

Canadian Parliamentary Review



**“opîkiskwêstamâkêw, ninîpawin
anohc kihci-kîkway ôma
kâ-nohtê-mâmiskohtamân
ôtê ohci kê-ôhciyân...”**

**"Madam Speaker, I rise today to speak
about an issue of great importance to
my constituents and my community..."**

Volume 43, No. 4

***Indigenous
Languages in Parliament p. 16***

The Smallwoods in the Newfoundland and Labrador House of Assembly



William R. Smallwood

Photos from the Legislative Library Subject Files Collection

In a place known for asking “who’s your father?” in order to determine where you fit in the fabric of the province, it’s no wonder that our House of Assembly has seen so many examples of family ties between Members since the first sitting in 1833. The present Assembly alone has at least 9 out of 40 Members who have familial relationships to current or past Members. One of our earliest post-Confederation relationships was between the Smallwoods.

Across Newfoundland and Labrador, the surname Smallwood brings a clear image to mind – complete with dark-rimmed glasses and a colourful bowtie. Premier of Newfoundland and Labrador from 1949 to 1972, Joseph R. Smallwood remains a household name and a pop culture icon. What may not be as well-known is that his son William R. Smallwood followed in his father’s footsteps in 1956 when he became a Member of the House of Assembly at the age of 28 in Smallwood’s Liberal government.

Father and son took very different paths to the House of Assembly. J.R. Smallwood was born on Christmas Eve in 1900 in Gambo. He honed his voice in broadcast – both newsprint and radio – and for a time ran a pig farm close to his hometown. In 1946, he was elected to the National Convention, the assembly responsible for determining the future of Newfoundland. J.R. Smallwood led the



Joseph R. Smallwood

Confederate Association, and when the Dominion of Newfoundland chose to join Canada in the 1948 referenda, he became leader of the Liberal Party. In 1949, he was elected Premier of the newest province in Canada, a job he held for 23 years.

W.R. Smallwood was born in 1928 in Corner Brook on the west coast of the island, while his father ran a newspaper in the city. He was the middle of three children, graduating from Curtis Academy in St. John’s and going on to Memorial University and then to Dalhousie University for Law. W.R. Smallwood practiced law in St. John’s, until his successful election to the House of Assembly for the District of Green Bay in 1956.

The Father of Confederation and his son sat on the same side of the House together for 15 years. While W.R. Smallwood was never a part of his father’s Cabinet, there were some interesting exchanges during their time in the Chamber – one such instance occurred in May of 1971. During a debate on housing legislation, W.R. Smallwood interpreted comments of opposition Member, William Marshall to be disparaging to his mother, Clara Smallwood. W.R. Smallwood jumped to his mother’s defense – physically attacking Mr. Marshall on the floor of the House, and received a 5-day suspension for this breach of privilege. Premier Smallwood, in radio interviews the following day, stated “My son did go across and punch Mr. William Marshall in the face. On the other hand, how does a young man sit there and listen to his mother being slandered? Mr. Marshall last night did something that is just not done, he brought my wife’s name into it. I cannot condemn my son for defending his mother as he did and I hope he always will” (As quoted in the Hansard, 34th GA, 5th Session, 1971, p. 5096).

This family-first attitude for the Smallwoods makes for an interesting slice of history for the Newfoundland and Labrador House of Assembly.

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

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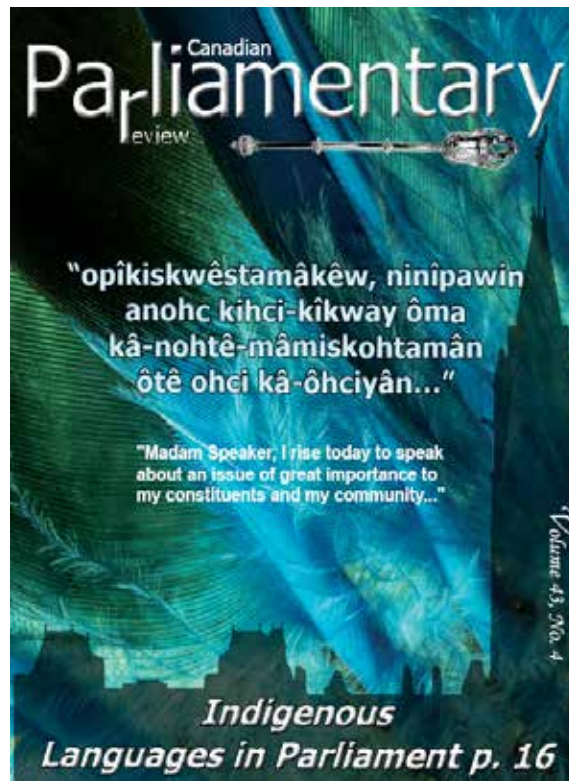
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Manitoba's Milestone Anniversaries

Manitoba celebrated its 150th anniversary as a province in 2020. The year also marked the 100th birthday of the province's legislative building. In this article, the author outlines the planned year-long festivities – which were postponed to 2021 due to the ongoing COVID-19 pandemic – and other projects in celebration of these anniversaries.

Hon. Myrna Driedger, MLA

December 14, 2019 officially kicked off what was to be a year of celebration for Manitoba's 150th anniversary and the Manitoba Legislative Building's 100th birthday. Manitoba 150 hosted a free family friendly event outside the Legislative Building that featured snowmobile acrobatics, entertainment for families, and over 300,000 LED lights on and around the Manitoba Legislative Building.

What was supposed to be a year of events to bring all Manitobans together to celebrate our province, changed drastically with the arrival of COVID-19. Premier Brian Pallister announced on April 8, 2020 that all events planned for the 150th anniversary would be postponed until 2021 due to the pandemic.

July 15th, 2020, also marked the 150th anniversary of the proclamation of The Manitoba Act, which created the Province of Manitoba. The Manitoba Act was passed by the Parliament of Canada and received royal assent on May 12, 1870. It was then proclaimed on July 15, 1870

Manitoba is the birthplace of the Métis, a people whose leader, Louis Riel, was responsible for negotiating the terms under which Manitoba joined confederation. Riel was instrumental in launching the Red River resistance and forming a provisional government to represent the rights of the Métis, as well as all of the other people calling Manitoba home at the time.

Under Riel's leadership, negotiations began between the Canadian Parliament and the Red River Métis, resulting in the passing of The Manitoba Act. Manitoba remains the only province to join Canada under Indigenous leadership.

I was honoured to host a ceremony to mark the 100th anniversary of Manitoba's Legislative Building and rededicate it. With precautions to ensure social distancing in the midst of the pandemic, Lieutenant Governor Janice C. Filmon, Premier Brian Pallister and I participated in a ceremony at the base of the Louis Riel statue on the bank of the Red River. The Legislative Building was officially opened on July 15, 1920 to mark the 50th anniversary of Manitoba becoming a province. There were approximately 15,000 visitors that day.

The Lieutenant Governor, as the special guest of honour, formally rededicated the building and unveiled a plaque to mark the significance of this occasion:



The Louis Riel statue near the Manitoba Legislative Building.

The Honourable Myrna Driedger is Speaker of the Legislative Assembly of Manitoba.



Manitoba Premier Brian Pallister, Lieutenant Governor Janice C. Filmon and Speaker Myrna Driedger participate in a ceremony at the base of the Louis Riel statue on the bank of the Red River to rededicate the Manitoba Legislative Building.

The Manitoba Legislative Building is more than just a meeting place. It is a symbol of our democracy. It contains our dreams of a society governed by principles of fairness, equality and wisdom. Beauty, hope and inspiration live within its walls. May this grand building continue to inspire Manitobans young and old throughout its second century.

I was thrilled to unveil a time capsule designed and created by Manitoba Indigenous artist Darren Sakwi. The time capsule celebrates both the building's 100th birthday and Manitoba's 150th anniversary as a province and is to be opened in July 2120.

It contains messages from the Lieutenant Governor, the Premier, the Leader of the Official Opposition, the Leader of the Liberal Party, the Clerk of the Legislative Assembly and me. Also included in the time capsule are many items which we carefully

curated in order to share a glimpse of things from our time at the Legislative Assembly that we hope our future colleagues and Manitobans will find interesting a century from now.

In total, over 80 items of interest were placed in the time capsule that is to be opened in July 2120.

The time capsule will be on display until then in the Keystone Gallery of our Legislative Building so that it can be viewed by visitors. We were worried that if we buried it somewhere it might not be remembered or found in 100 years. It is also too beautiful a capsule to hide it away somewhere.

To celebrate the Legislative Building's 100th birthday, staff of the Legislative Library, in collaboration with the Director of Education and Outreach Services for the Legislative Assembly, produced the booklet "100 Facts for 100 Years: The Manitoba Legislative Building".

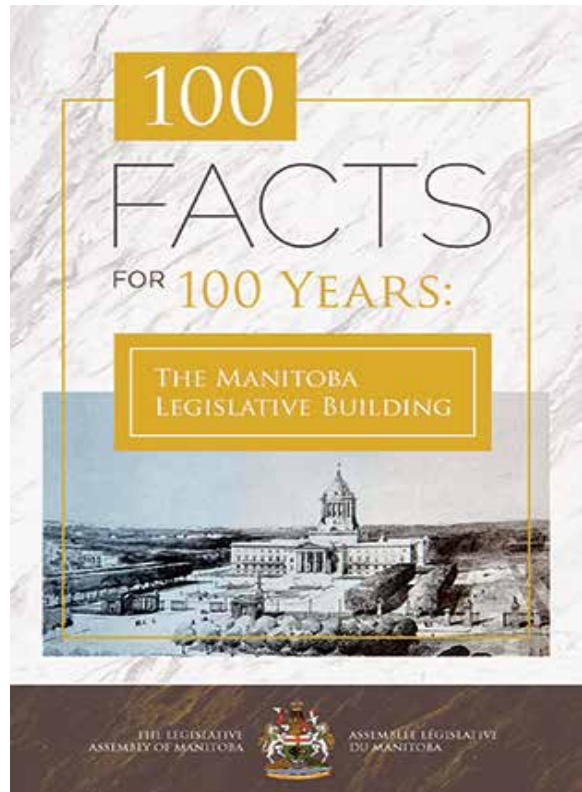
This booklet includes information covering pre-construction of the Legislative Building, design, portraits and artifacts, sculptures, interior and exterior of the building, the Golden Boy, renovations and many other items that display our Legislative Building, known to be one of the finest buildings in North America.

This booklet can be found on our website at: https://www.gov.mb.ca/legislature/visiting/100_anniversary.html

I hope that as you turn the pages, you enjoy the information about the beautiful building my fellow MLAs and I are privileged to work in on behalf of our constituents.

While we certainly were unable to celebrate these milestone events the way we wished this year, I am glad I was able to host this ceremony as we move forward with our “new normal.”

I look forward to when we can celebrate our 150th anniversary properly because Manitobans know we are always better together.



Navigating Party Discipline

Parliamentarians are rarely forthcoming about the furtive phenomenon of party discipline. A recent public event at Memorial University of Newfoundland brought together four political mavericks to discuss their experiences with the constraints of party discipline. Two of them were sitting members of parliamentary assemblies who in 2019 accomplished the rare feat of being elected as an Independent. The discussion was moderated by the Samara Centre for Democracy.

Hannah Loder

On February 6, Memorial University hosted a public discussion called “Navigating Party Discipline,” sponsored in part by the Royal Society of Canada. Moderated by the Samara Centre for Democracy’s Michael Morden, the St. John’s event brought in a 300-person audience for a frank discussion with four politicians who have experienced first-hand the harsh reality of party discipline in Canada.

The panellists included Independent Member of Parliament Jody Wilson-Raybould, former Liberal MP Jane Philpott, former New Democratic Party MP Ryan Cleary, and current Independent member of the Newfoundland House of Assembly Paul Lane. Participants were selected based upon their experiences of chafing against the Canadian party system. In 2019, Prime Minister Justin Trudeau removed Wilson-Raybould and Philpott from the federal Liberal caucus for speaking out during the SNC-Lavalin affair. They ran as Independent candidates in the ensuing federal election, with Wilson-Raybould retaining her seat in the House of Commons. Cleary, a former chief editor of the Independent newspaper, sat as an NDP MP from 2011 to 2015, and soon thereafter ran as a provincial Progressive Conservative candidate. Lane was elected to the Newfoundland House of Assembly as a Progressive Conservative in 2011, as a Liberal in 2015, and as an Independent in 2019. It was a rare opportunity for two sitting Independents from two different legislatures representing constituencies at opposite ends of the country to participate in the same interactive forum.

Hannah Loder is a fourth year Political Science student at Memorial University.



Alex Marland, a political science professor at Memorial University, has recently published *Whipped: Party Discipline in Canada*.

The event began with a word from Memorial Political Science Professor Alex Marland. Marland provided an overview of his research on the phenomenon of party discipline in Canada and his new book *Whipped: Party Discipline in Canada* (UBC Press, 2020). He emphasized the intrinsic difficulty in collecting data due to the private nature of political parties and the constraints on parliamentarians placed on them by party leadership.

Marland further remarked that “party discipline has left the legislature.” The phenomenon, he said, has evolved into a wide-reaching system of control wherein party leadership brandishes an iron fist over nearly every tenet of a parliamentarian’s life. Parliamentarians are rigidly trained to adhere to a team mentality and denounce individualism. The group psychology aspect of party politics cannot be understated. Every morning, MPs receive talking points and are encouraged to repeat them as much



From left: Independent Newfoundland and Labrador MHA Paul Lane, Independent MP Jody Wilson-Raybould, former Liberal and Independent MP Jane Philpott, and former New Democratic Party MP Ryan Cleary.

as they can in order to bolster the leader. Marland also emphasized the ability of parties to effectively blackmail their incumbents by dangling nomination papers over their heads. If a party refuses to back a candidate's re-election bid, they are left without any of the party's resources. This is a powerful way to ensure that parliamentarians toe the party line and are incentivized to adhere to party protocols. He closed by commenting on the rarity of Independents in Canadian politics: "if we were to take all of the individuals who have been elected at the federal or at the provincial level as an Independent...they would barely have enough players to put forward a hockey team." Marland said this indicates the strength of political parties in Canada and the influence they wield over the system.

Ryan Cleary's opening remarks equated the life of a parliamentarian with the loss of freedom. Cleary recounted his excitement over being appointed to the House of Commons standing committee on fisheries

and oceans; however, he "soon learned that any questions posed to a witness who appeared before the committee had to be in line with the party's stand on the issue, a stand that was taken before the study even began." He had a particularly difficult time dealing with the party dictating which questions he could pose to expert witnesses and was ultimately removed from the committee and assigned to another one after giving the party's critic "a hard time." He recounted another story of being disciplined by party leadership for an interview in which he stated his fears for the Newfoundland fishery. According to Cleary, the party had larger concerns about the pending Canada-European Union trade deal and was paranoid about being publicly perceived as anti-trade. "My ability to take a stand for my riding, for my province, the only province to lose something in the trade deal, a constitutional right from my perspective, was limited by the party's bigger political challenges." Further underscoring his notion that the national party's



About 300 people attended the “Navigating Party Discipline” panel discussion sponsored in part by the Royal Society of Canada and moderated by the Samara Centre for Democracy’s Michael Morden.

broader agenda hampered his ability to represent constituents, Cleary admitted “in ways I had become what I promised not to become, a sheep. But there’s no choice with the system as it stands.” He floated the idea of taxpayer-funded political campaigns as a way to get money out of politics and level the playing field for Independent candidates. Cleary’s past life as a journalist, relatively uninhibited by higher powers, was not conducive to his new one as an MP. Like many others, he found out after his election that his personality did not gel with the type of authority inherent in Canadian political life.

Following Cleary, Jane Philpott began by emphasizing the importance of exposing the inner machinations of party discipline. Philpott, a medical doctor, said that she was stunned by “the toxicity of the system” of party discipline upon her entrance into politics. In medicine, she explained, one is implored to think independently and to speak their mind:

“Mistakes happen in medicine, people die because of mistakes, but doctors are taught to speak up, to confess if you have made a mistake ... politics hasn’t quite figured all of that out.” Philpott further said that despite not being a particularly partisan individual, she was proud to run as a Liberal candidate in the 2015 federal election and stand behind the party’s platform in order to “serve Canadians.” She expressed profound disappointment at the practical operation of the House of Commons, as she saw it, when she went to Ottawa: “I found myself in this place where there are hundreds of other people whose full-time job is to make me fail.” She denounced the unhealthy practice of blindly labelling opposing parties as malevolent and explained that one should not feel guilty about seeing parts of themselves in other camps. Philpott further opined that a fundamental flaw of Canadian democracy is the fact that party discipline obliges MPs not to the people of Canada, where she argued loyalty ought to lie, but to the party’s top brass. As the former

federal Minister of Health, Philpott said that she was concerned with the well-being of all Canadians, not just those in her riding who voted for her. According to Philpott, MPs should serve their country first, riding second, and party third. Party discipline thus hinders the ability of the politician to do their job effectively. In response to a question from the audience, Philpott called on citizens to demand independent voices and accountable leaders.

Building upon her former cabinet colleague's remarks, Jody Wilson-Raybould highlighted her unique status as the only woman elected as an Independent MP in Canada since party labels appeared on the federal ballot in 1972. Wilson-Raybould compared her experience in federal politics with her past time as an Indigenous leader, arguing that mainstream politics has much to gain from a study of Indigenous politics, where vigorous discussion serves as the foundation of administrative decisions. She further said that the party process, while not evil, is debilitating to representative democracy and hinders MPs from being responsive to their constituents. She emphasized the need to do politics differently and stated that she takes great pride in being able to serve as an Independent parliamentarian. Despite her personal experience, Wilson-Raybould does not advocate for the complete dismantling of the party system, but rather the decentralization of power. She remains skeptical that she will ever be a member of an organized political party again and said that "[as an Independent] I'm more motivated than ever to ensure that I exercise my voice."

Paul Lane began by describing his lifelong indifference to politics and the resulting naïveté that follows and manifests itself when one decides to enter politics themselves. He stated that his early days as a politician were marked by toeing the party line, repeating party utterances, and doing exactly what

he was told. Lane soon found out that such obedience resulted in positive affirmations and promotions, "but when you get this affirmation for doing things that when you really think about it you have to question: are they really in the best interests of your constituents?" Unsatisfied with the provincial PC party, Lane crossed the floor to the Liberals hoping that the party would be different, but he found more of the same politics as usual. He was removed from the Liberal caucus for expressing concern about a controversial aspect of the government's budget. Running as an Independent presented unique problems, particularly the importance of financial donations in campaigns. Like Cleary, Lane called for electoral reform as he believes the system as it stands plagues democracy. Lane echoed Wilson-Raybould in saying that he was highly satisfied with the freedom inherent in serving as an Independent: "If there's anybody here from the government who's here having a look or whatever, nobody has shut me up, nobody is shutting me down. I'm going to continue being me."

A lively Q&A session indicated that many citizens are frustrated with party discipline as well. The panellists made clear that enacting parliamentary reform is vital to the health of democracy. Expressing sympathy for the concept of teamwork and cooperation, the panellists agreed that party discipline is more akin to playing the role of a yes-woman or man to the party's top brass than playing on a team. Philpott denounced the hyper-partisanship that has become salient in Canadian politics: "we can find good in all parties and every party has a lot of work to improve itself as well." Regardless of former political affiliations or personal credos, the panellists opined that the House of Commons and provincial assemblies need independent voices who are willing to defy the status quo, remain true to their values, and represent their constituents' interests in the face of myriad external pressures that are ubiquitous in Canadian politics.

Old Institutions, New Solutions: Supporting Independent MPPs in Ontario's Assembly

History, tradition, convention and precedents are important to Westminster parliamentary institutions; however, new challenges demand flexibility to adjust the rules and set new precedents when necessary. In this article, the author explains how the Legislative Assembly of Ontario has modified Standing Orders and how the Speaker is using discretion to ensure fair participation by the significant number of MLAs who sit as Independents.

Rachel Nauta

Our Westminster parliamentary institutions date back centuries, yet each new Parliament comes with challenges and changes that require us to adjust the rules and set new precedents.

In Ontario, the 2018 election brought about significant change: 17 ridings were added, 73 new Members were elected, a new governing party took power, and eight independent Members took their seats in the Legislature.

Throughout the course of the current Parliament, four additional Members became independents; for a total of 12 independent Members in the Legislature. Under the Standing Orders adopted by this Parliament, a “Recognized Party” is defined as having Membership of at least 10 percent of the total number of seats in the Assembly. This means that 12 Members are needed to meet the Recognized Party threshold. While the independents are not all aligned as one unified party—or eligible for the benefits that would invoke—each Member is elected to represent their constituents and has the right to participate in parliamentary proceedings. So, how

can the independent Members actively participate in legislative business on behalf of their constituents, particularly when they represent a significant proportion of elected Members?

For the current Parliament, the answer involves a little bit of math and a lot of careful planning.

Debates

When the Speaker is removed from the equation, there are 123 Members able to participate in debate on government bills or substantive government motions. These proceedings require a minimum of 6.5 hours of debate before they are eligible for time allocation. Assuming all bills could be time allocated, there are 390 minutes of guaranteed debate to be divided by 123 Members. This equals approximately three minutes per Member for debate, meaning each independent Member can speak for three minutes on each substantive motion or government bill being debated.

Eight of the independent Members represent the Liberal Party and as such, the Speaker has permitted them to aggregate their allotted debate time as they see fit. As a group, they are entitled to 24 total minutes of speaking time; however, Members may not speak for more than 20 minutes. Therefore, they can divide their time into two 12-minute speaking slots, until debate time is reduced to 10 minutes per Member under the Standing Orders.

Rachel Nauta is executive assistant to Hon. Ted Arnott, MPP, Speaker of the Legislative Assembly of Ontario.

The other independent Members are able to speak up to 3 minutes during debate. If they do not want to speak on a certain matter of debate, independent Members can forgo participation and bank those minutes to accumulate larger amounts of time—up to 20 minutes— to speak on debates where they want to make a more substantial contribution.

Question Period

For Question Period, Standing Order 35(g) gives the Speaker “the discretion to permit an independent Member to place a question and one supplementary question during Question Period.” Given the number of independent Members and a Speaker’s commitment to being fair, equitable and neutral, more than discretion was needed to permit Members to participate in Question Period.

Of the 124 Members, the 21 Cabinet Ministers and Speaker are subtracted since they cannot ask questions, leaving 102 Members to ask questions. The Leader of the Opposition is able to ask their *Leader’s Questions* for 12 minutes at the beginning of the Question Period hour, which leaves 48 minutes for the remaining 101 Members to ask questions.

At 1 minute per question and response, plus an additional minute for the supplemental question and response (equaling a maximum of 4 minutes total),

there is time for approximately 12 Members to ask a question in the remaining time. If each Member is given the chance to ask a question in rotation, they would get a question approximately once every 8 sitting days.

As such, the Speaker has allowed one question per sitting day to be allocated to an independent Member, with an additional question permitted from an independent Member on certain days to ensure all independent Members have an equal opportunity to ask a question in accordance with the determined calculations.

For other matters in the House, a similar mathematical approach is taken, or the Speaker exercises his discretion to ensure there is adequate opportunity for participation given to the independent Members. The Legislature has also passed temporary Standing Order changes regarding the participation of Independent Members.

Anyone who works in a Legislative setting can attest that no two days are ever the same; Ontario’s current parliamentary composition and recent global events have continually reminded us of this. While we are guided by ancient parliamentary procedures, our democracy is a living organism and we must be flexible to adapt to changing circumstances for the continued function of Parliament on behalf of Members and those they are elected to serve.

Are Backbenchers' Interventions Gendered?

When women backbenchers participate in Question Period and Private Members' Business, are their interventions gendered? Are they more likely than men to address stereotypically feminine issues and less likely to address stereotypically masculine issues? In this article, the authors investigate these questions by analyzing all of the interventions in Question Period and Private Members' Business by backbenchers in the 42nd Parliament between September 16 and December 13, 2018. Using software to code the interventions, they determined that the gendered division of labour on stereotypically feminine issues was much more evident in Question Period than Private Members' Business. While women were no less likely than men to address stereotypically masculine issues, they were more likely than men to intervene on matters considered stereotypically feminine. The authors conclude that judging what these patterns of gendered interventions mean for our political culture and institutions depends on a person's perspective.

Alison Schwenk and Elisabeth Gidengil

Introduction

Even as more women are elected to parliaments around the world, legislatures may remain gendered institutions.¹ There is ample evidence that women are more likely than men to serve on parliamentary committees that deal with stereotypically feminine issues, such as health, social welfare and education, and less likely to be on committees that deal with stereotypically masculine issues, such as the economy, finance and defence.² There is also evidence that they deliver fewer speeches in parliament than men.³ In this article, we look at another form of gendering and ask whether women backbenchers in Canada's Parliament are more likely than the men to address stereotypically feminine issues and less likely to address stereotypically masculine issues when they intervene in Question Period and Private Members' Business.

Alison Schwenk holds a B.A. from McGill University and is pursuing a Doctor of Law (JD) at the University of Toronto. Elisabeth Gidengil is Hiram Mills Professor of political science at McGill University.

Gender and Speech-Making

There are a number of reasons to expect that backbenchers' interventions in these venues will be gendered. First, there are career incentives. Numerous studies have shown that voters are apt to attribute issue competencies on the basis of a politician's gender.⁴ Women are assumed to be more competent in dealing with stereotypically feminine issues whereas men are presumed to have greater competence when it comes to stereotypically masculine issues. Accordingly, the party leadership may have a strategic incentive to encourage women members to intervene on stereotypically feminine issues in more public arenas in order to demonstrate the party's competence in handling these issues. Conversely, women members may be less likely to be selected to intervene on stereotypically masculine issues on which they may be presumed to have less competence. Given the degree of party discipline in Canada's Parliament, women backbenchers have strong incentives to comply with the wishes of the party leadership. If they value career advancement, they will not want to risk possible sanctioning or being overlooked when it comes to choosing backbenchers to serve in key positions. As a former MP has explained, "A loyal MP can be made a committee chair, House leader, a parliamentary secretary or a Cabinet minister. Insubordinate MPs can

be relegated to the backbenches, refused authorization to travel abroad, thrown out of caucus or barred from running in the next election.”⁵

We should not assume, though, that the women necessarily need either carrots or sticks to intervene on stereotypically feminine issues. Rather than being the result of pressure from the party leadership, it could be a matter of choice. The women may feel that they have a duty to speak on issues that are thought to be of particular concern to women. These issues extend beyond what are conventionally considered “women’s issues” (such as reproductive choice, violence against women and sexual harassment) to include stereotypically feminine issues such as health, social welfare and education. Women may even fear electoral punishment if they fail to live up to constituents’ expectations regarding the issue competencies and priorities of women politicians.⁶ They may also be more apt to prioritize these issues because they are more likely than the men to have come to politics from fields such as health care, social work and education. Gendered socialization and life experiences may also play a role.⁷

It is possible, of course, that backbenchers’ interventions in Question Period and Private Members’ Business are not gendered. Women backbenchers may be as likely as the men to address stereotypically masculine issues, just as the men may be as likely as the women to raise stereotypically feminine issues.⁸ The women may face a difficult trade-off. To advance in their parliamentary careers, they also need to get re-elected. This may give them an incentive to address stereotypically masculine issues in order to counter constituents’ stereotypical assumptions about women politicians’ issue competencies that might frustrate their chances of re-election. For their part, men have an incentive to intervene on stereotypically feminine issues, given that half of their constituents will be women. Indeed, issues such as health, education and social welfare do not just affect women; their male constituents may care about these issues, too.

This may explain why studies of legislative speech-making have reported mixed results. For example, a study of seven European parliaments found that women MPs in the Nordic countries gave fewer speeches on stereotypically masculine issues than the men, even though these countries have more gender-balanced parliaments than other post-industrial democracies.⁹ However, there was little or no difference in the case of the Czech, Estonian, German and Irish parliaments. Moreover, even in the three Nordic parliaments,

the men gave as many speeches as the women on stereotypically feminine issues. On the other hand, an analysis of debates on the second reading of bills in the British House of Commons found that women MPs were more likely than the men to participate in debates on health care (a stereotypically feminine issue), though they were just as likely as the men to take part in debates on finance bills (a stereotypically masculine issue).¹⁰

Our Study

To see whether Canadian backbenchers’ interventions are gendered, we have analyzed all of the interventions in Question Period and Private Members’ Business in the 42nd Parliament between September 16 and December 13, 2018. We only consider interventions by backbenchers. Excluding cabinet ministers, opposition critics, party leaders, the Speaker and other presiding officers leaves us with 197 MPs. Forty-one (20.8 percent) were women and 156 (79.2 percent) were men. There were 47 Conservative MPs, 127 Liberal MPs, 14 NDP MPs, and 9 Bloc Québécois MPs.

We have chosen to look at both Question Period and Private Members’ Business because it enables us to get some leverage on the question of whether women backbenchers are more likely to address stereotypically feminine issues by choice or because they are complying with the wishes of the party leadership. There are at least two reasons to expect interventions in Question Period to be more gendered than interventions in Private Members’ Business. First, Question Period is a public arena that has taken on new significance in an era of permanent campaigning: “Both the nature of QP itself and media coverage of it indicate that it has become a made-for-media event.”¹¹ Accordingly, if a party wants to highlight its competence in dealing with stereotypically feminine issues, the party leadership has strong incentives to select women MPs to ask questions on these topics. Question Period, after all, is a forum where symbolism often trumps substance.¹² Second, and relatedly, Question Period is subject to much more partisan control than Private Members’ Business. Indeed, party whips typically provide the Speaker with lists of MPs and the suggested order of recognition.¹³ Party discipline is such that MPs who value career advancement will be willing “to engage in any form of behaviour requested or deemed valuable for the party leader.”¹⁴

This is not to say that Private Members’ Business is unimportant. On the contrary, MPs have experienced greater success in getting their legislation passed

and their participation in Private Members' Business can have an indirect effect on government policy.¹⁵ Similarly, it is not the case that Private Members' Business is free of the constraints of party discipline. Indeed, there is evidence that parties are exercising greater control over this arena.¹⁶ Nonetheless, Private Members' Business remains less subject to party discipline than Question Period. Accordingly, we can expect backbenchers' interventions to be more likely to reflect their own preferences in the former than in the latter.

To see whether there were differences in the types of issues addressed by the women and the men, we developed a classification of stereotypically masculine, stereotypically feminine, and gender-neutral issues. Stereotypically masculine issues include defence, military, crime, national security, finance, the economy, foreign affairs, foreign trade, and agriculture. Stereotypically feminine issues include culture, education, children/youth, family, ageing/elderly, health, welfare, poverty, and equality. Note that "women's issues," such as abortion and sexual violence, are not classified as being stereotypically feminine because they might reasonably be assigned to women due to their content. The neutral category includes issues such as science and technology, the environment, sports, labour, and immigration.

We used the Lexicoder software (www.lexicoder.com) to classify the interventions. For example, an intervention that included words such as "tariff" and "export" would be classified under "foreign trade," a stereotypically masculine issue, while an intervention containing words such as "hospital" and "cancer" would be classified as relating to health, a stereotypically feminine issue.¹⁷ We accessed transcripts of every intervention in Question Period and Private Members' Business in fall 2018 using the *Our Commons* website (<https://www.ourcommons.ca/DocumentViewer/en/house/latest/hansard>).

Question Period

Over the period studied, backbench MPs intervened a total of 722 times in Question Period. These interventions were much more likely to address stereotypically masculine issues than stereotypically feminine issues. Forty-eight per cent of these interventions related to stereotypically masculine issues while only 14 per cent dealt with stereotypically feminine issues; the remainder addressing gender-neutral issues. Relative to their numbers, the women made more interventions overall than the men.

Women comprised only 21 per cent of backbenchers but accounted for 26 per cent of the interventions. On average, they intervened 4.6 times, compared with 3.4 times for the men.

The women were, if anything, a little more likely than the men to intervene when the issue at hand was stereotypically masculine: the average for the women was 1.8, compared with 1.7 for the men, though more of the men's total interventions (50 per cent) dealt with stereotypically masculine issues than the women's (40 per cent). Interventions on stereotypically feminine issues were much more clearly gendered: on average, women backbenchers made 1.3 interventions, compared with a mere 0.3 for the men. Similarly, 28 per cent of the women's total interventions but only 10 per cent of the men's interventions addressed stereotypically feminine issues. Moreover, the men were much less likely to address stereotypically feminine issues than the women were to address stereotypically masculine issues. Clearly, then, women backbenchers were more likely than the men to intervene on stereotypically feminine issues. That said, the women were still more likely to address stereotypically masculine issues than stereotypically feminine issues. The finding that women backbenchers were more likely than the men to intervene on stereotypically feminine issues holds, even when we take account of other factors such as party affiliation, length of time in Parliament and belonging to a visible minority.¹⁸

Interestingly, this finding also holds when we look at each party's backbenchers separately. The Conservatives were facing a "woman problem": polling data had indicated that women (25 per cent) were much less likely than men (33 per cent) to vote Conservative in the 2015 election.¹⁹ Accordingly, the party may have wanted its women backbenchers to intervene on stereotypically feminine issues in order to project a woman-friendly image. There were only five Conservative women backbenchers in the 42nd Parliament so we have to be cautious about drawing conclusions. Nonetheless, it is striking that fully 95 per cent of the Conservative men did not make a single intervention addressing stereotypically feminine issues. Meanwhile, three of the five women intervened on these issues. We face a similar numbers problem with the NDP. There were only three NDP women backbenchers. Given the party's policy platform, we might have expected NDP backbenchers to be equally likely to intervene on stereotypically feminine issues regardless of their gender, but this was clearly not the case. Nine of the 11 NDP men did not make even one intervention on these issues whereas all three women

did address these issues in their interventions. Meanwhile, more than twice as many Liberal women (65 per cent) as Liberal men (28 per cent) intervened on stereotypically feminine issues. There were too few Bloc MPs to draw any conclusions. Again, there is little to suggest that the women backbenchers were less likely than the men to intervene on stereotypically masculine issues. Indeed, Liberal women (36 per cent) were more likely than Liberal men (26 per cent) to address these issues and all five Conservative women addressed these issues, compared with only half of the men.

Private Members' Business

Backbenchers are assumed to enjoy more autonomy when it comes to Private Members' Business. If women were making more interventions on stereotypically feminine issues than the men in this venue, it would suggest that the pattern observed in Question Period reflects women's priorities and not simply pressure from the party leadership. To investigate this possibility, we have conducted a parallel analysis of interventions in Private Members' Business.

Backbench MPs intervened 222 times in this venue. Relative to their overall numbers, women backbenchers were almost as likely as the men to intervene in Private Members' Business, with the women accounting for 19 per cent of the total interventions and the men accounting for 81 per cent. On average, women backbenchers made 1.1 interventions, while the average for the men was 1.2. Interventions in Private Members' Business were much more likely than interventions in Question Period to address stereotypically feminine issues (43 per cent) and much less likely to deal with stereotypically masculine issues (13 per cent).

On average, women backbenchers intervened 0.63 times on stereotypically feminine issues, whereas the average for the men was 0.44. The difference was even smaller when it came to stereotypically masculine issues: the men's average was 0.16, compared with the women's average of 0.10. However, relative to their total interventions, the women were much more likely than the men to intervene on stereotypically feminine issues: 63 per cent of the women's interventions in Private Members' Business addressed stereotypically feminine issues, compared with only 38 per cent of the men's. Meanwhile, 14 per cent of the men's interventions but only nine per cent of the women's related to stereotypically masculine issues.

The tendency for women to intervene more frequently than the men on stereotypically feminine issues clearly appears to be weaker in Private Members' Business than in Question Period. This fits with the expectation that interventions in this arena would be less gendered. However, the fact that more of the women's interventions related to stereotypically feminine issues even in a venue that is less subject to party discipline suggests that women backbenchers were not simply succumbing to pressure from their parties to speak up on these issues during Question Period.

When we break the results down by party, we see once again that Liberal women (45 per cent) were more likely than Liberal men (29 per cent) to address stereotypically feminine issues but the gender imbalance is smaller than it was in the case of Question Period. Note, too, that the women were less likely to address these issues in Private Members' Business than in Question Period, raising the possibility that they may face some pressure to intervene on stereotypically feminine issues in Question Period. Conservative backbenchers were much less likely than their Liberal colleagues to address these issues. Indeed, none of the Conservative women made an intervention on stereotypically feminine issues. Surprisingly, given the party's presumed ownership of issues such as health care and social welfare, only nine per cent of NDP men's interventions dealt with stereotypically feminine issues, though two of the three women did address these issues. There was little difference across the parties when it came to stereotypically masculine issues and little in the way of gender differences.

Concluding Discussion

We chose to look at interventions in Question Period and Private Members' Business in order to gain more insight into the role of gender in the day-to-day operation of Canada's Parliament. The motivating question was the extent to which Parliament could be characterized as being a gendered institution. Based on the findings presented here, the answer must necessarily be qualified. On the one hand, there was little consistent evidence that women backbenchers were less likely than the men to address stereotypically masculine issues, such as finance, the economy and the military. Moreover, even in Question Period, the women were more likely to address stereotypically masculine than stereotypically feminine issues. On the other hand, in Question Period and Private Members' Business, the women were more likely than the men to intervene on stereotypically feminine issues, such as health, education and social welfare.

Comparing backbenchers' interventions in Question Period and Private Members' Business proved to be revealing. The gendered division of labour on stereotypically feminine issues was much more evident in the former than in the latter. A plausible explanation is that parties have an incentive to capitalize on voters' gendered perceptions of politicians' issue competencies by assigning their women backbench MPs to address issues that are stereotypically associated with their gender in a venue that typically attracts a good deal of media attention. The newsworthiness of Question Period also means that backbenchers' behaviour is much more subject to party discipline in this arena.

Even in the case of Private Members' Business, though, where backbenchers' behaviour is less constrained, the women were more likely than the men to address stereotypically feminine issues. The gender difference was smaller, but it was non-negligible, suggesting that the women were not simply toeing the party line when they intervened on these issues during Question Period. Whether their interventions reflected gendered socialization, life experiences, a sense of duty to speak to issues believed to be of particular importance to women or concerns about re-election, we cannot say, but it is likely that some mix of these considerations played a role.

There are, of course, other parliamentary venues that may show greater—or lesser—evidence of gendering. Future studies need to look at committee assignments, participation in debates on second readings and other interventions in the House in order to gain a fuller sense of the extent to which Canada's parliament may be a gendered institution. How we judge the patterns observed in Question Period and Private Members' Business depends very much on perspective. On the one hand, it could be considered a good thing that women backbenchers are raising issues believed to be of greater concern to women than to men. On the other hand, there is the risk of perpetuating gendered perceptions of the competencies of women politicians.

Notes

1 Catherine Bolzendahl. "Legislatures as gendered organizations: Challenges and opportunities for women's empowerment as political elites." In Amy C. Alexander, Catherine Bolzendahl and Farida Jalalzai (eds.) *Measuring Women's Political Empowerment across the Globe: Strategies, Challenges and Future Research* London: Palgrave Macmillan, 2018, pp. 165-186

- 2 Ibid.
- 3 Hanna Bäck and Marc Debus. *Political Parties, Parliaments and Legislative Speechmaking*. New York: Palgrave Macmillan, 2016.
- 4 See, for example, Erin C. Cassese and Mirya R. Holman. "Party and gender stereotypes in campaign attacks." *Political Behavior* 40, 2018: 785-807.
- 5 Monique Guay. "Party discipline, representation of voters and personal beliefs." *Canadian Parliamentary Review* 25(1), 2002: 7-9.
- 6 Ibid.
- 7 Manon Tremblay. "Do female MPs substantively represent women? A study of legislative behaviour in Canada's 35th Parliament." *Canadian Journal of Political Science* 31 (3), 1998: 435-65.
- 8 Amanda Clayton, Cecilia Josefsson and Vibeke Wang. "Quotas and women's substantive representation: Evidence from a content analysis of Ugandan plenary debates." *Politics & Gender* 13(2), 2017: 276-304
- 9 Bäck and Debus.
- 10 Ana Catalano. "Women acting for women? An analysis of gender and debate participation in the British House of Commons 2005-2007." *Politics & Gender* 5, 2009: 79-98.
- 11 Kelly Blidook. "Symbol vs. substance: Theatre, political career paths, and parliamentary behaviour in Canada." *Canadian Study of Parliament Group*, 2010, 2. http://cspg-gcep.ca/pdf/KBlidook_Final-e.pdf
- 12 Ibid.
- 13 Marc Bosc and André Gagnon. *House of Commons Procedure and Practice, Third Edition*, 2017. https://www.ourcommons.ca/About/ProcedureAndPractice3rdEdition/ch_11_1-e.html
- 14 Blidook, 9.
- 15 Kelly Blidook. "Exploring the role of 'legislators' in Canada: Do Members of Parliament influence policy?" *The Journal of Legislative Studies* 16(1), 2010: 32-56.
- 16 Evan Sotiropoulos. "Private members' Bills in recent minority and majority parliaments." *Canadian Parliamentary Review* 34(3), 2011.
- 17 A list of the issues and the words associated with those issues is available from the authors.
- 18 In order to take account of other factors that might explain the gender difference, we regressed the number of interventions on stereotypically feminine issues on gender, party affiliation, belonging to a visible minority, number of years as an MP and total number of interventions on any issue.
- 19 David Coletto. "The path to 2019: Women and the Liberal vote." *Abacusdata*, 2018. <https://abacusdata.ca/womenandtheliberalvote/>

Indigenous Languages in Parliament: Comparing Canada and Australia

In 2018, a committee of the Canadian House of Commons conducted an inquiry into how it might better incorporate Indigenous languages in its proceedings. One witness in that inquiry gave evidence from over 15,000 kilometres away, in the Northern Territory of Australia. While many of the challenges faced by speakers of Indigenous languages in Canada and Australia are very different, it appears that each jurisdiction might have something to learn from the other – as indicated by the knowledge shared in 2018. This article advances the project of comparing the Canadian and Australian approach to incorporating Indigenous languages in federal and sub-federal parliamentary proceedings. The analysis will touch upon the symbolic importance of facilitating Indigenous language use in parliament, the practical benefits flowing from the same, and the logistical issues – including interpretation, translation, recording and funding – that arise.

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In May 2017, Robert-Falcon Ouellette gave a speech to the Canadian House of Commons on violence within Indigenous communities. Ouellette spoke in Cree, because he wanted to “address the violence in a manner that would be noticed” and to reach the younger population.¹ Although Ouellette had contacted the relevant parliamentary office ahead of time and provided the English text of the speech, no simultaneous interpretation was offered from Cree to English. Although Ouellette’s use of Cree did not contravene the Standing Orders, it highlighted the fact that no mechanism existed to have his words simultaneously interpreted so that other Members could understand him. After the speech, Ouellette objected to the status quo and the Standing Committee on Procedure and House Affairs conducted an inquiry into the use of Indigenous languages in House Proceedings and Committees.² During the course of that inquiry, the Committee received testimony for 31 witnesses, the last of whom gave evidence from some 15,000 kilometres away in Australia. That witness – Michael Tatham, Clerk of

the Legislative Assembly of the Northern Territory – explained the extent to which Indigenous languages were then accommodated within the Northern Territory Parliament. This distant Australian witness’ appearance before the Committee, and the inclusion of his evidence in the final report, suggests that – as much as there are significant differences between the obstacles to Indigenous parliamentary involvement in Canada and Australia – there are also potentially some shared experiences. In this article, we hope to outline the current position in Australia with respect to the use of Indigenous languages in Parliament, touching upon the symbolic importance of facilitating Indigenous language use, the practical benefits flowing from the same, and the logistical issues – including interpretation, translation, recording and funding – that arise. In the course of our discussion we focus in particular on recent developments and, where possible, we draw on comparisons with the Canadian experience.

Indigenous languages in Australia, compared with Canada

Indigenous people make up about 3 per cent of the Australian population, although that percentage is considerably higher in certain jurisdictions, such as the Northern Territory (where Indigenous people make up about 35 per cent of the constituency).³ In Canada, for comparison, Indigenous people make up 4.9 per cent of the population, but make up a

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majority of the population in some territories (for example, Indigenous people make up 86 per cent of the population in Nunavut and 51 per cent of the population in the Northwest Territories).⁴

About 18 per cent of Indigenous Australians speak an Indigenous language, including 11 per cent who speak an Indigenous language as their main language at home.⁵ Again, this portion is significantly higher in some places, particularly remote regions (where over half of Indigenous people speak an Indigenous language).⁶ In Canada, 16 per cent of Indigenous people speak an Indigenous language.⁷

It is estimated that there are presently around 141 Indigenous language varieties spoken throughout Australia.⁸ In Canada, the figure is over 70.⁹ Many of those languages, however, are only spoken by relatively small numbers of people and even the “stronger” languages are considered to be under threat.¹⁰ In the last few decades, there has been an increasing public awareness, particularly among non-Indigenous Australians, of the importance of preserving and protecting Indigenous languages. This recognition has resulted in some important developments, including the development of legislation and policy to protect Indigenous languages,¹¹ and the limited inclusion of some Indigenous languages within school curricula.

Indigenous languages in Australia share three important similarities with Canada that bear upon the history of Indigenous languages in parliamentary proceedings. First, Indigenous people make up a relatively small proportion of the *national* population in both countries. Second, both Australia and Canada being federations, Indigenous people make up a significant portion of the population in some *sub-national* jurisdictions. Third, there is no single common Indigenous language in either country, but rather a rich diversity of languages. In each of these three respects, Canada and Australia can be contrasted with New Zealand, which is a unitary jurisdiction with a significant Indigenous population and a single language.¹²

Indigenous languages in Australian parliaments

Indigenous Australians have faced electoral obstacles since Australia’s inception, however since the election of the first Indigenous Australian to federal parliament in 1971 there has been a relatively steady increase in electoral representation.¹³ The first use of an Indigenous language in an Australian

parliament appears to have been in 1981.¹⁴ Since then, Australia has seen a dramatic rise in Indigenous language use in Australian parliaments.

Many of the uses of Indigenous languages in Australian parliaments occur in a ceremonial, symbolic or formal contexts. For example, short Indigenous language phrases are often used – including by non-Indigenous parliamentarians – in acknowledgments at the start of significant speeches.¹⁵ Another common context for the use of Indigenous languages in Australian parliaments is in a parliamentarian’s inaugural speech, especially if the parliamentarian is Indigenous¹⁶ or represents an electorate with a significant Indigenous population.¹⁷

It has been much less common for Indigenous languages to be used in substantive policy debate, as opposed to set piece speeches. Part of the reason for this lies in the historic unwillingness of Australian parliaments to provide interpreters. Instead, Australian parliaments in recent decades have either outright banned the use of Indigenous language in parliamentary debate or have required a parliamentarian to provide a written translation ahead of time – thus effectively precluding *ex tempore* or responsive uses of Indigenous languages.

The operation of such problematic policies can be seen in a widely-publicized incident in 2015, when an Indigenous parliamentarian in the Northern Territory was told that she would be ruled disorderly by the Speaker of the House if she continued to speak in an Indigenous language without obtaining advance permission.¹⁸ Since 2015, however, the Northern Territory has made progress on this issue, largely due to the advocacy of Indigenous parliamentarians. As a result of amendments to the Standing Orders, an Indigenous member of the Northern Territory Legislative Assembly recently made history by apparently being the first person in Australia to use an Indigenous language in substantive parliamentary debate with a simultaneous interpreter present.¹⁹ (There are obvious parallels here with the experience of Robert-Falcon Ouellette in Canada. After his untranslated speech in Cree in 2017, Ouellette advocated for, and ultimately brought about, changes in the Standing Orders of the House of Commons.)

In the remainder of this article, we use the recent developments in the Northern Territory as a launching pad to consider the Standing Orders of the other Australian parliaments, and how they compare to those in Canada.

Standing Orders and procedures in Australian parliaments

In many Australian parliaments, including the federal Senate and House of Representatives,²⁰ the Standing Orders contain no provision for the use of a language other than English in debate.²¹

This silence is open to competing interpretations. One perspective sees the silence as meaning English is simply assumed to be the language of the parliament and any derogation from that assumption requires suspension of the Standing Orders. That view appears to have been taken by parliaments around Australia from time to time, where it has been thought necessary to suspend standing orders to allow a parliamentarian to speak in an Indigenous language. Another view sees the silence of the Standing Orders as suggesting there is no formal requirement for a parliamentarian's contributions be in English, so long as those contributions meet the other requirements including for orderliness, non-offensiveness, timeliness and relevance.

It is not necessary to attempt to resolve these competing positions here. For present purposes it is enough to say that the ambiguity is liable to create confusion. That much is borne out by the events in the Northern Territory in 2015 when the Standing Orders contained no specific provision for the language of the Legislative Assembly and the Speaker interpreted that to mean that Indigenous language use could be ruled disorderly.²²

The Northern Territory subsequently amended its Standing Orders to afford parliamentarians a right to speak in a language other than English. That provision read:

“Speaking in a Language other than English

A Member may rise to speak in any language other than English so long as an oral translation is provided in the English language by the same Member immediately prior to the words spoken in the language other than English and a written translation is tabled immediately prior to the contribution by the Member speaking. Apart from existing arrangements for extensions of speaking times, no allocation of additional speaking time is provided for translation purposes. When the language spoken is a language other than English, the Member speaking will also make the original text language available for incorporation into the Parliamentary Record alongside the English language text.”²³

This provision imposed four significant obstacles or burdens to the use of Indigenous languages in parliamentary debate. First, a written English-language translation had to be provided ahead of time. Second, an oral English-language translation had to be provided immediately before the Indigenous language. Third, there was no provision for an interpreter to be present to assist with the English translation. Fourth, there was no entitlement to additional time to take account for the duplication of the content. Those requirements made it difficult to use Indigenous languages in parliament and impossible to do so without considerable forward planning.

Unsurprisingly, members of parliament who speak Indigenous languages objected to the cumbersome and restrictive nature of that Standing Order and sought two amendments. The effect of these amendments would have been to remove the requirement for a written English translation to be provided ahead of time and the requirement that the English translation be spoken orally before the Indigenous language content. The amendments proposed that the Indigenous language could be spoken first followed by an oral English translation, either by the member or an interpreter. While those amendments were initially not accepted,²⁴ further consideration ultimately led to a recommendation to abolish the problematic Standing Order.²⁵

As a result, the position in the Northern Territory is that members must seek leave to speak in a language other than English. While the requirement for leave, rather than an entitlement, is somewhat concerning, it is anticipated that leave will ordinarily be granted. The relevant resolution of the Legislative Assembly states:

“4. members seeking leave to speak in languages other than English must provide the Speaker with adequate notice for the Speaker to make any arrangements to provide assistance so that the member may be understood and the Parliamentary Record may accurately report the contribution if leave of the Assembly to speak in the other language is granted

5. arrangements may include use of an interpreter, or relying upon the member providing their own translation orally or in writing; where a translation is provided only in writing, other members will be permitted an opportunity to respond to any concerns they have about content in written translations.”²⁶

It is worth noting that the long road to reform of the Standing Orders in the Northern Territory included consideration of the position in Canada, and there has been correspondence between the clerks of the Legislative Assemblies in the Northern Territory and in Nunavut.²⁷

A brief look at Canada

All of which brings us back to the present position in Canada. As in Australia, it has been the Canadian territories that have pioneered the use of Indigenous languages in legislative deliberation. In the Legislative Assembly of the Northwest Territories, parliamentarians have had the right to use an Indigenous language in parliamentary debate since 1990, when nine Indigenous languages were recognised as “official”.²⁸ In 2018, there were three members of the Assembly who regularly used Indigenous languages.²⁹ Similarly, in the Legislative Assembly of Nunavut – a Territory of Canada where 86 per cent of the population speak Inuktitut as their first language – Inuktitut is extensively used during debate and Hansard is published in English and Inuktitut.³⁰ Pursuant to its *Languages Act*, Yukon, the final of Canada’s three territories, permits the use of the territory’s eight Indigenous languages in parliamentary debate.³¹ The Act also provides for the translation of Hansard and other records into those languages when authorized by the Assembly.³² However, it does not appear that this yet happens in practice.³³

At the federal level, a 2008 Senate report recommended that parliamentarians be permitted to use Inuktitut when debating and that simultaneous interpretation be provided.³⁴ Those recommendations were accepted, and there have now been a number of instances in which parliamentarians have addressed the Senate in Inuktitut with interpretation in English and French.³⁵ Leave may also be granted for Senators to debate in other languages.³⁶

In the House of Commons, progress on the use of Indigenous languages in parliamentary debate was precipitated by Robert-Falcon Ouellette’s address in 2017, discussed above. Ouellette was unable to ensure the timely translation or interpretation of his address to the House in his Indigenous language.³⁷ The Member subsequently sought a ruling that his parliamentary privileges had been violated, Canadian parliamentarians have a constitutionally protected right to use Indigenous languages in Parliament and be understood by other Members.³⁸ While the Speaker



Former MP Robert-Falcon Ouellette with Kevin Lewis, a professor at the University of Saskatchewan and the First Indigenous translator in Parliament.

did not find that a *prima facie* case of privilege existed in that case,³⁹ the issue resulted in a parliamentary inquiry, which ultimately formalised the processes around Indigenous language use in the House of Commons.⁴⁰

Conclusion

We suggest the clear and comprehensive recommendations made by the House of Commons in Canada should be considered by Australian parliaments.⁴¹ The Canadian model offers the clarity that is missing from the many Australian jurisdictions that do not specifically address the issue. Further, the Canadian territories show that it is feasible to create an entitlement to Indigenous language use. This approach should be preferred in Australia rather than leaving it as a matter requiring the leave of the Speaker, as is presently the case in the Northern Territory.

Notes

- 1 Robert-Falcon Ouellette, "Honouring Indigenous Languages Within Parliament" (2019) *Canadian Parliamentary Review* 3, 4.
- 2 See House of Commons Standing Committee on Procedure and House Affairs, Parliament of Canada, *The Use of Indigenous Languages in Proceedings of the House of Commons and Committees* (Report No. 66, June 2018).
- 3 Australian Institute of Health and Welfare, "Profile of Indigenous Australians" (11 September 2019) <<https://www.aihw.gov.au/reports/australias-welfare/profile-of-indigenous-australians>>. Accessed 13 August 2020.
- 4 Statistics Canada, "Aboriginal People in Canada: Key Results from the 2016 Census" <<https://www150.statcan.gc.ca/n1/daily-quotidien/171025/dq171025a-eng.htm?indid=14430-1&indgeo=0>>. Accessed 14 August 2020; Statistics Canada, "Aboriginal Peoples: Highlight Tables, 2016 Census" <<https://www12.statcan.gc.ca/census-recensement/2016/dp-pd/hlt-fst/abo-aut/Table.cfm?Lang=Eng&S=99&O=A&RPP=25>>. Accessed 14 August 2020.
- 5 Australian Institute of Health and Welfare, "Profile of Indigenous Australians" (11 September 2019) <<https://www.aihw.gov.au/reports/australias-welfare/profile-of-indigenous-australians>>. Accessed 13 August 2020.
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- 8 *Third National Indigenous Languages Report* (2020) 12.
- 9 Statistics Canada, "Aboriginal People in Canada: Key Results from the 2016 Census" <<https://www150.statcan.gc.ca/n1/daily-quotidien/171025/dq171025a-eng.htm?indid=14430-1&indgeo=0>>. Accessed 14 August 2020.
- 10 *Third National Indigenous Languages Report* (2020) 13.
- 11 See, eg, *Aboriginal Languages Act 2017* (NSW).
- 12 For a more detailed comparison of the Australian and New Zealand use of Indigenous languages in Parliament, see Julian R Murphy, "Indigenous Languages in Parliament and Legislation: Comparing the Māori and Indigenous Australian Experience" *Māori Law Review* (July 2020) <<http://maorilawreview.co.nz/2020/07/indigenous-languages-in-parliament-and-legislation-comparing-the-maori-and-indigenous-australian-experience/>>. Accessed 13 August 2020.
- 13 Australian Electoral Commission, "Electoral Milestones for Indigenous Australians" (22 August 2019) <<https://www.aec.gov.au/indigenous/milestones.htm>>.
- 14 For more detail, see Julian R Murphy, "Legislating in Language: Indigenous Languages in Parliamentary Debate, Legislation and Statutory Interpretation" (2020) 43(3) *University of New South Wales Law Journal* 1006.
- 15 See, eg, Commonwealth, *Parliamentary Debates*, House of Representatives, 10 February 2016, 1171 (Malcolm Turnbull).
- 16 See, eg, Commonwealth, *Parliamentary Debates*, Senate, 25 August 1999, 7771 (Aden Ridgeway); Northern Territory, *Parliamentary Debates*, Legislative Assembly, 29 June 2005, 17 (Alison Anderson); Northern Territory, *Parliamentary Debates*, Legislative Assembly, 11 September 2008, 163–4 (Alison Anderson); Northern Territory, *Parliamentary Debates*, Legislative Assembly, 23 October 2012, 34 (Bess Price); Western Australia, *Parliamentary Debates*, Legislative Assembly, 17 April 2013, 112–5 (Josie Farrer); Commonwealth, *Parliamentary Debates*, House of Representatives, 31 August 2016, 163 (Linda Burney); Commonwealth, *Parliamentary Debates*, Senate, 1 September 2016, 448 (Patrick Dodson); Commonwealth, *Parliamentary Debates*, Senate, 14 September 2016, 944 (Malarndirri McCarthy); Northern Territory, *Parliamentary Debates*, Legislative Assembly, 18 October 2016, 26 (Yingiya Mark Guyula).
- 17 See, eg, Northern Territory, *Parliamentary Debates*, Legislative Assembly, 2 June 1981, 876 (Neil Bell); Commonwealth, *Parliamentary Debates*, Senate, 24 June 1998, 3979 (Trish Crossin).
- 18 Northern Territory, Legislative Assembly, *Parliamentary Debates*, 3 December 2015, 7617 (Kezia Purick).
- 19 For further detail on the recent developments in the Northern Territory see Timothy Goodwin and Julian R Murphy "Raised Voices: Parliamentary Debate in Indigenous Languages" (15 May 2019) *AUSPUBLAW* <<https://auspublaw.org/2019/05/raised-voices-parliamentary-debate-in-indigenous-languages/>>. Accessed 13 August 2020.
- 20 Note, however, that the Standing Orders do make provision for petitions and evidence before committees to be in languages other than English, and specifically Indigenous languages with respect to committee evidence. See Senate, *Standing Orders* 35(3), 70(3). See also Senate, *Procedural Orders and Resolutions of the Senate of Continuing Effect*, Order 9C; House of Representatives, *Standing Orders* 204(d).
- 21 Note, however, that some Standing Orders do make provision for paper (not electronic) petitions in languages other than English. See, eg, New South Wales Legislative Assembly, *Consolidated Standing and Sessional Orders and Resolutions of the House* (July 2020), 121(2); New South Wales Legislative Council, *Standing Rules and Orders* (5 May 2004) 69(3). For specific anticipation of guests to the Legislative Council using an Indigenous language see New South Wales Legislative Council, *Sessional Orders, Resolutions of Continuing Effect and Office Holders* (17 June 2020) Resolution of Continuing Effect 9(c)(ii). See generally David Blunt (ed) with Susan Want

- and Jenelle Moore, *Annotated Standing Orders of the New South Wales Legislative Council* (Federation Press, 2018).
- 22 See Kezia Purick MLA, Letter to Bess Price MLA (13 February 2016) <<https://assets.documentcloud.org/documents/2714546/Bess-Price-and-Kezia-Purick-Letters.pdf>>. See also Northern Territory Legislative Assembly Standing Orders Committee, *Report on the Consideration of Speaking Languages other than English during proceedings of the Legislative Assembly of the Northern Territory* (April 2016).
 - 23 Northern Territory Legislative Assembly, *Standing Orders*, O 23A (now repealed), reproduced in Northern Territory Legislative Assembly Standing Orders Committee, *Report on Consideration of Reform to Standing Order 23A (Speaking of Languages other than English during proceedings of the Legislative Assembly of the Northern Territory)* (August 2017) 4, also available <https://parliament.nt.gov.au/___data/assets/pdf_file/0005/377789/Standing-Orders-21-April-2016.pdf> accessed 20 August 2020.
 - 24 Northern Territory Legislative Assembly Standing Orders Committee, *Report on Consideration of Reform to Standing Order 23A (Speaking of Languages other than English during proceedings of the Legislative Assembly of the Northern Territory)* (August 2017) 7.
 - 25 Northern Territory Legislative Assembly, *Further Report on Consideration of Reform to Standing Order 23A (Speaking of Languages other than English during proceedings of the Legislative Assembly of the Northern Territory)*.
 - 26 Northern Territory, *Parliamentary Debates*, Legislative Assembly, 14 March 2019, 5682 (Natasha Fyles).
 - 27 Northern Territory Legislative Assembly Standing Orders Committee, *Report on the Consideration of Speaking Languages other than English during proceedings of the Legislative Assembly of the Northern Territory* (April 2016) 10–12.
 - 28 House of Commons Standing Committee on Procedure and House Affairs, Parliament of Canada, *The Use of Indigenous Languages in Proceedings of the House of Commons and Committees* (Report No 66, June 2018) 11–12.
 - 29 Ibid 12.
 - 30 Senate Standing Committee on Rules, Procedures and the Rights of Parliament, Parliament of Canada, *Amendments to the Rules* (Report No 5, 9 April 2008).
 - 31 House of Commons Standing Committee on Procedure and House Affairs, Parliament of Canada, *The Use of Indigenous Languages in Proceedings of the House of Commons and Committees* (Report No 66, June 2018) 15.
 - 32 Ibid.
 - 33 Ibid.
 - 34 Senate Standing Committee on Rules, Procedures and the Rights of Parliament, Parliament of Canada, *Amendments to the Rules* (Report No 5, 9 April 2008).
 - 35 Senate of Canada, ‘Senate Procedure in Practice’ (Manual, June 2015) 83–4.
 - 36 Ibid 84.
 - 37 Canada, *Parliamentary Debates*, House of Commons, 4 May 2017, 10770 (Robert-Falcon Ouellette).
 - 38 Canada, *Parliamentary Debates*, House of Commons, 8 June 2017, 12320–2 (Robert-Falcon Ouellette).
 - 39 Canada, *Parliamentary Debates*, House of Commons, 20 June 2017, 12962 (Geoff Regan).
 - 40 See House of Commons Standing Committee on Procedure and House Affairs, Parliament of Canada, *The Use of Indigenous Languages in Proceedings of the House of Commons and Committees* (Report No 66, June 2018) 3–5.
 - 41 Ibid 29–30.

Parliamentary Government in the Age of Populism

The Canadian parliamentary system is based on accepted rules, norms and conventions. Populism denotes a form of governing in which the perceived will of “the people” can be used as a means to challenge the very rules and conventions which underline responsible government. In this article, the author considers the rise of self-styled “populist” regimes in recent years and raises questions as to what extent populism may threaten the traditions and practices of Canada’s parliamentary system, and conversely whether the parliamentary system is capable of acting as a shield against the anti-democratic impulses of populism.

Michael Kaczorowski

“Everyone knows that on a large scale democracy is pernicious nonsense - a country or even a county cannot be run by a self-seeking parcel of tub-thumping politicians working on popular emotion, rousing the mob.”

- Captain Jack Aubrey, *The Yellow Admiral*¹

Captain Aubrey is the central character of author Patrick O’Brian’s celebrated series of novels set during the Napoleonic Wars. Later in his naval career Aubrey is also a Member of the British Parliament, representing a “pocket borough.” These “pocket” or “rotten” boroughs were House of Commons seats held by a patron who controlled the voting rights in that constituency. Pocket boroughs were abolished in England following the *Reform Acts* of 1832 and 1867.

Jack Aubrey’s distrust of unchecked popular democracy was typical of the age, particularly in light of the violence and bloodshed which marked the French Revolution. Yet Aubrey’s fear of “tub-thumping politicians” remains a perennial concern. History is rife with examples of political leaders whipping up public sentiment in the interests of political objectives, both

for good or ill. For every Winston Churchill calling on public resolve in the face of fearful odds, there are anti-democratic leaders using populist rhetoric to stoke fear and resentment, including turning public opinion against established institutions and norms of governing.

In recent times, we have witnessed a wave of anti-establishment and self-styled “populist” governments across the globe. From the United States to Great Britain, from Brazil to India, from Italy to Israel, political leaders have used populist appeals to win power and demonize opposition to their methods and agenda. In this article, I examine the clash between parliamentary responsible government and populism, and whether Canada’s parliamentary system is likewise vulnerable to populism or perhaps is particularly suited to avoiding populism’s anti-democratic excesses.

Foundations of the parliamentary system

The Westminster model is the foundation of the Canadian system of representative and responsible government. Parliament’s principle role is to serve as a check on executive authority, a role that goes to the heart of the issue of how power is legitimately exercised and held accountable in a democratic society. As C.E.S. Franks notes in *The Parliament of Canada*, “[the] main functions of the House of Commons are to create a responsible government and to hold that government accountable.”² Ours is a system of “responsible” government in the sense that the legislature is the means by which the government is kept in check, and the process by which governments change.

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It is also “responsible” in the sense that members of the Cabinet exercise power and are responsible for the use of that power. The parliamentary-cabinet system combines authority with responsibility, and it is incumbent on the governing administration to answer for its decisions before Parliament and, ultimately, before the voting public. The safeguarding against the abuse of Ministerial authority lies in the relationship between Parliament and the government of the day. Parliament serves as the assembly before which the government of the day must defend its decisions.

Rules and conventions are the guiding force of the parliamentary system. The successful operation of that system is based in large measure on the procedures and precedents which guide its work. It is also shaped by human behaviour, the willingness of parliamentarians to respect and abide by those rules and procedures governing their conduct. This in turn endows those institutions with legitimacy in the eyes of the public. The effectiveness of these representative institutions instills public confidence in the governance of the country. The lack of such confidence may cause dissatisfaction and disengagement. It may also encourage attempts to adopt extra-parliamentary measures, or a leader willing to undercut accepted procedures in the name of the “public will.”

Although Parliament encompasses the Crown, the House of Commons and the Senate, parliamentary democracy is centred in the elected House of Commons. The House of Commons binds the people to those who exercise power and, in doing so, “[the] House gives institutional expression to the concept of a national community.”³ In the parliamentary system, for example, control of the executive lies with the House of Commons. In order to govern, the party in office must enjoy the confidence of the House. Should the government lose that confidence, it must resign. In a parliamentary system, the Prime Minister, together with members of the Cabinet, sit within rather than apart from the House of Commons, and are therefore subject to parliamentary scrutiny and accountability. Their right to govern cannot be divorced from Parliament.

In turn, the House of Commons depends on that need for confidence in order to exact accountability on the part of the government. But the House of Commons does not participate in the government. Parliamentary control does not mean a veto over government actions, but rather accountability of the executive to the legislature. This was the essential outcome of England’s “Glorious Revolution” of 1688.

It established, once and for all, that the Crown was subject to the control of Parliament. Unlike the case in France or the United States, the establishment of the Dominion of Canada in 1867 was not the product of a popular uprising and so did not create a “people.” As a result, the parliamentary system adopted in Canada on the basis of the Westminster model is not “government by the people.”⁴

Unfortunately, “[although] our constitution is similar in principle to that of Great Britain, many Canadians tend to think of the House of Commons in congressional terms. They mislead themselves.”⁵ This misreading may be due in part to insufficient civic education in Canada as to the basic principles of the parliamentary system, which leads to the erroneous but persistent notion that the House of Commons is elected to govern. This mythology persists, even perhaps in the minds of some MPs.

In keeping with the constitutional objectives of “peace, order and good government,” the Official Opposition to the government in the House of Commons is deliberately identified as Her Majesty’s *Loyal* Opposition. This title underscores the parliamentary and public legitimacy of the Opposition to the government of the day. It also denotes opposition to the government, but not to the state itself and not with the intention of overthrowing the state through non-democratic means.

John B. Stewart identifies four functions performed by the House of Commons. First, the House can prevent the clandestine exercise of power by the government. Second, the House can serve as a proving ground for the administrative policies and legislative proposals of the government. Third, the House can constrain the government between elections - a role that can be played by both the opposition and within the ranks of the government caucus. Fourth, the House can serve to inform and educate the electorate by testing ideas and proposals in public.⁶

Cabinet Ministers in the parliamentary system are not Ministers of the House of Commons. They are Ministers of the Crown. That distinction is a very real constitutional principle with genuine implications. Indeed, “[it] is one of the main factors which determine how Canada is governed. The power of the House [of Commons] springs ultimately, not from what it can do independently, but from what it can prevent.”⁷

These powers include the expenditure of public funds which requires the consent of the House of

Commons, the imposition of taxes, and the passage of legislation. Under responsible government there can be no government unless the House of Commons supports and cooperates with one. Therefore, the House has a serious constitutional function - not to govern - but to support a government or conversely to deny that support. Since, conventionally, Ministers of the Crown physically sit in the House of Commons, they cannot avoid the scrutiny of the House and require its ongoing cooperation in order to conduct the business of the House. That cooperation becomes ever more critical in the case of a minority Parliament. The government must put its administrative and legislative activities before the House of Commons in the form of supply votes, substantive motions and bills.

The House of Commons serves as an electoral chamber, giving a government authority, to sustain it and thus to make stable government possible and, finally, to withdraw its confidence from a government which no longer deserves to exercise power.⁸ Parliamentary debate takes place within the parameters of a detailed set of rules intended to provide effective democratic control over the governing administration, based on procedures and conventions which provide purpose, organization and order. Legislative bodies are traditionally masters of their own proceedings and so cannot be usurped by such extra-parliamentary devices.

Unlike the House of Commons, the Canadian Senate was deliberately conceived as an appointed body with a distinct role in the context of responsible government. The Senate was intended as a regional counterweight to the principle of “rep by pop” and the potentially “radical” tendencies of the House of Commons. The Fathers of Confederation intended the Senate to be not the equal of the House, but a secondary legislative body, “with a role of revising legislation emanating from the House of Commons and restraining and delaying its more dangerous impulses.”⁹ In this way, the Senate was intended as a safeguard against the disorder that plunged the United States into civil war.

Along with the House of Commons and the Senate, one must consider the role of the Governor General. A key purpose of that office is to ensure that the principle of responsible government is not abused. The powers to summon and dissolve Parliament are assigned explicitly and solely to the Governor General under the *Constitution Act, 1867*. In other words, the power to prorogue Parliament is a prerogative power of the Crown. The House of Commons, therefore, cannot be prorogued by the Prime Minister alone. Instead, the

Prime Minister must formally advise the Governor General to use the powers invested in that office to legally achieve these ends.

The reserve powers of the Governor General embody his or her constitutional responsibility to ensure that the Prime Minister has and continues to maintain the confidence of the House of Commons and does not attempt to govern in the absence of such confidence. “In the final analysis, it is the governor general who stands in the breach against unprincipled political action that threatens to bring about a virtual coup d’état. [She/He] is the ultimate protector of the constitutional order.”¹⁰ This role would become a central issue during the 2008 prorogation debate.

What is populism?

Broadly speaking, populism is an approach to politics which appeals to the needs and aspirations of “the people,” a group conceived as being disadvantaged compared to “the elite” who have benefited socially and economically from the existing political order. An elitist view of power holds that democracy operates through a relatively small, homogenous and permanent group exercising effective power in that society.¹¹ This is the power structure which populism seeks to challenge.

Populism can be a positive political force. Government actions are best, as Jeremy Bentham reasoned, when they are “conformable to or dictated by the principle of utility, when in like manner the tendency which it has to augment the happiness of the community is greater than any which it has to diminish it.”¹² John Stuart Mill would carry Bentham’s conception of utilitarianism forward in holding that “actions are right in proportion as they tend to promote happiness.”¹³ This view goes hand in hand with the assumption that each individual best knows his or her own interests.

Another aspect of populism is the appeal of the political “outsider” untainted by association with entrenched elites. Donald Trump, for example, won the Republican Party nomination for President and the Presidency despite having never previously served in elected office at any level.

Populism occupies a significant place in American political history. It is associated with mass popular movements which served to topple undemocratic regimes; for example, the collapse of communism across Eastern Europe in 1989, the Solidarity movement in Poland, and the “Velvet Revolution” in the former

Czechoslovakia. More recently, the strong show of public support for the Sinn Féin party in the February 2020 Irish general election has been described as a populist uprising against the two political parties (Fianna Fáil, Fine Gael) which had ruled the country for over a century, fueled by public discontent over basic issues such as housing, health care, and social inequality.¹⁴ Populism, as John Lennon might have put it, can mean “power to the people.”¹⁵

The Dark Side of Populism

On the other hand, populism can also be a smokescreen for authoritarianism. According to Michael Ignatieff, “populism is a movement in which you use democracy against democracy.”¹⁶ John Stuart Mill warned of this “tyranny” – both legal and societal.¹⁷ The tipping point, as Ignatieff warns, is when populism is turned into a “politics of enemies.” Running for the Republican Party nomination and President in 2016, Donald Trump ran a populist campaign that struck a chord with large numbers of Americans, particularly in communities wrestling with economic dislocation in the face of technological change and globalization. This appeal, however, was also heavily based on an isolationist (“America First”) and nativist agenda in which the country’s “decline” was portrayed as the fault of “others” (including refugees and immigrants). Trump’s successful campaign deliberately utilized a language of discontent and disenfranchisement that is often associated with right-wing populism.

Similar tactics were employed by supporters of Great Britain’s withdrawal from the European Union. The successful “Leave” campaign during the 2016 vote played heavily on negative themes (“foreigners,” Europhobia) and nostalgia for Britain’s lost “greatness” among Western democracies.

The dark side of populism also accepts uncritically that all decision-making is valid based on a simple majority, with little if any consideration of the impact on particular communities in the absence of other legal protections. In this scenario, the loudest voice wins.

In their recent study, *How Democracies Die*, Levitsky and Ziblatt list four warning signs of anti-democratic behaviour: a weak or hostile commitment to democratic norms and procedures, denial of the legitimacy of political opponents, a willingness to curtail civil liberties and free expression, and a toleration or encouragement of violence.¹⁸ While these tactics have long been associated with repressive regimes (Mussolini’s Italy, Hitler’s Germany) they

can also be employed by nominally democratic governments that make no distinction between loyalty to the state and loyalty to the regime. In the United States, President Donald Trump has used social media and incendiary language to denounce critics, including Congress and the mainstream press. He even referred to the news media as “enemies of the people,” a charge associated with the Stalinist era in the former USSR. In language reminiscent of McCarthyism in the 1950s, Trump likewise called the recent impeachment proceedings against him a “witch hunt,” a conspiracy perpetrated by the “dark state” and a “coup d’état” aimed at overturning the 2016 presidential election. Similar tactics, using populist language to tap into public discontent, have resulted in autocratic regimes emerging across the globe.

As various governments around the world grapple with the coronavirus pandemic, there are legitimate fears that authoritarian regimes are using the crisis to invoke anti-democratic measures under the guise of “emergency” laws in the interests of public health and safety. In Hungary, for example, the far-right government of President Victor Orban suspended all elections, allowing him to rule by decree and bypass democratic institutions and the courts. Even in far more democratic societies, the use of broad and coercive state authority in the name of combating the global pandemic has raised questions about limits on individual freedoms.

Without using the term “populism,” John Stuart Mill saw the potential threat to democratic society in his “harm principle.” As Mill insisted, “the only purpose for which power can be rightfully exercised over any member of a civilized community, against his will, is to prevent harm to others.”¹⁹ Mill warns that once people are free to make their own choices, they are vulnerable to being taken in by narrow appeals to self-interest, a weakness which a leader can exploit through nominally populist appeals to those self-interests, while marginalizing or demonizing those who oppose this agenda. This in turn hampers or even threatens a society’s intellectual development, with the views of the majority stifling individual creativity and dissent.²⁰ Consequently, rule by the many morphs into the tyranny of the majority absent other political or legal safeguards.

In such an environment, democratic institutions are vulnerable to abuse, and society may be effectively ungovernable. Symptoms of this ungovernability include: the inability to form a stable government (see the United Kingdom from 2017-2019 during Brexit

negotiations), the inability of governments to pass basic laws on which the day-to-day operation of the state depends (such as a budget impasse in the United States when Congress and the President refuse to cooperate), and most seriously, the systematic corruption of constitutional norms and conventions that making political processes haphazard and arbitrary, possibly with the aim of marginalizing political opposition (for example, President Donald Trump's efforts to discredit articles of impeachment and Israeli Prime Minister Benjamin Netanyahu's efforts to avoid criminal indictment on charges of bribery, fraud, and breach of trust).

There is one other important but often overlooked symptom of ungovernability; a "canary in the coal mine." The weakening of political parties as agents of civic engagement and public participation in the political life of the country can become problematic. Parties "are the organizing forces of parliamentary democracy... If parties continue to decline, political systems are likely to become at least more fluid, and at worst harder to govern."²¹ Fluidity means a weakening of responsibility. For "[by] concentrating votes for themselves, the political parties concentrate responsibility on themselves."²² Absent parties, all are equally responsible, which is another way of saying none are responsible.

The devaluing of political institutions goes hand in hand with the coarsening of public debate. Individuals are demonized, their motives questioned, expertise is devalued, and fact-based evidence is dismissed. Populism, rightly or wrongly, has become associated with a virulent kind of anti-intellectualism, in which slogans take the place of knowledge.²³

Parliament versus Populism

The parliamentary system of responsible government, as noted, operates on the basis of rules, procedures and conventions. The successful operation of these rules and procedures, however, is in large part dependent on the concurrence and active support of Members of Parliament. But what happens when that is not the case? In the United Kingdom, the cradle of parliamentary responsible government, Prime Minister Boris Johnson openly questioned the right of Members of Parliament to challenge the decision (based on the slim 2016 referendum result) to remove that country from the European Union. This questioning of MP's right came despite serious concerns about the consequences of failing to reach an agreement on terms and unresolved questions regarding other

economic and political issues (for example, the future of the Irish border, Scottish independence). The "will of the people," Johnson and other Brexit supporters insisted, would be denied if Brexit were to be thwarted. The legitimacy of Parliament itself was openly called into question. Prime Minister Johnson used this same argument when his minority Conservative government sought an extraordinarily lengthy five-week prorogation of Parliament. The British Supreme Court ruled unanimously that the Queen had been led to act unlawfully when the Prime Minister advised her to suspend Parliament stating that the Conservative government had not provided "any reason - let alone a good reason" - for such an attack on "the fundamentals of democracy."²⁴

As befitting the heated political environment of the time, Johnson's move to suspend Parliament was denounced by House of Commons Speaker John Bercow as a "constitutional outrage." Yet in strikingly similar language, the Government Leader in the House of Commons decried the Court's decision as a "constitutional coup." Prime Minister Johnson, though agreeing to meet the House, offered no apology for attempting to sideline Parliament, instead denouncing what he claimed was the Supreme Court's "interference." He accused anti-Brexit MPs of trying to frustrate the public's decision in the referendum, effectively portraying both Parliament and the Supreme Court as obstacles to the popular will.²⁵ Johnson and his supporters even vowed that Brexit would be accomplished "by any means necessary," a phrase popularized by the American civil rights activist Malcolm X in a 1965 speech.²⁶ That speech was interpreted as condoning all means, including potentially violent methods, to effect societal change against the established political order.

The case of Canada

Is the Canadian parliamentary system similarly vulnerable to the kind of anti-democratic populism witnessed elsewhere? Conversely, is there anything about the Canadian situation that may make it better able to counter the authoritarian streak associated with populism?

Canada's historical experience of populism has been largely regionally-based and centred primarily in Western Canada. It has taken the form of movements and political parties created to highlight grievances by the rural and less-populated West against the urban, more highly populated and politically-influential East. Examples include the United Farmers of Alberta, the

Social Credit Party in Alberta, and the Cooperative Commonwealth Federation in Saskatchewan. At the federal level, the Western-based Reform Party was born out of similar circumstances. In its early days, the Reform Party spoke the language of populism and regional alienation. Its platform stressed political accountability and public participation in the development of public policy (for example, an elected Senate, more “free votes” by Members of Parliament based on the wishes of constituents rather than the demands of party discipline, and using referenda more often).

Although a founding member of the Reform Party, former Prime Minister Stephen Harper carried little of the Reform Party legacy into his leadership of the federal Conservative Party. In its first term of office (2006-2008), Harper’s minority Conservative government did bring forward legislation providing for fixed-date elections (*An Act to Amend the Canada Elections Act*), removing a strategically important prerogative of the Prime Minister. The *Act* came into force on May 3, 2007. This initiative proved an early victim of *realpolitik* when the Prime Minister sought and was granted a dissolution of the House of Commons on September 7, 2008, for a general election on October 14, 2008 - a full year before the initial fixed-date election was to have taken place. When questioned about the apparent about-face, the Government contended that the *Act* only applied in cases of a majority government, though there is no such qualifier in the law.

In 2011, the Conservative Government introduced Bill C-7 (*Senate Reform Act*). The Act provided for a fixed nine-year term for senators and allowed provinces the option of holding elections to choose Senate representatives. The Government claimed that the changes did not require resorting to the general amending formula under the *Constitution Act, 1982* (seven provinces totalling at least 50 per cent of the population). In a unanimous decision, the Supreme Court of Canada found Bill C-7 to be unconstitutional, after which the Government abandoned any further attempts at Senate reform that would inevitably require lengthy negotiations with provincial governments to achieve a constitutional amendment.

Notwithstanding these examples, it is the 2008 prorogation debate which remains the most notable example of the clash between Parliament and populism. Less than two months after the October 14, 2008, general election, which returned a second Conservative Party-led minority government, Prime Minister Harper faced a united opposition prepared to move a motion of non-

confidence and a proposed new government based on a written agreement by a coalition of the opposition Liberals and New Democratic Party (with the Bloc Québécois agreeing to support the coalition but not participate as a member of it). Instead, on December 8, 2008, Harper requested that the Governor General prorogue the House of Commons. That request was ultimately granted, allowing the Government to evade almost certain defeat in the House of Commons and loss of office. The prorogation lasted until January 26, 2009.

Much public and academic debate ensued over whether the Governor General had a choice and, if so, made the right decision in granting the request for prorogation. What is clear is that the Prime Minister and the Conservative government sought to justify prorogation in populist terms, claiming that the actions of the opposition parties, including the proposed coalition, was “illegal” or “unconstitutional” or that the attempt to defeat the government and replace it was “undemocratic.” Prime Minister Harper further insisted that only “the people” could decide the fate of the government in an election. Yet this argument is contrary to one of the fundamental tenets of parliamentary responsible government – namely that the government must maintain the confidence of the House. The Harper Government’s invocation of “democracy” and “the people” was an appeal of a partisan kind; notably the Prime Minister claimed that he himself had a mandate to govern which could not be taken away other than by a general election.²⁷ This argument was false, as the Prime Minister (as a Member of Parliament) is not directly elected by the public at large, but only by the voters of his or her constituency. Harper’s claim of a “mandate” is likewise weak when one considers that the combined popular vote for the opposition parties exceeded that of the ruling Conservatives.

By its tactics, the Conservative Government threatened to bring the office of the Governor General into the arena of partisan politics and could very well have made the Governor General a target had she chosen to refuse Harper’s request for prorogation. In such circumstances, according to C.E.S. Franks, “the governor general would have been identified, along with the [opposition] coalition, as one of the enemies of democracy.”²⁸ By her decision to grant prorogation, Governor General Michaëlle Jean likely spared the office of Governor General and herself from such a fate. Unlike in the British example, the question of whether the Governor General granted a prorogation of Parliament based on unlawful advice from the Prime

Minister was not tested in a court of law. In any case, by his actions, Prime Minister Harper “undermined the right conduct of parliamentary democracy, first by taking deliberate steps in the direction of populist democracy and second by creating confusion about the role of the House of Commons in sustaining or dismissing the government of the day.”²⁹ Harper remained unrepentant, later suggesting that his actions “saved the federation.”³⁰

Canada’s Parliament in the Populist Age

The 2008 prorogation debate demonstrates an example of a government willing to misrepresent basic principles of the Canadian parliamentary system, using the language of “populism,” while seeking to discredit other institutions (the House of Commons, the office of the Governor General, the Supreme Court) in the minds of the public. Yet, Canada has managed to largely avoid the sort of nativist rhetoric that has poisoned public debate in other Western democracies. A polarizing, yet substantially popular figure comparable to Donald Trump in the United States, Marine Le Pen in France, or Matteo Salvini in Italy has yet to emerge.

However, some observers warn that Parliament is failing its citizens and risking political legitimacy because it no longer has the ability to hold the government to account.³¹ Such concerns are not new. Some 40 years ago, former Progressive Conservative Party leader Robert Stanfield lamented “that parliamentary responsible government is not fitted for what it is being asked to do: that both the government and Parliament are overloaded to the point that we have poor government; and Parliament cannot cope with government.”³² The fact, however, that no political leader or faction has emerged in Canada to successfully exploit the perceived inability of Parliament to hold government accountable is no reason for complacency.

The fundamentals of parliamentary responsible government have not changed. Yet various reform ideas aimed at enhancing Parliament’s role are, to some extent, populist arguments against responsible government. The parliamentary system means government within Parliament, but not by Parliament.³³ As C.E.S. Franks notes, the rhetoric of reform is part of a flawed appreciation for the difference between the “parliament-centred” ambition of many reform proposals versus the “executive-centred” reality of the parliamentary process. Change cannot be divorced from a proper understanding of how Parliament operates and the nature of responsible government in

a parliamentary system. Any potential reforms must take into account “questions of political power, who shall have it, and for what purposes, collective or particular, power has been and should be used.”³⁴

The federal government’s approach to the Covid-19 pandemic is a recent case in point. When the minority Liberal government under Prime Minister Justin Trudeau introduced emergency economic measures, including provisions which would allow the government to act for months without parliamentary debate or approval, opposition parties pushed back against the extraordinary powers. The government was forced to open these policies to full parliamentary scrutiny. As a result, parliament acted on one of its essential roles: checking the use of executive authority and ensuring that parliamentary scrutiny and debate were not abused or sacrificed. Even as the House of Commons, both in Canada and Great Britain, have resorted to meetings via Zoom technology during the pandemic, the importance of parliamentary scrutiny (physical or virtual) remains unchanged. That scrutiny is as much to the benefit of Ministers as it is to opposition parties. The prolonged absence of regular parliamentary sittings during the pandemic raises troubling questions about effective government accountability at a time when such oversight is most urgently needed. The Trudeau government’s resort to prorogation in August 2020, together with its extraordinary decision in October 2020 to make an opposition party motion to strike a parliamentary committee to investigate the WE charity controversy a matter of confidence, further demonstrates the necessary role of Parliament to check arbitrary government action aimed at avoiding public scrutiny.

There is much to be said for a system, whatever its shortcomings, that provides stability and continuity, as well as necessary checks on executive action. In this sense, the Canadian parliamentary system of responsible government plays an important role as a protective shield against the potentially anti-democratic bent of populism and an essential break on unbridled executive authority together with other aspects (history, demography) that are unique to the Canadian case. The rules, procedures and conventions which govern Parliament, both the business of Parliament and its members, provides order, predictability and legitimacy, both in the eyes of Members of Parliament and in the eyes of the public.

Populism offers a seemingly attractive antidote to public dissatisfaction with political institutions deemed insufficiently attuned to popular demands.

In times of anxiety and distrust, the public may look to a Howard Beale-like figure, “an angry prophet denouncing the hypocrisies of our times.”³⁵ In times of upheaval and dislocation, the appeal of stability offered by the “man on horseback” may foreshadow repression.³⁶ When populism is used as a smokescreen for decidedly undemocratic actions, we may be more appreciative of Parliament and its role in checking the heavy hand of manipulation and executive overreach.

Notes

- 1 Patrick O’Brian, *The Yellow Admiral*. HarperCollins, London, 1997, p.38.
- 2 C.E.S. Franks, *The Parliament of Canada*, Toronto: University of Toronto Press, 1987, p. 269.
- 3 David E. Smith, *The People’s House of Commons - Theories of Democracy in Contention*, Toronto: University of Toronto, 2007, p. 5.
- 4 David E. Smith, *The People’s House of Commons - Theories of Democracy in Contention*, Toronto: University of Toronto, 2007, p. 91. From time to time there have been efforts to graft populist instruments on to the parliamentary system - such as referenda and recall. David E. Smith notes, however, that these initiatives “are viewed as much as a trespass on the political prerogatives of Parliament as they are on the constitutional prerogatives of the Crown”. David E. Smith, *The Constitution in a Hall of Mirrors: Canada At 150*, Toronto: University of Toronto Press, 2017, p. 88.
- 5 John B. Stewart, *The Canadian House of Commons: Procedure and Reform*, Montreal: McGill-Queen’s University Press, 1977, p. 3.
- 6 John B. Stewart, *The Canadian House of Commons: Procedure and Reform*, Montreal: McGill-Queen’s University Press, 1977, p. 16.
- 7 John B. Stewart, *The Canadian House of Commons: Procedure and Reform*, Montreal: McGill-Queen’s University Press, 1977, p. 10.
- 8 J.R. Mallory, *The Structure of Canadian Government*, Toronto: Macmillan, 1977, p. 243.
- 9 C.E.S. Franks, *The Parliament of Canada*, Toronto: University of Toronto Press, 1987, p. 187.
- 10 Brian Slattery, “Why the Governor General Matters,” *Parliamentary Democracy in Crisis*, eds. Peter H. Russell & Lorne Sossin. Toronto: University of Toronto Press, 2009. pp. 88.
- 11 J. Roland Pennock, *Democratic Political Theory*, Princeton, New Jersey: Princeton University Press, 1979, pp. 162-63.
- 12 Jeremy Bentham, *An Introduction to the Principles of Morals and Legislation*, Oxford: Clarendon Press, 1823, p. 3.
- 13 John Stuart Mill. “Utilitarianism,” *Classics of Western Philosophy*, 2nd ed., Steven M. Cahn. Indianapolis, Indiana: Hackett Publishing, 1985, p. 983. “Protection therefore against the tyranny of the magistrate is not enough; there needs protection also against the tyranny of prevailing opinion and feeling, against the tendency of society to impose, by other means than civil penalties, its own ideas and practices as rules of conduct on those who dissent from them; to fetter the development and, if possible, prevent the formation of any individuality not in harmony with its ways, and compel all characters to fashion themselves upon the model of its own. There is a limit to the legitimate interference of collective opinion with individual independence; and to find that limit, and maintain it against encroachment, is as indispensable to a good condition of human affairs as protection against political despotism.” John Stuart Mill, “On Liberty,” *Classics of Western Philosophy*, 2nd ed., Steven M. Cahn. Indianapolis, Indiana: Hackett Publishing, 1985, pp. 1023-24.
- 14 Paul Waldie, “Sinn Fein scores breakthrough in Irish election”, *Globe and Mail*, February 10, 2020, A5.
- 15 John Lennon. “Power to the People”, Apple Records, 1971.
- 16 Michael Ignatieff, “What causes populism?,” Esade University, Barcelona, November 5, 2019.
- 17 “The will of the people...practically means the will of the most numerous or the most active part of the people - the majority, or those who succeed in making themselves accepted as the majority.” John Stuart Mill, “On Liberty,” *Classics of Western Philosophy*, 2nd ed., Steven M. Cahn. Indianapolis, Indiana: Hackett Publishing, 1985, p. 1023. Walter Bagehot was likewise concerned about how best “to prevent the party politicians, for purely opportunistic reasons, making concessions to democracy which would substitute government by ignorance and brute numbers for government by discussion.” R.H.S. Crossman, “Introduction,” Walter Bagehot, *The English Constitution*, Fontana: London, 1964, p. 7.
- 18 Steven Levitsky and Daniel Ziblatt. *How Democracies Die*, Broadway: New York, 2018, pp. 23-24.
- 19 John Stuart Mill, “On Liberty,” *Classics of Western Philosophy*, 2nd ed., Steven M. Cahn. Indianapolis, Indiana: Hackett Publishing, 1985, p. 1027.
- 20 “[A person’s] own good, either physical or moral, is not a sufficient warrant. He cannot rightfully be compelled to do or forbear because it will be better for him to do so, because it will make him happier, because, in the opinions of others, to do so would be wise or even right. There are good reasons for remonstrating with him, or reasoning with him, or persuading him, or entreating him, but not for compelling him or visiting him with any evil in case he do otherwise.” “On Liberty,” *Classics of Western Philosophy*, 2nd ed., Steven M. Cahn. Indianapolis, Indiana: Hackett Publishing, 1985, p. 1027.
- 21 “Coalitions of Chaos,” *The Economist*, August 3, 2019, p. 51. C.E.S. Franks goes further, describing political parties as “[the] most important determinants of the control and use of power in the Canadian parliamentary system”; The Parliament of Canada, Toronto: University of Toronto Press, p. 35.

- 22 J.A. Corry and J.E. Hodgetts, *Democratic Government and Politics*, 3rd Edition (Revised), 1963, p. 224.
- 23 This is not a new phenomenon. It troubled John Stuart Mill in his time. "The peculiar evil of silencing the expression of an opinion is, that it is robbing the human race; posterity as well as the existing generation; those who dissent from the opinion, still more than those who hold it. If the opinion is right, they are deprived of the opportunity of exchanging error for truth. If wrong, they lose, what is almost as great a benefit, the clearer perception and livelier impression of truth, produced by its collision with error." "On Liberty," *Classics of Western Philosophy*, 2nd ed., Steven M. Cahn. Indianapolis, Indiana: Hackett Publishing, 1985, p. 1031. The same warnings would be sounded by Sinclair Lewis in his 1935 novel *It Can't Happen Here*, published in the midst of fascism's rise in Europe.
- 24 "Supreme Court: Suspending Parliament was unlawful, judges rule," *BBC News*, September 24, 2019.
- 25 "The Reckoning," *The Economist*, September 28, 2019, p.12.
- 26 "We declare our right on this earth to be a man, to be a human being, to be respected as a human being, to be given the rights of a human being in this society, on this earth, in this day, which we intend to bring into existence by any means necessary." Malcolm X, "By Any Means Necessary," *Malcolm X: Speeches and Writings*, New York: Pathfinder Press, 1992. In June 2016, British Labour Member of Parliament Jo Cox, a defender of the European Union and immigration, was brutally murdered by Thomas Mair, a 53-year old unemployed gardener, who blamed liberal-minded politicians and the mainstream media for the world's problems and had targeted Cox as a "collaborator" and "traitor" to the white race. Boris Johnson himself has been accused of inciting intolerance and resorting to "dog-whistle" politics. Serving as Foreign Secretary in 2018, he remarked that - in reference to Muslim women wearing burkas - it was "absolutely ridiculous that people should choose to go around looking like letter boxes." "Boris Johnson faces criticism over burka 'letterbox' jibe." *BBC News*, August 6, 2018.
- 27 Peter Aucoin, Mark D. Jarvis, Lori Turnbull, *Democratizing the Constitution: Reforming Responsible Government*, Toronto: Edmond Montgomery, 2011, p.92. "Harper's request to suspend Parliament to avoid a confidence vote in December 2008 was a blatant abuse of that power for political reasons that served no public purpose." Peter Aucoin, Mark D. Jarvis, Lori Turnbull, *Democratizing the Constitution: Reforming Responsible Government*. Toronto: Edmond Montgomery, 2011, p. 102. "Among the other half-truths and outright misrepresentations in Harper's and his party's statements were the claim that the opposition coalition would be an 'illegitimate' government while his government was 'legitimate.'" C.E.S. Franks, "To Prorogue or not to Prorogue: Did the Governor General Make the Right Decision?," *Parliamentary Democracy in Crisis*, eds. Peter H. Russell & Lorne Sossin. Toronto: University of Toronto Press, 2009, pp. 38-39. The distortions included the Government's claim that the coalition included the Quebec independence-focused Bloc Quebecois, which was not the case. But the impression was enough to provoke anti-Quebec sentiment, notably among the Conservative Party's western-based supporters.
- 28 C.E.S. Franks, "To Prorogue or Not to Prorogue: Did the Governor General Make the Right Decision?," *Parliamentary Democracy in Crisis*; eds. Peter H. Russell and Lorne Sossin. University of Toronto Press, 2009, p. 45.
- 29 Jennifer Smith, "Parliamentary Democracy versus Faux Populist Democracy," *Parliamentary Democracy in Crisis*, eds. Peter H. Russell and Lorne Sossin. Toronto: University of Toronto Press, 2009, p. 175. If this view seems unduly alarmist, one need only point to the Conservative government's partisan attack on the Chief Justice of the Supreme Court of Canada when in March 2014 the Court rejected Prime Minister Harper's appointment of the semi-retired Federal Court judge Marc Nadon. In response the Government implied, though offering no proof, that the Chief Justice had improperly sought to "interfere" in the Nadon appointment by seeking to speak to the Prime Minister directly about it. There was widespread speculation that the rejection of the Nadon appointment, coupled with other Supreme Court decisions that had not gone the Government's way, had prompted this unprecedented attack on the Chief Justice's personal and professional integrity. Harper resorted to prorogation again on December 30, 2009, suspending Parliament for two months until March 3, 2010. In this case, critics argued that the Conservative Government was deliberately seeking to avoid parliamentary scrutiny over its handling of information related to the Canadian military's handling of the custody of Afghan military personnel taken prisoner by Canadian soldiers. Harper also voiced his support for Boris Johnson's own prorogation tactics. Paul Waldie, "Johnson's Brexit approach is 'absolutely correct,' Harper tells U.K. Tories," *Globe and Mail*, October 2, 2019.
- 30 Paul Waldie. "Johnson's Brexit approach is 'absolutely correct,' Harper tells U.K. Tories," *Globe and Mail*, October 2, 2019.
- 31 Donald Savoie, "Our political institutions are failing: The next Parliament must save them," *Globe and Mail*, September 21, 2019, pp. O1, O8.
- 32 Robert L. Stanfield, "The Present State of the Legislative Process in Canada: Myths and Realities," *The Legislative Process in Canada: The Need for Reform*, eds. W.A.W. Neilson and J.C. MacPherson; Institute for Research on Public Policy, Butterworth and Co, Toronto, 1978, p. 42.
- 33 C.E.S. Franks, *The Parliament of Canada*, Toronto: University of Toronto Press, 1987, p. 10.
- 34 C.E.S. Franks, *The Parliament of Canada*, Toronto: University of Toronto Press, 1987, p. 258.
- 35 *Network*, Director: Sidney Lumet; Screenplay: Paddy Chayefsky (1976).
- 36 Samuel E. Finer, *The Man on Horseback: The Role of the Military in Politics*. Oxford: Routledge, 2002.

An Update from the Canadian Study of Parliament Group

Finding a silver-lining in the COVID-19 pandemic is difficult, but not impossible. The necessity of moving conferences and seminars to digital platforms has opened up new possibilities for participation. In this article, the author explains how the CSPG's recent virtual offerings have expanded the range of presenters able to participate and created some exciting and informative events.

Charlie Feldman

The Canadian Study of Parliament Group (CSPG) has begun hosting virtual events in response to the COVID-19 pandemic. In October, our annual conference entitled "*Perspectives on Legislatures and Legislative Power: Past, Present, Future*" brought together presenters from five continents to share their experiences and insights on various aspects of parliamentary institutions. It was the largest and most ambitious CSPG program yet – and the CSPG hopes to build on this with its upcoming seminar programs.

The annual conference included video presentations that attendees could watch at their leisure with live Q&A sessions with the presenters and special events. The virtual environment allowed for a wide range of participants, including hearing from persons for whom participation at a CSPG in-person event in Ottawa could be quite challenging – such as legislators from Alberta and the Yukon who were in the midst of a legislative session – and allowed participants from coast-to-coast-to-coast to pose their questions.

To say the conference subjects were varied would be a gross understatement. Presentations touched on such diverse topics as the training of new legislators and their trajectory after politics to the scrutiny of regulations by parliament, the experiences of women parliamentarians, and even scandals in Canadian parliamentary history. Provincial perspectives were featured with presentations on recent government formation and practice in New Brunswick, heckling in the Legislative Assembly of Ontario and the

content of prayers in the Legislative Assembly of British Columbia. International perspectives were also present, with discussions of Indigenous language use in Australian state parliaments, the role of parliamentarians in judicial appointments in South Africa, the role of opposition legislators in Argentina, and a study of Prime Minister's Questions in the UK ... just to name a few!

The full conference program can be found on the website of the CSPG: <http://cspg-gcep.ca/>

At the time of this writing, the CSPG just held its November seminar, hearing from Black and Indigenous legislators. On the horizon is the CSPG's December event – a one-on-one Q&A session with noted political scientist Donald Savoie.

Though these words will appear in print far before plans are finalized, the CSPG intends to host three seminars early in the new year. The first tackles holding government to account in the pandemic context and takes stock of virtual sittings, budget oversight and more. The second seminar focuses on parliamentary committees, which had been the focus of the CSPG's seminar this past March that had to be cancelled. The final seminar, exploring languages in parliament, studies practices regarding minority language use in Canadian legislatures and the officers and agents of legislatures responsible for protecting language rights. Information on these seminars will be announced on the CSPG's website.

We hope to 'see' you at a CSPG event soon – whether in person or, for the foreseeable future, online.

Charlie Feldman is a CSPG board member.

The Canadian Scene

New NB Speaker

Progressive Conservative MLA for Kings Centre **Bill Oliver** was elected Speaker of the New Brunswick Legislative Assembly on October 7, 2020. Speaker Oliver was acclaimed when the only other candidate, **Ross Wetmore**, PC MLA for Gagetown-Petitcodiac, withdrew his name from consideration shortly before the vote was set to take place.

First elected to the legislature in 2014 and re-elected in 2018 and 2020, Speaker Oliver served as Minister of Transportation and Infrastructure in the previous parliament.

Prior to his tenure as an MLA, Speaker Oliver worked in the insurance industry for almost three decades. He also owned a convenience store in St. John. He also represented the province five times at the National Curling Championships.

Speaker Oliver's political career actually began in the Speaker's Office in 1999 when he worked for former Speaker **Bev Harrison**.

"I never expected when I served as the executive assistant to Speaker Harrison back in 1999 that someday I would stand in his place as the speaker," he said. "It has indeed been a journey."

Once he assumed the Speaker's chair, he told the legislature: "I realize that, according to tradition, I am to accept this chair reluctantly, but in truth, I accept this honour with great humility and respect."

Speaker Oliver and his wife Chris live in Kiersteadville on the Belleisle Bay. They have one son.



Hon. Bill Oliver

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*As of December 31, 2020

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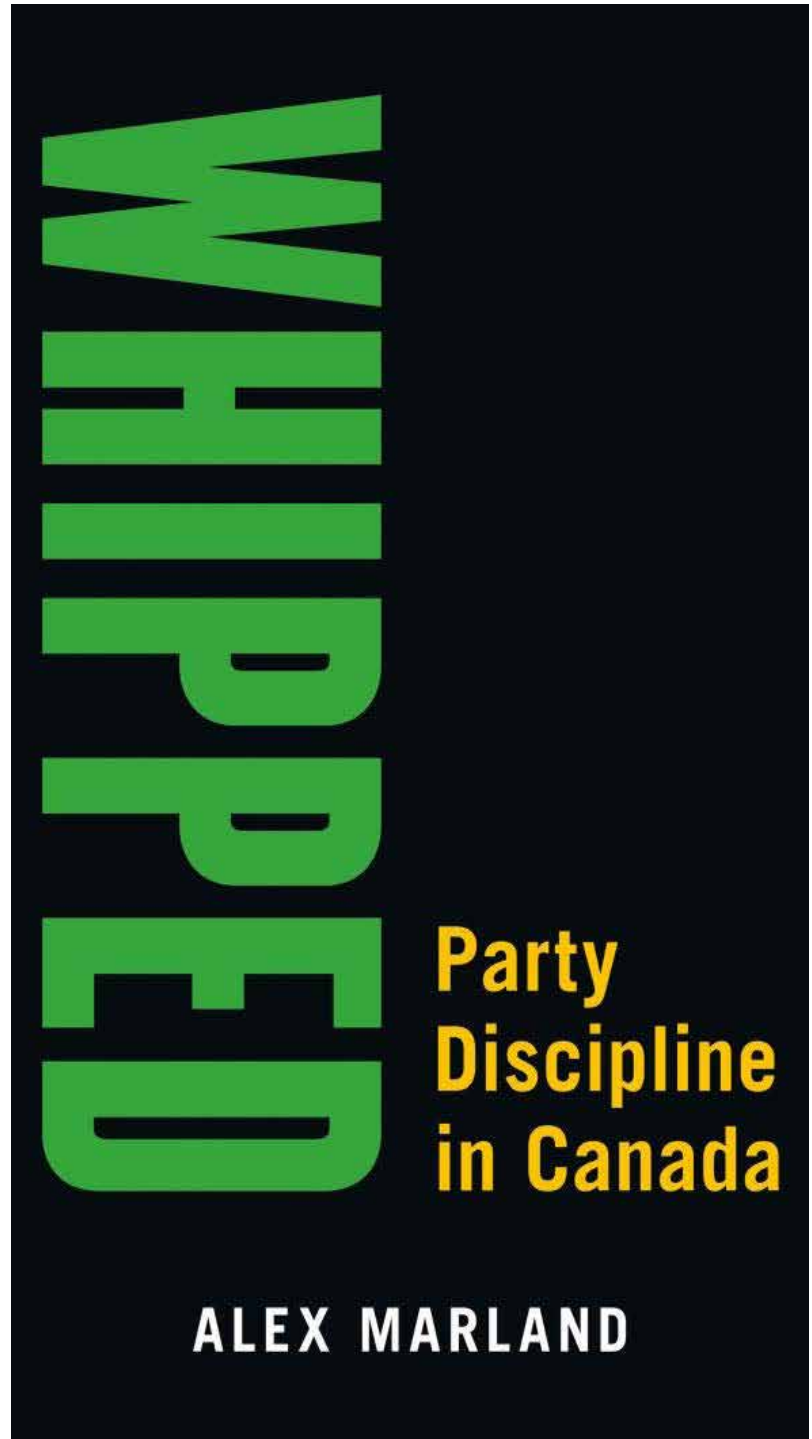
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Parliamentary Bookshelf: Reviews

Whipped: Party Discipline in Canada by Alex Marland, UBC Press: Vancouver, 2020, 480 pages

Alex Marland's newest book, *Whipped: Party Discipline in Canada*, takes a fresh look at the phenomenon of party discipline in Canada's parliaments. The book focuses mainly on the post-2000 Internet age, and even delves into the dynamics of recent events such as the 2019 SNC-Lavalin affair and partisan operations under the COVID-19 crisis. It is a fresh addition to the study of Canadian politics, written in a clear and accessible tone yet rife with diligent detail and sharp analysis.

Having conducted interviews with 131 people, including current and former politicians ranging from backbenchers to ministers, staffers, whips and leaders, Marland has created a broad and diverse sample from which to examine the trends in Canadian democracy.¹ As Marland explains, although party discipline is a daily reality in politics, it is not one often on display in the public eye, as much of the practices it entails happen behind closed doors: in caucus meetings, in cryptic emails, or just through the pressure of decades of tradition.² Despite the guarded nature of these political institutions, the Memorial University political science professor has managed to develop a clear picture of the mechanics of partisanship in Canada. He underscores his interviews with other primary sources, including internal party communications. Marland acknowledges that party discipline can be an effective and indeed essential tool in Westminster parliaments, as it facilitates voting for overworked legislators, provides a solid base around which to build communications, develops a party brand to attract voters and develops



political strategy.³ Overall, however, he argues that party discipline in all parties stifles the independence of individual members, including cabinet ministers, who are therefore unable to represent the interests of their constituents accurately and with integrity.

As he is careful to talk to politicians of all political stripes, Marland highlights the omnipresence of party discipline. Although he does drill down into the practices of each party whenever possible, readers familiar with the dynamics of Canadian politics may find themselves more surprised by how similar the parties are in this capacity. Marland clearly demonstrates how all major parties in Canada exert influence over their caucuses, framing most votes as a zero-sum game, often to the detriment of the interests of constituents. Although Marland concludes that party discipline is a “problematic necessity”⁴ in Canadian politics, he has also developed a series of recommendations to improve this political culture. For instance, he notes that establishing coalitions to pressure the frontbenchers, making changes to the parties’ constitutions or House rules that outline the limits of discipline, or broadcasting caucus meetings to ensure transparency are all ways that could reform partisan culture in Canada.⁵

Although he interviewed a few provincial politicians, notably former Ontario premier Kathleen Wynne, the focus of Marland’s work is party discipline at the federal level. While Parliament Hill provides ample fodder for Marland’s argument, undertaking analyses of different provincial parties, including those not present in Ottawa, would have provided a more robust picture of the topic. For instance, as of April 2019, the Green Party, which officially opposes whipped votes, forms the Official Opposition in Prince Edward Island. Given the small size of this legislature (with only 27 seats) and the unique party makeup on the Island, the dynamics of party discipline are likely to be far different than

those at play on Parliament Hill. Similarly, although Marland raises the non-partisan territorial legislatures briefly as examples of legislatures working without strong party discipline,⁶ he does not expand on these cases. Interviewing parliamentarians from these jurisdictions would amplify his argument that party discipline is too harsh and unnecessarily constricting in federal politics.

Party discipline has been a defining feature of Canadian politics for decades, and Marland’s book provides an essential update to the literature on this subject in the age of politics via tweet. The broad scope of his interviewees and the subjects they touch on allow the author to explore how party discipline impacts many facets of Canadian politics, from candidate selection, appointments, caucusing, communications, voting and constituency services. Given the constant influence that this practice holds over political actors of all stripes in Canada, it is essential for anyone seeking a deeper understanding of Canadian politics to understand the impact of this phenomenon. With thorough analysis of a rich source base courtesy of insiders, Marland has crafted an essential field guide to Canada’s current political landscape.

Elizabeth Haig

2020-2021 OLIP intern, M.A. in European and Russian Affairs from the Munk School of Global Affairs & Public Policy, University of Toronto

Notes

- 1 Alex Marland, *Whipped: Party Discipline in Canada* (Vancouver: UBC Press, 2020), 31
- 2 *Ibid*, 29
- 3 *Ibid*, 155-56, 177, 203, 219, 251
- 4 *Ibid*, 346
- 5 *Ibid*, 344
- 6 *Ibid*, 24, 176

New and Notable Titles

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



Baroness Taylor of Bolton. “A question of confidence? The Constitution Committee’s view on the *Fixed-term Parliaments Act 2011*.” Constitution Unit blog 5p., September 18, 2020.

- Nine years after the passage of the *Fixed-term Parliaments Act*, both government and opposition have expressed a desire to repeal it, following two general elections: one brought about using the provisions of the *Act* and another by circumventing them. The Constitution Committee has produced a report setting out what any replacement legislation needs to address.

Bradley, Karen. “Requiring MPs to vote in person during coronavirus places the institution of parliament at risk. It’s time to bring remote divisions back and to plan for continued restrictions.” Constitution Unit blog 7p., September 23, 2020.

- Today, the House of Commons will decide whether or not MPs should be allowed to continue to vote by proxy. Karen Bradley, Chair of the Commons Procedure Committee, sets out her views on how voting should take place, calling on MPs to support her amendment, which would require the government to bring alternative proposals for conducting divisions to the House for debate and decision. Those proposals, she argues, ought to include the reinstatement of remote divisions.

Evans, Paul. “Braking the law: is there, and should there be, an executive veto over laws made by parliament?” Constitution Unit blog 8p., October 16, 2020.

- During the Brexit crises of 2019, something exceptionally rare happened twice in less than six months: parliament passed legislation without the government’s consent. But are there constitutional veto mechanisms that governments can use to prevent this? In a new Unit report, the author explores this question in detail.

Geddes, Marc. “The webs of belief around ‘evidence’ in legislatures: The case of select committees in the UK House of Commons.” *Public Administration* Forthcoming: 1-15, 2020.

- A wide-ranging literature has explored the relationship between research, knowledge and policy. However, legislatures have often been overlooked in this research. While some studies have looked at ‘who has access’, the literature on how parliaments seek to engage with knowledge claims is particularly scarce. This article addresses this gap through a case study of UK select committees...

Geddes, Marc, “What does ‘evidence’ mean to MPs and officials in the UK House of Commons?” Constitution Unit blog 4p., September 10, 2020.

- Select committees are a key mechanism of the House of Commons in its role as scrutineer of legislation and government policy. However, there has been little research on how committees’ members and officials use evidence to support their work. The author has been researching the topic; here he offers a summary of his findings.

Guly, Christopher. "Senator considers seeking Supreme Court clarity on parliamentary privilege, rule of law." *The Lawyer's Daily* 7p., September 4, 2020.

- Independent Sen. Mike Duffy's final hope for clarity on whether parliamentary privilege trumps his quest to seek court-ordered damages against the Senate could rest with the Supreme Court of Canada.

Hartery, Jesse. "Protecting parliamentary sovereignty and accountability in a dualist federation." *Alberta Law Review* 58 (1): 187-93, 2020.

- Over the last few years, the Supreme Court of the United Kingdom and the Supreme Court of Canada have offered diverging conceptions of parliamentary sovereignty ...the Canadian case, *Pan-Canadian Securities*, involved an attempt by the federal government and the governments of five provinces and one federal territory to implement a national cooperative scheme for the regulation of capital markets. In the 2011 *Reference re Securities Act*, the Supreme Court of Canada rejected an argument by the federal government that the regulation of the securities market had 'evolved from a provincial matter to a national matter.' However, the Supreme Court noted that the federal Parliament could potentially intervene to regulate systemic risks. It also explicitly encouraged both orders of government to consider a 'cooperative approach' in exercising their respective legislative powers.

Lim, Preston Jordan, "Reforming Canada's war prerogative." *Canadian Foreign Policy Journal* 26 (3): 345-59, 2020.

- In Canada, the power to declare war and deploy the military is sourced in the royal prerogative. In this paper, the author argues that it is time to place the war prerogative on statutory footing...

Martin, Joe. "Thank you, next - The Conservatives' commitment problem." *Literary Review of Canada* 28 (8): 23-5, October 2020.

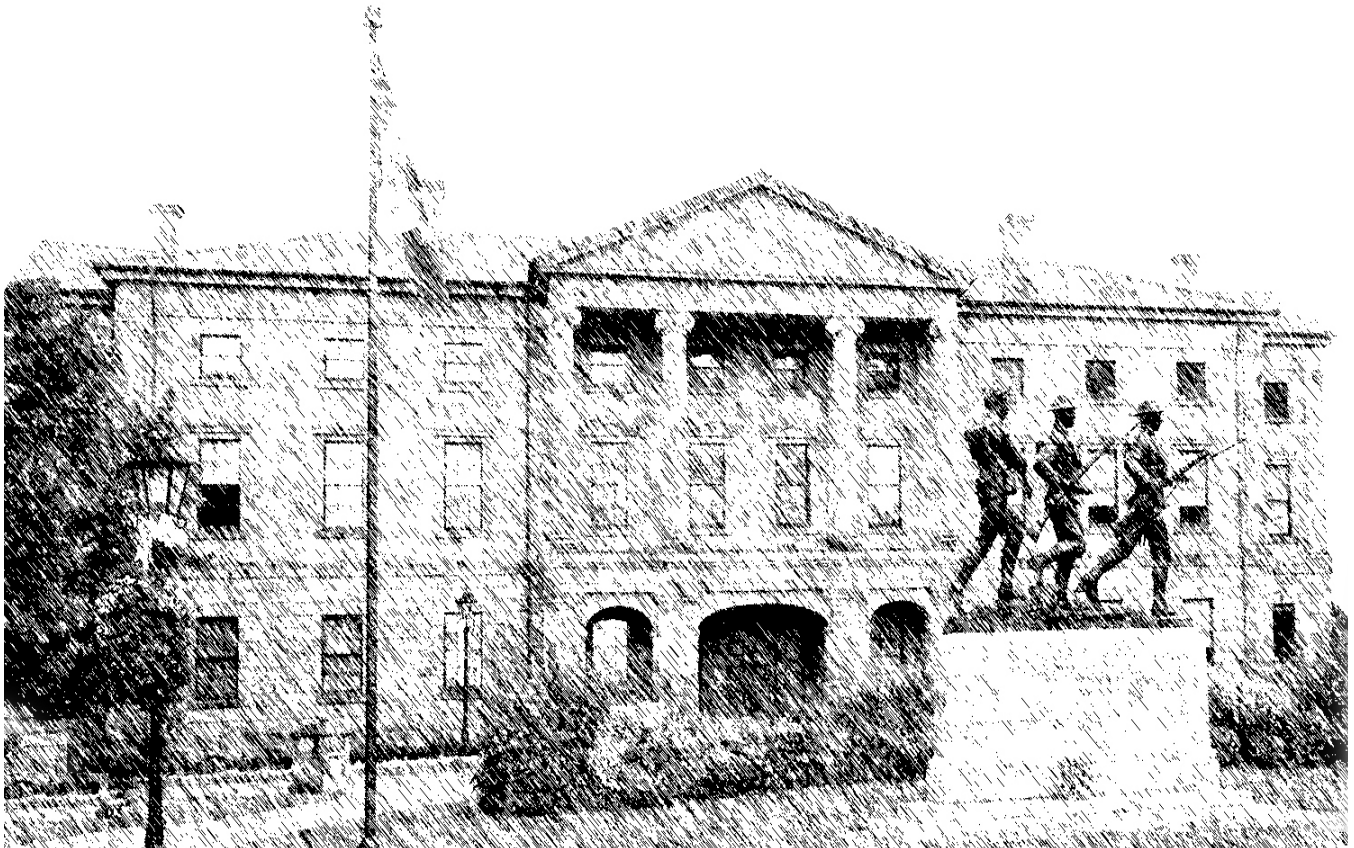
- ...it's time to reject the Mackenzie King and U.S. model in favour of one that's more along the philosophical lines proposed by Michael Chong in his *Reform Act*, which he first introduced in late 2013.

Umbers, Lachlan M. "Compulsory voting: a defence." *British Journal of Political Science* 50: 1307-324, 2020.

- ...Average turnout in Canadian federal elections has fallen from 74.5 percent during the period 1940-79, to 62.5 percent since 2000. For most democrats, these numbers are a cause for alarm. Compulsory voting is amongst the most effective means of raising turnout. However, compulsory voting is also controversial...

van Ert, Gib. "POGG and treaties: the role of international agreements in national concern analysis." *Dalhousie Law Journal* 43 (2): 1-28, 2020.

- Canada's international treaty obligations have featured prominently in Privy Council and Supreme Court of Canada jurisprudence on Parliament's power to make laws for the peace, order and good government of Canada (POGG). How treaties ought properly to be used in determining Parliament's POGG jurisdiction is a constitutionally fraught question. The federal executive cannot be permitted to extend Parliament's legislative jurisdiction by making promises to foreign states. Yet the existence of treaty obligations is undoubtedly relevant to the question of whether a given subject has become a matter of national concern. In the upcoming *Greenhouse Gas Pollution Pricing Act* references, the Supreme Court of Canada will confront this problem again. This article seeks to explain how courts may properly use international agreements in POGG cases



Prince Edward Island

First Session, Sixty-sixth General Assembly

Having adjourned to the call of the Speaker on July 14, 2020, the First Session of the Sixty-sixth General Assembly will resume on November 12, 2020 in the Honourable George Coles Building. Pandemic-related precautions will remain in effect: public galleries will remain closed, and Members' seats will continue to be separated by added distance or plexiglass barriers. Proceedings will be live-streamed on the Legislative Assembly's website and Facebook page, and broadcast on Eastlink TV.

House Business

In terms of business carried over from the last sitting, there remain nine Government Bills, seven Private Members' Bills, and 61 Motions available for debate.

Resignation of Member

On September 3, 2020, **Robert Mitchell** resigned as Member for District 10: Charlottetown-Winsloe. A member of the Liberal Party, Mr. Mitchell had served in the Legislative Assembly since 2007, being re-elected in the 2011, 2015 and 2019 general elections. He served a number of years in Cabinet as Minister of Communities, Land and Environment, and Minister of Health and Wellness, and also served as Leader of the Third Party in 2019.

A by-election will be held in District 10 on November 2, 2020.

Committee Business

The Assembly's standing and special committees have held many meetings since the July adjournment. The Standing Committee on Education and Economic Development met with education officials to examine the plan for reopening schools during the pandemic. The Standing Committee on Health and Social Development

has also focused on the pandemic, meeting with the Chief Public Health Office, pharmacists, mental health professionals, and the provincial Emergency Measures Office. The Standing Committee on Natural Resources and Environmental Sustainability continues to examine the *Water Act* and its regulations, and has also been briefed on the provincial livestock strategy. The Standing Committee on Public Accounts completed its review of the 2020 annual report of the Auditor General, and has also received briefings on property tax and assessment, corporate taxation, the Provincial Nominee Program, and the operations of Island Investment Development Inc. The Standing Committee on Rules, Regulations, Private Bills and Privileges continues its review of the Rules of the Legislative Assembly, and has been directed by the Assembly to research options by which virtual proceedings may be conducted and any changes to the rules necessary to facilitate this.

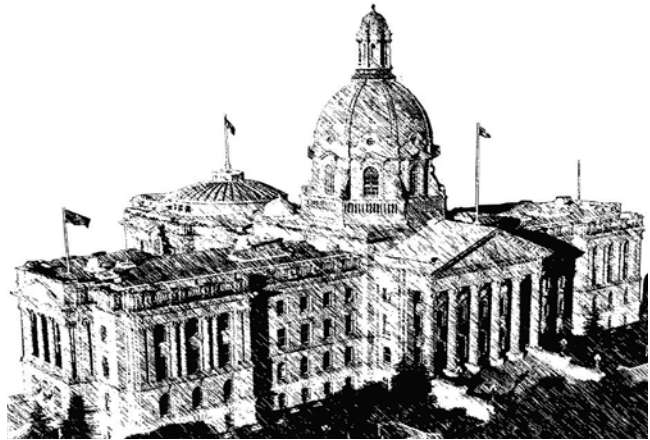
Two special committees appointed in 2019 continue their work. The Special Committee on Climate Change is directed to explore the options available to reduce greenhouse gas emissions and to make fully-costed recommendations on how the province can best meet its emission reduction targets. The Committee has heard from various individuals and organizations in this regard, and submitted an interim report during the most recent sitting. The Committee continues its work, with a particular focus on ways to reduce emissions in the agriculture and transportation sectors. The Special Committee on Poverty in PEI is directed to make recommendations regarding definitions and measures of poverty, a living wage for PEI, and a fully-costed Basic Income Guarantee pilot project. In an interim report submitted during the most recent sitting, the Committee recommended that the provincial government adopt the “market-based measure” as its official measure of poverty when making changes to legislation, regulation and policy. The committee is now completing its work on a living wage and Basic Income Guarantee pilot project and is expected to submit a final report during the fall 2020 sitting.

During the most recent sitting the Assembly appointed a third special committee, on Government Records Retention. The committee is directed to study current government practices on electronic records and security, and Information and Privacy Commissioner Order FI-20-007, which discusses the improper deletion of government records. It is also directed to report to the

Assembly with recommendations within six months.

Ryan Reddin

Clerk Assistant – Research and Committees



Alberta

Spring Sitting, 2nd Session of the 30th Legislature

When the Assembly returned to a regular sitting schedule in May 2020, the new sessional calendar indicated the final day of the spring sitting would be July 23, 2020. However, due to the requirements of a heavy legislative session, the Assembly ultimately sat longer than anticipated and did not adjourn until July 28, 2020, following an all-night sitting which continued until 8:09 a.m. the following morning.

A total of 34 Government Bills were introduced during the spring session, all of which have received Royal Assent. While some of these bills were introduced in response to the COVID-19 pandemic and related emergencies, most were brought forward to address other areas of the Government’s mandate. In addition, four Private Members’ Public Bills were introduced and referred to the Committee on Private Bills and Private Members’ Public Bills as required by the Standing Orders. Following consideration by the Committee two of these bills, Bill 202, *Conflicts of Interest (Protecting the Rule of Law) Amendment Act, 2020* and Bill 203, *Pension Protection Act*, were not proceeded with. However, Bill 201, *Strategic Aviation Advisory Council Act*, has received Royal Assent, and Bill 204, *Voluntary Blood Donations Repeal Act*, has passed Second Reading on division and is awaiting consideration in Committee of the Whole this fall. Bill 204 seeks to repeal legislation that currently permits Canadian Blood Services to provide remuneration only for blood, and blood products, in order to permit compensation for plasma donations. The sole Private Bill brought forward, Bill Pr 1, *The Sisters of the Precious Blood of Edmonton Repeal Act*, has received First Reading and currently stands referred to this Committee.

Pursuant to Government Motion 37, the Assembly also held a special one-day sitting on August 27, 2020, to debate the Government's 2020-21 First Quarter Fiscal and Economic Update. The order of business and all speaking times were outlined through the Government Motion. The special sitting did not include the Daily Routine and commenced immediately with Orders of the Day, at which point the President of Treasury Board and the Minister of Finance tabled related documents and was given 30 minutes for an opening statement. Following this, a Member of the Official Opposition was given up to 10 minutes to make a statement after which Members of the Official Opposition were given up to an hour to ask questions of Members of Executive Council regarding the update. Members of the government caucus were then given up to 20 minutes for questions. Following the initial statements all speaking times were limited to two minutes.

Cabinet Change

On August 25, 2020, Premier Jason Kenney announced changes to his cabinet. The Economic Development, Trade and Tourism portfolio was transitioned to the new portfolio of Jobs, Economy and Innovation, which will now be overseen by **Doug Schweitzer**. **Kaycee Madu**, formerly the Minister of Municipal Affairs, replaces Mr. Schweitzer as the Minister of Justice and Solicitor General, while the newly appointed **Tracy Allard** will serve as Minister of Municipal Affairs.

Committee Business

Having already successfully re-opened the galleries in the Chamber, a process was instituted under the direction of Speaker Nathan Cooper to permit members of the media and the public to attend meetings of the committees of the Assembly in person effective June 6, 2020. Advance registration is required and seating in the committee room galleries is reduced in order to permit physical distancing. Guests who are observing the proceedings are required to wear masks, with some exceptions.

The Select Special Public Health Act Review Committee pursued its mandate throughout the summer months, receiving a technical briefing on the *Act*, presentations from stakeholders, and over 600 written submissions from members of the public. The Committee completed its deliberations on September 30, 2020, and will report its recommendations to the Assembly by October 22, 2020.

The Select Special Democratic Accountability Committee has also made progress on its mandate, having put out a public call for written submissions on its four areas of inquiry: citizens' initiatives, recall legislation, the *Election Act* and the *Election Finances and Contributions Disclosure Act*. The Committee has also received presentations from stakeholders regarding citizen's initiatives and recall legislation.

Installation of Alberta's 19th Lieutenant Governor

On August 26, 2020, **Salma Lakhani** was installed as the 19th Lieutenant Governor of Alberta. The installation ceremony was held in the Legislature Chamber and it featured a blessing by an Indigenous Elder, a military salute and administration of the Oath of Office by the Chief Justice of Alberta. Her Honour is the first Muslim Lieutenant Governor in Canadian history.

Jody Rempel
Committee Clerk



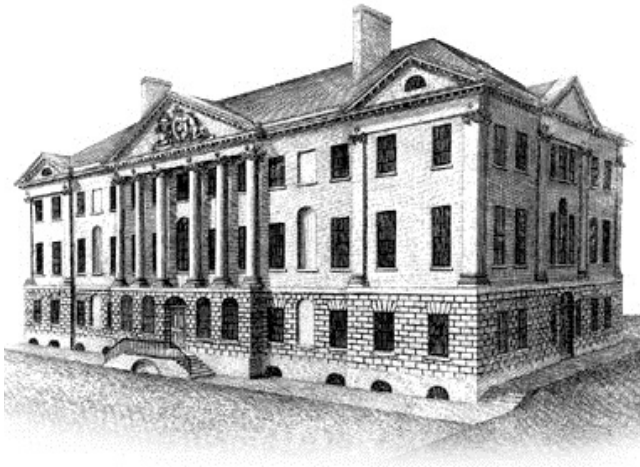
Saskatchewan

Twenty-Ninth General Election

The Twenty-Ninth General Election was held on October 26, 2020. On September 29, 2020, **Russ Mirasty**, Lieutenant Governor of Saskatchewan, dissolved the Twenty-Eighth Legislature at the request of Premier **Scott Moe**. This gave candidates a 27-day period between the issuing of the writs and polling day for campaigning.

At dissolution the Assembly was comprised of 46 Saskatchewan Party MLAs, 13 New Democratic MLAs, and two vacancies. Eleven Members decided to retire and not to seek re-election.

Stacey Ursulescu
Procedural Clerk



Nova Scotia

Standing Committees

Standing Committees resumed in-person committee meetings in September 2020 and virtual meetings commenced in December 2020. From the time the Province of Nova Scotia declared a state of emergency to help contain the spread of COVID-19 on March 22, 2020, no Standing Committee meetings were held with the exception of the Human Resources Committee which met monthly by telephone as statutorily required.

In-person Standing Committee meetings are being held in the Legislative Chamber as the Chamber is bigger than the Committee meeting room and allows for social distancing. Everyone attending the Committee meetings must wear a non-medical mask at all times with the only exception being for the person speaking on microphone during the meeting. The committee meetings are broadcast live and the video is archived for subsequent viewing on the Legislature's website.

Fall 2020 House sitting

In accordance with the House of Assembly Act, each calendar year there must be at least one sitting of the House during the six-month period beginning the first day of January and one sitting of the House during the four-month period ending the thirty-first day of December. On November 13, 2020 it was announced that the 2nd session of the 63rd General Assembly would be prorogued on December 18, 2020.

Province House

Province House remains closed to the public. Legislative staff are working in the building and persons required to attend Province House for Standing Committee meetings are admitted to the building.

House Operations staff have created a virtual tour of Province House that is posted on the Legislature website as a resource during the time public tours and access to the building remains restricted to members of the public.

Annette M. Boucher
Acting Clerk



British Columbia

Summer Sitting and Dissolution

As noted in the previous issue, on June 22, 2020, the Legislative Assembly adopted two Sessional Orders outlining procedural measures to facilitate hybrid proceedings of the Legislative Assembly and virtual meetings of the Committee of Supply in a summer sitting period that ended on August 14, 2020. During the Fifth Session of the 41st Parliament, 21 bills received Royal Assent, including 15 that passed in the hybrid summer sitting period.

On September 21, 2020, Lieutenant Governor **Janet Austin** acting on the advice of Premier **John Horgan** dissolved the Legislative Assembly, pursuant to section 23(1) of the *Constitution Act*, R.S.B.C. 1996, c. 66, thus ending British Columbia's first minority parliament since 1952. The provincial general election will take place on October 24, approximately one year earlier than the fixed election date scheduled for the third Saturday in October 2021 per section 23(2) of the *Constitution Act*. Party standings at dissolution were: 41 BC New Democratic Party, 41 BC Liberal Party, two BC Green Party, two Independent Members, and one seat vacant.

Sixteen of 87 Members, including Speaker **Darryl Plecas**, are not seeking re-election. To assist Members who served in the 41st Parliament, Legislative Assembly staff expedited the preparation of an updated *2020 Transition Guide for Members of the Legislative Assembly* which consolidates key policies and procedures relating to the transition period. The document provides guidance and information, including necessary procedures, for Members and their staff and is available on the Assembly's website. Further supports and materials will be made available following general voting day to Members who will take their place as part of the 42nd Parliament.

Elections BC has adopted measures to ensure safe voting during the COVID-19 pandemic. These include physical distancing, capacity limits, protective barriers, and hand sanitizing stations at in-person voting places; and additional advance voting opportunities. Vote-by-mail, which is available to all voters in BC, is also expected to be a popular option. Typically, around one percent of ballots in a provincial election are cast by mail; however, given the COVID-19 pandemic, approximately 30 to 35 percent of ballots, or 800,000, could be cast by mail. As of October 6, Elections BC had received an estimated 597,000 vote-by-mail package requests.

Legislation

Key bills adopted during the hybrid summer sitting period included the following:

Bill 19, *COVID-19 Related Measures Act* enacts ministerial orders made under section 10 of the *Emergency Program Act* in response to the COVID-19 pandemic and allows them to be extended beyond the end of the provincial state of emergency. It also authorizes regulations that provide targeted protections from civil liability for COVID-19-related damages and amends the *Emergency Program Act* to authorize regulations that may be made in relation to the pandemic by the Lieutenant Governor in Council during a state of emergency.

Bill 21 amends the *Wills, Estates and Succession Act*, to provide for recognition of electronic wills and allow for the signing of wills to be witnessed remotely. The Bill is based on the work of the Uniform Law Conference of Canada and builds upon Ministerial Order No. M161/2020, which allows remote witnessing of wills during the provincial state of emergency.

Bill 23, *Workers Compensation Amendment Act*, removes the requirement for a minimum of 90 days between the deposit and effective date for a regulation relating to an occupational disease caused by a communicable viral pathogen, including COVID-19. It also provides powers to the court to issue WorkSafeBC search and seizure warrants that are appropriate for investigating workplace safety infractions.

Bill 5, *Employment Standards Amendment Act, 2020* provides for paid leave of up to five days for employees experiencing, or who have specific family members experiencing, domestic or sexual violence.

Estimates

Traditionally, the Committee of Supply is authorized to sit in two sections concurrently, but in recent years, the Legislative Assembly has also authorized an additional third section (C) to hold concurrent proceedings to assist with completion of Estimates. Under the Sessional Order relating to the Committee of Supply, Sections A and C were authorized to sit virtually on Thursdays and Fridays during the hybrid summer sitting period. The Committee of Supply spent 182 hours considering Estimates in the summer sitting period (which includes the consideration of Estimates in Section B, being the Chamber, during the final sitting week in August), in addition to 16 hours in March, prior to the enactment of public health measures, for a total of 198 hours. In comparison, the Committee of Supply spent approximately 192 hours considering the 2019-2020 Estimates last year.

Parliamentary Committees

In accordance with the *Budget Transparency and Accountability Act*, S.B.C. 2000, c. 23, upon being referred a budget consultation paper by the Minister of Finance, the Select Standing Committee on Finance and Government Services holds an annual budget consultation and must report on the results of that consultation no later than November 15. As noted in the Fall 2019 issue, last year, the Committee collaborated with the Minister of Finance to facilitate an earlier release of the budget consultation paper, therefore allowing the budget consultation to be conducted in June, leaving more time for the Committee's recommendations to be incorporated into government budget planning. Following review and feedback on the adjusted timeline, the Committee, in consultation with the Minister of Finance, opted to once again have the consultation take place in the summer.

The Committee adjusted the budget consultation process as a result of the COVID-19 pandemic. As noted in the previous issue, all parliamentary committee meetings were held virtually using the Zoom videoconferencing platform. The Committee also increased its use of online advertising, including promoting the consultation on the Legislative Assembly's social media accounts, creating promotional materials for stakeholders to download from the Committee's website, and advertising in online community calendars. Rather than traveling around the province to gather input from British Columbians at regional public hearings, the Committee conducted 17 video- and tele-conference hearings in June using Zoom. The format of the public hearings was adjusted to organize presentations thematically with presenters grouped into panels based on topics of interest identified in a pre-registration process. The Committee held remote meetings to deliberate in July and August to consider the input it received via 281 presentations, 1,362 written and video submissions, and 3,625 survey responses – the highest level of input received in nearly 10 years. On August 21, 2020, the Committee released its unanimous report with 124 recommendations highlighting inequities exposed by the COVID-19 pandemic as well as themes such as diversity and inclusion, reconciliation, accessibility, and digital connectivity.

Prior to the dissolution of the Legislative Assembly, two special committees had also undertaken work on their respective inquiries. On February 18, 2020, a Special Committee was appointed to review the *Personal Information Protection Act*, S.B.C. 2003, c. 63, which governs how private sector organizations can collect, use, and disclose personal information. As part of its review, the Special Committee heard from interested individuals and organizations at video- and tele-conference public hearings held in June and received several written submissions during the public consultation period between May 4, 2020 and August 14, 2020. It is expected that the Committee will be re-appointed in the 42nd Parliament as section 59 of the *Personal Information Protection Act* requires a special committee to review the Act every six years.

On July 8, 2020, the Legislative Assembly appointed the Special Committee on Reforming the *Police Act* to examine, inquire into, and make recommendations to the Legislative Assembly on: reforms related to the modernization and sustainability of policing under the *Police Act*, R.S.B.C. 1996, c. 367; the role of police with respect to complex social issues including mental health and wellness, addictions and harm reduction;

the scope of systemic racism within BC's police agencies; and whether there are measures necessary to ensure a modernized *Police Act* is consistent with the United Nations Declaration on the Rights of Indigenous Peoples (2007). The Committee received background and informational briefings from officials from the Ministry of Public Safety and Solicitor General in August and September. Further briefings and stakeholder presentations were scheduled for the fall; however, these meetings were canceled upon dissolution.

Canadian Council of Public Accounts Committees Annual Conference

On September 10, 2020, the Legislative Assembly hosted the Canadian Council of Public Accounts Committees (CCPAC) annual conference. The conference is held annually in conjunction with concurrent annual proceedings of the Canadian Council of Legislative Auditors. Due to the COVID-19 pandemic and related travel restrictions, this year's conference was conducted as a half-day virtual meeting using Zoom. Over 100 parliamentarians and legislative auditors from across the country participated in the conference which focused on parliamentary oversight of COVID-19 program administration and the role of public accounts committees and auditors general. Building on experience gained during the hybrid summer sitting period, Legislative Assembly staff acted as conference technicians to assist with delegate admission and provided technical support via Zoom and over the phone. At the CCPAC annual general meeting, **Shannon Phillips**, MLA for Lethbridge-West, Alberta was appointed as President and **Shirley Bond**, MLA for Prince George-Valemount, British Columbia was appointed as Vice-President. In addition, CCPAC delegates appointed **Philip Massolin**, Clerk of Committees and Research Services, Legislative Assembly of Alberta as Executive Director for a two-year term, replacing **Kate Ryan-Lloyd**, Clerk of the Legislative Assembly of British Columbia, who had served as Executive Director since 2016.

Legislative Assembly Administration

As noted in the previous issue, at its July 2, 2020 meeting, the Legislative Assembly Management Committee considered the *Legislative Assembly Workplace Review Final Report* prepared by the independent contractor, ADR Education, which made nine recommendations for an action plan by the Legislative Assembly. On August 6, 2020,

the Clerk of the Legislative Assembly issued the Legislative Assembly Administration's *Response and Action Plan* on the report, outlining next steps and target completion dates in relation to each of the nine recommendations. Steps in the action plan include an analysis by the Clerk's Leadership Group to ensure clarity on decision-making authority and approaches within the organization; development of an internal communications strategy; setting an overall strategic plan for the Assembly Administration; development of a performance management framework; a comprehensive management training program focusing on key competencies for executive, senior and middle management positions; establishment of a Flexible Work Arrangements Policy; and plans for a self-assessment of the action plan at the nine-month mark. In addition, the Policy Portal on the Legislative Assembly Intranet, launched in March 2020, continues to be updated and expanded.

Assembly administrative reforms continue with the help of a renewed senior leadership team. On September 8, 2020, **Jamie Hanly** joined the Legislative Assembly in the new position of Chief Human Resources Officer. Ms. Hanly brings over 25 years of human resources experience from a variety of public and private sector organizations, most recently, as the lead in a human resources consulting and executive coaching firm. As noted in the previous issue, the Chief Human Resources Officer is part of the Clerk's Leadership Group which also includes the Chief Information Officer; the Clerk Assistant, Parliamentary Services; Executive Financial Officer; and the Law Clerk and Parliamentary Counsel.

Following an external competition, **Jennifer Arril** was appointed Clerk of Committees on October 5, 2020. Ms. Arril joined the Legislative Assembly in November 2015 and has assumed progressively more senior roles within the Parliamentary Committees Office since that time. She served as Committee Clerk from April 2018 to September 2019 and began to serve at the Table in April 2018. The Clerk of Committees serves as the Legislative Assembly's Chief Committee Clerk and as department head of the Parliamentary Committees Office.

Katey Stickle
Committee Researcher



Ontario

Back to Work

After a summer break beginning on July 14, the Legislative Assembly resumed sitting in September 2020. Prior to the break, the House had been meeting for two days a week in May and June (Tuesdays and Wednesdays), and three days a week in July (Mondays, Tuesdays and Wednesdays). For the fall, the House has returned to meeting on its traditional four days per week.

As part of the ongoing response to the COVID-19 pandemic, several new measures have been implemented to assist Members in continuing to represent their constituents in a safe and secure manner.

A request was issued by the Speaker for all Members, staff and occupants of the Legislative Precinct to wear a mask in the common areas inside the precinct and in any other place where physical distancing of two metres cannot be maintained. Staff are also encouraged to work remotely when and where possible.

The House also passed a motion to allow Members to speak and vote from any Member's desk in the Chamber in order to observe recommended physical distancing.

The method of conducting recorded divisions, as provided for in the Standing Orders, has been temporarily amended with an eye to physical distancing. Rather than Members standing in their place and being counted one at a time by the Clerk, a new system was put in place whereby Members file out of the chamber and record their vote in one of the Members' lobbies adjoining the Chamber. The East Members' lobby is designated for the Ayes; the West Members' lobby is designated for the Nays. During

a vote the division bells ring for 30 minutes, during which time the Table Officers stationed in the lobbies record the votes of all Members who wish to do so. Whips of the recognized parties or their designates may attend the Members' lobbies to observe the taking of the vote. At the conclusion of the 30 minutes, the Table Officers return to the Chamber and provide the results of the voting to the Clerk, who announces the final tally.

Standing and Select Committees of the Legislature resumed regular meetings in September when the Government House Leader wrote to the Speaker indicating that it was in the public interest for them to do so. In order to facilitate the safe resumption of all committees, a motion was passed authorizing committees to continue to use approved electronic means of communication when meeting. The motion outlined that, while committees will continue to be hosted in the Assembly's committee rooms, Members, witnesses and staff are not required to be in one physical place. The Chair and Clerk of the committee are required to be physically present, but other Members participating electronically whose identity and location in the province of Ontario have been verified would be considered present and included in quorum.

Newly proposed permanent changes to the Standing Orders of the Legislative Assembly were passed by the House on September 22, 2020. One of the changes was to the method of considering Private Members' Public Business (PMPB). Rather than three items of business considered on Thursday afternoons each week, the schedule of the House was altered to allow for one item to be considered at 6:00 p.m. on Tuesdays, Wednesdays and Thursdays respectively.

As previously noted the House did not meet on Thursdays from mid-March through to July. On a temporary basis, until the end of the Spring sitting period, an additional item of PMPB will be considered each Monday morning at 9:00 a.m. The Government House Leader has offered that this is a way for the House to "catch up" on the time lost for consideration of PMPBs.

Another new procedure in Ontario's Legislature is the new process of take-note debates. These debates require notice from a Minister and are scheduled in consultation with the House Leaders of the recognized parties. Debates may occur in the afternoon or evening and may last for up to four hours, with no vote at the end. Take-note debates are an opportunity to solicit the

views of Members on an aspect of Government policy, which may then be considered by the Government before it makes a decision.

In the House

Bill 204, An Act to amend various Acts respecting municipal elections, to amend the Reopening Ontario (A Flexible Response to COVID-19) Act, 2020 and to provide for a temporary residential rent freeze and specified temporary protections for certain commercial tenants was introduced by the Minister of Municipal Affairs and Housing, **Steve Clark**, on September 17, 2020. The Bill passed Third Reading on September 30, 2020, receiving Royal Assent the following day. This *Act* allows law enforcement to temporarily close premises if too many people are gathered in attendance of a hosted event, curtails the eviction of commercial tenants, and provides a rent freeze for residential tenants for the calendar year 2021, among other things.

Several Private Member's Public Bills made their way through the House and received Royal Assent in September 2020.

Bill 131, An Act to proclaim the month of July as Tibetan Heritage Month, passed Second and Third Readings and received Royal Assent on September 24, 2020. The Bill's sponsor, MPP **Bhutila Karpoche**, is the first elected member of provincial parliament of Tibetan heritage in Ontario's history.

Bill 154, An Act to proclaim Stop Cyberbullying in Ontario Day, was introduced by MPP **Kaleed Rasheed** and received Royal Assent on September 24, 2020.

Bill 180, An Act to proclaim Somali Heritage Week, passed Second and Third readings and received Royal Assent on October 1, 2020. The sponsor of the Bill, MPP **Faisal Hassan**, is the first elected Member of provincial parliament of Somali heritage in Ontario's history.

Bill 182, An Act to amend the Franco-Ontario Emblem Act, was introduced by MPP **Natalia Kusendova** in March of 2020. The Bill, which sought to recognize the Franco-Ontarian flag as an emblem of Ontario, received Royal Assent on September 24, 2020, just in time for Franco-Ontarian Day on September 25.

New Faces

On September 14, **Peter Sibenik** and **William Wong** were introduced as Ontario's two newest Clerks-at-the-Table. They assume their position at the Table in

addition to both serving as co-counsel in the Office of Parliamentary Counsel.

Tributes

On September 21, 2020, the House paid tribute to **John Turner**, Prime Minister of Canada from June 30, 1984 to September 17, 1984. One representative from each recognized party, as well as one Independent Member, made remarks on his life and record of public service. The House then observed a moment of silence.

Committee Activities

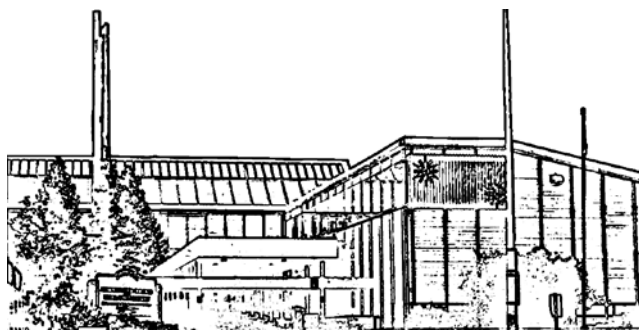
A Select Committee on Emergency Management Oversight was established on July 15, 2020 to receive oral reports from the Premier or his designate(s) on any extensions of emergency orders by the Lieutenant Governor in Council related to the COVID-19 pandemic and the rationale for those extensions. The Premier designated Solicitor General **Sylvia Jones** to appear on his behalf at the meetings of the Select Committee held in August and September. The Solicitor General provided the Committee with a report on the Government's extension of the emergency orders and answered questions from the Committee. The Committee is empowered to table interim reports in the House summarizing these meetings.

The Standing Committee on Finance and Economic Affairs met over the summer, examining the impacts of the COVID-19 crisis on the following sectors of the economy and considered measures which will contribute to their recovery:

- Tourism
- Culture and Heritage
- Municipalities, Construction and Building
- Infrastructure
- Small and Medium Enterprises

The Committee met a total of 30 times through the months of June, July, August and September, and heard over 500 presentations from stakeholders and organizations totalling more than 193 hours. The Committee also received over 130 written submissions from individuals and groups who were not able to appear before the Committee in person. The Committee produced six interim reports throughout the process, with its final report and recommendations tabled in the House in early October 2020.

Chris Tyrell
Committee Clerk



Yukon

2020 Fall Sitting

Pursuant to the special adjournment Order adopted by the House on March 19, the 3rd Session of the 34th Legislative Assembly reconvened on October 1.

On the first day of the 2020 Fall Sitting, the House adopted three Sessional Orders relating to COVID-19. The motions (Motions No. 213, 214, and 215) were moved by Government House Leader **Tracy-Anne McPhee** with unanimous consent, as the motions lacked one clear day's notice.

Motion No. 213 provides that any Member of the Legislative Assembly who is unable to attend sittings of the House in person "due to COVID-19 symptoms, illness or protocols" may participate by teleconference, and participating through that medium be recognized to speak in debate, vote, contribute to constituting quorum, and not incur a financial penalty for being absent from the House on a sitting day.

Motion No. 214 provides for the Clerk to keep a daily list of paired Members for the duration of the 2020 Fall Sitting, and for the names of Members paired under this Sessional Order to be listed in the Hansard and the Votes and Proceedings after each division that is held on the relevant date.

For the duration of the 2020 Fall Sitting, Motion No. 215 empowers the Government House Leader and at least one of the other House Leaders, if the Assembly stands adjourned for an indefinite period of time, to "request that the Legislative Assembly meet virtually by video conference, with all the Members of the Legislative Assembly being able to participate remotely", notwithstanding any Standing Orders regarding Members' physical presence in the Chamber.

Bills

As of October 8, the fifth day of the sitting (the day by which government bills to be dealt with during the Sitting must be introduced), the following government bills had been introduced (no new Private Members' Bills were introduced):

- Bill No. 13, *Act to Amend the Elections Act (2020)* (this Bill seeks to provide fixed election dates for general elections)
- Bill No. 14, *Act to Amend the Environment Act (2020)*
- Bill No. 15, *Corporate Statutes Amendment Act (2020)*
- Bill No. 16, *Act of 2020 to Amend the Condominium Act, 2015*
- Bill No. 17, *Enduring Powers of Attorney and Related Amendments Act (2020)*
- Bill No. 204, *Fourth Appropriation Act 2019-20*
- Bill No. 205, *Second Appropriation Act 2020-21*

Bills No. 9, 10, 11 and 12, which had received first reading during the abbreviated 2020 Spring Sitting, also remain on the Order Paper:

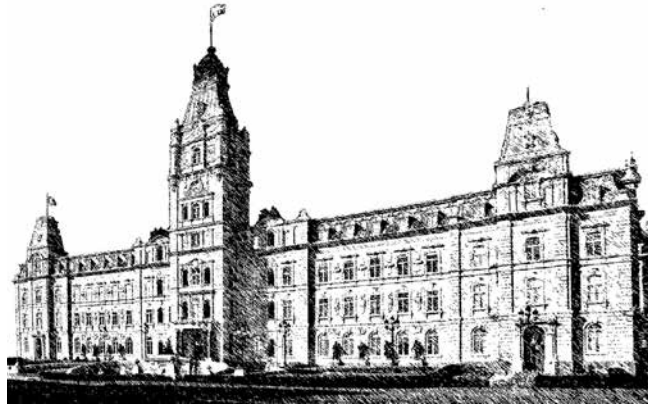
- Bill No. 9, *Sexual Orientation and Gender Identity Protection Act*
- Bill No. 10, *Act to Amend the Employment Standards Act (2020)*
- Bill No. 11, *Act to Amend the Land Titles Act, 2015*
- Bill No. 12, *Act to Amend the Wills Act (2020)*

On October 1, both Bill No. 9, *Sexual Orientation and Gender Identity Protection Act* and Bill No. 10, *Act to Amend the Employment Standards Act (2020)* passed second reading. On October 8, Bill No. 204, *Fourth Appropriation Act 2019-20*, received Second Reading.

On October 7, the House adopted as amended a motion (Motion No. 226) moved by **Kate White**, Leader of the Third Party, urging the Yukon government to increase the proportion of government jobs in communities other than Whitehorse (the territorial capital).

On September 3, Speaker **Nils Clarke** issued a news release announcing the appointment of **Joseph Mewett** to the position of Deputy Sergeant-at-Arms, effective October 14, 2020. At the outset of the sitting day on October 5, Speaker Clarke introduced Mr. Mewett, who succeeds **Terry Grabowski** as Deputy Sergeant-at-Arms, to the House.

Linda Kolody
Deputy Clerk



Québec

Proceedings of the National Assembly

Terms of resumption of Assembly sittings

On 15 September 2020, parliamentary Members carried a motion relating to the terms that would be applicable to the organization of the Assembly's proceedings until October 9, 2020. Various measures were adopted to ensure a safe environment for all. In general, the measures were identical to those in the motion that was carried on May 13, 2020.

In order to comply with physical distancing measures recommended by public health authorities, the Assembly, normally composed of 125 Members, continued to sit with a reduced number according to the following distribution, for a total of 36 Members excluding the Chair:

- no more than 20 Members from the parliamentary group forming the Government;
- no more than eight Members from the parliamentary group forming the Official Opposition;
- no more than three Members from the Second Opposition Group;
- no more than three Members from the Third Opposition Group; and
- no more than two Independent Members.

Different scenarios made it possible to modify the number of Members from different political parties and of Independent Members depending on whether the Assembly was in the period of Routine Proceedings or in Orders of the Day or whether Independent Members were present or not.

A provision was included in the motion specifying that every Member may speak and vote from a seat other than their regularly assigned seat.

To ensure compliance with the maximum number of Members allowed to be admitted into the National Assembly Chamber, parliamentarians agreed to continue in accordance with the same procedure for recorded divisions contained in the motion carried on May 13, 2020 during the previous sessional period. All questions must be put in accordance with the procedure for recorded divisions under which the vote of the House Leader or Deputy House Leader of a parliamentary group or, where applicable, of a Member identified beforehand by the latter to the Secretariat, would be valid for all Members of his or her group. A provision has been added for a case where a parliamentary group is not represented at the time a question is put to the Assembly. In such cases, the Chair may suspend the proceedings for no longer than 10 minutes to allow those concerned to be notified that a vote will be held shortly and to allow them time to appear in the House. If a House Leader, Deputy Leader or Member designated to act on behalf of his or her parliamentary group for voting purposes is sitting in committee at the time of the vote, that committee may suspend its proceedings, at the request of that person, so that he or she may go to the National Assembly Chamber to take part in the vote.

Bills introduced and passed

Since the Assembly resumed sitting on September 15, 2020, two government bills and four Private Members' Bills have been introduced in the National Assembly:

- Bill 65 – *An Act to amend mainly the Environment Quality Act with respect to deposits and selective collection;*
- Bill 66 – *An Act respecting the acceleration of certain infrastructure projects;*
- Bill 596 – *An Act to establish Pharma-Québec;*
- Bill 599 – *An Act to respect sexual orientation and gender identity; and*
- Bill 690 – *An Act to amend the Charter of the French language to specify that it applies to private enterprises operating in an area of federal jurisdiction.*

Since resumption of proceedings, two government bills have also been passed in the National Assembly:

- Bill 29 – *An Act to amend the Professional Code and other provisions in particular in the oral health and the applied sciences sectors; and*

- Bill 42 – *An Act to give effect to fiscal measures announced in the Budget Speech delivered on 21 March 2019 and to various other measures.*

Other events

The National Assembly's involvement in research projects

The National Assembly continued its work in collaboration with the Research Chair on Democracy and Parliamentary Institutions. By working in association with this group of recognized university researchers, the National Assembly seeks to raise awareness about parliamentarism by participating in innovative research. The current work plan includes two research projects: the first deals with elected officials' expectations regarding the services offered by the administration and parliamentary officials; the second deals with examining estimates of expenditure and Members' involvement in this area. The National Assembly has been a partner of the Research Chair for over 10 years now. Since its creation in 2007, it has made an important contribution to improving the understanding of the issues and challenges facing parliamentary systems and contemporary democracies.

Committee Proceedings

Here are some of the highlights of the parliamentary committee proceedings held between July and September 2020.

COVID-19

The special order adopted by the Assembly on September 15 provided for several changes to the usual parliamentary committee procedure to ensure compliance with social distancing measures and the participation of as many Members as possible in committee proceedings. In particular, the special order provided for the possibility of holding any given meeting simultaneously in two rooms, thanks to technology enabling communication between the rooms. In rooms where the number of Members was limited, proxy voting made it possible for certain Members of the parliamentary groups forming the Government and the Official Opposition to exercise a right to vote by proxy on behalf of a Member who was absent. Independent Members had to inform the House Leaders and the Committees Secretariat several days in advance when they wanted to participate in the proceedings of a parliamentary committee of which they were not a member. This special order was in force until October 9, 2020.

The measures already in place to avoid distributing and handling paper documents in committee were maintained. In addition, for public hearings, witnesses' participation by videoconference was encouraged.

Bills

Over this period, six parliamentary committees held special consultations and public hearings on eight public bills. Notably, the Committee on Labour and the Economy heard 20 individuals and bodies on Bill 51, *An Act mainly to improve the flexibility of the parental insurance plan in order to promote family-work balance*. The main purpose of this Bill is to extend the period in which parents may receive their parental insurance benefits and increase the number of weeks of benefits for an adoption or multiple birth.

Four meetings of the Committee on Institutions provided an opportunity to hear more than 20 witnesses on Bill 64, *An Act to modernize legislative provisions as regards the protection of personal information*. In particular, this Bill strengthens the framework for public bodies and enterprises' use of personal information and clarifies various requirements for the consent required from the persons concerned to use their personal information.

Four sectorial committees carried out clause-by-clause consideration of public bills:

- On August 27, the Committee on Public Finance completed clause-by-clause consideration of Bill 42, *An Act to give effect to fiscal measures announced in the Budget Speech delivered on 21 March 2019 and to various other measures*, which it had begun on February 11.
- The Committee on Transportation and the Environment completed clause-by-clause consideration of Bill 44, *An Act mainly to ensure effective governance of the fight against climate change and to promote electrification*, on September 1. Carrying out this mandate required 137 hours of parliamentary committee work.
- The Committee on Institutions began clause-by-clause consideration of Bill 29, *An Act to amend the Professional Code and other provisions in particular in the oral health and the applied sciences sectors*, on August 25 and completed it on September 2.
- The Committee on Health and Social Services undertook clause-by-clause consideration of Bill 52, *An Act to strengthen the complaint examination process of the health and social services*

network, in particular for users receiving services from private institutions, for which special consultations and public hearings had been completed in March.

Budget estimates

Under an agreement approved by the Assembly on May 13, 2020, the budget estimates, which are each department's projected annual expenditures for which the Government seeks approval by the Assembly, were adopted before being examined in committee, which took place during the week of August 17, 2020. Exceptionally, the parliamentary groups agreed to reduce the time for examination of budget estimates by half, thereby removing the 100 hours reserved for Government Members. Only Opposition Members could then question Ministers on their department's financial management, in accordance with time periods dedicated to some 45 topics. The Parliamentary Committees Directorate and its partners made great logistical efforts to ensure the week's proceedings were in compliance with the health directives in force.

Order of reference

The Assembly mandated the Committee on Institutions to hold special consultations and public hearings on *digital contact notification applications and on their relevance and usefulness and, if applicable, the conditions for making them socially acceptable in the fight against COVID-19* from August 12 to 14, 2020. The public hearings were preceded by the Government's public consultation on the same topic. Following the special consultations, which provided an opportunity to hear 18 witnesses, the Committee members tabled their report, which contained six observations.

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, held a last day of public hearings on August 24. On that day, three groups were heard on specific questions that had been sent to them beforehand. After the public hearings, the Committee members heard victims of sexual exploitation of minors and their family members *in camera*. A motion of the Assembly on June 9 made it possible for the Committee to hold private deliberative meetings virtually. The Committee is preparing its report, which will be tabled in the Assembly before the end of the 2020 fall sessional period.

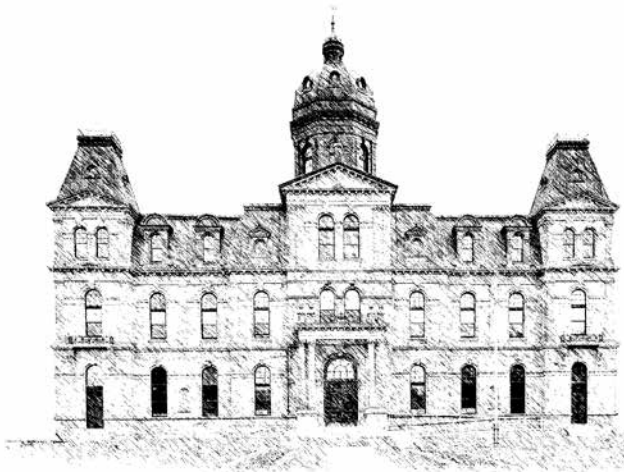
Committee chairs

On September 17, Ms. **MarieChantal Chassé** (Châteauguay) resigned as Chair of the Committee on Citizen Relations and was replaced by Ms. **Lucie Lecours** (Les Plaines).

Karim Chahine

Sittings and Parliamentary Procedure Directorate

Astrid Martin



New Brunswick

Standing Committees

The Standing Committee on Procedure, Privileges and Legislative Officers, chaired by **Stewart Fairgrieve**, held a meeting on August 4 to discuss the potential costs associated with operating a safe provincial election amid the ongoing COVID-19 pandemic. Chief Electoral Officer and Supervisor of Political Financing **Kim Poffenroth** outlined purchases related to increased safety measures, such as hand sanitizer, self-screening posters, face shields and masks, and physical barriers for polling officials and returning officers. She also discussed the *Elections Act* and how there are provisions for flexibility of processes during an ongoing emergency situation.

Dissolution

The 59th Legislature was dissolved on August 17. At dissolution, the standings in the House were 20 Progressive Conservatives, 20 Liberals, three Greens, three People's Alliance, one Independent, and two vacancies.

40th General Election

New Brunswick's 40th general election was held on September 14. It was the country's first election during the pandemic.

The election produced a majority government for the Progressive Conservatives and a second term for Premier **Blaine Higgs**. The Progressive Conservative Party won 27 seats, **Kevin Vickers'** Liberal Party won 17 seats, **David Coon's** Green Party won three seats, and **Kris Austin's** People's Alliance Party won two seats. In total, 12 new Members were elected. Former Deputy Premier **Robert Gauvin** was re-elected as a Member of the Liberal Party, after stepping down as a Progressive Conservative in February and choosing to sit as an Independent. Fourteen women were elected, nine of whom were part of the Progressive Conservative Party. The total number of women elected to the New Brunswick Legislative Assembly marked a record high for the province.

On September 28, Members of the 60th Legislature took their Oath of Allegiance and signed the Members' Roll during a modified ceremony in the Chamber, presided over by Lieutenant-Governor **Brenda Murphy**. The swearing-in ceremony consisted of four separate ceremonies to allow for physical distancing.

New Cabinet

On September 29, the Lieutenant-Governor presided over the swearing-in of the new Executive Council in a modified ceremony held at the Crowne Plaza Hotel. Mr. Higgs was sworn-in as the Premier, President of the Executive Council, and Minister responsible for Intergovernmental Affairs, along with a Cabinet consisting of:

Margaret Johnson, Minister of Agriculture, Aquaculture and Fisheries; **Arlene Dunn**, Minister of Aboriginal Affairs, Minister responsible for Economic Development and Small Business, Minister responsible for Opportunities NB, and Minister responsible for Immigration; **Dominic Cardy**, Minister of Education and Early Childhood Development; **Gary Crossman**, Minister of Environment and Climate Change and Minister responsible for the Regional Development Corporation; **Daniel Allain**, Minister of Local Government and Local Governance Reform; **Ernie Steeves**, Minister of Finance and Treasury Board; **Dorothy Shephard**, Minister of Health; **Hugh J. A. Flemming**, Minister of Justice and Public Safety and Attorney General; **Trevor Holder**,

Minister of Post-Secondary Education, Training and Labour; **Mary Wilson**, Minister of Service New Brunswick and Minister responsible for Military Affairs; **Bruce Fitch**, Minister of Social Development; **Tammy Scott-Wallace**, Minister of Tourism, Heritage and Culture and Minister responsible for Women's Equality; **Jill Green**, Minister of Transportation and Infrastructure; **Glen Savoie**, Minister responsible for la Francophonie; and **Mike Holland**, Minister of Natural Resources and Energy Development.

Speaker

On October 7, Members of the Legislative Assembly elected Kings Centre Member **Bill Oliver** as Speaker of the House. First elected as a Progressive Conservative MLA in 2014, Speaker Oliver served as deputy whip for the Official Opposition and as the WorkSafe NB critic. He was named Minister of Transportation and Infrastructure in 2018. His political career began in 1999 as Executive Assistant to the Speaker of the Legislative Assembly, and later served in the same role for the Minister of Supply and Services. He also served as Assistant to Mr. Higgs during his tenure as Minister of Finance.

Prior to entering politics, Speaker Oliver worked in the insurance industry. Active in his community, he has served on a district school board and as a member of the Hampton Rotary Club, and various committees in the Belleisle region. He also represented New Brunswick at the National Curling Championships on five occasions.

Resignations

Mr. Vickers resigned as Leader of the Liberal Party of New Brunswick on September 14, following the provincial election. He did not win a seat in the Miramichi riding during the election. Following a career as a Royal Canadian Mounted Police officer, Mr. Vickers served as the House of Commons' Sergeant-at-Arms and later as the Canadian Ambassador to Ireland. Mr. Vickers was named Leader of the province's Liberal Party in April 2019.

Interim Leader

Roger Melanson was named Interim Leader of the Official Opposition on September 28. Since his election in 2010, Mr. Melanson has served as Minister of Finance and Chair of the Treasury Board, Minister of Transportation and Infrastructure, Minister of Post-

Secondary Education, Minister responsible for Trade Policy, and Minister responsible for Aboriginal Affairs.

Office of the Clerk

Patrick Dunn joined the Office of the Clerk on August 17 in the role of Committee Clerk and Acting Law Clerk. He was admitted to the Law Society of New Brunswick in June 2012 and practised with an Atlantic regional firm before assuming his position at the Legislative Assembly. He will serve as clerk for certain assigned committees and provide parliamentary counsel services to the Members and the Office of the Clerk.

Shannon Jensen
Research Officer



Manitoba

3rd Session of the 42nd Legislature – Including Virtual Resumption of Sittings

The unique situations arising in the legislature from the COVID-19 pandemic continued when the House resumed on October 7, commencing the Third Session of the 42nd Legislature with the Speech from the Throne delivered by Lieutenant Governor **Janice Filmon**. By agreement, the number of MLAs physically present in the Chamber for this session has been reduced to 18 Government Members, nine Official Opposition Members and one Independent Liberal. In order to accommodate physical distancing, for both the Throne Speech and subsequent daily sittings, some seats were removed and a fourth row of desks were set up on the outer rim of the Chamber. The seating plan will change weekly, so that MLAs from each caucus can take turns being present in the Chamber to participate in proceedings while other MLAs participate by a virtual platform. The total number of MLAs in Manitoba is 57.

It should also be noted that typically the House continues where it left off in the previous session when it resumes sittings in October. However, this year the Provincial Government prorogued the House in order to start a new session; all bills died if they were not completed in the Second Session before prorogation.

Several logistical and ceremonial components were also omitted from the Throne Speech proceedings. These omissions and alterations, which were due in part to Winnipeg being in a state of COVID code orange at the time, included:

- No military procession and inspection
- A single aide for the Lieutenant Governor
- No stakeholders or spouses present
- Chief Justice Chartier, representing all three courts, paraded in and sat in the Loge
- No singing of “God Save the Queen” and “O Canada” (songs instead piped over the audio system)

The address featured a “Protecting Manitobans” agenda which outlined five guaranteed commitments to protect Manitobans in the fight against COVID-19 as well as five guaranteed commitments to continue the Provincial Government’s efforts to fix the finances, repair services, and rebuild the economy. The address highlighted the following areas:

- Protecting Health Care
- Protecting Jobs
- Protecting Incomes
- Protecting Education and Child Care and
- Protecting Manitoba’s Future

Some of the details on how the Provincial Government plans to meet the above objectives include:

- Spending an additional \$1.6 billion on education over the next four years, while at the same time phasing out the education property tax, beginning next year.
- Eliminating probate fees on estates and removing the provincial sales tax from income tax preparation.
- Planning to set a course for a gradual, careful return to a balanced budgets over the next eight years.
- Transforming Manitoba’s education system to provide more accountability via the recommendations from a review of Manitoba’s kindergarten to Grade 12 system.

- Addressing health care by establishing more COVID-19 testing sites and screening capacity, reducing wait times for cataract surgery and joint replacements, and providing more renal dialysis services.
- Addressing child care by developing a modern system and funding model to provide greater equity in the supports provided to families, more choices and flexibility.
- Addressing economic concerns by creating an independent economic development agency to attract investment and international trading opportunities which will also examine the value of a venture capital investment fund to help businesses.
- Reaffirming previous commitments, such as a new income support program for people with disabilities, changes to income assistance programs that will instill greater self-reliance and reintroducing legislation to ease restrictions on Sunday and holiday shopping, as well as legislation to create a capital planning region for the Winnipeg metropolitan area.

Official Opposition Leader **Wab Kinew** moved a non-confidence amendment to the Address in Reply motion, which stated in part that the Provincial Government failed to:

- Develop or implement a real and comprehensive plan to address the health care and economic needs laid bare by the COVID-19 pandemic.
- Protect seniors and elders in Manitoba by raising fees on residents of personal care homes during the pandemic.
- Offer any acknowledgement of the needs of Black, Indigenous or People of Colour (BIPOC) Manitobans in the Throne Speech, present no comprehensive plan to help reduce and end poverty, and offer no real plan for community safety in Manitoba.
- Present any commitments to build new social or affordable housing despite being able to access funds from the Federal Government and making the situation worse by selling government housing units.
- Offer a plan to use the telecommunication assets of Manitoba Hydro to bring broadband to rural and northern Manitoba, and instead pushing for these assets to be sold off.
- Meaningfully consult with Indigenous leaderships for another year regarding the Lake St. Martin outlet channel and other initiatives that affect Indigenous rights and refused to properly

recognize the legitimate rights and roles of Indigenous leadership on matters of harvesting and management of resources.

Later in the debate, Independent Liberal Member **Dougald Lamont** further moved a sub-amendment criticizing the Provincial Government on numerous items including its failure to:

- Adequately test some COVID-19 related supplies like masks so that a large amount of money was spent wastefully in paying for substandard personal protective equipment.
- Maintain adequate home care services during the pandemic with the result that some seniors have not been sufficiently supported at home.
- Provide support for Manitoba businesses, many of whom still face bankruptcy because the Provincial Government will not compensate them for forced closures.
- Protect students, families, teachers and staff in the education by forcing a back-to-school plan that was initially unfunded, and by refusing to commit to essential safety measures against COVID-19 in the public school system.
- Follow the basic duty of upholding the law and the constitution, by introducing bills that undermine fundamental constitutional rights, including the right to free speech, freedom of association and collective bargaining.

Sessional Order

After the Throne Speech debate on October 7, the House agreed by leave to consider a Sessional Order to deal primarily with the ability to sit with Members both in the Chamber as well as through virtual connections. The Clerks devoted considerable amount of work to drafting this Sessional Order, which was essential in order to procedurally enable virtual sittings of the House and committees. A tremendous amount of time, trial and effort was put in by the Virtual Sittings Team to allow Members to be able to participate virtually. The Sessional Order contained the following preamble:

THAT in order to accommodate the use of virtual technology for sittings of the Manitoba Legislative Assembly and of the Assembly's Committees, the following sessional orders are to apply until December 3, 2020;

THAT the Assembly's customary procedures and practices remain in effect for Members situated

in the Assembly Chamber and committee rooms unless otherwise noted;

THAT in the event of a discrepancy with the existing Rules, the provisions of the sessional order are to apply;

THAT in the event of public safety requirements as set out by an Order under *The Public Health Act* prescribed by the Chief Provincial Public Health Officer, the Speaker, House Leaders of Recognized Parties and the Honourable Member for River Heights (or their designates) collectively will have the ability to vary, pause or postpone the proceedings of the House and committees until the said Order is terminated. Upon termination of the said Order, the proceeding of the House and Committees will resume immediately;

THAT for the purpose of attendance, all MLAs participating virtually or observing the Throne Speech proceedings outside of the Chamber due to physical distancing requirements are deemed to be in attendance retroactive to October 7, 2020.

Virtual Sitting Arrangements

In early March, the Clerk contacted many other jurisdictions that had also been considering how to conduct virtual sittings of the House. One of the first steps to establishing this possibility involved pouring over the Rule Book to determine what may or may not need to be changed. These changes were eventually incorporated in the Sessional Order. The Clerk and Journals Clerk took the lead in researching and drafting the extensive Sessional Order (which can be found here: https://www.gov.mb.ca/legislature/business/sessional_order_2020.pdf)

The technological side of this task was extremely challenging as it involved not only finding affordable and effective technological resources, but also determining how the rules and practices could be adapted to the technology. Both of the Clerk Assistant and Clerks of Committees along with the Digital Media Specialist have done superb work alongside the Deputy Clerk in the testing and development phase. Some of the steps undertaken include:

- Closely collaborating with the Hansard, IT and broadcast teams to prepare for a virtual sitting of the House and Committees.

- Researching various video conferencing and online file transfer software. (Zoom was the platform chosen.)
- Months of virtual testing with Clerks and other Assembly staff using the platform both at home and in the Chamber.
- Creating virtual training guides for Members.
- Intensive one-on-one training with all MLAs.
- Practice sessions with MLAs in the Chamber and MLAs connected remotely prior to the start of Session.
- Hiring of “moderators” to manage the platform and host the meetings. The Clerk Assistants and Digital Media Specialist have been acting as the initial moderators until the new hires become more familiar with the unique procedural aspects of the House.
- Creation of a new moderator desk inside the Chamber to monitor proceedings and send MLAs documents virtually when required.
- Sending PDFs to MLAs of bill motions, petitions and other House documents enabling them to move such items virtually.
- Using two stand up podium microphones, one on each side of the Chamber, for Members sitting in the newly created fourth rows.
- Using two large screen televisions to enable Members, the Speaker and the Clerks to see who is participating virtually

The Virtual Experience to Date

While only a few weeks into the current Session at the time of this submission, the tremendous amount of work put in by Assembly staff has already resulted in great dividends. The Assembly has functioned “virtually” seamlessly with the House proceeding through its normal business as scheduled. There have been a few challenges, overcome by the Assembly’s capable staff, such as:

- Members not using Assembly issued headsets.
- MLAs having some connectivity issues.
- MLAs participating virtually getting used to muting and unmuting as part of the proceedings.

The House was quite busy in the first two weeks as all MLAs agreed on October 14 to reinstate Bill 43 from the last session. Bill 43, *The Civil Service Superannuation Amendment Act*, makes significant changes to how the commuted value of pensions are calculated. It was not only reinstated but also passed on the same day. That day, the House also agreed to complete all steps, including Royal Assent, on Bill 39, *The Supplementary*

Appropriation Act, 2020 (COVID-19 Response). This Bill granted Provincial Government departments an additional \$577 million in the 2020-21 fiscal year to deal with the pandemic.

Standing Committees

Hiring of New Auditor General

Since the last submission, the Standing Committee on Legislative Affairs met on July 21 in order to complete the hiring process by which **Tyson Shtykalo** was recommended to be the new Auditor General.

Mr. Shtykalo, had been with the Auditor General’s Office since 2002, serving in progressively senior leadership positions. He was officially appointed Auditor General in August 2020, after serving as Deputy Auditor General since 2016. The Standing Committee on Legislative Affairs first met on January 14, 2020, to initiate the hiring process. During that meeting, a motion was passed to strike a sub-committee to manage the process, including calling their own meetings and meeting in camera. The sub-committee, which met on multiple occasions, consisted of four Government Members, two Official Opposition Members, and one Independent Liberal Party Member.

The Standing Committee on Public Accounts met on one occasion in July to hold an *in camera* orientation training session. Although it was primarily held for its Members, it was open to all MLAs. The purpose of the session was to familiarize Members with the public accounts financial statements and the Auditor General’s report titled “Understanding our Audit Opinion” in preparation for future Committee meetings.

The Public Accounts Committee also met twice in August, once in September and once in October to consider several Auditor General’s reports covering issues relating to the departments of Finance, Justice, Families and the operations of the Auditor General’s office itself. All the meetings were held in the Chamber to permit social distancing.

Current Party Standings

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

Greg Recksiedler

Research Officer/Clerk Assistant



The Senate

Legislation

The Senate was adjourned for much of this quarter as a result of the summer recess, but it was recalled on July 27. On that date, the Senate dealt with Bill C-20, *An Act respecting further COVID-19 measures*, which was passed and received Royal Assent by written declaration.

The First Session of the Forty-third Parliament was prorogued by Proclamation of Her Excellency the Right Honourable **Julie Payette**, Governor General of Canada, on August 18. The opening of the second session occurred on September 23, during which Her Excellency the Governor General delivered the Speech from the Throne in the Senate Chamber.

Chamber, Procedure and Speaker's Rulings

On September 23, in order to allow for physical distancing in the chamber, a motion was adopted after the Speech from the Throne to permit senators to speak and vote from a seat other than their own, including seats located in the Senate galleries, which are to be considered within the bar. The motion will remain in effect until the end of 2020. For the sittings held so far, attendance was coordinated by the recognized parties and parliamentary groups to ensure balanced representation while allowing senators to follow the advice of public health authorities with respect to travel and distancing. The sittings took place with the minimum number of employees required to work on-site to support the sitting.

Committees

On September 30, a motion was adopted to place the second report of the Standing Committee on Ethics and

Conflict of Interest for Senators, which was presented in the Senate on June 18, 2020, during the First Session of the Forty-third Parliament, on the Orders of the Day during the current session. The report deals with the consideration of an inquiry report of the Senate Ethics Officer concerning Senator **Victor Oh**.

Retiring Senators

Senator **Lillian Eva Dyck** retired from the Senate on August 23. She was appointed to the Senate on March 24, 2005, by Prime Minister **Paul Martin** and represented the province of Saskatchewan. She sat as a member of the Liberal Party of Canada for much of her mandate and, from November 2019, as a member of the Progressive Senate Group. Senator Dyck served on numerous Senate committees, including as Chair of the Standing Senate Committee on Aboriginal Peoples. A member of the Cree Gordon First Nation in Saskatchewan, and a first generation Chinese Canadian, she was the first female First Nations senator and first Canadian-born senator of Chinese descent. Before being appointed to the Senate, Senator Dyck was a neuroscientist with the University of Saskatchewan, where she had served as an associate dean and continues to teach.

Max Hollins
Procedural Clerk



House of Commons

The First Session of the 43rd Parliament was prorogued on August 18, 2020, bringing an end to all proceedings before Parliament. The Second Session began on September 23, 2020. This account covers the period of July to the end of September 2020.

Legislation

Matters involving procedures for legislation related to the COVID-19 pandemic are found below in the section entitled “COVID-19”.

Procedure / Privilege

On July 20, 2020, the Leader of the Official Opposition, **Andrew Scheer** (Regina—Qu’Appelle), rose on a question of privilege concerning remarks made by the Prime Minister, **Justin Trudeau** (Papineau), in Committee of the Whole on July 8, 2020. The Leader of the Official Opposition maintained that the Prime Minister had deliberately misled the House in his response to questions about an investigation by the Conflict of Interest and Ethics Commissioner into matters related to SNC Lavalin. Although the question of privilege related to one that the Leader of the Opposition had initially raised in the Committee of the Whole, he argued that, due to the exceptional circumstances, the Chair should consider the matter even in the absence of a committee report. The Speaker took it under advisement.

On July 22, 2020, the Speaker, **Anthony Rota** (Nipissing—Timiskaming), delivered his ruling. He noted that given the challenge with raising a question of privilege in the Committee of the Whole format, it was appropriate to bring the matter to the Speaker, but he also suggested that it would be useful for the Standing Committee on Procedure and House Affairs to look into this issue of questions of privilege arising from committees more thoroughly.

The Speaker also laid out the criteria for determining whether a Member has deliberately misled the House: the statement must be misleading, the Member making the statement must have known it to be incorrect, and, in making the statement, the Member must have intended to mislead the House. In this case, he judged there to be a disagreement among Members as to the interpretation of the Prime Minister’s remarks and that it was not obvious to the Chair that the statement was misleading. The Speaker concluded that there was no *prima facie* question of privilege.

On September 23, 2020, the first sitting of the new session, the Leader of the Government in the House of Commons, **Pablo Rodriguez** (Honoré-Mercier), sought and received unanimous consent for the adoption of a motion organizing parliamentary proceedings until December 11, 2020, including

the use of hybrid sittings (authorizing Members to participate in House proceedings either in person or by videoconference), the submission of electronic documents and the taking of electronic recorded divisions by electronic means. The motion also requested that the House Administration proceed with the development of a remote voting application, and that, until it is ready and approved for use, recorded divisions take place in the usual way for Members participating in person and by roll call for Members participating by videoconference, provided that Members participating by videoconference have their camera on for the duration of the vote.

The use of hybrid sittings has brought forward a number of points of order concerning order and decorum. For example, during a hybrid sitting of the House on September 24, 2020, **Dan Albas** (Central Okanagan—Similkameen—Nicola) rose on a point of order to inform the Deputy Speaker that a member participating remotely appeared to not be wearing a tie. The Deputy Speaker, **Bruce Stanton** (Simcoe North), reminded Members of the dress code and that the Speaker had asked all Members wishing to participate in the proceedings remotely to abide by it. While the Standing Orders do not prescribe a dress code for Members participating in debate, Speakers have ruled that all Members desiring to be recognized to speak at any point during the proceedings of the House must be wearing contemporary business attire. Current practice requires that male Members wear jackets, shirts and ties.

On September 29, 2020, the Speaker ruled on a point of order raised by **Blake Richards** (Banff—Airdrie) concerning the applicability of Standing Order 69.1 to Bill C-4, *An Act* relating to certain measures in response to COVID-19. Mr. Richards argued that the Bill was an omnibus bill and that each of its parts should be the subject of separate votes at Second and, if necessary, Third Reading. Later that same sitting, the Speaker ruled that all parts of the Bill were related to the government’s response to the COVID-19 pandemic, and, therefore, that question on Bill C-4 would not be divided.

On September 30, 2020, the Speaker ruled on the question of privilege raised by **Gérard Deltell** (Louis-Saint-Laurent) regarding the premature disclosure of the content of Bill C-7, *An Act to amend the Criminal Code (medical assistance in dying)*. The question of privilege had been raised on February 25, 2020, in the previous session, and referred to the Standing Committee on Procedure and House Affairs after the Speaker

decided that a *prima facie* breach of privilege had occurred. Mr. Deltell requested that the Speaker find again a *prima facie* breach of privilege on the matter. The Speaker ruled that, given that eight months had elapsed and all proceedings on the legislation, as well as any House orders of reference, had ended with prorogation, the question of privilege would not be revived. The Speaker also raised concerns that the question had not been raised at the earliest possible opportunity.

Committees

On July 16, 2020, the Standing Committee on Finance began a study entitled “Government Spending, WE Charity and the Canada Student Service Grant”. The Committee held nine meetings on this study up to August 13, 2020, calling several witnesses including, **Ian Shugart** (Clerk of the Privy Council and Secretary to the Cabinet), Finance Minister **Bill Morneau** (Toronto Centre), and the Prime Minister.

On July 21, 2020, pursuant to the motions adopted by the House of Commons on April 11, 2020, and May 26, 2020, the Standing Committee on Procedure and House Affairs submitted electronically with the Clerk of the House a report entitled *Carrying Out Members’ Parliamentary Duties: The Challenges of Voting During the COVID-19 Pandemic*. The Committee’s recommendations included the adoption of an incremental approach towards the introduction of virtual proceedings, starting with hybrid sittings of the House. The report had not been adopted at the time of prorogation.

COVID-19

Pursuant to the order adopted by the House on May 26, 2020, on July 8, 2020, the House held its first ever hybrid sitting, allowing a reduced number of Members to participate in person and others to participate by videoconference.

At the start of the sitting, the Speaker implemented a new approach for the Chair to determine whether, when unanimous consent is requested, the House grants it. To maintain clarity and to ensure that all Members, including those Members participating virtually, could be heard, the Speaker asked that only those Members opposed to a request for unanimous consent express themselves. Hearing none, the Speaker could determine that there was consent to proceed.

The House resolved itself into a Committee of the Whole to allow Members, both virtually and in person, to question Ministers on matters related to the COVID-19 pandemic and other matters. The House then proceeded to a take note debate of the ongoing COVID-19 pandemic and measures taken by the government to respond to it. During the take note debate the Finance Minister **Bill Morneau** provided an economic and fiscal snapshot.

Pursuant to Standing Order 28(3), the Speaker recalled the House on July 20, 2020, to consider a bill in the name of the Minister of Finance entitled *An Act respecting further COVID-19 measures*. The House adopted by unanimous consent a motion moved by the Leader of the Government in the House of Commons to, among other measures, manage the legislative proceedings of the Bill: to be deemed introduced and read a first time and ordered for consideration at Second Reading later that day and the next. On July 21, 2020, pursuant to the same motion, Bill C-20, *An Act respecting further COVID-19 measures*, was adopted at second reading and all deemed adopted at all subsequent stages and passed.

Pursuant to the order made by the House on May 26, 2020, the House held two additional hybrid sittings on July 22 and August 12, 2020, during which, in committee of the whole, it proceeded with the questioning of Ministers and a take-note debate on the ongoing COVID-19 pandemic. On August 18, 2020, while the House was adjourned, the First Session of the 43rd Parliament was prorogued.

On September 28, 2020, the Leader of the Government in the House of Commons moved a motion to manage proceedings on a bill standing on the Order Paper, entitled *An Act relating to certain measures in response to COVID-19*. The next day, the Leader of the Government in the House of Commons moved that debate not be further adjourned. This closure motion was adopted and the debate on Government Business No. 1 continued until 8 p.m., when it was agreed to. Given the terms of the government motion, the House proceeded to the immediate consideration of Bill C-4 which was adopted at all stages. The House adjourned at 3:16 a.m.

Opening of Parliament / Speech from the Throne

On September 23, 2020, the Speaker announced that Governor General **Julie Payette** would formally open the Second Session of the 43rd Parliament of Canada later that day.

The Speaker and a small number of Members proceeded to the Senate. The Speech from the Throne was broadcast live on the screens in the House chamber for Members who could not attend in the Senate due to space constraints and COVID-19 physical distancing.

Upon returning to the House, the Speaker reported that the Governor General had made a speech to both Houses of Parliament and laid upon the table a copy of the speech. The Prime Minister moved that the Speech from the Throne be taken into consideration later in the day. The question was put on the motion and it was agreed to.

In subsequent sittings, the House proceeded with debate on the Address in Reply to the Speech from the Throne. The Standing Orders provide for up to six additional days of debate on this. On the fourth day of debate, September 28, 2020, the House of Commons held its first remote recorded division, with a vote on the subamendment of **Alain Therrien** (La Prairie). A world-wide Microsoft outage delayed the vote by more than 30 minutes and led to some Members unable to log into the system. The Chief Government Whip, **Mark Holland** (Ajax) requested and received unanimous consent for those affected to call in via telephone to register their vote. At the conclusion of the sixth and final day of debate, on October 6, 2020, the Address in Reply to the Speech from the Throne was adopted.

Financial procedures

On September 30, 2020, the President of the Treasury Board, **Jean-Yves Duclos** (Québec), tabled the Main Estimates for fiscal year ending March 31,

2021. Pursuant to Standing Order 81(4), the Main Estimates were deemed referred to the several standing committees of the House.

Other

On September 23, 2020, the Speaker informed the House that vacancies had occurred in the representation in the House of Commons, for the Electoral Districts of Toronto Centre and York Centre, by reason of the resignations of Mr. Morneau and **Michael Levitt**, respectively.

On September 23, 2020, after consultation with the leaders of the recognized parties, pursuant to Standing Order 8(1), the Speaker proposed that **Carol Hughes** (Algoma—Manitoulin—Kapusksing) be appointed Assistant Deputy Speaker and Deputy Chair of Committees of the Whole, and **Alexandra Mendès** (Brossard—Saint-Lambert) be appointed Assistant Deputy Speaker and Assistant Deputy Chair of Committees of the Whole.

On September 24, 2020, pursuant to Standing Order 33(1), the Prime Minister, **Candice Bergen** (Portage—Lisgar), the Whip of the Bloc Québécois **Claude DeBellefeuille** (Salaberry—Suroît), the NDP House Leader **Peter Julian** (New Westminster—Burnaby) and, by unanimous consent, **Elizabeth May** (Saanich—Gulf Islands), all rose to make statements to honour the late **John Turner**, Canada's 17th prime minister, who died September 18, 2020. Following these statements, the House observed a moment of silence.

Marielle Hawkes
Table Research Branch

Canadian Parliaments and the Influenza 1918-19

The COVID-19 pandemic has brought some significant changes to how parliaments in Canada, and around the world, operate – particularly as they employ new technologies to increase parliamentarians’ ability to work and meet virtually. In the face of a similar pandemic about 100 years ago, these technologies didn’t exist or were in their infancy. In this article, the author explores how Canada’s provincial legislatures and federal parliament responded to the 1918-19 Influenza and finds that many simply didn’t meet during the pandemic’s peak (or bizarrely held buffets immediately afterwards).

Elizabeth Haig

For all the talk of “unprecedented times,” it can sometimes be easy to forget that Canada has been through pandemics before. The 1918-19 Influenza pandemic (also known as the Spanish flu outbreak - a misnomer as the illness did not originate in Spain) devastated Canada – claiming around 50,000 Canadian lives and infecting thousands more, around 1 in 4 Canadians.¹ The onset of this highly contagious and deadly disease forced the closure of public spaces across the country – including bars, schools, and other non-essential public spaces.² Mask mandates were enacted and stay-at-home orders were imposed on some regions, much like today.³ With limited access to telephones – and Zoom decades away – what changes did provincial and territorial legislatures and the federal Parliament adopt in order to continue working through these difficult times?

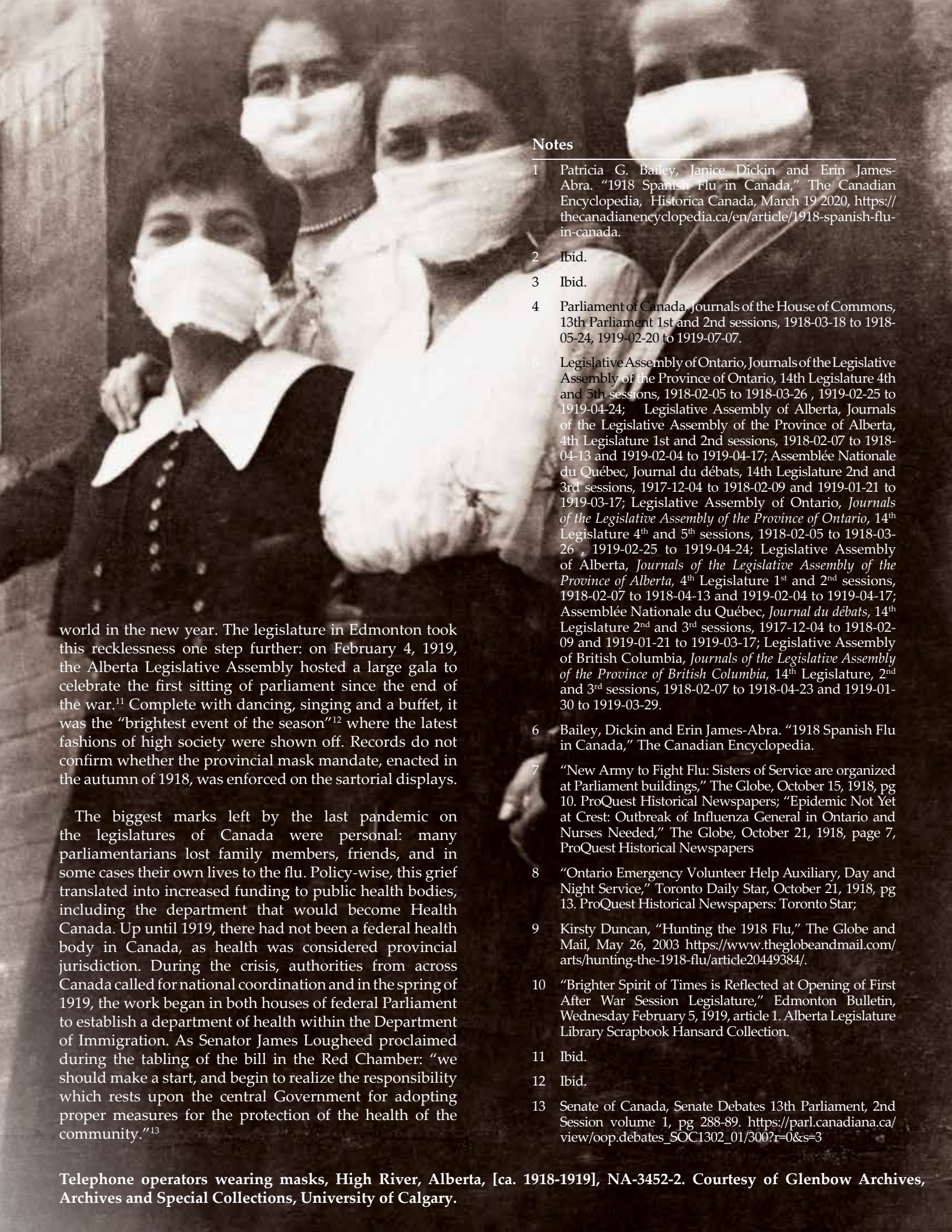
Parliamentary recesses were the most common reaction to the outbreak. The federal House of Commons rose for its summer recess on May 24, 1918, and did not sit again until February 20, 1919.⁴ Although provincial legislature records during this period are sparse, we know that Ontario, Alberta, Quebec, and British Columbia all had similarly long recesses during the peak of the pandemic.⁵ The first case of Spanish flu

in Canada was reported in Quebec on September 8, 1918, and approximately 90 per cent of the deaths in Canada occurred between October 1918 and December 1918.⁶

With the politicians away, the centrally located and spacious legislatures were repurposed as medical facilities. Queen’s Park in Toronto was the home base for the city’s influenza response: a legion of doctors, nurses and volunteers known as the “Sisters of Services” first convened in October 1918 at the Ontario Legislature and dispatched medical services to the surrounding area.⁷ For 24 hours a day, medical officials trained volunteers and tended to patients at the legislature under the direction of Dr. John McCullough, Ontario’s chief officer of health.⁸ There are no records to determine whether Members carried on with their political duties from elsewhere during this time. However, we do know that demand for telephone installations (still a very recent invention) rose sharply that year, as shut-in citizens searched for ways to connect with family and friends.⁹

Upon their return to work in January or February 1919, none of the legislatures appeared to have taken any precautions to prevent the spread of the flu among parliamentarians. Instead, from Alberta to Quebec, provincial politicians packed into their respective chambers, often with spouses or other guests in tow, to listen to the Throne Speech.¹⁰ There are no records in any of the provinces to suggest that distancing measures or face masks were put in place in parliaments, although the third wave of the flu was still raging across the

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world in the new year. The legislature in Edmonton took this recklessness one step further: on February 4, 1919, the Alberta Legislative Assembly hosted a large gala to celebrate the first sitting of parliament since the end of the war.¹¹ Complete with dancing, singing and a buffet, it was the “brightest event of the season”¹² where the latest fashions of high society were shown off. Records do not confirm whether the provincial mask mandate, enacted in the autumn of 1918, was enforced on the sartorial displays.

The biggest marks left by the last pandemic on the legislatures of Canada were personal: many parliamentarians lost family members, friends, and in some cases their own lives to the flu. Policy-wise, this grief translated into increased funding to public health bodies, including the department that would become Health Canada. Up until 1919, there had not been a federal health body in Canada, as health was considered provincial jurisdiction. During the crisis, authorities from across Canada called for national coordination and in the spring of 1919, the work began in both houses of federal Parliament to establish a department of health within the Department of Immigration. As Senator James Lougheed proclaimed during the tabling of the bill in the Red Chamber: “we should make a start, and begin to realize the responsibility which rests upon the central Government for adopting proper measures for the protection of the health of the community.”¹³

Notes

- 1 Patricia G. Bailey, Janice Dickin and Erin James-Abra. “1918 Spanish Flu in Canada,” The Canadian Encyclopedia, Historica Canada, March 19 2020, <https://thecanadianencyclopedia.ca/en/article/1918-spanish-flu-in-canada>.
- 2 Ibid.
- 3 Ibid.
- 4 Parliament of Canada. Journals of the House of Commons, 13th Parliament 1st and 2nd sessions, 1918-03-18 to 1918-05-24, 1919-02-20 to 1919-07-07.
- 5 Legislative Assembly of Ontario, Journals of the Legislative Assembly of the Province of Ontario, 14th Legislature 4th and 5th sessions, 1918-02-05 to 1918-03-26 , 1919-02-25 to 1919-04-24; Legislative Assembly of Alberta, Journals of the Legislative Assembly of the Province of Alberta, 4th Legislature 1st and 2nd sessions, 1918-02-07 to 1918-04-13 and 1919-02-04 to 1919-04-17; Assemblée Nationale du Québec, Journal du débats, 14th Legislature 2nd and 3rd sessions, 1917-12-04 to 1918-02-09 and 1919-01-21 to 1919-03-17; Legislative Assembly of Ontario, *Journals of the Legislative Assembly of the Province of Ontario*, 14th Legislature 4th and 5th sessions, 1918-02-05 to 1918-03-26 , 1919-02-25 to 1919-04-24; Legislative Assembly of Alberta, *Journals of the Legislative Assembly of the Province of Alberta*, 4th Legislature 1st and 2nd sessions, 1918-02-07 to 1918-04-13 and 1919-02-04 to 1919-04-17; Assemblée Nationale du Québec, *Journal du débats*, 14th Legislature 2nd and 3rd sessions, 1917-12-04 to 1918-02-09 and 1919-01-21 to 1919-03-17; Legislative Assembly of British Columbia, *Journals of the Legislative Assembly of the Province of British Columbia*, 14th Legislature, 2nd and 3rd sessions, 1918-02-07 to 1918-04-23 and 1919-01-30 to 1919-03-29.
- 6 Bailey, Dickin and Erin James-Abra. “1918 Spanish Flu in Canada,” The Canadian Encyclopedia.
- 7 “New Army to Fight Flu: Sisters of Service are organized at Parliament buildings,” The Globe, October 15, 1918, pg 10. ProQuest Historical Newspapers; “Epidemic Not Yet at Crest: Outbreak of Influenza General in Ontario and Nurses Needed,” The Globe, October 21, 1918, page 7, ProQuest Historical Newspapers
- 8 “Ontario Emergency Volunteer Help Auxiliary, Day and Night Service,” Toronto Daily Star, October 21, 1918, pg 13. ProQuest Historical Newspapers: Toronto Star;
- 9 Kirsty Duncan, “Hunting the 1918 Flu,” The Globe and Mail, May 26, 2003 <https://www.theglobeandmail.com/arts/hunting-the-1918-flu/article20449384/>.
- 10 “Brighter Spirit of Times is Reflected at Opening of First After War Session Legislature,” Edmonton Bulletin, Wednesday February 5, 1919, article 1. Alberta Legislature Library Scrapbook Hansard Collection.
- 11 Ibid.
- 12 Ibid.
- 13 Senate of Canada, Senate Debates 13th Parliament, 2nd Session volume 1, pg 288-89. https://parl.canadiana.ca/view/oop.debates_SOC1302_01/300?r=0&s=3

