order to pass Bill C-6, *An Act to provide for the resumption and continuation of postal services*.

A motion permitting senators to speak and vote from a seat other than their own was passed at the start of the sitting on March 13 to accommodate for physical distancing. The same motion was adopted when the Senate was recalled on March 25, as well as additional measures to ensure the health and safety of senators and staff involved in the Senate's operations. Attendance was coordinated by the recognized parties and parliamentary groups to ensure a balanced representation while allowing most Senators to respect the direction of public health authorities to avoid travelling. The sitting took place with the minimum number of employees required to work on-site to support the sitting.

Chamber, Procedure and Speaker's Rulings

On February 5, the Senate adopted a sessional order respecting the time of adjournment of sittings on Wednesdays and the start time of Thursday sittings, which depart from the *Rules of the Senate*. This reflects practice in previous sessions.

On March 10, the Speaker ruled on a point of order in relation to the receivability of a motion. The motion proposed changes to the *Rules of the Senate*, particularly concerning to the leaders and facilitators of recognized parties and recognized parliamentary groups, but also proposed changes to the definition of "Critic of a bill." The main concern raised was that the changes would be so far-reaching that they would undermine basic principles of the constitutional architecture of our parliamentary system of government, including provisions of the *Parliament of Canada Act*. The Speaker recognized that the motion proposed significant changes to the *Rules of the Senate*, but also outlined that the Senate's Rules have evolved over many years. The Speaker noted that the need for careful reflection when considering such changes does not, however, mean that the Senate cannot make them if it so wishes, and ruled the motion to be in order. The motion remains on the Order Paper and has not yet been adopted.

Committees

The Senate adopted separate motions to place three committee reports from the First Session of the Forty-Second Parliament on the Orders of the Day in the current session for consideration: the nineteenth report of the Standing Senate Committee on Agriculture and Forestry entitled *Made in Canada: Growing Canada's Value-Added Food Sector*; the thirteenth report of the Standing Senate Committee on Official Languages entitled *Modernizing the Official Languages Act: Views of the Federal Institutions and Recommendations*; and the thirty-second report of the Standing Senate Committee on Banking, Trade and Commerce entitled *Open Banking: What it Means for You*. The reports were subsequently adopted and government responses for all three were requested from the relevant ministers.

On February 25, the Senate adopted a motion to temporarily appoint senators to the Standing Senate Committee on National Finance in order to study the Supplementary Estimates (B). A similar motion was adopted on March 11 for the committee to study the Main Estimates for the fiscal year ending March 31, 2020.

On February 20, the Senate adopted a motion to temporarily appoint senators to the Standing Senate Committee on Foreign Affairs and International Trade in order to examine the subject matter of Bill C-4, *An Act to implement the Agreement between Canada, the United States of America and the United Mexican States*.

The Senate adopted a motion on March 11 to appoint the Committee of Selection with the objective of nominating the Speaker pro tempore and the senators to serve on most standing committees. At the time the Senate adjourned on March 25, the Committee of Selection had not yet reported back to the Senate.

New Senators

On January 30, **Judith Keating** of New Brunswick and **Brent Cotter** of Saskatchewan were appointed to the Senate. They were introduced and took their seats on February 4.

Senator Keating is a lawyer and accomplished senior public servant, with over 30 years of experience in the Government of New Brunswick.

Prior to being appointed to the Senate, she served in a variety of roles, including as Chief Legislative

Counsel, Chief Legal Advisor to the Premier, New Brunswick's First Nations Representative, and a provincial chair of the working group on Truth and Reconciliation. She was the first woman to serve as Deputy Minister of Justice and Deputy Attorney General of New Brunswick.

Senator Keating received the 2015 Muriel Corkery-Ryan Q.C. Award, in recognition of her outstanding contributions to the legal profession and significant role as a mentor to women.

Senator Cotter is the former dean of the College of Law at the University of Saskatchewan and one of the original professors and writers in the field of legal ethics in Canada. He is a member of the Law Society of Saskatchewan and the Nova Scotia Barristers' Society.

Prior to pursuing his academic career in Saskatchewan, he served as the province's Deputy Minister of Justice and Deputy Attorney General. He also served as Saskatchewan's Deputy Minister of Intergovernmental and Aboriginal Affairs, leading the development and implementation of a nationally recognized, government-wide program of services for First Nations and Métis peoples.

For his ongoing dedication to public service and his community, Senator Cotter was awarded the Saskatchewan Centennial Medal, the Canadian Bar Association of Saskatchewan's Distinguished Service Award, and the Teaching Excellence Award from the College of Law at the University of Saskatchewan.

Retiring Senators

Senator **Nicole Eaton** retired from the Senate on January 20. She was appointed to the Senate in 2009 on the advice of Prime Minister **Stephen Harper** to represent Ontario. Senator Eaton served as Speaker pro tempore from 2015 until her retirement. She served as a member of the Standing Senate Committees on National Finance and Foreign Affairs and International Trade, and the Standing Joint Committee on the Library of Parliament.

Senator **Joseph Day** retired from the Senate on January 23. He was appointed to the Senate in 2001 on the advice of Prime Minister **Jean Chrétien** to represent New Brunswick and the Senatorial Division of Saint John-Kennebecasis. A lawyer and engineer, Senator Day had a career as a private practice attorney prior to being appointed to the Senate. Senator Day

was the Leader of the Independent Senate Liberal Caucus from June 15, 2016, to November 14, 2019, and the interim leader of the Progressive Senate Group from November 14 to 18, 2019. Senator Day served as Deputy Chair and then as Chair of the Standing Senate Committee on National Finance for many years.

Senator **Serge Joyal**, retired from the Senate on February 1. He was appointed to the Senate in 1997 on the advice of Prime Minister Jean Chrétien to represent the district of Kennebec in Québec. Prior to being appointed to the Senate, Senator Joyal practiced law and was a Member of Parliament from 1974 to 1984. During his tenure at the House of Commons, he held such positions as Parliamentary Secretary to the President of the Treasury Board (1980-1981), Minister of State in the cabinet of **Pierre E. Trudeau** (1981-1982) and Secretary of State for Canada (1982-1984). Among his roles on Senate committees, Senator Joyal was the

Chair of the Standing Senate Committee on Legal and Constitutional Affairs, and the Deputy Chair and then Chair of the Senate Committee on Ethics and Conflict of Interest for Senators. He was also Deputy Chair of the Standing Committee on Rules, Procedures and the Rights of Parliament.

Senator **David Tkachuk** retired from the Senate on February 17. He was appointed to the Senate in 1993 on the advice of Prime Minister **Brian Mulroney** to represent Saskatchewan. Senator Tkachuk served on a number of committees, including as Chair of the Senate Committee on Internal Economy, Budgets and Administration, the Standing Senate Committee on Banking, Trade and Commerce, and the Standing Senate Committee on Transport and Communications.

Ferda Simpson
Procedural Clerk

Manitoba's "Golden Boy": Pointing to A Prosperous Future

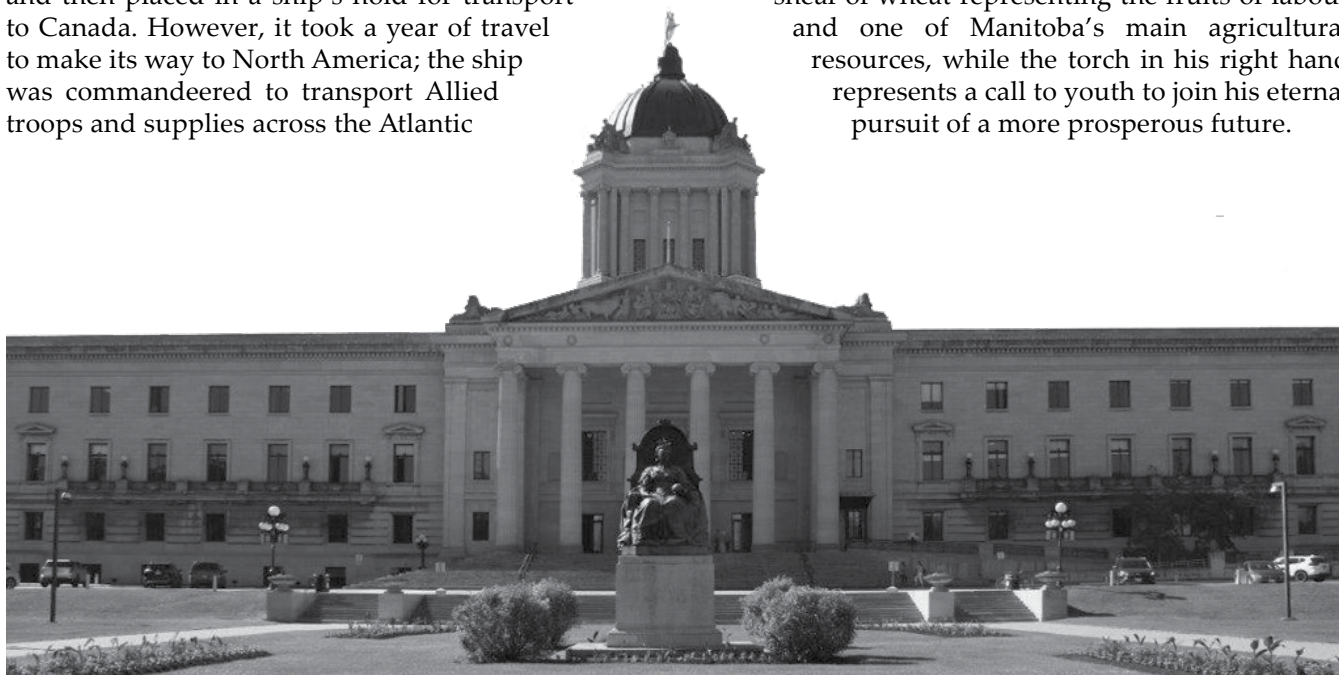
High atop the Manitoba Legislative Building, 250 feet above ground, the statue called "Eternal Youth and the Spirit of Enterprise" (or as it has come to be affectionately known by Manitobans, the "Golden Boy"), stands proudly facing north. A symbol so important and full of meaning for our province's past, present and future, on November 21, 1919, the statue marked 100 years of looking down upon us, a witness to many of the most important events in Manitoba history.

Andrea Signorelli

As part of the construction of Manitoba's third Legislative Building, which started in 1913, the Manitoba Government commissioned French sculptor Georges Gardet to create a set of five bronze statues that would be featured prominently in and on the building. The most notable of these statues, the Golden Boy, was created with the intent of resting in a place of honour at the very peak of the building which would become the centre of the province's political life. During World War I the statue was cast in bronze in a French foundry and then placed in a ship's hold for transport to Canada. However, it took a year of travel to make its way to North America; the ship was commandeered to transport Allied troops and supplies across the Atlantic

Ocean and within the Mediterranean Sea, its precious cargo used as ballast. Despite the dangerous missions, both the ship and the Golden Boy made it at last to New York. The statue was then shipped by train to Winnipeg and placed atop the Legislative Building on November 21, 1919. With this installation, the tip of its torch was the tallest point in Winnipeg in 1919.

The Golden Boy is modeled after the Roman messenger god Mercury, also known as Hermes in Greek mythology. On his left arm, he carries a sheaf of wheat representing the fruits of labour and one of Manitoba's main agricultural resources, while the torch in his right hand represents a call to youth to join his eternal pursuit of a more prosperous future.



Andrea Signorelli is Clerk Assistant/Clerk of Committees at the Legislative Assembly of Manitoba.