

# Canadian Parliamentary review



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# Canadian Parliamentary review



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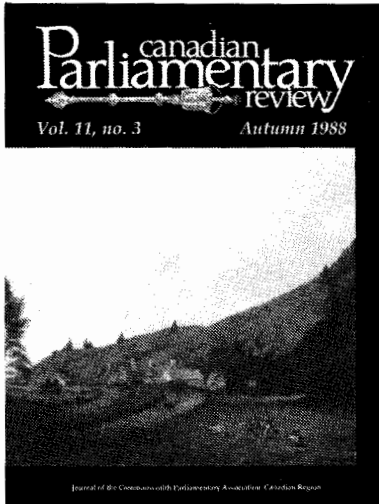
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# Contents



*Scène d'élection à Château-Richer*, by Joseph Légaré (*Séminaire de Québec*). Permission from Musée du Séminaire de Québec. Photographer, Pierre Soulard.

## About the Cover

"In the right foreground, in a field, a curious scene takes place. Four children, some armed with a stick, some with a sling and even a bow, seem to be chasing a huge pig while a fifth, armed with a cudgel, also runs towards it but from the opposite side. Credit must be given to Claire Tremblay who, in her Master's thesis in 1972, first associated this pig (cochon in French) with Joseph-Édouard Cauchon (one of the most influential political figures of his day)..."

It is difficult today, however, to understand the exact meaning of the allegory intended by Légaré. The four children who seem to be chasing the pig are surely swept along after it, like the majority of who swept Cauchon into power. Are they not all rushing towards the other isolated child who come bravely to meet them like the minority opposed to Cauchon? Will they not meet each other in an unequal and already losing battle? It should also be stressed that the single child stands between the pig and the peaceful flock of sheep..."

See *Joseph Légaré 1795 - 1855 L'Oeuvre* by John R. Porter, National Gallery of Canada, 1978, p.100.

## Features

2. **Full-time Members, Part-time House**  
*Don Cousens, MPP\Terry Huberts, MLA\Donald C. MacDonald*
7. **Two Perspectives on the Queen in Canada**  
*William Tupper, MP\Suzanne Blais-Grenier, MP*
10. **Party Discipline and Canadian Democracy**  
*David Kilgour, MP\John Kirsner*
12. **The Meaning of Responsible Government**  
*Christopher Dunn*
14. **What's Happened Under the New Rules**  
*Nora S. Lever*
17. **North America Goes to the Polls**  
*Louis Lavoie*

## Departments

25. Letters
27. Speaker's Ruling
30. CPA: The Canadian Scene
32. The Commons: Then and Now
33. Legislative Reports
38. Public Accounts Committee Activity
39. Recent Publications
42. People
44. Contributors

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 federal, provincial or territorial legislators, former members, legislative staff and all other persons interested in the objectives of the Review are welcome.

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# *Full-time House, Part-time Member?*

*This is an edited version of a panel discussion which took place at the annual Canadian Regional Seminar in Toronto in November 1987. The panelists were Don Cousens MPP, Terry Huberts MLA and Donald C. MacDonald.*

**W. Donald Cousens:** When my staff saw I was speaking on this subject they broke out in laughter to think I would admit to being a part-time member in a full-time House. I like to think of myself as a dedicated, fully involved member of the provincial Legislature who has also maintained linkages to the business world.

We belong to different parties but I think we all share a desire to serve our communities, to serve people and to serve our country. Because most politicians start from that premise I do not think those of us who have other interests do not give any less importance to the responsibility we have to our electorate. I hope I do not, and yet one never really knows for sure, because there are so many things that tug at one's time and pull one in different directions.

Personally I could not have entered politics if I had to give up my other interests. I had a young family and my wife was very concerned about putting all eggs in one basket. She is a great, devoted, supportive wife, but genuinely concerned that the same thing could happen to me as she has seen happen to other politicians. At some point, the electorate decides they no longer want them. Then what do I do?

If I did not maintain my business contacts, I could very easily be shunted aside and, not being independently wealthy, find myself with a long haul to get started again. So it was important to my wife that the security of my family be maintained over the long term. It is one thing to love the job and I do not think there is one of us who does not love politics. If you are in it, you do it because of genuine compassion and concern. The rewards you get are not financial. They are of a different type. But it is very important for my family's security that I should keep some kind of outside interest so that, if something happened, I would be able to fall back on it.

It became very important on September 10, 1987. Just three days before that election the polls showed that the

Conservatives might end up winning only four seats. At that point, I knew I would not be a reelected member. It was like being on an airplane, strapped to a seat, looking out the window and being unable to do a thing about it. But I knew that on September 11 I would have a job waiting for me with my long-time employer. That, by the way, would increase my earnings, but I would not have been as happy a person.

The way I see it you can be the best MPP in the world. You can personally do the best job in the world, but when things happen, as they happened in Ontario on September 10, an individual may not necessarily make the difference. Therefore, I have always maintained business contacts.

How does one do two jobs? First of all, by having an understanding wife at home. I think that is the difference with many of us who still have our marriages intact after being in politics for a while. It is a shared arrangement. You cannot do it by yourself. The family is intricately involved in what you are and how you do it. Therefore, when you are late for supper five nights in a row and you are not able to join the family on certain events because of your involvement, they understand why and it is no surprise to them.

The important thing for me is to be open, not only with my family but with my constituents and my business contacts, so that each knows that I am in a position where I am trying to balance certain things.

I think it starts with that honesty – honesty to yourself that says: "I want to be in politics. I want to do the job, but I also want to protect those other things that are important to me, my family and my home." It is important to them that they have that sense of security.

During my past six and a half years as an MPP I have never hidden the fact that I have had business associations. I do not look forward to the new legislation. I am going to have to reveal how much money I am making on the side, because under the new conflict-of-interest guidelines it may all

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become public knowledge and people will then know how poor I really am. That is part of this new openness, which is another whole subject altogether.

Being a part-time MPP has made me far more aware of the needs of business. I know the value judgments that are being made by business people. Being involved in the business milieu has enriched my capability as an MPP. I have had to walk a line in many cases where I do not want to get caught in a conflict-of-interest situation. My own integrity is something that says, "I do not want in any way to jeopardize the trust that I have been given."

There have been times when I have been asked to do things, as any politician has, and have said, "No, I cannot do that," because it would put me in jeopardy, but it would never take me away from that primary responsibility of serving the constituents. □

**Terry Huberts:** I have been a member of the British Columbia Legislative Assembly for only a year and a half. My constituency is Saanich and The Islands, just outside of Victoria, B.C. Before I became an MLA I knew there was a lot of work involved, but I did not realize how demanding it would be. Not until I became an MLA did I realize that the numerous duties, both inside and outside the House, would demand my full attention.

As an MLA, I think it is important, first and foremost, to serve my constituency effectively and responsibly. I take that very seriously. Whether the Legislature is in session or not, I keep the lines of communication open with the people of Saanich and the Islands through my constituency office, through correspondence, conversations, personal appearances and weekly news columns. I attempt to be accessible. I want people to know that I am available any time if they need me, and that I will be there for them.

During the spring 1987 session I was able to bring two private members' bills to fruition, the *University Foundation Act* and the *City of Victoria Foundation Act*. This was an exciting experience for me, and as a new legislator, it required a lot of research and a lot of hours of hard work.

When the Legislature is not in session, I am back in my constituency, listening to the town councils, meeting with community groups, parents, business people, workers and students. Saanich and The Islands is a large constituency, consisting of three municipalities, four major centres and five islands. Each centre and island has a different feel about it. To visit every part of the riding frequently is a major task in itself. Fortunately, my constituency office has purchased a motorhome to function as a "Mobile office". This allows me to go from one place to the other with a little greater ease, but getting to all these places consistently is quite difficult.

As a matter of fact, the last time I was on Salt Spring Island – and I have been there six times since the election – someone said to me, "I am really disappointed that you are not coming here often enough. I thought you promised during the

election that you would be here more often." Even though I had already been there six times, which is a fair bit in a motorhome, as well as the other little things I had done, it was not quite adequate yet.

Another responsibility I consider important is to be well informed on the issues of the day. This involves analyzing and synthesizing vast amounts of information and a great deal of research. I believe that an MLA needs to be well versed on all issues in order to address the concerns of his or her constituents, and to be able to speak effectively in the House, to the media and to the public at large.

The concerns of my constituents, which I deal with on a day to day basis, relate to such matters as business, taxation, assessment, insurance, workers' compensation, welfare, social problems, health problems, education concerns, plus many others. However, my job is not just problem-solving, it includes many positive aspects, such as delivering lottery grants to assist local organizations. I really enjoy the work, it is rewarding, positive, and uplifting.

In addition to representing the constituents, an MLA has numerous outside duties. When we are not in the House debating the issue of the day, we are called upon to attend public forums and accept speaking engagements. In my case, because I am a member of the Social Credit government, and we do not have a member sitting in Victoria proper, I am often asked to speak on behalf of cabinet ministers who are not able to be in town, including the Premier, which I have done three or four times already. These are added responsibilities to my already extensive duties.

I am also a director of the B.C. Steamship Corporation, a crown corporation which transports tourists from Seattle to Victoria six months of the year. I am a member of the Select Standing Committee of Economic Development, Municipal Affairs and Transportation; chairman of the Select Standing Committee on Agriculture; and a member of the Island Trust Review Committee.

The long hours and the endless meetings are gratifying to me because I take pride in serving my constituency well, and in being part of the Social Credit government's long-range plan to build a strong future for British Columbia.

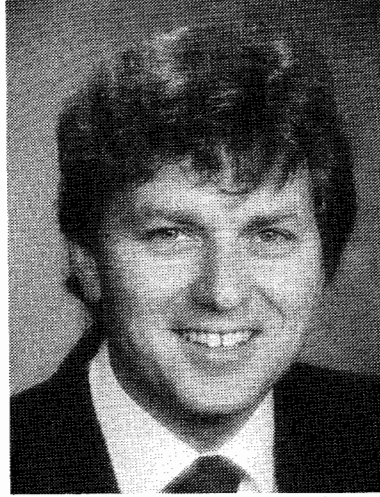
Before I decided to run in 1985, there were several factors I had to consider, one of which was my family. I am very committed to my family. I have a loving, supportive wife and two sons, ages nine and seven. The fact that my children were that young was a major issue to me. Another factor was my busy, one-man veterinary practice. I was used to a certain standard of living. "Would I be able to maintain this as a member of the Legislature?"

I knew, however, that I wanted to be the MLA for Saanich and The Islands. The constituency had been good to me over the past 15 years and I wanted to give something back in return. I also wanted a new challenge. I have always loved people and been at ease with them. So for me running for elected office was the natural thing to do. There is a point





Donald Cousens



Terry Huberts



Donald C. MacDonald

where you wonder whether you should run or whether you should not run and finally say, "Yes, I am going to run. I am committed." You forget all the fears that would discourage you. You do not listen to anybody who tells you that you cannot make it. You get on with it and do the job; and lo and behold, you get elected.

After I got elected, there were major adjustments to be made. I had never been an alderman or a mayor prior to my election to the House. I had jumped from small-animal veterinary medicine to member of the Legislative Assembly. Someone asked my little son Jason, "How do you like your dad as MLA?" His answer was, "I think I like him better as a veterinarian." I am sure you can imagine the many changes involved in making such a switch in occupations. The meetings, and the time I was spending away in the evening were an adjustment for my family.

The veterinary practice also begged adjustment because veterinary medicine is a practice which demands immediate and constant presence. Most people wait until their pet or farm animal is ill and needs immediate attention before going to the veterinarian. It is not like dentistry, where you can book in advance and say, "I will see you on Thursday evening and I will deal with it then." They want you right now, and if you are not going to be there, somebody else will be and you have just lost a patient or client. So the time constraints were affecting my practice. I was not really totally satisfied that I could carry out all my responsibilities in the way I would want.

I also wanted to do a professional job as an MLA. I wanted to be committed to the position, yet to do so demanded most of my waking hours. I soon began asking myself whether I could serve two careers and do both well? For five months, I did do well. I kept it all in balance. When the session started

in March 1987, I hired someone to run my veterinary practice as I soon found that I truly had no time whatsoever. After the session I had to decide whether I would go back to the practice?

The enthusiasm that I had for being the MLA was stronger at this point than for veterinary medicine. I sold my practice in September but I kept the property. I still receive some rent from that. I also made sure that I am free to start another practice in Victoria four years from now should I, for one reason or other, not win the next election.

In light of my experiences, and the numerous duties which devolve upon an MLA, I would have to conclude that full-time legislatures require full-time members. In my opinion, balancing two careers could lead to burn-out, and could also result in a less than satisfactory job being done.

I would also conclude that if conflict-of-interest laws or guidelines become too rigid, many highly qualified individuals may be discouraged from holding office. Holding public office places not only a financial burden on elected officials, but also pressures in terms of personal life. The current remuneration for MLAs in some provinces is insufficient to entice potential candidates to leave their current positions. I think there are a lot of good people out there whom we are probably hindering from joining our ranks.

Given the current demands placed upon our elected representative, it is highly doubtful whether an adequate job could be done on a part-time basis. That is my perspective. □

**Donald MacDonald:** The more I thought about what I might say on this topic, the more I found it impossible and perhaps even presumptuous to be dogmatic as to what should

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be done in any given constituency. The length of the session, the amount of remuneration, and a number of other factors are obviously components that one has to consider as to whether one is going to be a full-time or a part-time member. I am therefore going to try to put this into a historical context and, like my friend from BC, I will speak personally and end up with essentially the same conclusion.

When I became a member of the Ontario Legislature in 1955, we used to meet for eight to ten weeks a year. The session was fitted in between plowing in the fall and seeding in the springtime, notwithstanding the fact that the province had become a mainly urbanized, industrialized province as far back as the first decade of this century.

The pay had been \$3,900 but had just risen to \$5,400. That \$3,900 consisted of \$2,600 in indemnity. The word "indemnity" is significant. It was not a salary. It was not pay. It was something to indemnify you from the job you were normally engaged in, which was presumably going to be your basic source of income and security. The other \$1,300 was a non taxable expense allowance.

Interestingly enough, when Premier Frost raised the pay from \$5,400 to \$7,000 in the late 1950s the reason he gave publicly was that the job was becoming full-time. I do not know whether it was really perceived as that, except that it was the excuse given for raising the pay to the munificent sum of \$7,000, which back in those days was not too bad.

In terms of resources, you had no office and no staff. If you had letters, you called up the Speaker's office and out of the Speaker's steno pool a charming young lady would come down and you would dictate the letters. She would go away, type them and bring them back, and you might never see her again. You scrounged your own supplies. If you wanted a ruler, eraser or some paper or something of that nature, you requisitioned it from the Speaker's stock of material. That was the way legislatures operated only 30 years ago.

John Roberts, in my view, brought the Ontario Legislature into the 20th century. In the seventh decade of the century, he brought it around the corner in terms of recognizing that all backbenchers, all members needed certain resources. Certainly, the opposition needed resources, if opposition, as an integral, important and critical part of the parliamentary system was going to have the capacity to cope with a government, backed with all the resources of the civil service.

The result was that throughout the 1960s the resources for caucuses were slowly increased. There was also recognition that it was not just to help the caucus, but to help the opposition leaders to cope with the rather formidable resources of the Premier of the province, both in his capacity as Premier and the head of the party. Ordinary MPPs, however, still had no full-time secretary. In fact, as the leader of a party, albeit a party of three, back in 1955 – it took me

six months to get a full-time secretary. As for the average members, they did not get full-time secretaries until the 1970s.

There was no real breakthrough in Ontario until we were able to escape from a traditionalism that was due partly to a government's disinterest in any change and partly to the fact that the people in the legislative setup, who might have been the instruments for bringing about change, were arch-traditionalists, particularly our former Clerk.

In the 1970s, as you perhaps are aware, there had been established in Ontario a so-called COGP, Committee on Government Productivity, to examine the whole restructuring in government and streamlining of the process to make it more efficient. Some of us in the Legislature said, "It is all very fine to have the government become more efficient, but to the extent that it does become more efficient, then the executive branch will be even more dominant of the legislative branch." That is always a concern not only in political science circles, but for anybody who is interested in the operation of parliament. The result of those complaints was that the government established a commission, headed by Dalton Camp and including Farquhar Oliver, thrice Leader of the Liberal party, and Douglas Fisher, a journalist and former CCF member of the House of Commons.

With their report, the floodgates were opened. There were three or four reports on legislative changes. In 1975, the Commission's recommendations were reviewed by a select committee of the Legislature headed by former Speaker Donald Morrow, and virtually all the recommendations were accepted. The Camp Commission indicated that if members of the Legislature were going to be rescued from what was referred to as the "case-history syndrome" – people being overwhelmed with constituency problems and frantically trying to cope with the complexity of government, the bureaucracy and red tape – something had to be done.

So members got not only an office, but a full-time legislative assistant at Queen's Park, and in 1975 there was the public funding of constituency offices with a full-time constituency assistant to pick up on some of that case-history load, so that the member would be freer to become what presumably he was elected for, namely, a legislator. Along with that, there were increases in pay and increases in pensions, and gradually there have been added what might be described, and I think are perceived by the public, as perks, namely, mileage allowances for travelling in the constituency and a certain amount of travelling across the whole province, an accommodation allowance so that when those who happen to live outside Toronto, did not have to use up virtually all of their non taxable expense allotments getting, in effect, a second home, because the House was now meeting for six or eight months a year.

In short, we had gotten to the point where today in Ontario a member is receiving an indemnity – I am not sure of the exact figure – in the range of \$36,000 to \$38,000 and a

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nontaxable allowance of something like \$13,000, bringing the total to \$50,000-plus. If you calculate that nontaxable allowance in terms of taxable dollars, I suppose it is the equivalent of \$55,000. As a person who lived on relatively low salaries throughout my legislative career and other careers, I would argue that \$55,000 is the kind of salary a person can live relatively comfortably on.

If a person is going to really fulfil his responsibilities as a member of the Legislature, fulfilling his job as a legislator, sitting in the House, sitting on committees, introducing private bills, doing all of the work related to that; if he is going to look after his constituency with all of the social claims, the economic claims, everything else that goes on in his constituency; if he is going to fulfil his responsibilities on behalf of his party, because he will be called upon to play some role in terms of taking meetings and things of that nature for his party; if he or she is going to fulfil his or her responsibilities in terms of the public, I submit you do not have time for a second job.

When I was attending Queen's University back in the late 1930s, I recall one time coming up to debate the students, the young lawyers, at Osgoode Hall, and I was told by a friend that I should look up J. M. Macdonnell, who had been head of National Trust Company and later became MP for an east-end Toronto seat.

I went to see him because I was interested in going into politics and I just thought it would be useful, since he was chairman of the board at Queen's, to have a chat with him. His advice was "if you are interested in politics, make your pile, become financially independent and then go into politics." As far as I was concerned, the discussion ended right there, because I think serving the public as an elected representative is a lifetime career, worthy to be set alongside medicine or law or the ministry or other professions.

I have two final comments. First section 7 of the conflict-of-interest legislation now before the Ontario Legislature, for example, prohibits cabinet ministers from

practicing a profession, carrying on a business or holding an office or a directorship. Members, on the other hand, are forbidden to make decisions in their capacity as MPPs using inside information for private interests. I grant you that it is not impossible to act and continue to act with integrity, but I suggest that it also might be more difficult, depending on what are your extra-parliamentary activities.

Another point I would like to touch upon is whether being a full-time politician increases the distance between the member and the public since he or she has fewer contacts and experiences outside of politics.

In my experience, the opposite is true. If one is a full-time member of the Legislature, one has an infinite range of outside contacts. You are beseeched individually and collectively by environmental groups, trade union groups, farm groups, teachers' groups, business groups and so on. I would suggest that the kind of experience a person gets in meeting with those groups gives you a breadth of experience in terms of what is happening out in the real world. As a legislator this is more useful than if you happen to be a doctor, a lawyer, or a teacher which may give you a narrower perspective.

May I suggest as kindly as I can that it is just possible that if a person is an industrialist or a businessman, he is not as knowledgeable of the problems of the worker or farmer or the social problems in the province and therefore, although he has some specialized experience it is not broad.

So I conclude, as my friend from BC has concluded, that a full-time House requires a full-time member, at least in Ontario – and I am not being dogmatic with regard to other legislatures. When you have an income level of some \$55,000 plus all the other little perks covering travel, accommodation and things of that nature, you are going to be in the top income brackets and can live well enough, if your objective in life is public service and not making more dollars. □



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# *Two Perspectives on the Queen in Canada*

William Tupper/Suzanne Blais-Grenier

*On October 3, 1987, the Member of Parliament for Nepean-Carleton, Bill Tupper moved a private member's motion urging the government to consider commissioning a statue of Her Majesty Queen Elizabeth II on Parliament Hill in commemoration of the thirty-fifth anniversary of her ascension to the Throne. Some twenty members spoke on the resolution which was adopted by a voice vote on March 22, 1988. Most members favoured the resolution but the debate illustrated that there are still at least two different perspectives on the role of the Monarchy in Canada.*



**Bill Tupper:** Some Members might have a question about the protocol of raising a statue to a living monarch. This is dealt with rather explicitly in the report on commemorative statues to Canadian Prime Ministers and other commemoratives to other eminent Canadians, issued by the Minister of Public Works to Parliament. Section 6 of that report, entitled *The Monarchy*,

states: "1992 will mark the 40th Anniversary of Her Majesty's reign. No other monarch has served as long since the country came into being in 1867. The practice of raising commemoratives only to deceased people has not applied to monarchs. Hon. Members might wish to consider marking this event."

Canadians have a special attachment to the monarchy and especially to Queen Elizabeth II. No monarch since Victoria has engendered such respect and affection, and very special bonds have developed and exist between Elizabeth II and Canadians. It is because of this remarkably special

relationship that I hope I and others can persuade the House on the merits of the motion under consideration.

On February 6, 1952, Elizabeth II became sovereign. One year later, this House, through the *Canadian Royal Style and Titles Act*, named Elizabeth II as Queen of Canada. Her proper title now is "Elizabeth II, by the Grace of God, of the United Kingdom, Canada and her other realms and territories, Queen, Head of the Commonwealth and Defender of the Faith".

The Queen's main occupation and the one for which she was rigorously trained, is to be constitutional head of state for Britain, Canada and 16 other countries. On April 30, 1985, the Queen became the monarch who has reigned longest over Canada since Confederation.

Queen Elizabeth II has been enormously successful as an institution of government and as a working official. Our system of government, put in place in 1867, and involving the monarch as head of state, together with the House of Commons and the Senate, is one of the most stable, most democratic and least costly in political history. And it works.

Elizabeth II has a reputation among senior statesmen as one of the best informed and most sensible public servants at that level in the world. Many regard her as the most effective statesman of our time in Europe.

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Elizabeth II is a very charming person, who inspires affection along with respect. Why has she been so successful? Why do Canadians and others have so much respect for her? What has she done to earn that respect?

One of the principal reasons for her popularity and the respect people have for her is because her interests reflect those of her subjects. She is an acknowledged expert on art, history, politics, and on animals, particularly horses. Before attending a conference, or visiting a country, she studies intensively the history and interests of those whom she will meet. She frequently invites people for luncheon meetings, including artists, scientists, and politicians, in order to discuss contemporary issues and their work.

The Queen has fostered the growth of Canadianism. By assuming the separate title "Queen of Canada" in 1953, she allowed Canadians to realize the dream the Fathers of Confederation had for the Dominion of Canada. In 1962, at her own initiative and wish, she adopted a distinctive personal Canadian flag. In 1965 she proclaimed the national flag of Canada. In 1967, the Order of Canada was established by her authority and with her personal approval. Her presence at the proclamation of the revised Constitution in 1982 turned the event from a politically controversial one into a national celebration.

The Queen has been a great unifier of a diverse Canada. Long before the *Official Languages Act* was thought of, the Queen spoke in both English and French in all parts of this country. I was particularly touched by a speech which she gave in the Province of Quebec during her visit to Canada at the time of the Olympics. I want to quote what she said:

How Canada resolves her political and constitutional differences is her own affair; but how she resolves her linguistic and cultural problems matters to thoughtful people everywhere. The world, all too familiar with the tragic price of conflict between people of different race, language, religion and culture, can look to Canada for a better example, and for a renewal of the human spirit. It can look to her for a practical demonstration of how two strong communities can live together in peace, drawing from each other's strengths, respecting each other's differences.

Her 15 tours and stays in Canada were in 1951 as Princess, 1957, 1959, 1964, 1967, 1970, 1971, twice in 1973, 1976, 1977, 1978, 1982, 1983 and 1984, as well as four stop-overs. As a result of those visits she has brought hundreds of small Canadian communities and groups which ordinarily go unnoticed to national and often international attention.

As the personification of our history, she has presided over and endured the success of numerous Canadian anniversaries and national occasions. They include the centenary of the Confederation Conference in 1964, the centenary of Confederation in 1967, the provincial centenaries of Manitoba in 1970, British Columbia in 1971, and Prince Edward Island in 1973, and the bicentenaries of Ontario and

New Brunswick in 1984. She opened the St. Lawrence Seaway in 1959 and the Montreal Olympics in 1976. In 1983, from Vancouver, she invited the people of the world to visit Expo 86. That was a proud moment. She opened Parliament in 1957, the first monarch to do so, and again in 1977. In 1967 she addressed both Houses.

The Queen's personal qualities have continued to inspire Canadians individually and nationally. This has been an immeasurable contribution to Canadian life over nearly 36 years. The Queen's example encourages many, many people to emulate her virtues in their own lives and in their work. Duty and service have been pre-eminent among her personal qualities. She has always put her country ahead of herself. Her constitutional behaviour has been impeccably correct. Because of this she has brought prestige and credibility to our system of government which, as democratic systems tend to do from time to time, commonly creak. She has been a stable person during a long voyage.

The Commander in Chief of the Canadian Forces is vested in the Queen, and her Majesty has performed three vital services for Canada in this area. First, the Queen has been the focus of loyalty for the Armed Forces, ensuring the military is an agent for and not a master of the state. Second, the Queen has brought proper attention to the forces as a link between them and the people. For instance, in 1984 her Majesty presented a guidon to the historic Queens York Rangers, the first American regiment, in a moving ceremony in Toronto. The Queen's presence drew 50,000 people to the event. These people, frankly, would not have otherwise paid tribute to and learned about that great Canadian regiment.

Finally, as Captain General or Colonel in Chief of the Royal Canadian Artillery, the Canadian Guards Regiment and numerous other regiments and branches, the Queen has always taken an active interest in the lives and concerns of the men and women responsible for defending this country.

As the fountain of all honour, the Queen has played a major role in bringing national and international attention to deserving Canadians. Throughout the 1970s and 1980s, the Queen approved the establishment of distinctly Canadian bravery and service distinctions. The Queen thus fostered and brought recognition to public and voluntary service in Canada, making Canada a better place in the process.

The Queen has fostered the genuine multicultural character of Canada. She herself is a living testimony to the value of multiculturalism. She herself has in her immediate or distant background nearly 30 different ethnic strains and she is the personification of what Canada is as a country.

Her visits to many different ethnic groups in Canada for festivities and celebrations have helped both to enhance the culture of these groups and to integrate them more fully into the Canadian context. Among the more memorable of such visits were those to the Acadians in Prince Edward Island in 1973, the Ukrainian-Canadians in 1978, the

Chinese-Canadian in 1983 and the Italian-Canadians in 1984. The Queen's involvement in the 1984 Loyalist celebrations also had a multicultural dimension because the Loyalists of the 18th Century were white, Indian and black.

The Queen's contribution in this area of Canadian life is nowhere better seen than with the native peoples. In 1970 at The Pas Indian Reserve, she created an opportunity for the Indian people there to gain a public hearing for the injustice they feel they have suffered at the hands of the Government. In 1976 the Queen received a much publicized delegation of Alberta Indian Chiefs representing Treaty Area 6 and Treaty Area 7 at Buckingham Palace. Most moving of all was her 1970 visit to the Inuit at Resolute Village. "Thank you", she said to those too shy to approach her, "for being just the way you are". The Queen has seen genuine Canadian multiculturalism as a pattern for other countries.

Perhaps the Queen's greatest contribution has been to provide the Canadian Government with a human face, allowing Canadians to be truly a national family. No one can doubt her personal commitment to Canada and to its people. When she proclaimed the revised Constitution in 1982, she declared: "There could be no better moment for me, as Queen of Canada, to declare again my unbounded confidence in the future of this country."

In short, the Queen has succeeded in raising the Canadian Monarch to heights undreamed of by Queen Victoria. ♦



Credit (F.R. Leclaire)

**Suzanne Blais-Grenier:**

As a French-Canadian from Quebec, I do not personally identify with royalty as closely as my English-speaking colleagues. For us, the Queen of England was never considered the perfect incarnation of the French fact in Canada. She is certainly a gracious Queen and we would never question her grace and the important role the British Crown has played from one generation to the next. England was a great country, and historically, it certainly gave us one of the major cultures in the world today.

Simply put, the fact is that, in my own region, we are not as thrilled by the Queen of England as people in other regions. We are not quite on the same wavelength. A few years ago, she suddenly became the Queen of Canada. This brought her a bit closer to us. We could feel a bit more than before that she belonged to us. However, I believe that to motivate our

young people and incite them to develop this country, we should find personalities closer to us. Such personalities might not be able to claim that their ancestors go back to the *Magna Carta* as does the gracious Queen Elizabeth, but they should know about the realities of this country and have lived in this British colony which we had to make our own and develop in an admittedly very hostile continent.

Once more, we are not questioning the virtues of the Queen. She has personified the respect of individual rights for an entire nation. She has personified family values, the permanence of certain values of social solidarity, but I believe that she is already ever present in Canada. She is on our dollar. She is on our stamps. She is often here in person. Her children come to see us. So do her cousins, nephews and nieces, and I believe that we always welcome them very graciously, as we would welcome our own family members. We are always very happy that they are here, but if we want to have our own personality, to develop and to define what makes our country so special and so different from England, we have to be able to identify with values which are typically our own.

Moreover, I believe that, by erecting immediately a stone statue to a Queen who is very much alive, we would be freezing her in a state from which she could not longer move. Finally, I prefer to see her here once in awhile as during her last trip when she went to Saskatchewan and to Rivière-du-Loup, met with the public, kissed children and spoke with adults. This seems to me much more charming and human than a stone statue on Parliament Hill.

I prefer to see the Queen as a symbol of this Commonwealth, a group of nations helping each other to develop their most democratic and humane qualities, even though some of these nations might unfortunately lag behind the others. Canada plays a very positive role in that organization. I believe that the Queen is an important symbol of the Commonwealth but, because I represent Quebec in Ottawa, I would prefer to have in this House symbols that are more representative of the French culture, which is one of the two main cultures in a multicultural Canada. I would rather have monuments that represent all of that, and consider the Queen as the symbol and the head of the Commonwealth. I do not think that a statue of Her Majesty would mean very much for those I know in our young generation, for people in their 20s and 30s. I would rather see Her Majesty enjoy a long and happy life and keep her international role as head of the Commonwealth. Quite honestly, I do not think that a stone statue can play a very positive role.

I do not agree with this motion. I hope that we will find in our midst, within our borders, symbols that will help us promote respect for the individual and for our democratic rights. We do not need one more statue of Her Majesty. We prefer to know her as a living monarch and not as a stone statue on Parliament Hill. □

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# Party Discipline and Canadian Democracy

*David Kilgour/John Kirsner*

**R**epresentative democracy in Canada is so dominated by political parties that some experts believe the party discipline exerted on most votes in our House of Commons and provincial legislatures is the tightest in the democratic world. Defenders of our practice argue many Canadians prefer it this way because every candidate for each party can be safely assumed at election time to have identical views on every issue. Others contend our executive democracy, patterned on a system prevailing in Great Britain three centuries ago, requires iron party discipline if our fused legislative and executive branches of government are to function effectively. Another reason, probably the most important, is that the practice makes life easier for the various party leaders.

Unlike parliamentary systems in places such as Great Britain and Australia, virtually every vote in Canadian legislatures is considered potentially one of non-confidence in a government. Even a frivolous opposition motion to adjourn for the day can be deemed by a cabinet, if lost, to have been one of non-confidence. The whips of government parties use the possibility of a premature election to browbeat their members into becoming little more than obedient voting robots. The opposition mind-set is so similar that we have the recent spectacle of both opposition parties arguing that a free vote on an abortion resolution would 'rip out the heart' of our parliamentary system of government. The constituents of both provincial and federal legislators will be the real winners if party discipline is loosened. Private members from both government and opposition benches could then take positions on government bills and other matters based on pleasing their constituents instead of their respective party hierarchies.

A key recommendation of the all-party McGrath report on parliamentary reform clearly favoured more free votes by calling for the inclusion in any opposition motion intended to bring down a government an explicit provision that its passage would constitute a vote of non-confidence. Another solution to excessive party discipline is the "positive non-confidence rule" used in the West German Bundestag.

It prescribes that an administration is only defeated if a successful opposition non-confidence motion also names a new chancellor. For example, in the case of the defeat of the minority Clark government in 1979 on its budget, the West German rule would have left Clark in office unless the Liberals, New Democrats and Social Credit MPs had agreed simultaneously on a new prime minister who could hold the confidence of a majority of MPs.

A study of the Thirty-Second Assembly of Ontario (1981-1985) indicated that legislators voted in uniform party blocs about 95 percent of the time. The same basic pattern applies in the present and at least the previous two Parliaments in Ottawa. The experience suggests the various party leaders could just as well cast a proxy on behalf of all their followers without bothering to have them physically present for votes. It also overlooks that a majority or even minority government can function effectively without such levels of party solidarity.

In the American Congress, where admittedly there is a strict separation of powers between the executive and legislative branches of government, legislation does get passed with far less party loyalty. So different are the practices here in our two countries that *The Congressional Quarterly* defines party unity votes as ones in which at least 51 percent of members of one party vote against 51 percent of the other party. Under this definition, itself astonishing to Canadian legislators, the *Quarterly* notes that for the years 1975-1982 party unity votes occurred in only 44.2 percent of 4,417 recorded Senate votes and in only 39.8 percent of ones in the House of Representatives. This sample, moreover, includes the years 1976-1980 when the Democrats controlled the White House and both branches of Congress.

A consequence of the American practice of voting one's constituents' presumed interests first is the longtime legislative coalition of Southern Democrats and Republicans. During 1981-82, the "boll-weevil" era, this coalition was successful more than 85% of the time because American legislators of both parties has a number of areas of agreement. Whether one agreed with them or not is quite irrelevant; the point is that Canadian bloc voting makes

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bi-partisan or tri-partisan agreement on anything exceedingly rare.

If party discipline in Canada were relaxed, it would be easier for, say, western MPs to defy their three party establishments, if need be, in support of western issues. Coalitions composed of members of all parties could exist for the purpose of working together on issues of common regional or other concerns. The present adversarial attitudes and structures of Parliament or legislatures in which opposition parties oppose virtually anything a government

proposes might well change in the direction of parties working together for the common good.

Following redistribution this summer, each Member of Parliament will represent on average of about 87,000 voters. At present, few government and opposition MPs have any real opportunity to put their constituents first in votes in the House of Commons. Real power is concentrated in the hands of the three party leaderships. Canadian democracy itself would benefit if we put our present mind-numbing party discipline where it belongs – in the history books. ♦

### **Canadian Study of Parliament Group (News)**

The CSPG held a half-day seminar as part of the meetings of the Canadian Political Science Association at the conference of the learned Societies in Windsor in June. President James R. Mallory chaired a panel on the Standing Orders of the House. Other participants included Jim Hawkes, Parliamentary Secretary to the Deputy Prime Minister, Audrey O'Brien, Principal Clerk of the Table Research Branch (sitting in for Robert Marleau, Clerk of the House of Commons) and Queen's University's Professor C.E.S. Franks.

The next meeting will be held jointly with the Association of Parliamentary Librarians in Canada (APLIC) on the subject of "Research and Information for Parliamentarians". It will be held in Ottawa, from October 24 - 26, 1988. Among the speakers will be Joseph Ross, Director of the Congressional Research Service (CRS), Library of Congress; His Excellency Ola Ullsten, Swedish Ambassador and former Prime Minister of Sweden; Jane Bortnick, Assistant Chief, Science Policy Research (CRS); Joe Maingot, Q.C., Law Reform Commission; MPs David Daubney and Jack Ellis, and Senators Roméo LeBlanc and Philippe Gigantes. Other speakers and panelists are yet to be confirmed.



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*A Note on*

# *The Meaning of Responsible Government*

Christopher Dunn

**A** recent issue of this review contained articles by two senators who disagreed about the legal and constitutional interpretation of the concept of responsible government as applied to the role of the Senate.<sup>1</sup> This is a healthy debate; the implications of responsible government should be explored in detail in our parliamentary system. This article however reviews the implications of responsible government in a wider context. It suggests that the traditional meaning of responsible government may be too narrow and could benefit by a rethinking.

Senator Roblin, as many others before him have done, defines the principle of responsible government in this way: "that the government as represented in the House of Commons has the right to govern the country ... because ... it still retains within the House of Commons the power to command a majority of those who sit in that chamber".<sup>2</sup> (He also takes proper care to associate this principle with that of representative government.) His definition is an example of the traditional "elective" meaning of responsible government. A ministry is said to owe its existence to the support of a majority of members in the Commons; the Commons has the right to dismiss a ministry. By enforcing this convention the House of Commons ensures the accountability of the executive to itself and ultimately to the Canadian people.

Many observers have realized that the "elective" definition of responsible government is no longer sufficient. Speaking of Britain, A.H. Birch said:

The maintenance of a united front [by Cabinet] is held in such high esteem by the general public that, significantly, and quite recently, a new linguistic usage has developed. A government is now commonly said to be 'taking responsibility' when it takes a collective action and uses the whips to ensure parliamentary support for it, and to be 'shedding' 'evading responsibility' if it permits a free vote on the matter.<sup>3</sup>

Speaking of Ontario, and by implication the common Canadian case, Schindeler says, "It is no great concession for a Government to accept responsibility for its deeds of omission and commission because neither the legislature nor the general public had the wherewithal to call it to account."<sup>4</sup> Furthermore "to use such terms [individual and collective responsibility] with the intent of describing actualities is at best anachronistic and at worst entirely misleading."<sup>5</sup>

Contemporary analysts have tried to fashion a more inclusive definition of responsible government. T.A. Hockin noted that the modern understanding of responsible government is an amalgam of three themes.<sup>6</sup> There is the 1848 theme, that is, the acceptance of Parliament's power to dismiss sitting governments. There is, secondly, the notion of the government's duty to answer criticisms and furthermore to provide Parliament and the opposition with timely and adequate opportunities to scrutinize, to debate and to make detailed arguments. Thirdly, responsible government means not the interjection of the opposition directly into the decision-making process, as it did previous to 1848, but instead is the myth legitimizing cabinet domination. The opposition seeks the confidence of the electorate, not of the House.<sup>7</sup> However such insights have not found their way into mainstream textbooks.<sup>8</sup>

Wide as the Hockin definition is, however, perhaps we need to become even more inclusive, and to see responsible government as an organizing principle for executive-legislative relations. Responsible government must imply Cabinet controls on the executive government as well as Cabinet accountability to the House. There must be executive and legislative aspects of responsible government, in other words. Norman Ward, using J.E. Hodgetts as an inspiration, perhaps said it best:

responsible government means more than the political life of the executive depends on the support of a majority of the members of the elected legislature. Behind the executive, government departments must be so organized that ministers can exercise a control for which they can be held responsible.<sup>9</sup>

Ward's insight was the inspiration for the gist of a commissioned research paper which the present author did for the Macdonald Royal Commission in 1984.<sup>10</sup> The paper noted that the term collective responsibility could be used in a narrow and in a broad sense. The narrow sense was the traditional "elective" definition referred to earlier. The broader definition included not only the elective meaning, but executive and legislative aspects as well. The executive aspects were "enhanced executive coordination and control." The legislative aspects were the provision of "instruments to allow legislative influence on, but not direct participation in, public decision-making."<sup>11</sup>

Some measures that enhance executive coordination and control are those that:

- involve cabinet ministers in each others portfolios in a management or advisory role
- provide for an increase in information sharing among cabinet ministers
- allow cabinet staff to identify issues for collective cabinet decisions in a formal environment

Some measures that allow legislative influence on public decision-making are those that:

- enhance the disclosure of general government plans, priorities and records to the legislature
- strengthen the role of committees of the legislature or that otherwise give the legislature the power to check the freedom of movement of the executive, without checkmating it.

The Macdonald Royal Commission apparently agreed with the notion of a narrow/broad definitional dichotomy, for it adopted one in its main *Report*. The narrow definition was the elective one; the broad definition highlighted measures that enhanced the representative role, rather than the party role of Commons members:

Responsible government is seen as healthy to the extent that Members of Parliament bring to their assessment of the executive's performance an adequate knowledge of the diversity of interests extant in our national politics and an effective capacity to represent that diversity. This in turn, requires some relaxation of party discipline in selected areas so that the representative role of MPs can have public expression. It also requires that Parliament serve as a central forum for the interaction of interests groups and governments.<sup>12</sup>

The Royal Commission as well appeared to adopt the notion of marrying the executive and legislative aspects of responsible government.

Responsible government is the fundamental basis of democracy within a parliamentary system. In Canada, this system has two essential requirements: first, that Cabinet be effectively in control of the federal

government in all its organizational forms, and secondly, that Cabinet be accountable to Parliament for all executive actions, including the management of the administrative state. Logically, the latter requirement depends on the former.<sup>13</sup>

Not all observers agree with restricting responsible government to its elective sense. We conclude with a note on the utility of a broader definition of responsible government in Canada. The traditional elective approach has been to focus on the power of the House to make or break ministries. However it says little of the crucial period between the making and breaking of the *quality* of the relationship between the executive and the legislature, and between the Cabinet and the bureaucracy, and by implication between the state and its citizens. As an organizing principle, responsible government can be used to link many institutional elements. In an era when Senate reform, Commons reform, reorganization of the machinery of government and general constitutional renewal are so high on the public agenda, perhaps we have to go back to first principles. We may even have to notify them if necessary! Reform without an understanding of basic objectives may be futile. Hopefully our analysis may provoke even more discussion of the meaning of responsible government. □

## Notes

1. Senator Douglas Everett and Senator Duff Roblin, "A Question of Responsible Government," *Canadian Parliamentary Review*, 11:1 (Spring 1988), pp. 14-17, at pp. 16-17.
2. *Ibid.*, p. 16
3. A.H. Birch, *Representative and Responsible Government*, University of Toronto Press, Toronto, 1969, p. 138.
4. F.F. Schindler, *Responsible Government in Ontario*, University of Toronto Press, Toronto, 1969, p. 267.
5. *Ibid.*, pp. 268-69.
6. Thomas A. Hockin, "Flexible and Structured Parliamentarianism: From 1848 to Contemporary Party Government," *Journal of Canadian Studies* 14 (Summer 1979):18-17.
7. *Ibid.*
8. An exception to the general pattern is Michael M. Atkinson, "Parliamentary Government in Canada," in Michael S. Whittington and Glen Williams (eds.) *Canadian Politics in the 1980s*, Methuen, Toronto, 1984. Atkinson expertly traces the overshadowing of traditional notions of responsibility, but he then seems to define it as "the government facing the opposition in Parliament and two teams of party leaders struggling for support in the electorate" (p. 337). This is a rather weak substitute.
9. Norman Ward, *The Public Purse: A Study in Canadian Democracy*, University of Toronto Press, Toronto, 1962, p. 22.
10. Christopher Dunn, *Responsible Government and the Budgetary Process in Western Canada*, A Study prepared for the Royal Commission on the Economic Union and Development Prospects for Canada, November, 1984.
11. *Ibid.*, pp. 6-7.
12. Canada, Royal Commission on the Economic Union and Development Prospects for Canada (Macdonald Commission), *Report* (3 volumes), Ottawa, Supply and Services Canada, 1985, Volume III, part V, p. 36.
13. *Ibid.*, p. 36.

# *What's Happened Under the New Rules?*

Nora S. Lever

*Lynn McDonald's anti-smoking bill was given Royal Assent on June 28, 1988, and has created new interest in the work of Private Members in the Canadian House of Commons. Lobbyists are revising their tactics; bureaucrats are reviewing their practices. Indeed, political scientists will be questioning their assumptions about influence in the policy-making process.*

*Bill C-204, the Non-smoker's Health Act, went through every step of the new procedures for Private Members' Business. Having been duly placed on notice, it was successful in the draw for establishing an order of precedence for debate. It was chosen as a "votable" item by the Standing Committee on Private Members' Business, was given second reading after the full five hours of debate allowed, was scrutinized carefully and amended by a legislative committee, and was finally passed by the House after a further two hours of debate provided by the new rules. According to newspaper accounts, the outcome of the final vote was uncertain to the very end.*

*What has been happening since new Standing Orders came into effect early in the 33rd Parliament? Is Lynn McDonald's bill unique, or are we seeing evidence of real change in the role of the Private Member of Parliament?*

**P**riate Members' Business consists of motions and bills presented to the House by Members of Parliament who are not ministers in the government. They are listed in the Order Paper in a special section devoted to Private Members' Business and are debated in the House four times a week according to an order of precedence established by draw.

Bills address any subject within federal jurisdiction as long as they entail no expenditure of public funds. Motions are limited in scope in that they cannot order the government to take action; rather, they result in an expression of opinion by the House. Since the government alone controls taxing and spending, much Private Members' Business is dedicated to matters of social or ethical import such as the environment, disarmament, and abortion. Other subjects include issues of

regional concern, or call for government action to better the lot of such groups as farmers and senior citizens.

Based on the McGrath Committee's recommendations for reform of the Standing Orders, new rules were established during the first session of the present Parliament. The main change is that at any time in the projected order of business there can be up to six motions and bills which are designated by a new Standing Committee on Private Members' Business to be "votable". Thus, although a large amount of Private Members' Business can still be "talked out" after a single hour of debate, at least some will be decided by the House after a maximum of five hours' deliberation.

Interested Members and staff, students, press and the public are wondering what's happening in Private Members' Business since the change. They ask: How many MPs take

advantage of the new rules? Who are they? What subjects do they address? Have any new bills passed? How many motions have been debated and how many adopted? In an attempt to answer some of these questions in a descriptive manner, this paper focuses on what has happened during most of the second session of the 33rd Parliament (October 1, 1986 - June, 30 1988).

A Member of Parliament may place on notice any number of motions and bills. In practice, some Members put forward several while others offer none. The *Order Paper* dated March 21, 1988, as an example, listed 115 motions (68%) and 53 bills (32%) for a total of 168 items.

Setting aside the Speaker and ministers of the Crown, there are 242 Private Members: 168 PCs, 39 Liberals, 32 in the New Democratic Party, and 3 Independents.

TABLE 1

Private Members' motions and bills by party

|              | Motions    | Bills     | Total      | %          |
|--------------|------------|-----------|------------|------------|
| Ind.         | 1          | -         | 1          | 1          |
| P.C.         | 38         | 21        | 59         | 35         |
| Lib.         | 50         | 13        | 63         | 37         |
| N.D.P.       | 26         | 19        | 45         | 27         |
| <b>Total</b> | <b>115</b> | <b>53</b> | <b>168</b> | <b>100</b> |

As shown in Table 1, Members from all parties take part in Private Members' Business. The number of motions and bills together is fairly evenly divided among the three parties. It appears, however, that PC and Liberal Members prefer motions over bills. In some cases, Members have one or two motions or bills on notice, in others many more; indeed, thirty-one of the Liberal motions are in the name of Charles Caccia, whose interest in environmental matters is well-known.

TABLE 2

Number of items per MP

| MPs | Items |
|-----|-------|
| 41  | 1     |
| 17  | 2     |
| 2   | 3     |
| 2   | 4     |
| 1   | 5     |
| 4   | 6     |
| 1   | 9     |
| 1   | 10    |
| 1   | 31    |

Of the 70 MPs involved, (apart from Mr. Caccia) more than half have one, approximately one-quarter have 2, and the rest have between 3 and 10 motions or bills entered in the process.

A draw takes place every two or three weeks to determine which of these will be debated in the House during the Hour for Private Members' Business.

Once drawn, these motions and bills are examined by the new Standing Committee on Private Members' Business whose members are charged with designating, from any twenty in the order of precedence, a maximum of six which must come to a vote. Between October 1, 1986 and June 30, 1988, the Committee had reviewed 122 motions and bills.

TABLE 3

Designated "votable" by the Standing Committee on Private Members' Business

(As of June 30, 1988)

|              | Designated | Non designated | Total      |
|--------------|------------|----------------|------------|
| Motions      | 13         | 64             | 77         |
| Bills        | 8          | 37             | 45         |
| <b>Total</b> | <b>21</b>  | <b>101</b>     | <b>122</b> |

Table 3 shows that almost twice as many motions as bills were made available to the Committee by random draw, and a similar proportion were in fact designated "votable" by the Committee. Once again it may be of interest to note that, of the 21 "votable" items, 10 were in the name of PC Members, 6 were Liberal and 5 NDP.

The Hour for Private Members' Business takes place every Monday, Tuesday and Thursday from 5:00 p.m. to 6:00 p.m. and on Friday from 2:00 p.m. to 3:00 p.m. under normal circumstances, and the order in which the motions and bills are debated is established by the draw. Theoretically, then, Members should be able to calculate exactly when a certain motion or bill will be debated and adjust their schedules accordingly. In practice, however, the terms of Standing Order 38 make the timetabling of Private Members' Business unpredictable, with cancellations for opposition days, budget debates, emergency debates, etc.. Recognizing that a rigid schedule was unworkable, the House amended the new Standing Orders in order to allow the Speaker to arrange exchanges in the order of precedence for debate of the motions and bills which have not been designated "votable".

Even so, as can be seen in Table 4 (below), the disruptions to Private Members' Business are significant. Of the total number of Hours for Private Members' Business potentially available on normal sitting days, only 63% in fact took place.

TABLE 4

Cancellations pursuant to S.O. 38

| Total Potential Hours | Cancellations for allotted days | Cancellations for other reasons | Hours of debate |
|-----------------------|---------------------------------|---------------------------------|-----------------|
| 202 (100%)            | 44 (22%)                        | 31 (15%)                        | 127 (63%)       |

Forty-four times, expected debates were postponed because of opposition days. Both the Standing Committee on Private Members' Business and the Standing Committee on Elections, Privileges and Procedure have recommended

debate. It is important to notice that not only those motions and bills designated "votable" by the Standing Committee on Private Members' Business can actually be decided. In fact, as the table shows, 6 motions and bills which were not designated votable were agreed to before the hour for debate had expired otherwise causing them to be dropped from the Order Paper without a decision.

Lynn McDonald's Bill C-204, the *Non-smokers' Health Act*, is one of six bills which have been referred to a legislative committee for clause-by-clause consideration after second reading during the period under review here; after intensive scrutiny, it returned to the House for report stage and third reading. Another was Bob Pennock's Bill C-254, *An Act to amend the Citizenship Act (period of residence)*. Bill C-254 passed all stages in the Senate and received Royal Assent December 17, 1987. Bill C-273, *An*

TABLE 5

Status of all items in the House

(As of June 30, 1988)

| Motions              | Talked Out | Defeated | Withdrawn | In Committee | Report Stage | Adopted   | Total      |
|----------------------|------------|----------|-----------|--------------|--------------|-----------|------------|
| Designated "votable" | —          | 4        | —         | —            | —            | 7         | 11         |
| Non-designated       | 53         | —        | 2         | —            | —            | 5         | 60         |
| <b>Bills</b>         |            |          |           |              |              |           |            |
| Designated "votable" | —          | 2        | 1         | 1            | 1            | 1         | 6          |
| Non-Designated       | 26         | —        | 7         | 0            | 2            | 1         | 36         |
| <b>Total</b>         | <b>79</b>  | <b>6</b> | <b>10</b> | <b>1</b>     | <b>3</b>     | <b>14</b> | <b>113</b> |

changes in the Standing Orders to resolve this problem, but no action has been taken by the House.

When a recorded division was demanded the first time after the new rules came into effect, the Chief Opposition Whip (Jean-Robert Gauthier) rose on a point of order to suggest that names be called by rows commencing with Members of all parties who were in favour of the motion, rather than following the usual practice of recognizing Members by party. Subsequent recorded divisions on Private Members' Business have been called in this manner as well. The subjects of these votes were as diverse as abortion, parity prices for farm products, declaring Canada a nuclear arms free zone and a proposal for a Royal Commission on Organized Crime.

Nearly two years have passed since the new rules took effect. Table 5 displays the results of debate during the Hour for Private Members' Business in the House from October, 1986 to June 30, 1988. It includes only those disposed of, and not those still marshalled in the order of precedence for

*Act respecting political rights of public employees* awaited debate at the report stage at the end of June. Following it in the order of precedence for debate at the report stage were Bill C-264, *An Act to amend the Criminal Code* (instruments and literature for illicit drug use); C-205, *An Act to protect heritage railway stations*; and C-210, *An Act to amend the Blue Water Bridge Authority Act*. Bill C-259, *An Act to extend the term of a patent relating to a certain food additive*, was debated at second reading, considered in Committee of the Whole and given third reading all on the same day. That bill was subsequently withdrawn after the Senate proposed amendment to it.

This report is simply an attempt to describe briefly how the new system is working. It would be interesting to know how the Members themselves feel about it. Perhaps their comments could be compiled as a follow-up either in the next few months or after Members have had an opportunity to assess Private Members' Business in the next Parliament. ♦



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# North America Goes to the Polls

Louis Lavoie

**E**lections are on the minds of people in a great number of countries in 1988. Among the countries which have held or are scheduled to hold elections this year are: Cameroon, Jamaica, China, Kenya, Denmark, South Korea, Ecuador, Lebanon, El Salvador, Madagascar, Equatorial Guinea, Malawi, Finland, Mexico, France, Sweden, Iceland, the United States, Iran, Venezuela, Israel, and Haiti. Other countries, including Canada, may well have elections this year although there is still no fixed date for elections in many parliamentary systems.

This article focuses on elections in Mexico, the United States, and Canada. Despite differences in the political institutions of the three countries a number of basic principles apply to all.

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## Principles

The right of a citizen to take part in the decisions affecting public affairs in his country is recognized in all three countries and in the main instruments related to human rights. For example, paragraph 21(1) of the *Universal Declaration of Human Rights*, adopted unanimously by the General Assembly of the United Nations in 1948, stipulates that: "Every person has the right to take part in the direction of the public affairs of his or her country, whether it be directly or through representatives freely chosen."

The Declaration also recognizes that elections play an important role in the political process, as specified in paragraph 21(3): "The will of the people is the foundation of the authority of those who have public powers; this will must be expressed in honest elections which must happen periodically, through universal suffrage and secret vote or according to equivalent procedures insuring the freedom to vote."

The term "honest" has been added to this paragraph so as to insure that electors are not submitted to any constraints or coercive measures in the exercise of the right to vote. A "Democratic general election" ought to meet as fully as possible, the following six criteria:

- All the adult population of the country, or almost all, must have the right to vote.
- Elections must happen on a regular basis and at prescribed times or intervals.
- No important group of the adult population must be deprived of its right to vote or to form a political party and present candidates.

- All seats must be part of the election.
- The electoral campaigns must be run equitably, in the sense that no law, no violence or intimidation will prevent candidates from expressing their views and making their capabilities known or prevent electors from becoming aware of what these candidates have to say.
- The vote must be run freely and secretly. Votes are counted honestly and fast. The candidates who receive the required number of votes by law are elected and therefore represent their electorate until the end of their mandate and a new election is held.

While sharing these main principles, elections in the three countries, are conducted according to different rules for questions such as the registration of electors, nomination of candidates, procedures related to the counting of the votes and various rules related to campaigns and election expenses. Mathematical formulae are used to relate the number of votes to a number of seats but the rules are different in each case. The refinement of electoral procedures is an ongoing process and occasionally some aspects of one system can be adapted to another. The following pages describe different features of elections in the three countries.

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## Mexico

Mexico is a federal republic of thirty-one states and the federal district of Mexico where the capital city of Mexico, is located. The constitution of 1917 guarantees the exercise of individual and political rights to its citizens and, following the Mexican revolution, it also proclaims the right to grievances by peasants and workers.

All persons born on the national territory of Mexico are Mexicans (even if their parents are not), along with all those born abroad from a father or a mother who is Mexican. The right to vote is granted to Mexicans of both sexes when they reach the age of majority which is 18.

Mexico has experienced since its Revolution between 1910 and 1920 an extremely rapid demographic increase. The country had a population of 12 million in 1920, and it is estimated that the present total population is over 80 million, which means that in Mexico the density of population is 41 persons per square kilometer. Although the rate of population growth has been slowing down in recent years, and with further improvement in the level of education, especially in the area of family planning, the current projections would indicate that by the year 2000 the country will have a population of over 120 million people.



Carlos Salinas, President elect of Mexico

Only one-third of the population resides in rural areas, while 50 million Mexicans are in large cities and their suburbs, mainly in Mexico City, Guadalajara and Monterrey. About 70% of the population is less than 30 years old; youngsters looking for employment continue to come into the large cities where the labour market is already saturated.

The president of the republic is elected for *six years* through direct universal suffrage and is not eligible for reelection. He governs, assisted by a cabinet appointed by him made up of 17 Secretaries of State (ministers) and one department head in charge of the federal district of Mexico. The president is also assisted by many large state organizations such as: Petroleos Mexicanos (Pemex), the Federal Commission of Electricity (FCE), the National Institute of Nuclear Investigation, the Mexican Institute of Social Security, etc.

The Senate is composed of 64 members, two for each state and two for the federal district, all elected through universal suffrage for six years. Senators can be reelected, but in no case can they be elected for two consecutive mandates. Since 1977 and until the last election in 1982, the chamber of deputies had a total of 400 members elected every three years according to a system of universal suffrage combining simple or relative majority with proportion representation.

The territory is divided into 300 electoral districts, one deputy being elected for each of these districts under a simple majority system. Beside these deputies, there were 100 seats attributed to minority parties, who receive at least 1.5% of the national vote; these deputies are elected from a regional list

through a system of proportional representation. The effect of this system was to reserve 100 seats to the opposition.

Each state has its own Constitution directed by a governor who is elected for six years through universal suffrage, and not eligible for re-election. There is a Chamber of deputies (elected every three years) and a Superior Court of Justice. The prerogatives of each state are limited since the central body controls all financial matters. Each municipality is administered by an "AYUNTAMIENTO" (Municipal Council) elected through direct universal suffrage. The case of the federal district of the city of Mexico is different; the head of the department of this district, designated by the president of the republic, is assisted by a public servant for each administrative subdivision of the city.

The "Partido Revolucionario Institucional" (P.R.I.) founded by Calles, who was president from 1924 to 1928, dominates the political scene since the revolution and tries to bring together the various interests. It is the party which is considered as being the successor to the parties which were at the base of the revolutionary movements in Mexico; this party is given much credit for raising the standard of living conditions from where they were twenty years ago to these now prevailing in Mexico.

When President Miguel de la Madrid Hurtado succeeded Jose Lopez Portillo in 1982, he inherited an organization where there was a significant amount of corruption, and owing to the decrease in the price of oil, the country was faced with the most serious economic crisis in its history. De La Madrid promised to eliminate corruption and to introduce important economic reforms. In 1988 observers report that there has been some improvement in certain areas but the economic situation is still very precarious and the population is deeply affected by increases in inflation. In December 1986, under the initiative of President De La Madrid, the constituent assembly made changes in the Constitution in order to bring about political and electoral renewal. In July and August 1986 there were public hearings in the city of Mexico in order to listen to political parties, political associations, social organizations and interested parties. These consultations are at the base of changes in electoral legislation which were in force for the recent election. Here are a few of the changes in the new Mexican electoral legislation.

- The number of deputies has been increased from 400 to 500; 200 additional seats (instead of 100) will be attributed on the basis of a proportional representation system. This leaves 300 deputies elected by a simple majority and 200 through proportional representation.
- There were also changes in the composition and management of electoral organizations. Polling day is now a Wednesday (which is a national holiday) instead of a Sunday.
- There was a new method for counting votes, which reduced the amount of time between voting and the publication of official



of education, of public works, of commerce, of industry and agriculture.

Article I of the Constitution of the United States gives all legislative powers of the federal government to a Congress composed of two houses, namely the Senate and the House of Representatives.

The Constitution requires senators to be at least 30 years old, United States citizens for at least nine years and residents of the state in which they are elected. The members of the House of Representatives must be at least 25 years old, American citizens for at least seven years, and also reside in the state in which they are elected to Congress. The states can impose supplementary conditions for eligibility to the Congress but the Constitution gives each chamber the right to fix the qualifications of its members.

Each state is entitled to two senators regardless of its size or population; thus Rhode Island, the state with the smallest area, 3,156 sq.km, has the same representation in the Senate as Alaska which covers an area of 1,524,640 sq.km. Alaska with its population of 534,000 has a representation equal to that of California with its population of over 26 million.

The total number of Representatives is determined by Congress: that number is then apportioned proportionally between states on the basis of population. Aside from the size of its population, each state is guaranteed at least one representative in the House of Representatives. At present, six states —u Alaska, Delaware, Nevada, North Dakota, Wyoming and South Dakota, have only one representative. On the other hand six states have more than 20 representatives, California has 45 and New York 34.

The Constitution calls for a general enumeration (census) every ten years, and the redistribution of seats in the House is made according to demographic changes: the last census was in 1980. According to the initial provisions of the constitution, the number of representatives was to be one per thirty thousand of population. The first chamber was composed of 65 members, and that number was increased to 106 after the first census. If the formula of 1 for 30,000 had been kept intact, the demographic increase would have brought the number to 7000 representatives. Instead the formula was modified as years went along and today, the House is composed of 435 members, approximately 1 for 520,000 of population based on the 1980 census.

The legislature of each state divides their state into congressional districts which should be, as much as possible, equal in population. Electors go to the polls to elect their representatives in Congress, as well as Senators who are also elected every two years. The difference in the election of Senators is that their mandate is for six years with one third of them being elected every two years; this way two thirds of the Senate is always present with some experience in legislation at the national level.

Because Representatives are elected every two years one can say that the life of a Congress is two years. The 20th Amendment to the Constitution stipulates that Congress must meet in a regular session on the 3rd of January each year unless it chose some other day.

The following table gives an overview of the composition of the Congress of the United States.

|                                       | HOUSE OF REPRESENTATIVES  | SENATE  |
|---------------------------------------|---|---|
| <b>Total membership</b>               | 435   | 100   |
| <b>Members for each state</b>         | According to population   | 2   |
| <b>Elected by</b>                     | Voters of Congressional District  | Voters of the entire state  |
|                                       | For Representatives at Large, voters of the entire state                |   |
| <b>Term of office</b>                 | 2 years   | 6 years   |
| <b>Vacancy</b>                        | Filled by special election or at next general election                  | Special election or temporary appointment by state Governor until special or regular election |
| <b>Salary</b>                         | \$89,500 a year   | \$89,500 a year   |
| <b>Session (regular)</b>              | Starts Jan. 3 of each year  | Starts Jan. 3 of each year  |
| <b>Presiding Officer</b>              | Speaker   | Vice President of the United States   |
| <b>Exclusive powers of each house</b> | Originates revenue bills  | Approves or rejects treaties  |
|                                       | Initiates impeachment against civil officers                            | Tries impeached officers  |
|                                       | Elects a President if no candidate has a majority of the electoral vote | Confirms or rejects appointments made by the President  |
|                                       |   | Elects a Vice President if no candidate has a majority of the electoral vote                  |

Source: United States Information Agency, *An Outline of American Government*

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Parties are at the basis of the American political system. The Republican and Democratic Parties compete at all levels of political life, whether it be for the position of municipal councillor, mayor, governor, or member of congress, president or vice president. The selection for all these positions takes place in two steps: the first one, that of the designation of a candidate is made at the party level; the second and the last one is made at the national level or locally according to the position.

The present methods of designating candidates have improved and changed during the course of the history of the United States, but in each case some aspects have remained unchanged. The most ancient of all, which dates from the colonial years is what is referred to as the "caucus". It is a meeting of party leaders during which they come to an agreement as to which candidate they will present. As the nation was growing and its political organization was becoming more complex, the local caucus started to delegate representatives to meet other representatives and form groups, which would be larger, to make the final selection of candidates. These meetings called "conventions" were the prototypes of the large conventions at which are designated the candidates of parties to the presidential elections. The third way of designating is through the method of the "primaries". These are elections within a party, at the states level; the aim of these elections is to allow electors to choose directly the candidates for their party.

Every four years, the electoral process reaches its peak when presidential elections happen. The candidates of the parties are designated at state conventions which are held during the last few months before the election; those who are chosen are generally required to vote for a certain candidate at least for the first vote.

A partial list of the principal steps towards the presidential elections of November 8, 1988, is listed below.

- February 16 New Hampshire Primary
- March 8 Southern States primaries "Super Tuesday"
- March 15 to 25 Illinois Primary
- April 19, Michigan and New York Primaries
- June 7 California and New Jersey Primaries
- July 18 to 21 Democratic Convention (Atlanta)
- August 15 to 18 Republican Convention (New Orleans)
- September 5 Official start of the campaign
- September 15 and October 11 and 27 Television debates
- November 8 Voting day.
- January 20 1989 Inauguration Day.

On November 8, if the turnout remains what it was in previous elections about 50% of Americans over the age of 18 will go and vote for sheriffs, mayors, governors, senators, representatives as well as the president. In some cases the

elector may be asked to say "yes" or "no" to a series of questions.

A special mechanism to elect a president is peculiar to the American system. Although the names of candidates appear on the ballots, technically the electors of each state do not actually vote directly for the president and vice-president. Instead, they select a slate of presidential electors, equal to the number of Senators and Representatives each state has in Congress. The candidate having obtained the greatest number of votes in each state wins all the electoral votes of that state.

The presidential electors of all 50 states and the District of Columbia – a total of 538 persons – comprise what is known as the Electoral College. Under terms of the Constitution, the College never meets as a body. Instead, the electors gather in the state capitals shortly after the election and cast their votes for the candidate with the largest number of popular votes. To be successful, a candidate for the presidency must receive 270 votes. The Constitution stipulates that if no candidate has a majority, the decision shall be made by the House of Representatives.

On November 8, Americans will decide whether between George Bush, of the Republican Party or Michael Dukakis, of the Democratic Party will become their president. The current Vice-President, George Bush, after having eliminated rather quickly his five rivals, had in his pocket the nomination at the National Republic Convention convened for August in New Orleans. Michael Dukakis, governor of the state of Massachusetts, practically unknown outside the borders of his own state a year ago has had to work hard during the primaries; finally on June 7, during the last round of the primaries he won enough votes to get his party's nomination at their national convention in July at Atlanta.

It is not easy at first glance to see a difference between these two characters equally reserved, prudent and somewhat colourless on occasions; the resemblance does not stop there, even if it has its limits. Both men are also pragmatists and not idealists. Somewhat lacking in precise programs, both men present themselves, their individual background and accomplishments as the best qualified to do the job. At the end of August polls seem to favour Mr. Bush who appointed Senator Quayle from Indiana as his running mate.

What remains to be seen is who, in the next two months will best be able to convince the American electorate that he will do the job that is expected at the head of what is one of the two most powerful nations in the world.

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## Canada

Canada is a constitutional monarchy, a federation with parliamentary institutions based on responsible government. Further to the 1982 Constitutional Act, the Canadian Constitution is now in Canada and the British Parliament has



relinquished its authority as it existed in the British statutes, including the possibility to amend the Canadian Constitution.

In theory executive power belongs to the Queen and her representative appointed on the recommendation of the Prime Minister. In practice executive power belongs to the Prime Minister with his cabinet, who are generally members elected to the House of Commons.

Canada, like Mexico and the United States, has a bicameral legislature formed of a Senate whose members are appointed, and a House of Commons whose members are elected. Constitutionally speaking, the two Houses have generally the same powers, but in practice the principal laws and initiatives originate with the Prime Minister, the Cabinet, and the House of Commons.

There are 104 senators, appointed by the prime minister, until the age of 75. Members of the House of Commons are elected through universal suffrage for a maximum term of 5 years. A member of the House of Commons represents the population of an electoral district where he was elected; the districts are apportioned among provinces in relation to their demographic makeup. Nevertheless, the smaller provinces historically have had proportionately a larger number of districts than the more populous provinces.

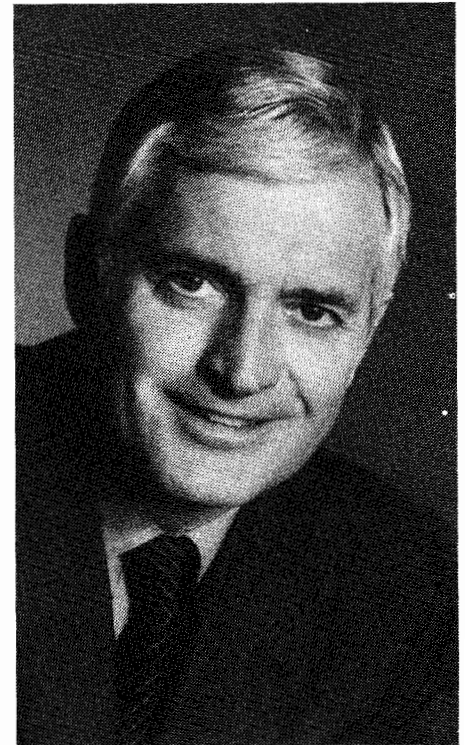
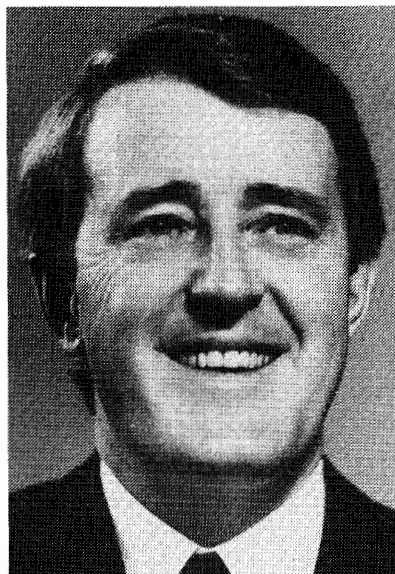
The ten provinces have a great amount of autonomy where political affairs are concerned. In each province, the federal

government appoints a Lieutenant Governor, who normally takes advice from the provincial Executive Council responsible to a provincial legislature whose members have been elected for a maximum period of 5 years. All provincial legislatures have been unicameral for a number of years.

In Canada, as in most democratic countries, the electoral system comprises the elements by which an election at the national level is run. It is the law which controls the holding of elections, the conditions for the exercise of the right to vote, of the counting of the ballots, and the manner in which the results will affect the composition of the House of Commons.

In a general way, everyone who is 18 years and over has the right to vote, if that person is a Canadian citizen and if he or she ordinarily resides in Canada on the first day of the enumeration and continues to reside there on the day of the election. There are very few persons excluded and when they are, it generally relates to the position they hold at a point in time.

All persons who have the right to vote can also run for office. The law does not oblige a candidate to reside in the electoral district where he or she is running, but very often Canadians give their preference to candidates who live in the electoral district which they wish to represent, or to which they have ties for one reason or another.



Who will lead his party to victory in the next Canadian election. (l-r) Ed Broadbent, NDP; Brian Mulroney, PC; John Turner, LIB.

To become a candidate a person must simply present a nomination paper with the signatures of at least twenty five persons who are duly qualified in that particular electoral district. Moreover, all candidates must make a deposit of \$200.00; this amount is reimbursable if a candidate obtains at least 15% of the valid votes cast. Since the coming into force of regulations concerning election expenses, a candidate must also have a chartered accountant, along with an official agent who is the only person permitted to receive contributions or incur expenses in the name of a candidate.

Effective July 14 of this year there are 295 electoral districts each of which returns one member to the House of Commons. When districts are established great care is taken to insure that the number of representatives from each province is proportional to their own demographic situation in relation to the whole of Canada. It is equally imperative, as required under the Constitution, to revise the boundaries of electoral districts following each decennial census.

Immediately when the Chief Electoral Officer receives the new population figures from a census, he must compute the number of seats to be attributed to each province, according to a formula established in the Constitution. An independent commission, presided by a judge appointed by the chief justice of the province is then constituted in each province, along with the commission in the Northwest Territories, to determine the new boundaries of the electoral districts. The office of the Chief Electoral Officer must supply administrative support along with technical and professional help to the commissions.

There are two fundamental aspects to the federal electoral system which one must remember: the principle of representation in the House of Commons, that is to say the manner in which the number of seats to the House of Commons is calculated and the way they are distributed among each of the provinces and the territories; and secondly, the way in which the boundaries of the electoral commission of the electoral districts are established and periodically revised in order to reflect the evolution of the representation in the House of Commons and the movement of the population from one region to another within the country.

The history of Canada is one of numerous compromises; the question of the representation of the provinces in the House of Commons does not escape this tradition. Be that as it may, one can say with certainty, even today, that the principle of representation according to population is still the basis of the electoral system.

In June 1986, the Government tabled a White Paper in which a series of electoral reforms were proposed which were basically a detailed examination of the recommendations included in the reports of the Chief Electoral Officer for 1984 and 1985. One of the principal objects was the rewriting of the act so as to make it as understandable as possible. The proposals contained in the

White Paper corresponded to three main objectives; widen the franchise by eliminating administrative and judicial obstacles; modernize the management of elections by eliminating useless and expensive procedures; and render more practical the exercise of the franchise.

One year after the tabling of the White Paper referred to above, the Deputy Prime Minister and President of Privy Council, Mr. Donald Mazankowski, presented a bill in which one can find the majority of the recommendations contained in the White Paper of June 1986.

Here are a few of the proposals included in Bill C-79:

- Judges appointed by the Federal Government, along with mentally handicapped people would in the future have the right to vote. The special category of "temporary worker" would be abolished.
- Deputy Returning Officers would be appointed from a list supplied by the candidate or representative of the party in power and the Poll Clerks would be appointed from a list supplied by a candidate or representative from a party, other than the governing party having obtained the largest number of votes at the previous election in that electoral district;
- Section 18 of the Act dealing with enumeration and the revision of the electoral lists would be entirely rewritten in order to modify the system of registration and to make the rules easier to understand. The principal modifications would be the following:
  - except for areas which are isolated and designated by the Chief Electoral Officer, in all other rural areas the enumerators would have to go door to door as it is done now in urban areas;
  - the Returning Officer would be in charge of the revision of the urban lists; two revisors would be appointed by the Returning Officer in each revisal district, with one of the revisors being designated by the candidate representing the party in power and the other by the candidate of a party other than the party in power having obtained the greatest number of votes at the preceding election in that election district;
  - the urban revision would take place on the 14th 13th and 12th day, preceding to election day, with a special session being held to add names only on the 3rd day before polling day;
  - central polling places, the offices of the returning officers and the advance polls would be located in buildings which have level access. All ordinary polls should also have level access when it is possible and in cases where it is not possible the returning officer must explain why he could not have a level access for that poll.
- The Special Voting Rules which at present govern voting by the electors of the Armed Forces and of the Federal Public Service, along with their dependants and other persons living with them outside of Canada (along with veteran electors) would be reformulated in order to allow all Canadians living outside Canada along with electors from the Forces to vote at all federal elections and not only at general elections.
- Mobile polls would visit small residences for incapacitated electors, such as nursing homes in order to take the votes of those persons at predetermined hours on polling day;
- Voting by proxy would not be restricted to designated categories of electors, but would be accessible to all persons

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having reason to believe that they could not use any of the other voting opportunities including inmates in penal institutions awaiting trial.

- All new political parties would have to find signatures of 10,000 electors, aside from the 100 members presently required, before being able to be registered;
- all parties would have to register their local associations.
- All candidates would have to produce a list of 100 electors on their nomination paper (instead of 25 the way it is now) and a deposit of \$500 (instead of \$200 the way it is now). The deposits would be automatically returned upon reception of the report of election expenses and receipts for income tax not used. The candidate would have until five o'clock on nomination day to officially withdraw his candidature.

The Bill also proposes a number of other reforms: the sale of alcoholic beverages on polling day will be permitted; the rules dealing with controverted elections would now be included in the Canada Elections Act; the publication of results from one time zone to another where the vote is still going on would not be considered as an infraction anymore; an automatic judicial recount would become necessary if there were a maximum of 35 votes (instead of 25 like it is now) between the first and the second candidates.

Given the importance of the proposed changes, the Office of the Chief Electoral Officer hopes that the final modification will become law as soon as possible. In fact, these modifications would have enormous repercussions on the preparations for the next election and the program of training for all returning officers; in early July '88 the bill was presented for second reading but not referred to Committee.

The government House leader, Mr. Doug Lewis, explained that the government wanted to have legislation passed on Free Trade and other bills already introduced and currently at the discussion stage.

Elections at the federal level in Canada are expected in the Fall of this year or in the Spring of '89; the government has until the Fall of '89 to call an election. The three parties represented in the House were almost equal in popularity according to current polls at the time of writing and this makes for a most interesting and active period ahead of us.

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## Conclusion

There exist a great number of electoral systems and only a few lend themselves to generalizations. The English world, for example, has followed traditions different than those of continental Europe. Countries which were once colonies of Great Britain, including Canada and the United States, have kept the great simplicity of the uninominal majority voting system, often referred to as "first-past-the post-system", while much of the rest of the democratic world seems to prefer some kind of proportional system of representation.

One must remember that an electoral system cannot be well understood unless considered along with the political regime to which it is associated. Laws relating to the fairness of electoral campaigns and the actual voting, the restriction imposed on political parties and on candidates along with the question of responsibility, are all points which have been resolved in different ways in various countries. Nor is it possible for us to give magical answers to questions concerning the exact size of the legislative body or the frequency of elections.□

# Letters

Dear Editor:

It was with interest that I read Ian Stuart's article entitled "Canada and the Turks and Caicos Islands" in the Summer 1988 edition of *Canadian Parliamentary Review*.

In his article, Mr. Stuart contends that my committee recommended that the government "enter into talks with the Turks and Caicos Government" provided certain questions of process and timing were addressed. He appears to be implying that the principle of association was both accepted and recommended by the committee.

As I indicated in my press release of September 14, 1987: "the report should be seen as an examination of the issues that would have to be addressed if the countries involved ever decided to seriously explore the issue". The report was an analysis of the *pros* and *cons* of the issue and was intended to help guide a decision on the principle, rather than a recommendation of association and a discussion of appropriate procedures and timing as Mr. Stuart suggests.

While Mr. Stuart often uses my committee's "recommendations" to support his case for association, he ignores the report's analysis of the costs and benefits of association. The committee concluded that it sees only limited advantages to entering into a full political or economic association with the Turks and Caicos Islands. This recommendations seems to have failed to persuade Mr. Stuart who proceeds to make many of the same arguments and assumptions about potential benefits that the report refutes.

Equally troubling is his contention that association will increase Canadian exports to the Turks & Caicos, as it is unclear how this expansion would come about. While

Mr. Stuart suggests that the islands currently "have to" import goods from Miami at US dollar rates, no explanation is given as to why they "have to" and how this would be altered by association. The Turks & Caicos are indeed free to import Canadian goods, yet market forces dictate that these goods be purchased in Miami. Association would likely have little impact on these market-generated trade patterns.

Mr. Stuart in the preamble to his article, suggests that the new government in the Turks & Caicos has stated that one of its first priorities is an examination of the country's relationship with Canada and that some type of association with Canada is a very real possibility. The implication is also put that the new government has been given a mandate to negotiate association. Neither contention is accurate. While Chief Minister Skippings did indicate a willingness to discuss improving economic ties, he repeatedly asserted that he was not initiating any discussions, but was merely responding to the interest expressed by a number of individual reports. Also, I have been advised by External Affairs that the issue of association with Canada was not raised during the recent Turks & Caicos election campaign.

Yours very truly,

David Daubney, M.P.  
Ottawa West



## REPLY

Dear Editor

In response to the letter from David Daubney, MP regarding my article in the *Canadian Parliamentary Review* on Canada and the Turks & Caicos, Mr. Daubney has an advantage over me that he is exploiting.

The Report of the Progressive Conservative Caucus Sub-Committee on External Affairs that looked into the matter of potential Association between Canada and the Turks & Caicos Islands was a confidential Caucus document. Even though I was one of those who addressed this Sub-Committee, I was not allowed to read the Report, and therefore had to base my comments on conversations with people who were in a position to understand its contents and intent. Also, it was made clear to me that the Report was affected by the fact that Britain had just called an election in the Turks & Caicos and Canada could not be seen to be interfering in the internal, democratic, elective process in another country. Therefore, while one might wish to say "A", because of "B", one could only say "C" very cautiously.

I too have an advantage. The Committee did not travel to the Turks & Caicos for first hand information, nor did any of its Members visit there. I have been to the Islands many times since 1974, I know many of the Canadians who have invested there, and/or live there, are investing or retiring there and are planning to do so. I count several of them as long-standing friends. I have about 8 close personal friends and acquaintances in the Islands and in Canada who are Islanders. While Mr. Daubney may have some knowledge I do not have, I in turn may have some information he is not party to.

While Mr. Daubney has dealt with the issue of the Islands once, for me it is a full time, 24 hours a day involvement, and I wrote my article from that perspective.

I am as "troubled" as Mr. Daubney in the matter of the way Association would increase Canadian exports to the Islands. I believe it will. He doesn't seem to think so. I did not deal with the issue of why the Islands must import from Miami because that was not within the perspective of an overview article. However, I do not agree that market forces dictate that the goods going to the Islands be purchased from Miami. Neither do I agree that Association would have little impact on the "market generated trade patterns."

Canadians can get a transport truck load of Canadian goods from Toronto to Miami for \$1,800.00 Canadian dollars, delivered to the dock for the ship to the Turks & Caicos. The Miami suppliers (since Florida is not a major manufacturing state) also have incoming shipping costs from various parts of the U.S. Both suppliers have the same costs to ship to the Islands from Miami. However the Canadian supplier will accept Canadian funds for his goods, and the Miami supplier wants U.S. dollars. Therein lies the difference and the advantage.

Also, Association would bring the common use and acceptance of Canadian dollars in tourist establishments and many businesses. Currently, since the Islands are on the U.S. dollar, they would not be

inclined to accept Canadian currency, but if they can use that Canadian dollar to go to the wholesale Canadian importer and buy their imported goods at a dollar-for-dollar basis, there is no reason why they would not accept and utilize Canadian funds. The only difficulty would be having to have two bank accounts: one in U.S. dollars and one in Canadian dollars ....

Mr. Daubney really surprises me however in his last paragraph. He calls my statement that the new Government in the Turks & Caicos has stated that one of its first priorities is an examination of the country's relationship with Canada a contention and not accurate. Really? I am quoting our President Ralph L. Higgs, and our Vice-President Dalton Jones (both Islanders who live and work in the Islands) who held meetings with the new Chief Minister, and the Deputy Chief Minister and the entire "Cabinet" in which they were told precisely that! Of course Mr. Daubney would not know about those conversations.

Mr. Daubney also suggests that the new Government has not been given a mandate to negotiate Association. They do in fact have an overwhelming majority and the right and mandate to make all the decisions they are required to make on behalf of the electorate, just as the Government of Canada has the right to make such decisions on matters such as Free Trade without a specific mandate from the Canadian electorate.

He further states that he has it from External Affairs that the issue of Association between Canada and the Islands was not raised during the recent election in the Islands. In fact there were public political meetings held on all the inhabited Islands (except, I believe, Salt Cay) on the issue of Association. There were major articles on both Island newspapers. There were interviews and discussions on Radio Turks & Caicos. There was both paid advertisements and editorial copy given the subject throughout the media. And, the only Party that came out against the issue publicly, and this position appeared in the local press, didn't win a single seat!

... The Hon. Oswald Skippings, Chief Minister of the Islands has recently invited the Prime Minister of Canada to visit the Islands, setting up the opportunity for the start of negotiations on Association. These would seem to be positive steps forward, and from my perspective, "the ball is now in our Court".

Let us hope the Government of Canada carries through on this historic opportunity, and sits down and conducts talks with the Government of the Turks & Caicos before it slips through our fingers.

Respectfully,

**Ian A. Stuart**  
**Vice-President, Turks & Caicos**  
**Development Organization of**  
**Canada**



# Rulings

## Relations Between the Chambers: Rulings by Speakers Guy Charbonneau and John Fraser, June 7 and July 11, 1988

*Bill C-103, An Act to increase opportunity for economic development in Atlantic Canada was introduced by the Conservative Government in the Spring of 1988. It went through the normal legislative process, received third reading and was sent to the Senate. In the Upper House the Liberal majority instructed the Finance Committee to divide Bill C-103. The procedural acceptability of this move was challenged and Senate Speaker Charbonneau gave the following ruling.*



**Guy Charbonneau:** On Wednesday, June 1, the Chair was asked to rule on the acceptability of the motion of the Honourable Senator Graham:

That it be an instruction of this House to the Standing Senate Committee on National Finance that it divide Bill

*C-103, An Act to increase opportunity for economic development in Atlantic Canada, to establish the Atlantic Canada Opportunities Agency and Enterprise Cape Breton Corporation and to make consequential and related amendments to other Acts, into two Bills, in order that it may deal separately with Part I, entitled the Atlantic Canada Opportunities Agency, and Part II, entitled Enterprise Cape Breton Corporation.*

In the discussion which followed, all Senators agreed that this motion was somewhat unusual to the proceedings of the Senate. It is for this reason that the Chair wanted to delay its ruling which had been promised for last Thursday. I wish to apologize to all Honourable Senators who may have been inconvenienced by this delay, but the matter is of such importance that more time was required to fully consider the point of order raised by Senator Flynn and the comments made by Senator MacEachen, Senator Stewart and Senator Molgat.

***“The issue before us is whether it is in order, within the procedures of the Senate, to move a mandatory instruction to a committee that Bill C-103, a bill passed by the House of Commons and sent to the Senate for concurrence, be divided into two separate bills.”***

As Senator Stewart succinctly noted on Wednesday, Senators must ask themselves what reasons could there be for prohibiting the moving of such a motion.

In deciding this question, it is usual to examine the precedents for similar motions. After searching the Senate Journals, no Senate precedent can be found. With respect to House of Commons precedents, it does not appear that the House of Commons has ever divided a Senate bill. With respect to the House of Lords, *Erskine May* states on page 502:

Only one attempt has been made to divide a bill brought from the Commons ... and this was defeated. But the instruction was objected to on its merits as well as on its unprecedented nature and the technical difficulties it would create, so that the propriety of dividing a Commons Bill has not been decided.

With respect to Australian procedure, *Odger's Australian Senate Practice*, Third Edition, states on page 214, “No precedent can be found in the records for an Instruction for the division or consolidating of Bills...”.

The Chair feels that searching for precedents, in this instance, is not very helpful. With respect to the motion made in the Lords on July 29, 1919, *Erskine May* states that the propriety of an Upper Chamber dividing a bill from the Lower Chamber has not been decided. The 1919 motion would have been a more useful precedent had a Speaker's ruling been given. That no such



ruling was rendered did not prove, in my opinion, that the motion was procedurally acceptable. *Erskine May* notes that:

“in the enforcement of rules for maintaining order, the Speaker of the Lords has no more authority than any other Lord, except in so far as his own personal weight and dignity of his office may give effect to his opinions and secure the concurrence of the House. As a consequence, the responsibility for maintaining order during debate rests with the House as a Whole. The Leader of the House has a special part to play in expressing the sense of the House and in drawing attention to cases where the rules of procedure have been transgressed or abused.”

The Chair has reviewed the debate in the Lords in 1919 and notes that the Civil Lord of the Admiralty (the Earl of Lytton) raised certain procedural problems which would occur if such a motion was adopted. In any event, the 1919 precedent, in my opinion, remains somewhat tenuous.

The lack of precedents does not in itself prohibit the acceptability of Senator Graham's motion. Without precedents, senators must examine the motion as it is presented to us and decide if it contravenes any procedural rules under which this chamber operates.

The Chair finds that on many grounds the motion presents no procedural difficulties. Proper notice was given of the motion. The Chair feels that, as a general principle, instructions to divide bills may be moved in the Senate when the bills originate in the Senate, as they may be moved in the House of Commons when they originate in that House. With respect to Beauchesne's citation 76(2), that “such an Instruction is in order only if the bill is drafted into two or more distinct parts or else comprising more than one subject matter ...”, the Chair agrees with the Leader of the Opposition that Bill C-103 is capable, from a drafting point of view, of being easily divided.

The main procedural problem, the Chair feels, lies with the nature of Bill C-103 itself. It is a government bill and a money bill, having been

recommended by Her Excellency the Governor General. Senator Graham's motion is quite clear that the National Finance Committee will be instructed to divide Bill C-103 into two bills. *Erskine May* states, on page 564, that, when an instruction has been given to the committee that a bill may be divided into two or more bills, “the separate bills have been separately reported.”

If it is divided, Bill C-103 will no longer be on the Senate Order Paper but will be superseded by two separate bills. The Chair notes there could be a technical problem with the numbering of such bills but feels such practical difficulties could be worked out. The Chair has a problem in accepting that these two separate bills are still government bills. Senator Graham's instruction does not deal with amending a government bill, but with dividing a government bill into two bills. These two bills would therefore have found their way before Parliament, not in the House of Commons, but in the Senate. Since they would both be bills appropriating public money, it would appear to the Chair that such action would be in contravention of Section 53 on the *Constitution Act, 1867* which states, “Bills for appropriating any Part of the Public Revenue, or for imposing any Tax or Impost, shall originate in the House of Commons”.

For this very important reason, I must conclude that the motion of the Honourable Senator Graham is not in order. ♦

*The ruling of the Speaker of the Senate was appealed to the Senate, and overturned by a majority vote. The motion to split Bill C-103 was moved, proposed, debated and passed. Bill C-103 was then studied by the Senate Finance Committee, which split the Bill in two, in accordance with the Senate's instructions. The Committee reported Part I of the Bill to the Senate and the Senate sent this part back to the House. At this point the Speaker of the House of Commons made the following statement :*

**Speaker John Fraser:** ... I must underline for the House that this procedural event is totally without precedent. I have been unable to find



any instance in our practice in which the Senate divided a Commons Bill, or in which the Commons has divided a Senate Bill. There are several cases in which the Speaker of the House of Commons has ruled certain Bills originating in the Senate out of order because they infringe the financial privileges of the House which are enshrined in the Constitution of Canada. I refer Hon. Members in this case to *Journals* of November 12, 1969, and June 12, 1973, for two such examples.

I refer Hon. Members to page 502 of the 20th edition of *Erskine May*. It concerns a procedural incident in the British Parliament, where there had been an attempt in the House of Lords to split a bill from the House of Commons, but this attempt failed after a motion to split the bill was rejected. This incident is reported but the author carefully refrains from indicating how the Lower House could have reacted if the motion had passed. This incident occurred in 1852 and I could find no similar incidents anywhere since then.

A Canadian precedent does exist for a consolidation of two Commons Bills into a single legislative measure by the Senate. That took place on June 11, 1941, with a message from their Honours, from the Senate, asking for the concurrence of this House. The Commons agreed with the Senate proposal, that is, a proposal to take two Bills from this place and put them into one Bill. The Commons

agreed with the Senate proposal waiving its traditional privilege, and a single Bill was eventually given Royal Assent. I underline that that was the act of this House in waiving its tradition of privilege and accepting the invitation of the Senate to put two Bills together.

It is admitted that the Senate can consolidate two Bills, why then can it not divide one Bill into two or more legislative measures? The answer is at least in part in the message. In the 1941 case just alluded to the Senate specifically sought the concurrence of the House for its action. Apparently it was the disposition of this place to accept it. In the message received last Friday relating to Bill C-103, the Senate does not seek the Commons' concurrence in the division of the Bill, it simply informs this House that it has done so, and returns half of a Bill....

The Speaker of the House of Commons by tradition does not rule on constitutional matters. It is not for me to decide whether the Senate has the constitutional power to do what it has done with Bill C-103. There is not any doubt that the Senate can amend a Bill, or it can reject it in whole or in part. There is some considerable doubt, at least in my mind, that the Senate can rewrite or redraft Bills originating in the Commons, potentially so as to change their principle as adopted by the House without again first seeking the agreement of the House. That I view as a matter of privilege and not a matter related to the Constitution.

In the case of Bill C-103, it is my opinion, and with great respect of course, that the Senate should have respected the propriety of asking the

House of Commons to concur in its action of dividing Bill C-103 and in reporting only part of the Bill back as a *fait accompli* has infringed the privileges of this place.

Furthermore, Bill C-103 has attached to it, pursuant to our Standing Orders and Section 54 of the Constitution, a financial recommendation of Her Excellency the Governor General. Again, for those who are watching and who uninitiated in all the terminology that we use, there is a requisite that in a Bill that is going to call upon the expenditure of funds, a financial recommendation of Her Excellency the Governor General is necessary. So this Bill is in a very real sense a financial Bill. The Senate is somewhat limited in its review of money Bills. Standing Order 87, which is still on the books after many decades, is quite clear and it states:

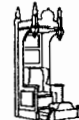
All aids and supplies granted to the Sovereign by the Parliament of Canada are the sole gift of the House of Commons, and all bills for granting such aids and supplies ought to begin with the House, as it is the undoubted right of the House to direct, limit, and appoint in all such bills, the ends, purposes, considerations, conditions, limitations and qualifications of such grants, which are not alterable by the Senate.

Certain questions remain to be answered: by splitting the Bill does the Royal Recommendation still apply? Have the financial privileges of the Commons been breached? Will the Crown assent to two Bills when it agreed to the introduction of a single one? As Speaker of the House of

Commons, I will not attempt to answer such constitutional questions, but clearly this House has always considered Standing Order 87, which I just read, as setting out the special relationship between the Commons, that is, this House of Commons, and the Sovereign.

I have ruled that the privileges of the House have been infringed. However, and it is important to understand this, I am without the power to enforce them directly. I cannot rule the Message from the Senate out of order for that would leave Bill C-103 in limbo. In other words, it would be nowhere. The cure in this case is for the House to claim its privileges or to forgo them, if it so wishes, by way of message to Their Honours, that is, to the Senate, informing them accordingly.

In conclusion, I wish to state to the House that while Bill C-103 is a Government Bill, the same situation could raise under our reformed rules for a Private Members' Bill. It is in the better interests of this place to request Their Honours in the Senate to first consult with this House before they report to us such unilateral action. As Speaker of the House of Commons of Canada I must uphold the privileges of this place at all times, and I must also advocate them privately, publicly, and with vigour. Having said that, if on an issue of substance, the House wishes to waive those rights, as usual the Speaker will not enter into substantive debate but will follow the House's directives.



*Editor's Note: On July 18 the House debated a motion to acquaint the Upper House with the fact that the House disagreed with the message received from the Senate because in dividing the bill "the Senate has altered the ends, purposes, considerations, conditions, limitations and qualifications of the grants of aid and supplies set out in the bill, contrary to Standing Order 87, as recommended by Her Excellency the Governor General to this House and has therefore infringed the privileges of this House, and asks that the Senate return Bill C-103 in an undivided form." Following debate the motion was carried by a vote of 112 in favour and 10 opposed. The Senate subsequently agreed to study the bill as a whole.*

# CPA: The Canadian Scene

## 28th Canadian Regional Conference



The Twenty-Eighth Parliamentary Conference of the Canadian Region, CPA took place in Charlottetown from July 13-19, 1988.

All fourteen legislatures in the Canadian Region sent delegates and there were also observers from the House of Commons in Westminster, Bermuda and the Turks and Caicos.

One of the subjects on the agenda was the idea of an association between Canada and the Turks and Caicos. **Dan McKenzie** outlined some of the advantages from a Canadian perspective. Speaker **Larry Coalburne** spoke about recent developments on the Islands which could lead to discussions along the lines suggested by Mr. McKenzie. The third member of the panel, **Tom Pendry**, a Member of Parliament

from Westminster thought that any such association would require a clear expression of opinion by the Islanders before Great Britain would support the idea. He suggested a plebiscite as one way of determining opinion on the Island.

The topic of plebiscites in a parliamentary democracy was also discussed in another session. A paper prepared by **Patrick Boyer**, MP was presented on Mr. Boyer's behalf by **Lloyd Crouse**. The discussion openers were **Denis Rocan** of Manitoba and **Richard Nerysoo** of the Northwest Territories.

**Sue Findlay** formerly with the Woman's Bureau of the Department of the Secretary of State presented a paper on the status of women in Canada. **Tom Sigurdson** of Alberta and **Jim McLachlan** of the Yukon were the opening speakers.

Three other sessions were held on: Free Trade: The Cultural Dimension with **Mavor Moore** as the feature speaker; Regional Development in Atlantic Canada with **Don S. McPhail**, president of Atlantic Canada; and Marketing Initiatives for Agricultural products with **Tim Carroll**, PEI, Minister of Agriculture.

Among the legislators to lead off the discussion of these issues were **Jean Joly**, (MNA Quebec); **Doug Reycraft**, (MPP Ontario); **Glen Greening**, (MLA Newfoundland); **Jane Barry**, (MLA New Brunswick) **Fred McCain**, MP and **Ted Gleim**, (MLA Saskatchewan).

The conference was hosted by Speaker **Edward Clark** on behalf of the PEI Branch of the Canadian Region. The business program and leisure events were equally well organized and drew unqualified praise from the delegates and observers – even those who failed to catch anything on a deepsea fishing trip offered by the organizing committee.

## 13th Canadian Regional Seminar

The Thirteenth Canadian Regional Seminar will be hosted by the Hon. **John Reynolds**, Speaker of the British Columbia Legislative Assembly, on behalf of the British Columbia Branch, from Thursday, November 17 to Sunday, November 20, 1988, in Vancouver at the Westin Bayshore.

Speaker Reynolds encourages each Canadian Branch to participate in this seminar and welcomes the opportunity to provide delegates with the usual British Columbia hospitality.



Ted Gleim, MLA (Saskatchewan) speaking during one of the working sessions.

# The Commons Then and Now

## Before Hansard

In contrast to the present-day overnight production of a bilingual, verbatim "Hansard", the debates of the House of Commons were not officially recorded and published in the first years of Confederation. Instead, Members and the reading public relied on condensed accounts which appeared in most newspapers. Although incomplete, these reports nevertheless gave a good sense of the atmosphere in the House and were often a racier version of the discussions than a purely verbatim transcription would have been. Today, almost a century later, they are not only fascinating to read but are also deeply revealing of what one historian has called "the vitality and spirit of Confederation itself."

To begin with, the atmosphere was most often conveyed when reporters made parenthetical observations such as "the Hon. gentleman resumed his seat amid loud cheering", or simply "cheers" or "laughter". Some reporters went further and narrated much more. For example, one account of Sir John A. Macdonald addressing the House the day after the assassination of Thomas D'Arcy McGee begins thus:

Sir John A. Macdonald, amid profound silence and attention, and manifestly struggling to repress extreme emotion, which frequently interrupted his delivery, and made him almost inaudible in some passages, rose...

Some newspapers, particularly the *Globe* of Toronto, produced more accurate reports than others, and not infrequently recorded what others might have left out. In the following extract from 1870 where a Mr. Ferguson has the floor at the start of

the private bills' hour on a debate to establish the Canada Central Railway Company, the *Globe* has preserved something of the early House's infamous ribaldry:

Mr. Ferguson commenced a long speech against the Bill with the evident purpose of talking out the hour allowed for private bills. In the course of his remarks, made amid continued interruptions,



which the hon. member took no notice of he exhibited a map of the proposed route, and was about to refer to it when Hon. Sir George-É. Cartier rose to a point of order. He said it was out of order to produce any printed document in the House.

Mr. Ferguson said he did not hear distinctly the observations of the Minister of Militia, and asked him to repeat them.

Mr. Sir George-É. Cartier, amid great laughter, repeated his objections in French.

Hon. Mr. Macdonald (Cornwall) immediately rose, and, to the astonishment of the House, proceeded amid roars of merriment to speak in the Gaelic language.

Hon. Sir George-É. Cartier, again, and essaying to speak in Latin, managed, with the help of Sir John A. Macdonald, to make himself understood to the extent of saying that he had risen to call to order that most illustrious and most learned man, the member for Simcoe. He then said he would speak in Greek. He then, amid a multitude of noises and much laughter, proceeded to jumble together a dozen of Greek words having no connection with each other, and finishing with the words *arquareo boioio*, a scrap from Homer, meaning "of the silver bow."

Hon. Mr. Le Vesconte, in Spanish, said it was time the discussion should cease.

Hon. Sir John A. Macdonald was of the opinion of the last speaker.

Hon. Mr. Abbott objected to a discussion on serious matters being carried on in that house in the Choctaw language. (Hear, hear.) The hour for private Bills having elapsed the discussion was postponed.

Regrettably, few speeches in the French language were transcribed, even by the Quebec newspapers. Even after 1875, when the House agreed to have its debates formally reported, the printed document was a polyglot, with the French speeches

appearing in the English edition in French. In addition, the new publication continued to be a compressed, rather than a verbatim, report. As a result, there were many complaints that it was a grossly misleading source to quote from, and many Members were outraged by the frequently substandard editing of their speeches. As to the general readership, they received two versions of events, since a consequence of this somewhat poor beginning for the official "Hansard" was that the newspapers continued to report the debates and now went even further in some accounts than ever before.

Examples of this may be found in the pages of a number of newspapers in mid-April 1878, following a 27-hour, non-stop debate which to this day has remained unequalled in rowdiness, drunkenness and generally indecorous behaviour. The official report of a Mr. Domville's speech during the debate is tame enough and gives no inkling of what the *London Advertiser's* observer saw:

Domville turned up at 6 a.m., after having slept off a strong potation, and took his seat beside Plumb, who had also slept a great part of the night in his place, and looked as if he likewise had been afflicted with the prevalent complaint.

Mr. Méthot gave way to Domville, at 8 a.m., who stood up with his garments in such a disordered condition that he was met by cries of "Button up your pants," "shame", etc. Having buttoned up, Mr. Domville commenced to read from books, and in a serio-comic way to discuss the question.

By 1880, the House had realized that the obvious shortcomings of the official, but condensed, "Hansard" would only be overcome by the adoption of a verbatim report compiled by employees of the House itself, rather than by outside contractors as had been the practice since 1875. The necessary steps were taken and thereafter, the quality and completeness of the report steadily improved and soon made the condensed newspaper accounts superfluous. Unfortunately, striving for a fair official report also meant the removal of all unnecessary editorial notes, such that the saltiness characteristic of the pre-1875 reports also disappeared, leaving published volumes which contained only a slightly edited (for syntax) version of the words spoken.

Naturally, the press continued to report on goings-on in the Commons, but with this difference – they no longer had to bother with what professional stenographers now did for them. Instead, they reported in more general terms on the various debates and their participants. A sort of equilibrium was reached. Nevertheless, from time to time a member of the press gallery skilled in shorthand would engage in the old style of reporting. This is what P.D. Ross of the *Montreal Star* did on one occasion in 1886, with interesting results.

One afternoon, while the House was in Committee of the Whole, Ross found the proceedings wearisomely dull:

Things were so prosy that a notion came to me to suggest to the public

that the speech of the House in Committee was not always all it might be. In the informal talk that was passing to and fro, most of the Members were pretty slipshod in their oratory. There were hems and haws, redundancies and repetitions, coughs and throat clearings, a general looseness, sometimes dubious grammar. So I set to work to jot down a report *verbatim et literatim* of a good deal of the discussion, introducing all the mannerisms, the hems and haws, and all other peculiarities of delivery.

When the ensuing despatch to the *Star* appeared in print my version of the discussion was a good deal of caricature, because owing to the exigencies of newspaper space I had packed it in tight. In other words, where a Member's talk might take five minutes, I had all his peculiarities packed into about one minute. The result was thick with absurdity. I must confess I was a little surprised myself at the look of the thing in print.

Dozens of similar extracts could be reproduced to illustrate the old reportorial methods. In the end, however, and despite the romantic attachment some of us may have to the lively style of pre-Hansard legislative reporting, the House has been infinitely better served since the adoption of an official, verbatim report of its debates. What we have from the early years of Confederation, as interesting as it may be, can only begin to fill the void. What is lost, sadly, is lost forever.

*Marc Ross*



# Legislative Reports



House of  
Commons

In the last issue of the Review, it was noted that opposition parties threatened the use of procedural devices to delay passage of Bill C-130, *An Act to implement the Free Trade Agreement between Canada and the United States of America*. They had already questioned the necessity of the Ways and Means motion in this context and, once that motion was agreed to, suggested that there must still be a decision of the House as to whether or not leave would be granted to introduce the bill.

Their difficulty related to three themes. First, it was argued, the omnibus nature of the bill rendered it impossible for MPs to identify a single principle in order to vote once at second reading on a bill which set out to amend 27 statutes. Nelson Riis, House Leader for the New Democratic Party, pointed out that the bill would establish a new trade dispute settlement mechanism. It would also pave the way toward a continental energy market. It would liberalize investment rules between Canada and the U.S., and it would affect the federal-provincial jurisdictional balance.

The House Leader for the Official Opposition, the Honourable Herb Gray, cited the concern expressed by Mr. Speaker Lamoureux in 1971 when he suggested there may be some point at which omnibus bills would be unacceptable.

Second, according to Mr. Gray, the title of the bill did not list all 27 statutes to be amended. Third, Bill C-130 sought to amend certain bills

which had not yet received parliamentary approval and were, indeed, still before the House.

In a lengthy ruling on June 8, 1988, the Speaker addressed these concerns. He quoted from the second edition of the *Précis of Procedure* published under the authority of the Clerk of the House of Commons (1987), from Beauchesne's 5th edition, Erskine May's 20th edition, and a ruling by Speaker Jerome to confirm that the Ways and Means motion had been moved in accordance with the required procedures. He demonstrated, too, that a division on the question of leave to introduce the bill was necessary in this case.

The Chair went on to rule that, while Bill C-130 was an omnibus bill, it had the single purpose of enacting an international agreement. In relation to the title of the bill, the Speaker noted that in Canadian practice the title need not include a list of all the Acts being amended.

Finally, citing precedents from the time of Speaker Lamoureux, the Chair declared that the practice of one bill amending another still before the House or not yet given Royal Assent is an acceptable one. "However, if at third reading", the Speaker said, "circumstances exist whereby the Bill is amending another Bill still before the House, then I would be disposed to abide by Speaker Lamoureux's decision and hear further argument at that time".

While procedural argument and dilatory tactics occupied the time of the House, messages were received from the Senate informing the House that it had amended certain bills. Accordingly, as the end of June approached the House was seized of Senate amendments to Bills C-55 and C-84 regarding immigration, C-74

respecting the environment and C-115, *An Act to amend the Indian Act (designated lands)*.

## Summer Sitting

The motion to extend the sittings of the House into the summer was finally adopted after the Government resorted to closure on June 21, 1988. The Deputy Leader of the House for the Government published a long list of bills and motions which should be dealt with before any lengthy adjournment. The list included eleven bills awaiting report stage and third reading, two bills still at the committee stage, as well as debate on the free trade bill at second reading. It was not until July 28 that the House finally gave itself a short summer break, with the promise of returning to work on August 10 to debate child care legislation and free trade once again.

Before that break, Members debated a government motion on abortion. Any Members were allowed by special order to give notice of amendment, and the Speaker was charged with the responsibility for selecting, grouping and determining the voting procedure for all such amendments. As it turned out, all the amendments and the main motion proposing legislation were defeated.

## Private Members' Business

On June 6, 1988, Paul McCrossan introduced Private Member's Bill C-292, *An Act to amend the Bank Act (fair banking practices)*. It was based on recommendations of the Standing Committee on Finance in a report tabled in the House the same day, and represented views of the all-party committee regarding bank charges for personal financial services. This bill was lucky enough to be successful in the next draw for Private Members' Business and was chosen by the Standing Committee on Private



Members' Business to be "votable"—that is, it could receive more than the usual hour of debate and would be assured of a decision by the House.

Meanwhile, other Private Members were pleased to see their bills make progress in the House. **David Daubney's** bill on political rights for public servants was reported with amendments from a legislative committee. It took its place at the bottom of the order of precedence for debate, according to the rules, and could expect a first hour of debate in approximately a month and a final round within another month. As it turned out, Mr. Daubney withdrew his bill to avoid substantial amendment by the Government.

**Dr. Bob Horner's** Bill C-264 regarding instruments and literature for illicit drug use was returned to the House for report stage and third reading. Bill C-210, *An Act to amend the Blue Water Bridge Authority Act*, joined the order of precedence for debate at the final stages as well.

#### Committees

Standing Committees of the House continued to labour mightily. They produced valuable documents which may have a significant impact on future government policies.

One of these reports was that of the Standing Committee on Consumer and Corporate Affairs on the subject of misleading advertising. It was tabled in the House by the Chairperson, **Mary Collins**, on June 28, 1988. The Committee's decision to study misleading advertising had come about in response to complaints and questions from constituents. As the study progressed, the Committee found that advertising is regulated by a complex mass of provisions including over 100 federal laws as well as a number of provincial laws and industrial codes.

Recommendations addressed enforcement and education, industry self-regulation and administrative approaches, class actions and other approaches to consumer redress.

The next day, **Patrick Crofton** tabled a report on the White Paper on National Defence with particular focus on Canada's Reserve forces. In his introduction, the Chairman noted that an expanded, well-trained and

well-equipped Reserve force should play an increasingly effective role in preventing and coping with natural disasters and in protecting and saving lives in search and rescue operations.

Also in June, **John Gormley** presented a report of the Standing Committee on Communications and Culture entitled "A Broadcasting Policy for Canada". It completed a wide-ranging review the committee had begun in October, 1986. A few days later the House gave first reading to a bill introduced by the Minister of Communications, the Honourable **Flora MacDonald**. In her statement, the Minister acknowledged that the views of the committee had been taken into account and that the recommendations and conclusions of the Committee are "interwoven" into her policy paper entitled "Canadian Voices: Canadian Choices".

Nora S. Lever



The Legislative Report is for the period May 15, 1988 through August 15, 1988 which saw the bulk of the Legislature's anticipated workload completed on Wednesday, June 29, 1988 prior to adjournment for the summer.

On Monday, May 30, **Elwood N. Veitch**, in his capacity as Provincial Secretary, made a Ministerial Statement relating to a preliminary report, dated May 27 by the Honourable Judge **Thomas K. Fisher** and the intention of the Government to request that a special committee of the House be appointed to consider the report, and tabled a copy of the document entitled *Preliminary Report of Proposed Boundaries for British Columbia Electoral Districts*. The Opposition House Leader, **Mark Rose** responded to the Statement made by the Provincial Secretary to the effect that a legislative committee would be an appropriate vehicle to review the report in the context of electoral reform in British Columbia.

On Wednesday, June 22, the House referred the *Fisher Report* to a Special Committee whose Chairman became **Jim Rabbitt**. The purpose of the Committee is "to examine, inquire into and make recommendations to the House, unanimously, respecting the Preliminary Report of the British Columbia Royal Commission on Electoral Boundaries: May 1988, so as to assist the Commissioner of Electoral Boundaries in making his Final Report".

Other events which surfaced throughout this period were the resignation of the Attorney General, **Brian Smith**, a Cabinet reorganization on Thursday, July 7 resulting in eight new ministerial faces out of a total of twenty-two Members of the Executive Council, and twelve Parliamentary Secretaries; and the debate on the motion by Premier **William Vander Zalm** for a Resolution to authorize an amendment to the Constitution of Canada (Meech Lake Accord), on Wednesday, June 29.

During this Thirty-fourth Parliament, 110 legislative committee meetings have been held. The Select Standing Committee on Labour, Justice and Intergovernmental Relations continues its review of the *Builders Lien Act*; the Select Standing Committee on Forests and Lands has completed eight public hearings conducted throughout the Province and is beginning to address a report into the matter of Timber Harvesting Contracts; the Select Standing Committee on Finance, Crown Corporations and Government Services is expecting to hold public hearings into the financial planning and advisory industry in British Columbia this autumn; the Select Standing Committee on Public Accounts presented its First Report of the Second Session to the House on Tuesday, June 28, effectively concluding its work on the Auditor General's Annual Report for 1987; the Select Standing Committee on Standing Orders, Private Bills and Members' Services dealt with four Private Bills; and the Special Committee on Electoral Boundaries has completed its organization meeting and is preparing for its review of the *Fisher Report*.

Craig H. James

**B**ill 113, *An Act to amend the Retail Business Holidays Act*, and Bill 114, *An Act to amend the Employment Standards Act*, were given second reading on June 20 and referred to the Standing Committee on Administration of Justice for public hearings throughout the province during the summer. Bill 113 permits municipalities to pass by-laws allowing retail business establishments to be open or closed on Sundays if they always close throughout another day of the week by reason of the owner's religion. Bill 114 provides that employees in retail business establishments as defined in the *Retail Business Holidays Act* which are permitted to open on Sunday will be able to refuse work that they consider unreasonable. If a disagreement arises on what constitutes unreasonable Sunday work or an employee feels that he or she is punished or otherwise treated improperly for refusing Sunday work that the employee considers unreasonable, provision is made for mediation and ultimately the matter may be referred to an independent referee for determination.

On June 2, the Minister of Health, **Elinor Caplan**, introduced Bill 147, *An Act respecting Independent Health Facilities*. The Bill would authorize the establishment and operation of independent health facilities. On June 29, the Minister of Natural Resources, **Vince Kerrio**, introduced Bill 175, *An Act respecting Transfers of Water*. This legislation prohibits the sale of water out of a provincial drainage basin without the approval of the Minister of Natural Resources. These Bills were, in part, in response to the Free Trade Agreement between Canada and the United States. Bill 147, appears to contravene Article 1402 of the agreement because the Act proposes to give preference to Canadian owned non-profit health facilities, (Article 1402 prohibits such preference). Bill 175 dealt with the concerns of the Government that the Free Trade Agreement did not

expressly exclude water exports and that water could be considered a "good" under the Agreement.

The Minister responsible for Women's Issues, **Gregory Sorbara**, announced a major new programme to reduce sexual assault on women by increasing public awareness of such attacks. The programme will be launched by an advertising campaign on television. The minister will reinforce the concept of the campaign by appointing an inter-ministerial committee to co-ordinate a government response to sexual assaults on women.

In an effort to increase the scope, impact and relevance of private members, the member for Etobicoke-Humber, **Jim Henderson**, introduced bill 136, *An Act respecting Private Members' Public Bills*, on May 18. The Bill proposes to establish a new legislative procedure to ensure that a number of private members' Bills could become law. The Bill would establish a Standing Committee on Private Members' Public Bills which would determine, following first reading of a private member's public Bill, whether the Bill merits debate, using the criteria stated in the Bill, and the order in which such Bills are to be debated in the Assembly. Two weekly three hour sessions of the Assembly would be set aside for consideration of private members' public Bills. Following second reading, such Bills would be referred to a standing committee and provision is made for committees to deal with legislative business in the order in which it is received unless the Assembly determines that a matter is urgent and should have priority.

On June 27, the Chairman of the Select Committee on Constitutional Reform, **Charles Beer**, presented the Committee's Report on the Constitution Amendment, 1987. The report unanimously recommended that the Legislature ratify the Meech Lake Accord and proposed a series of recommendations for future constitutional reform. The Legislature debated the Report for two days and adopted it by a vote of 112 to 8. The division was interrupted by a group of women in the West Public Gallery and the Speaker's Gallery who sang their protest to the proposed amendment to the Constitution. The

protesters, identified as the AD-HOC Committee of Women on the Constitution, objected to the passage of the accord without amendments guaranteeing their rights.

Subsequently, the Legislature adopted by a vote of 112 to 8 a resolution proposed by the Premier, **David Peterson**, authorizing an amendment to the Constitution of Canada (Constitution Amendment, 1987). On the adoption of the resolution, Ontario became the sixth province to authorize the amendment to the Canadian Constitution arising out of the Meech Lake Accord. The leader of the Progressive Conservative Party, **Andy Brandt**, had proposed an amendment to the resolution that the Government of Ontario ask the Supreme Court of Ontario to determine if the amendments proposed to the Constitution of Canada would affect the guaranteed nature of individual rights and freedoms or their limitations under the Canadian Charter of Rights and Freedoms and that the Government of Ontario urge the Government of Canada and the governments of the provinces to amend subsection 2(1) of the *Constitution Act, 1867*, as amended by the Constitution Amendment, 1987, by recognizing that aboriginal peoples constitute a distinctive and fundamental characteristic of Canada and by recognizing the multicultural nature of Canadian Society. This amendment was rejected by the House on a vote of 92 to 28.

The House adjourned for the summer on June 29 and will resume its sittings on October 17.

#### Committees

The Select Committee on Education, chaired by **Dianne Poole**, will meet during the summer adjournment to consider the philosophy of the education system in Ontario and the education process relating to streaming, semestering, grade promotion and Ontario School Intermediate and Senior (OSIS).

The Select Committee on Energy, chaired by **Doug Carrothers**, will meet to investigate Ontario Hydro's draft demand/supply planning strategy. The Committee must present its report to the House by February, 1989. The Standing Committee on General Government,

chaired by **Norah Stoner**, met to consider Bill 106, *An Act to amend the Municipal Elections Act* and the *Municipal Act*. The Bill established a new recount process, placed limits on contributions and expenses for local government candidates and made mandatory the disclosure and reporting of campaign contributions and expenses. The Bill was amended by the Committee and reported to the House where it received Third Reading and Royal Assent on June 8.

The Standing Committee on Resources Development, chaired by **Floyd Laughren**, continued work on its Report on Accidents and Fatalities in Ontario Mines and subsequently released its report at a press conference in Sudbury on July 4. The Committee also held hearings on the 1986 Annual Report of the Workers' Compensation Board. Participants in the hearings were officials of the Workers' Compensation Board, offices affiliated with the Board, employer groups, labour unions and injured workers' groups. The Committee plans to prepare a report on its findings later in the year.

The Standing Committee on Social Development, chaired by **Peter Adams**, considered a number of Bills including Bill 109, *An Act to establish a French-language School Board for the Regional Municipality of Ottawa-Carleton*. The Act proposed to amalgamate the existing English, French, Public and Roman Catholic School Boards into two Boards, one English, the other French, and subdivide each Board into Public and Roman Catholic sections. The Bill also reduced the number of trustees for the new Boards. The Committee held public hearings in Ottawa and Toronto. On June 22, the Bill received third reading and Royal Assent followed on June 29.

The Standing Committee on Finance and Economic Affairs, chaired by **David R. Cooke** (Kitchener), continued to hold hearings into the Free Trade Agreement between Canada and the United States. The Committee will complete its final report during the Summer Adjournment.

The Standing Committee on Government Agencies, chaired by **Allan McLean**, reviewed the

operation of the Civil Service Commission, the Ontario Food Terminal Board, Ontario Securities Commission and the Pension Commission of Ontario. In its Report to the House, the Committee recommended that Management Board of Cabinet consider amending the *Public Service Act* to transfer all the duties and responsibilities of the Civil Service Commission to the Human Resources Secretariat. It also recommended that the Ministry of Financial Institutions ask the Provincial Auditor to undertake an efficiency audit with respect to the Ontario Securities Commission and that the Pension Commission of Ontario undertake a review of the Benefits Guarantee Pension Fund to determine what role the Fund should play in the future. Furthermore, the Committee indicated that the Ontario Food Terminal Board should commence negotiations with current lease holders with a view to eliminating the "perpetuity" provision included in the original leases. The Committee will continue to monitor the Ontario Food Terminal Board and may make further recommendations with respect to these two agencies.

The Standing Committee on Public Accounts, chaired by **Ed Philip**, released its First Interim Report of 1988 on May 26 on the subject of the Provincial Auditor's 1987 Report, Section 4.8 (Weak Procedures and Controls, Health Insurance Program) and Section 4.9 (Problems in Mental Health Care, Ministry of Health). The Provincial Auditor found weaknesses in three computer systems supporting the delivery of the Ontario Insurance Program (OHIP). The Committee recommended that the Ministry develop and implement a new computer system to overcome the weakness identified by the Auditor and that in the interim it take all feasible measures to address the various deficiencies identified by the Auditor. The Committee also recommended that the Ministry work to ensure that the Ontario out-of-province claims system be enhanced to prevent the errors noted by the Auditor. The Committee further recommended that the Ministry upgrade its management information systems, review its licensing requirements for homes for special care, and ensure adequate

evaluation capabilities for increased efforts in community mental health. In addition, the Committee recommended that the Standing Committee on Social Development consider undertaking a comprehensive study of the housing and other community and mental health needs of ex-psychiatric patients, the adequacy of the current and planned services, and options to overcome deficiencies.

The Public Accounts Committee also tabled a second and third interim report that dealt with Section 4.7 (Improved Pollution Enforcement Procedures Required, Ministry of the Environment) and Section 5.2 (Operating Deficiencies, Liquor Control Board of Ontario) of the 1987 Report of the Provincial Auditor.

The Committee released a Special Report on the Estimates Process tabled on June 2. The Auditor had expressed his concern on the Estimates process in the Ontario Legislature and had made recommendations for reform of the process and the strengthening of the accountability cycle. In its Report, the Committee recommended that a Standing Committee on Estimates be established and be chaired by a member of the Opposition and that the Committee should conduct annual in-depth scrutiny of selected Ministry Estimates. The membership of the Estimates Committee would include three members from the Public Accounts Committee, one from each party. The Committee recommended that six sets of Estimates per year be chosen for review, by all three parties, using a cycle of Official Opposition, Third Party and Government Party, and that this be supplemented by a system of written questions to other ministries where warranted. The Committee would be given the power to recommend the reallocation of funding within each vote. When established, the Committee would give priority to the development of a schedule for the completion of Estimates scrutiny, the review of the form and content of the Estimates information, and the identification of necessary committee resources.

**Franco Carrozza**



Manitoba

On April 26, 1988, the Manitoba Provincial General Election produced a Progressive Conservative minority government. Party standings in the 57-seat Legislature are: Progressive Conservatives, 25; Liberals, 20 and New Democratic Party, 12.

The first session of the thirty-fourth Legislature of Manitoba opened on July 21, 1988, at 1:30 p.m. The first order of business was the election of Mr. Denis Rocan, the Progressive Conservative member for Turtle Mountain to the position of Speaker.

The Speech from the Throne was presented by the Honourable George Johnson, Lieutenant Governor of the Province of Manitoba.

He welcomed "the opening of a new Legislature and the beginning of a new Government to provide an opportunity to take a fresh look at our province, to assess where we stand today and where we want to go in the future."

The speech promised that the new Government would provide more prudent and effective management within the Government and Crown corporations, and would introduce policies and procedures to ensure that the Government is more open and accountable to the citizens of Manitoba. On September 30, 1988, the *Freedom of Information Act* will be brought into effect by proclamation. All major Crown corporations will be required to publish quarterly financial statements.

Towards building a stronger economy, the Government stated in the speech it will establish an economic climate that will encourage risk and reward initiative. The first step will be through the removal of disincentives and not through the creation of new grants and incentives. A phased removal of the payroll tax will be undertaken to reduce disincentives to job creation. Reform of the workers compensation system

will ensure that the needs of the workers are protected. A commitment to improve provincial highways, fully utilizing Manitoba's natural resources, and addressing the North's unique problems and challenges, will help to expand economic foundations. Amendments will be proposed to the final offer selection provisions of the *Manitoba Labour Act*.

Health care services were identified as a priority for the new Government and a Health Advisory Network will be established to call upon the expertise of health care providers and lay people outside of government to address major policy issues and to assist in the development and implementation of improved health care services.

In the education field, illiteracy will be dealt with to establish long-range strategies to address the literacy needs of Manitobans. The priority is to have in place an effective response to illiteracy by 1990-91 the United Nations International Year of Literacy.

Improvement of social services was mentioned as a priority in this Throne Speech as well. Child Protection, Women's Dictorate, Day Care Task Force, Single Parent Access Program, and a White Paper on Elderly Abuse will all be work that the Legislature will be considering this session.

Priority will be given to establish reforms to reduce delays in the justice system. The Law Reform Commission is to be re-established and a Commission of Inquiry into the Administration of Justice and Aboriginal People will be formed.

Following the conclusion of the Speech from the Throne, a number of motions dealing with House organization and operation were introduced and adopted. Significant among these was the election of Mr. Mark Minenko, the Liberal member for Seven Oaks, to the position of Deputy Speaker. This is the first occasion on which an opposition member was elected as one of the presiding officers of the Manitoba Legislature.

The Opposition characterized the Throne Speech as unrealistic and lacking in priorities, critical of it because no definite plans seemed to be set out, and criticized the Government for establishing again more task forces, study groups and round tables.

Opposition Leader, Mrs. Sharon Carstairs, (Liberal Leader) refrained from introducing the traditional non-confidence amendment to the motion for an address in Reply to the Speech from the Throne, opting to give the new government a chance to rule.

Mr. Gary Doer (NDP Leader) expressed like sentiments: "Manitobans did elect a minority Government on April 26. We are committed to working in a positive way on behalf of Manitobans. We strongly urge this Government to consider, at every decision, fairness to Manitobans and their families - who benefits, who is harmed by all of their measures. We believe we can be productive in this Session if the parties are flexible, constructive and cooperative. We will not be moving any motion on the Speech from the Throne, and we intend to work in a very positive way on behalf of our constituents and all Manitobans".

The Premier, Gary Filmon, responded to the challenges from the Opposition parties with these remarks: "This Government is dedicated to improving the quality of life of our citizens so that all might prosper. That is the goal of our Progressive Conservative Party in Manitoba, and that is the goal of our Government".

"I am therefore proud to support this Throne Speech, and the excellent foundation that it builds for us to achieve those goals".

The vote at the conclusion of the Throne Speech debate was unusual in that no amendments had been moved to the Motion for an Address in Reply to the Speech from the Throne. Additionally, the House did not request that the Journals indicate that the motion was adopted "on division" nor was a recorded vote called for.

W.H. (Binx) Remnant



## Annual Conference of the Canadian Council of Public Accounts Committees

The Tenth Annual Conference of the Canadian Council of Public Accounts Committees was held at Halifax, Nova Scotia from July 10 to July 13, 1988. Fifty-six delegates and observers attended the business sessions held in the Legislative Chamber of Province House. The host and chairman of this year's conference, Dr. J. William Gillis, and Council President for 1987-88 welcomed the participants and arranged for one of the most successful meetings to date.

The theme of this year's conference, "Guidelines for Public Accounts Committees in Canada" departed from the normal case study presented by each participating jurisdiction at previous Council meetings and evoked a wide ranging discussion on the roles, responsibilities, rights and resources of a well-run public accounts committee.

The business sessions revolved around a document prepared by the Council's subcommittee struck at last year's annual meeting in Quebec City. The subcommittee's terms of reference were "to develop guidelines of a model Public Accounts Committee in Canada and to report its finding to the Council in July 1988". The Members of the subcommittee (and chairmen of their respective public accounts committees) were Winston Baker, MLA (Newfoundland); Aideen Nicholson, MP (Canada); Ed Philip, MPP (Ontario) and Darlene Marzari, MLA (British Columbia) who fashioned a 100 page report which Mr. Baker presented to the Council.

The subcommittee met in Ottawa during the Canadian Comprehensive Auditing Foundation annual meeting last December to expedite the work handed to it by the Council. With the exception of the history and development of public accounts committees, eleven topics contained in the report were debated by the Council. They included:

- The Role of the Public Accounts Committee
- The Accountability Cycle
- Public Accounts Committee's Role in Relation to our System of Democracy
- Non-Partisan Nature of the Public Accounts Committee's Task,
- Expanding Role of the Public Accounts Committee,
- Crown Agencies, Transfer Payments, Tax Expenditures,
- Growing Depth of Public Accounts Committee Scrutiny,
- Ministerial Responsibility and Public Service Accountability,
- Principle of Public Service Accountability,
- Legislative Accountability, Relationship Between PACs and Auditors,
- Relationship Between PACs and Government,

Relationship Between PACs and the Media;

The agenda for this year's conference has its roots in a report published by the Canadian Comprehensive Auditing Foundation in 1987, more commonly known as the Kelly-Hanson Report after its author, John J. Kelly and Hugh R. Hanson, entitled *Improving Accountability: Canadian Public Accounts Committees and Legislative Auditors*. Sixty-nine recommendations emanate from the Report and are a culmination of interviews with sixty-four legislators, Ministers of the Crown, Legislative Auditors, Committee Clerks and other professionals who have had some experience with public accounts committees.

The Council agreed to seek a further response on its guideline document from committees across Canada on the document with a view to publishing and distributing the guidelines early in 1989. The subcommittee remains in existence until the Council next meets in Alberta during July 1989. The new Board of Directors are: Barry Pashak, MLA (Alberta), President; Winston Baker, MLA (Newfoundland), First Vice-President; the Chairman of the Manitoba Public Accounts Committee, Second Vice-President; the Clerk to the Alberta Public Accounts Committee, Secretary, and Craig James, Clerk of Committees (British Columbia), Executive Secretary.

**Craig James**



# Reviews

## Reviews

**The Facts on Free Trade**, edited by Ed Finn with Duncan Cameron and John Clavert, James Lorimer & Company, Toronto, 1988; **Free Trade Free Canada**, edited by Earle Gray, Canadian Speeches, Woodville, Ontario, 1988.

The official text of the Canada-United States Free Trade Agreement and many of the summary documents, are complicated to the point of being virtually incomprehensible to the average reader. Scholarly studies and conferences of economists are only slightly more useful in trying to understand the nature of the treaty. It is no surprise therefore that the fate of the agreement, in Canada at least, is going to be decided on ideological, emotional and political grounds. These two little collections of essays reflect diametrically opposed opinions on this issue.

All the contributors in the collection compiled by Ed Finn are opposed to free trade. Bob White president of the Canadian Auto Workers argues that safeguards for jobs in Canada under the AutoPact have been surrendered. Bruce Wilkensen, a professor of economics at the University of Alberta sees the pact as a step toward political affiliation to the United States. Ian Scott, Attorney General of Ontario, claims the treaty is unconstitutional since it deals with some areas of purely provincial jurisdiction; Eric Kierans, a former Quebec politician dismisses it as an unnecessary step which will do nothing to meet the real problem of foreign ownership, Jeff Rose President of CUPE worries that the inevitable result will be changes in Canada's more progressive social programs.

Perhaps the most passionate essay is by professor Duncan Cameron of Ottawa University. He doubts the fundamental assumption about the

two countries working toward common policies. Considering the different size of the nations: "is the US going to adopt universal medicare, unemployment insurance, and start paying liveable pensions? Or are we going to privatize, deregulate, and undermine our public sector through tax cuts for the affluent? Is the U.S. going to start working to fight starvation and improve living conditions in the Third World? Or are we going to fight against the communist menace and work to improve access by multinational companies to Third World resources?...I am a Canadian not an American. My citizenship is important to me. I don't want to live in Canada under laws determined by U.S. decisions about which I can do nothing. I want my country to stand for something more than further co-operation with the United States."

The other side of the argument is found in the collection by Earle Gray based upon speeches by well known supporters of free trade including chief negotiator Simon Reisman, Grant Devine, Premier of Saskatchewan, Allan Gotlieb, Ambassador to the United States, novelist Mordecai Richler, artist Christopher Pratt and a several business leaders.

David Daubney MP notes that free trade is not a panacea for economic ills. It provides an opportunity to improve productivity not a guarantee. Thomas d'Aquino of the Business Council on National Issues rejects the idea of economic ties leading to political ones. "In this century there is not a single example where a high level of trade liberalization between two countries led to political integration. And furthermore there is no significant support in either Canada and the United States for a common market or a political union."

Gerald Regan a former Premier of Nova Scotia and later a federal Trade Minister says that the pressure to compete in the United States under a free trade system will not force us to dismantle our social programs. "In recent years tariffs with the United States have been reduced by 85 per cent. That increasing dependence on the United States has not eroded the social security system. Indeed during those years the Unemployment Insurance system was expanded and extra billing for medical services banned. If the removal of 85 percent of the barriers has left our social system intact, why should a dismantling of the remaining 15 percent cause such a change? The answer, of course is that it will not and that such claims are unmitigated nonsense and scare tactics...I am afraid that the opposition of many organizations and many people is related to the fact that they do not like the United States. I am as Canadian as anyone in this country, and I do not see the question of strengthening our country by having better access to the American market as in any way diminishing my Canadianism."

Most Canadian opinion probably lies somewhere between the two extremes but works like these, distasteful as they may be to the other side, will help the vast majority of parliamentarians and electors decide exactly where they fit. It is interesting that both proponents and opponents of free trade assume an election or referendum would support their position. There will, of course, be a federal election very soon and free trade will be one of the main issues. Yet the positions outlined in these two books are so fundamentally opposed that it is difficult to imagine anyone changing his mind over something as simple as an election.

Gary Levy



**Robert J. Fleming, ed., *Canadian Legislatures 1987/1988*** (Ottawa: Ampersand Communications Services, 1988)

Parliamentarians, academics, legislative staff and others who have come to depend on this invaluable annual yearbook will be pleased to see that it continues to appear despite the editor's departure from the Ontario Legislature, which published previous editions. They will be less pleased that the shift to a private sector publisher has meant more than a three-fold price increase.

*Canadian Legislatures* continues to be an authoritative source of information on administrative structures, budgets, support services for members, members' indemnities and allowances and a host of related topics. The data, covering the House of Commons, the ten provincial houses and the two territorial assemblies, are arrayed in easily read tables. As in previous editions, only limited discussion accompanies the tables. Although the text points up the more noteworthy changes from past years, it might have been better had all changes been indicated in the tables.

An innovation in this edition is the presentation of extensive data on committees, including a comprehensive listing of all legislative committees in Canada together with their mandates. However, since some committees exist only on paper, rarely if ever meeting, it is disappointing that the listing offers little indication of most committees' level of activities. For the first time, the Senate finds its way into *Canadian Legislatures*. Among the intriguing information included on the Senate is a province-by-province rundown of where vacancies can be expected until the year 2000. Whether this is provided so that armchair analysts can speculate on the party composition of future Senates under Meech Lake or so that would-be Senators can plot their strategies is not specified.

Two brief sections offer some international perspective. One sets out basic data on American state legislatures size, expenditures, salaries and the like. The other offers a short, primarily statistical review of West German legislatures, with the

main emphasis on members' remuneration and benefits. Neither section attempts to go beyond the statistics into comparison of the operation or effectiveness of Canadian, American and German legislatures.

The 1987-88 edition continues the practice, begun in 1986, of supplementing the statistical material with a number of mainly short essays on matters parliamentary. All are worth reading, though inevitably the quality varies a good deal. David Nethering on "The Role of State and Provincial Legislatures" and Lothar Spath on "The New Politics" are long on high-sounding rhetoric but short on substance. Also disappointing is the piece entitled "Group Dynamics of the Legislative Process" by Dr Jim Henderson, a psychiatrist who is also a member of the Ontario Legislature. Rather than bringing the insights of his profession to bear on his fellow MPPs, which might have truly fascinated, Henderson concentrates on attacking party discipline.

Michael Adams and Jordan Levitan report the results of a specially-commissioned Environics poll on public perceptions of media bias. The survey confirms that television ranks as the primary source of news for most Canadians and, more surprisingly perhaps, that television fares better than newspapers for perceived objectivity, accuracy and depth. By a large margin, the CBC is the most trusted of the TV networks for political news. Another surprise, given the government's complaints over bias in CBC coverage is that Conservative supporters regard it as more objective than do New Democrat or Liberal partisans.

Peter Desbarats manages fresh insights into a well-worn topic in a first rate analysis of media influence on politics. Not the least of Desbarats' contribution is a debunking of the 'golden age of print' myth: "for anyone who believes that the age of television was preceded by an era of superior newspapers, a few hours in the microfilm archives of any major Canadian daily will prove to be a sobering experience".

As ever, Eugene Forsey is trenchant and stimulating on reform of the

Senate. He is not sanguine about the prospects for a triple-E Senate, but returns to the 1980 Lamontagne report for some workable reforms, many of which would not encounter the all but insurmountable hurdles of the constitutional amending process.

By far the longest paper, and in some ways the most valuable is Carolyn Thomson's thorough analysis of conflict of interest legislation across Canada. Though it concentrates on such details as the scope and coverage of legislation, definitions of conflict of interest and provisions for disclosure, divestment and blind trusts, the paper is leavened with insightful commentary on the larger political questions at issue.

The book is marred by an unconscionable number of typographical errors and loose copy-editing; to take but one illustration, within two pages, we are told that following the recent Ontario election, 48 per cent, "approximately 40 per cent" and 37.6 per cent of the membership was newly elected. Still and all, *Canadian Legislatures 1987/88*, like its predecessors, is a goldmine of useful information, with some stimulating essays thrown in for good measure.

Graham White

**A Public Purpose**, Tom Kent, McGill-Queen's University Press, Kingston & Montreal, 1988, p.433.

After a distinguished career at the *Guardian* and the *Economist* in Britain and editor of the *Winnipeg Free-Press*, Tom Kent in early 1958 joined the office of the new leader of the Liberal Party, Mike Pearson. This book is a refreshing and blunt account of Kent's experiences at the centre of a vanquished party striving to regain power.

Neither history nor biography, *A Public Purpose* shrewdly assesses the politics and personalities of the years between 1954 and 1971. Kent surveys the main achievements of the Pearson era – the Canada Pension Plan, Medicare, Cooperative Federalism etc. His frank comments make good reading for those who study or practice politics.

For example: Leadership) "Abbott was the strong man among the younger ministers

... an excellent Minister of Finance ... politically sensitive and sensible. If he had stayed he would have been my choice to succeed to the leadership, ahead of Pearson. While his sympathies were not quite as broad as Pearson's, he had an even clearer mind, a better understanding of most issues and above all a greater capacity to make firm decisions and a stronger grasp of how to execute them. Letting Abbott and Claxton go was the first evidence, and in my view one of the most serious consequences, of the recurrent bouts of passivity that marked Mr. St. Laurent's behaviour from 1954 on."

((Policy Planning) "Modern government is far too complex for a Prime Minister and ministers to do much serious policy-planning after they are in office. They are always too busy with the immediate. If they do not come to office with clear, comprehensive, realistic objectives, they will not formulate them afterwards. In many areas of policy, they will be the slaves of events, of lobbying groups, of officials who know so much more than they do, of opinion polls, of short-term calculations.

(Preparing for Office) "Mike Pearson was certainly neither the first nor the last political leader to approach government with a style that has too little regard for its management aspects. Indeed, while the reasons have varied in detail, the upshot has been the same for all our federal governments since 1953: faced with the complexities of public affairs in the modern state, none has succeeded in organizing its central processes in a way that fosters the sense of reasonableness and foresight, of coherence and efficiency, which is at the heart of good management in all collective activities...."

(Influence of Bureaucrats) "The role that public servants play in policy-making is widely misunderstood. The idea that they should merely implement policy decisions, for which all the ideas have come from elected men, is nonsense. Government has never been so simple that it could be run that way, and certainly it is not today. We pay senior public servants to be the professionals in government and they would not be doing their job if they did not have significant influences on policy.

What they should not have, and as far as I have seen usually do not have, is decisive influence, as long as the politicians are doing their job. But for that the politicians in office ... have to be agreed on clear objectives."

(Press in Politics) "Most politicians exaggerate, I think, the influence of the press on public opinion. They are themselves the most avid readers of newspapers and nowadays watchers of TV news and public affairs programs. The consequence is a mutually-regarding relationship between the media and public personalities. The media feel important because they constantly see how much their subjects care, while the vanity of the subjects makes them take the media much more seriously than do other readers, listeners and viewers.... In the large world one sees, time and again, that much of the public has a healthy distrust of media comment and makes its own common-sense judgment of people and measures."

En passant, Tom Kent torpedoed a couple of quaint notions. He terms the idea that a minority government is necessarily weak "a myth created by politicians out of self-interest". In his view a minority government may be less comfortable to be in, but "is not necessarily less able to govern".

In this age of SIN and computers Kent sees no reason why Canada should not abandon its "clumsy process of voter registration for each election, now the only excuse for the length of the campaign". "Voter lists could easily be kept in a form in which they can be readily updated" allowing Canada to have campaigns lasting about three weeks, "common in more densely populated countries". The only beneficiaries of our long campaigns are the political parties, each seeking to "put up a better smokescreen than the others."

The book is valuable in its analysis of the Pearson character and of the rivalry between Messrs Pearson and Diefenbaker.

In history Pearson will be seen as a fairly successful Prime Minister and Diefenbaker as a highly ineffective one. But it was Diefenbaker who was given widespread credit for good intentions. The side of his personality that in 1964 was still

best known was expressed in his avuncular stance with his fellow Canadians: in the speaking style of sentences without logical beginning or end, words without clear meaning, but words replete with a good man's emotions. The cloud of obscurities often made it hard to appreciate the sharpness of Diefenbaker's mind in debate. He was a matador in a contest where Pearson often seemed to be his victim, hurt, slow and blundering. Diefenbaker was entirely unscrupulous; he could set aside facts or invent whatever alleged facts suited his purpose at the moment. And he was cruel, a master of innuendo with an unerring instinct for what would most hurt his opponent.

Debate with Diefenbaker was, therefore, a game that Pearson was utterly incapable of playing. For Diefenbaker, a politician was a platform orator and a parliamentary debater. He therefore despised Pearson who was little good in either role. Nevertheless Pearson had taken the prime ministership from him. That this was so inappropriate, in Diefenbaker's terms, meant that the despising was mingled with hating. Pearson on his part, hurt as he was by Diefenbaker's attacks, came to hate too. And he despised, because of Diefenbaker's intellectual dishonesty and his evasiveness and indecision when he was the leader of a government. But above all, Pearson was afraid of Diefenbaker in the House of Commons. That mixture of feelings seemed to numb the normally agile Pearson brain. In anything but a set speech, his parliamentary performance was increasingly evasive and indecisive."

The author's way with words ensures that the serious content of this memoir does not weary the reader; humour shines through from time to time. For example when Kent ran as a candidate in Burnaby-Coquitlam against Tommy Douglas in 1963 he was aware that his "Englishness" might well be a disadvantage. Hence delight when a large gang of NDP hecklers "prepared for the occasion with plenty of beer" drowned out his efforts to speak by chanting "Yankee Go Home".

Tony Wright

# People

## New Speaker in Manitoba

The new Speaker of the Manitoba Legislative Assembly is **Denis Rocan** MLA for Turtle Mountain. Mr. Rocan, 39, has served in the Legislature since 1986.

Born in Somerset to French-Canadian parents he spent his early years in the north end of Winnipeg, returning to Somerset at age 12. He is bilingual and received his education at Sacré Coeur in Winnipeg, Somerset Collegiate and Otterburne College.

Mr. Rocan has held supervisory positions with Inco in Thompson and Eaton's in Winnipeg. He has also owned and operated both a building and moving company and a grain and fertilizer hauling business. He has been active in the community, is an avid curler and a member of the Lions Club.

## New Lieutenant Governors

On July 28 Prime Minister Mulroney announced the appointment of two new Lieutenant Governors.

In British Columbia, **David See-Chai Lam** replaces the Hon. **Robert Gordon Rogers** whose term has expired. Born in Hong Kong, Mr. Lam came to Canada in 1967 and became a Canadian citizen five years later. He has a B.A. from Longam University in Canton, China and an MBA from Temple University in Philadelphia.

A businessman, Dr. Lam is Chairman and President of Canadian International Enterprises Ltd., Vancouver. He is also President of the Hong Kong Merchant's Association, an organization he founded, in 1967, to assist

immigrants from Hong Kong in settling in Canada. Since 1955, he has maintained an association with Hong Kong Baptist College, serving as Chairman of its Medical Board until 1967 and remaining a member of the Board of Governors.

Mr. Lam is founder and President of the Floribunda Philanthropic Society and the David and Dorothy Lam Foundation. He was a major contributor to the building of the Dr. Sun Yat-Sen Classical Chinese Garden in Vancouver, the only authentic Chinese-Style garden built outside of China.

Dr. Lam has also been a principal supporter of the Chinese Cultural Centre in Vancouver and the United Chinese Community Enrichment Services Society, service agencies dedicated to bringing together the Chinese community and other communities in Canada.

In Saskatchewan the new Lieutenant Governor is **Sylvia Fedoruk**,



Sylvia Fedoruk

currently chancellor at the University of Saskatchewan. She has served as director of physical services, Saskatchewan Cancer Foundation and as professor of Oncology at the College of Medicine.

She has been a member of the Atomic Energy Control Board since 1973 and is Vice-Chairman of the National Forum on Post Secondary Education.

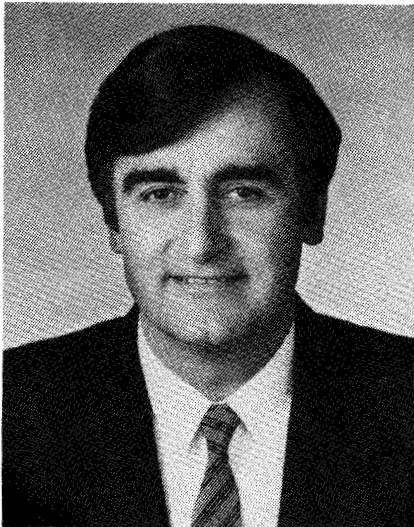
Sylvia Fedoruk was one of Saskatchewan's outstanding female athletes having competed in a number of sports including basketball, track and field, volleyball, golf and curling. She was inducted into Saskatchewan's Sport Hall of Fame last year.

## By-elections

There have been both federal and provincial by-elections recently.

The federal by-election of June 20, 1988, was one of the most fiercely contested in recent memory. The Conservative candidate was **Lucien Bouchard** the former Ambassador to France and recently appointed Secretary of State.

A vacancy was created for Mr. Bouchard by the resignation of **Clément Côté** member for Lac-St-Jean. Prime Minister Mulroney made the election of his new cabinet minister a matter of high priority. He visited the riding several times and announced job creation and other programs for the region. The Liberal candidate was the former MP **Pierre Gimaiel**. When the votes were counted Mr. Bouchard had nearly 17,000 votes compared to 10,700 for the Liberals and 3,000 for the NDP candidate.



**Lucien Bouchard**

While losing a federal by-election the provincial Liberal Party in Quebec picked up two seats in the provincial by-elections held the same day. **Gaston Blackburn** took Roberval and **René-Serge Larouche** won Anjou.

Mr. Larouche, a native of Alma, has studied at the Universities of Montreal, North Carolina, the *École nationale d'administration publique* and the Fletcher School of Law and Diplomacy (Tufts-Harvard). He also has a diploma from the International Marketing Institute in Cambridge, Massachusetts.

From 1971 to 1975 he was Secretary of Academic Studies at Sherbrooke University and Director General of the Federation of University Professors of Quebec from 1975 to 1980. Mr. Larouche has been a member of the policy committee of the Liberal Party of Quebec and the sub-committee on external trade.

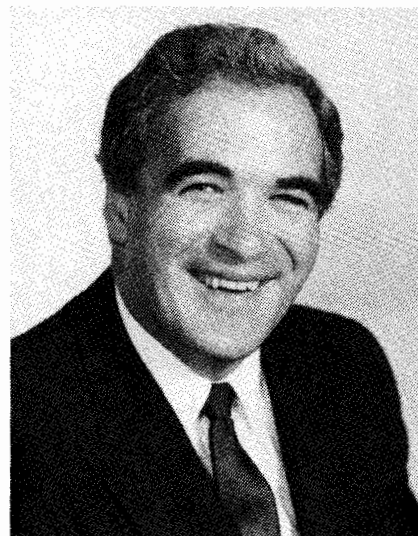
Mr. Blackburn, a businessman, was born and educated in Chicoutimi. From 1970 to 1973 he was a supervisor for Provigo in the region of Saguenay-Lac-Saint-Jean and subsequently established his own chain of supermarkets in Dolbeau, St-Félicien and Mettabetchouan.



**Rosemarie MacDonald**

In British Columbia **Bill Barlee** of the New Democratic Party won the seat of Boundary-Similkameen. It had been considered a stronghold of the governing Social Credit Party. Educated in Kelowna, the Vancouver Normal School and at the University of British Columbia Mr. Barlee was a teacher for sixteen years. He then founded a quarterly magazine called *Canada West* and wrote two best selling books about British Columbia.

He has been a long time placer miner and presently is a partner in Old Cascade Mining Co. Ltd., a gold and platinum mine in the Similkameen District.

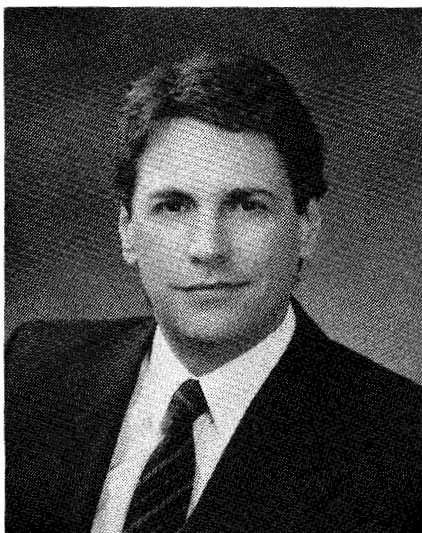


**Gaston Blackburn**

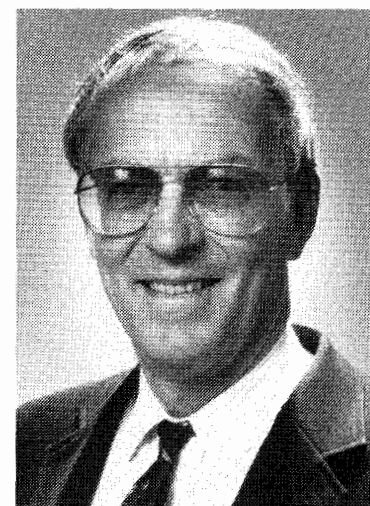
He has been a member of various business and professional groups including the Kiwanis Club, the Zoological Society of St-Félicien, and is a former chairman of finance for the Red Cross

Mr. Blackburn was named parliamentary secretary to Premier Bourassa in July 1988.

The Liberal Party of Prince Edward Island retained the seat of Kings Fifth when **Rosemarie MacDonald** became the first King's County woman elected to the provincial assembly. Her margin of victory, 152 votes, would seem narrow in most provinces but several times the seat has been won by a handful of votes.



**René Serge Larouche**



**Bill Barlee**

*(Visions West Photo Services)*



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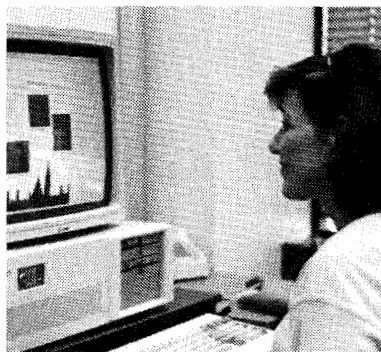
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