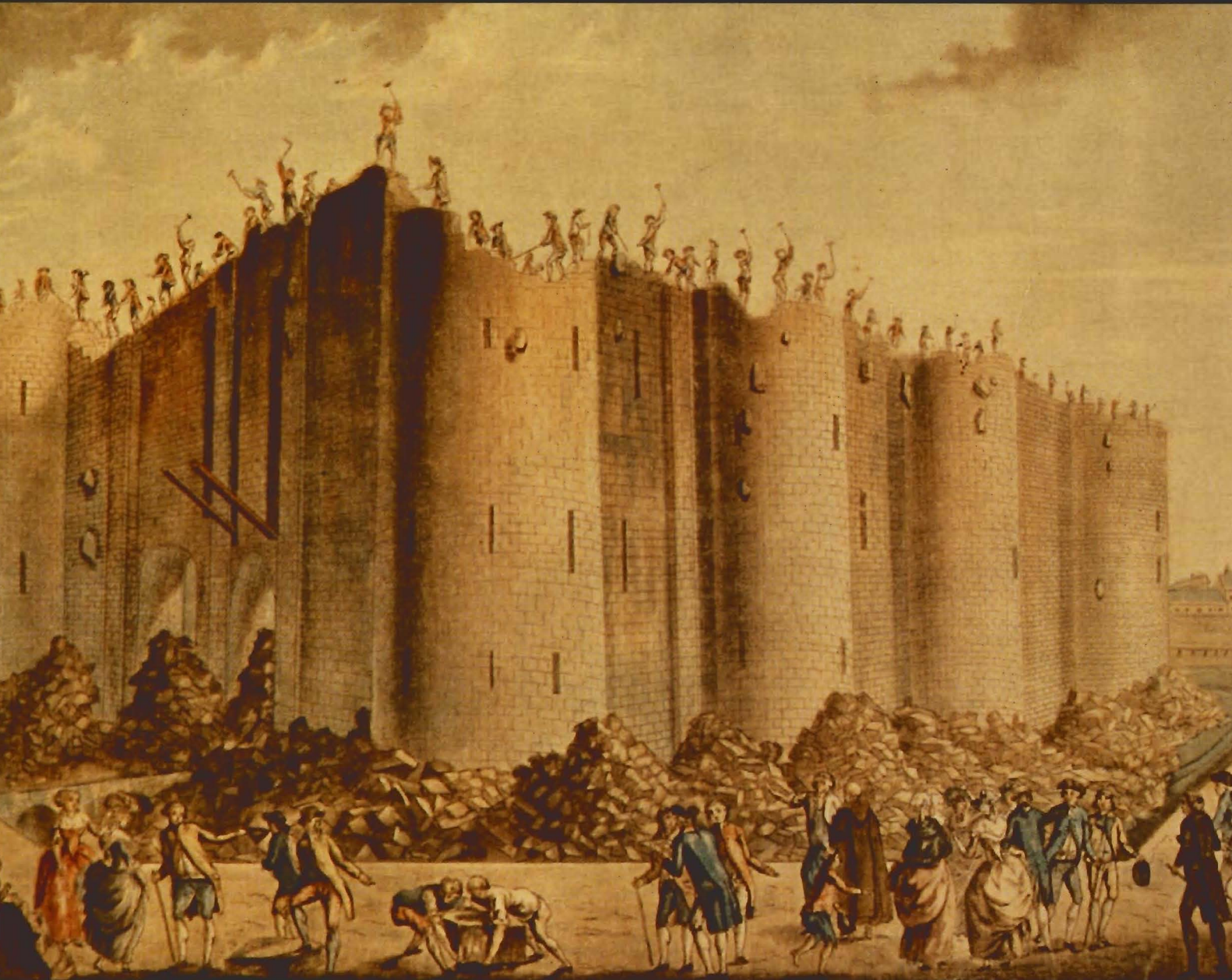


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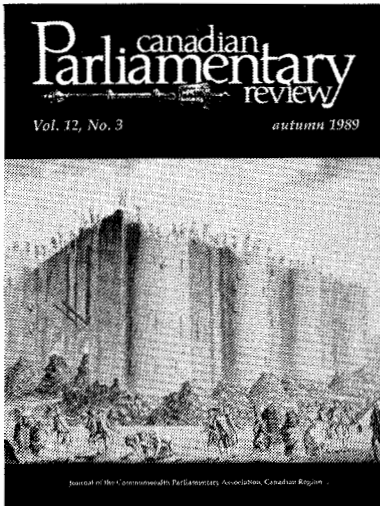
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Démolition de la Bastille
by Jean-Pierre Houle,
Carnavalet Museum, Paris.
Photo courtesy of ERC/SIPA ICONO

About the Cover

This year marks the 200th anniversary of the French Revolution, a turning point in world as well as French history.

Despite its many excesses, the Revolution first demonstrated the political philosophy that has come to pervade the modern era – that the social and political world can be utterly transformed by acts of human will.

The Revolution spanned more than a decade but began with the taking of the Bastille. Not content with freeing the handful of prisoners, the revolutionaries, proceeded to demolish, stone by stone, this symbol of the Ancien Regime until nothing remained but a pile of rubble.

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Quebec and the French Revolution

Michel Tétu

In French-speaking Canada, the Revolution was at first greeted enthusiastically. In the spring of 1789 some said it was the most significant event since the birth of Christ. However, with the "horrors of the Revolution" (as the expression went), opinion changed quickly becoming anti- and even counter-revolutionary. Although conservatism and clericalism emerged stronger, the revolutionary spirit did not die. It resurged periodically in the 19th and 20th centuries, up to and including the Quiet Revolution of the 1960s and Quebec's full-fledged entry into "la Francophonie".

When France ceded New France to England by the *Treaty of Paris* in 1763, the colony numbered about 65,000 inhabitants. The population was doubling every 25 years as a result of the extremely high birth rate of the *Canadiens*, the numbers of French citizens who had gone back to France and then returned to Canada, and the beginnings of English immigration.

By the time of the Revolution, the population of Canada was 140,000 including 120,000 *Canadiens*¹ in 132 municipalities. The English victory and the *Treaty of Paris* created a shockwave. No one had the slightest notion as to why France had abandoned such a great country. Scornfully the people blamed Mme Pompadour, Louis XV's mistress. They blamed Bigot, the Intendant of New France, who had failed miserably in his duty of making the colony turn a profit. They blamed Montcalm, the Governor, who was unable to defend his city during the famous siege that cost him his life. The priests blamed the people, saying it was just punishment for the sins, hoping in this way to reclaim their flock.

The situation was traumatic and overwhelming. There was no longer any point in continuing to demand greater

independence from the motherland; measures had to be taken to deal with England and make life acceptable on Canadian soil.

Despite commonly held opinion, there was considerable coming and going between France and Canada after 1763. Although French citizens could not enter Canada, *Canadiens* – that is, French citizens born in Canada – could go to and from France as they pleased. Many shuttled back and forth to settle their affairs. News of what was happening in France was, therefore, readily available.

The American Revolution

When the Americans rebelled against the English, the *Canadiens* viewed the situation much less sympathetically than might have been expected. Although the *Canadiens* had been demanding a considerable degree of independence from France, and the Americans were rebelling against the English for the same reasons, after the *Treaty of Paris* the *Canadiens* had no desire to get involved in another battle. They needed time to recover. The Americans tried in vain to get the *Canadiens* involved, for several reasons. First, they had become fairly independent under Britain: they had kept their religion, their language, their currency, and their customs. The English, who ruled from a distance, did not interfere very

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much. Secondly, they were afraid of a new war; they needed to regroup. Thirdly, they were monarchists rather than republicans, and fourthly, they were encouraged by the Church to remain loyal to England. Monsignor Briand, Bishop of Quebec, issued his famous pastoral warning of May 22, 1775 against anyone who failed in his oath of allegiance.

Two American armies led by Arnold and Montgomery invaded Canada and laid siege to Quebec in late December 1775. However, the hostile attitude of the populace and the arrival of an English fleet in the spring made them withdraw.

LaFayette, Rochambeau and de Grasse came from France to help the Americans. In 1781, they had an army of 8,000 men and LaFayette suggested that Washington invade the colony in the name of France, convinced that the *Canadiens* would then rally to the cause. However, Washington refused, not wishing to create a troublesome neighbour for the young American republic.

LaFayette returned to France where he played an important role in the French Revolution and Rochambeau left for the West Indies, where the French situation was worsening rapidly. In 1783, England recognized the independence of the United States and the northern border was defined. About 5,800 loyalists and 800 regulars crossed the border to settle in the Upper St. Lawrence. They would soon require their own district, as they did not wish to live under French civil law or the seigneurial system.

The Beginnings of the French Revolution

Relatively happy with their fate, treated with consideration by England and enjoying a fair amount of independence, the *Canadiens* nevertheless applauded the beginnings of the French Revolution. They loved the king but believed his entourage was corrupt and that order would be established in France. Grand ideals would triumph, and this would have a positive effect on their situation in North America. The type of government the *Canadiens* wanted for France was a constitutional monarchy. When the *Declaration of the Rights of Man* became known in Canada, it evoked great enthusiasm, as can be seen in this article from *La Gazette de Québec*:

...today there can be no doubt: this is not a revolt, but a true revolution. Two events that occurred within three weeks of each other in August of last year make it possible to state that France will never again be what she was two years ago: an absolute monarchy.

Those two events — the renunciation by the nobility of all its privileges (August 4, 1789), and the Declaration of the Rights of Man (August 26) — constitute the definitive turning point of the Revolution.

By agreeing to give up all its privileges (tax exemptions, feudal rights, and so on), the nobility has yielded to the will of the people, who wish to conduct their own affairs, no

longer accepting the social and economic inequalities that are based only on accidents of birth or the good will of the king.

It is precisely this rejection of inequalities that has been transformed into the main foundation for a new society, in the famous Declaration of the Rights of Man. A tribute to the great British Magna Carta, the American Declaration of Independence, and the philosophic spirit of Rousseau, this document constitutes the synthesis of a new spirit that will doubtless mark future generations....

If, to these elements, the affirmation of the principle of freedom of opinion and the press are added, we can glimpse something of the path France has been following for the past two years. Of course, none of this has been easy; the horrors of civil war and bloody revolution still exist. The cause of the Revolution has nonetheless definitely succeeded in destroying the structures of the ancien régime; present and future problems for France will involve establishing new institutions and meeting the urgent needs that the representatives of the people have given themselves the power to solve.

Thus, from 1789 to 1792, the tone in which newspapers discussed the Revolution was uniform. Samuel Neilson, in Quebec, was absolutely euphoric. Fleury Mesplet was proudly revolutionary.

In 1791, Britain decided to divide Canada in two in order to allow the English, who were in the majority in the west (Upper Canada, now Ontario) and the French, in the east (Lower Canada, now Quebec), to live separately, but faithful to England. Lower Canada at the time was 85 percent Francophone. Each province was given an elected assembly, an appointed legislative council, and a lieutenant governor. A Governor would represent the executive. Two peoples were given recognition; each was to be able to develop in accordance with its aspirations and govern itself in accordance with its own nature.

“The British government wanted at all costs to avoid new tensions and confrontations. It was vital that the Revolution not reach Canada, even if this meant applying parliamentary principles to the colony.”

Everything said publicly about the Revolution in Canada at the time was therefore positive. Only some private correspondence revealed mixed emotions or even opposition to the Revolution. In public, opinion was unanimous.

The Turning Point

At the end of 1792, however, things began to change. For some time it had been thought that the Revolution was too

violent and brutal. In a Carmelite convent, priests and nuns were massacred, two of whom were *Canadiens*. Indignation and incredulity spread across the ocean.

Since the beginning of 1792, almost everywhere in France, bands of sans-culottes have been amusing themselves by hanging and massacring priests and nuns.... on September 2 and 3 over 1000 prisoners, among them almost 250 priests, were massacred after a mock trial. ... The Revolution, which until now had maintained a certain dignity, by this bloodbath has lost all decency. God knows where and when it will stop.

In May 1793, the colony learned of both the death of Louis XVI (January 21) and the war between France and England (February 1). At that moment, everything changed.

Now the revolutionaries were nothing less than murderers. In a few days public opinion among *Canadiens* did a complete about face. On April 24, Lieutenant Governor Clarke proclaimed that the population was at war with the Revolution. He did not dare to ask the people to go to war against France, as he believed this would provoke division, but he was certain that everyone would follow him if he declared war against the Revolution.

The elected bodies therefore assured the governor of their indignation against the country which had guillotined its king. On November 9, Monsignor Denaut reminded the faithful of the loyalty they owed the king of England. He even listed six reasons in favour of compliance with the established order:

First, because by the capitulations of Quebec in 1759 and Montreal in 1760, and still more by the peace treaty of 1763, the ties that bound them to France were entirely broken, and all the loyalty and obeisance they owed to the king of France they now owe to His Majesty the King of England.

Secondly, because the oath taken by them or their peers to the King of England when this country was conquered binds them in such a way that they could not violate it without being grievously culpable toward God himself.

Thirdly, because in addition to the strong obligation that results from such an oath, there is the conduct — full of humanity, gentleness, and beneficence — that the British government has always displayed toward them.

Fourthly, because the constant protection accorded to their Holy Faith by this same government, should make them desire ardently never to fall under the dominion of any other country.

Fifthly, because the spirit of religion, of submission and attachment to one's king which was once the glory of the Kingdom of France, has given way over the last few years to a spirit of irreligion, independence, anarchy and parricide which has not only resulted in the death or exile of honourable French citizens but has taken their virtuous king to the scaffold and justly incurred the indignation of all the European powers; and that the most unfortunate occurrence that could happen in Canada would be to welcome these revolutionaries.

Sixthly, because, in the present circumstances, the government is not the only party interested in keeping the French out of this province; any good subject, any true patriot, any good Catholic who wishes to preserve his freedom, laws, moral standards, and religion is also particularly and personally interested.

From that time on, there was practically a holy war against the Revolution. This open battle was everyone's business; it would continue under the Directory, the Consulate, and the Empire until 1815.

In 1794 the English numbered 25,000, and the *Canadiens*, 150,000. The former were afraid that the Revolution, despite everything, would reach Canada and gain ground there. They also feared the United States and learned to use a new tactic against the Revolution: psychological warfare.

There were constant reminders of the deaths of Louis XVI and Marie Antoinette since the *Canadiens* were actually very strong royalists. They swore an oath to the king of England but they were still faithful to the king of France.

There were also constant reminders of the massacres of priests, and nobles and the ransacking of property. The *Canadiens* were attached to their seigneurs and the seigneurial system. The seigneurs were not at all like the feudal lords in France; most often they were *Canadiens* who had been given a parcel of land to manage.

The English took exceptional measures against foreigners, and passed laws to prevent anyone coming recently from France from entering Canada by sea, or land by way of the United States. The borders were sealed and watched carefully.

Furthermore, the fear of the French fleet was used against the populace. A French fleet had indeed mutinied in Santo Domingo and headed for the United States. One of the purposes of this operation had been to reach Quebec and bring the Revolution to North America. The English exploited the situation, regularly instilling fear into the populace with stories of the horrible atrocities that would be committed by the mutineers.

Lastly, they encouraged spying. Suspicions were aroused, plots invented — there was fear on all sides. A few incidents that occurred between 1794 and 1796 were exploited to the full.

In 1797 a spy was finally captured by the English — one David McLane. There was a major trial, at the end of which McLane was hanged. Fortunately he was American, not French. That might have been going too far. An American could be hanged, even at great expense. The sentence had its intended effect: the English strengthened their hold on the clergy, which became fiercely counter-revolutionary. Several *Te Deum* would be sung to celebrate the victories of the English over Napoleon in 1798, 1802, 1804, and 1812.

Clericalism and Counter Revolution

The arrival of French immigrants, especially French priests, helped England in its efforts. In 1798 a considerable number of French immigrants arrived from England, where they had taken refuge. Several ships brought French nobles, led by Mr. Joseph de Puisaye. The latter and about 300 companions established themselves in the Toronto area, with the aim of creating a French settlement. Although the area had once been French the English were now in the majority and these immigrants would almost all return to France after the *Treaty of Amiens* in 1802.

The case was completely different, however, for the 51 carefully chosen French priests who came to Quebec between 1792 and 1815. Most were Sulpicians. They settled around Lac St-Pierre, near Trois-Rivières; in fact, the area would even be called "La Petite France". At the time there were only 140 priests in all of Quebec, so the arrival of 51 more marked the second foundation of the Church in Canada.

The priests were men of worth and reputation. One of them was the brother of Louis XVI's first minister. These priests would stay with the *Canadiens*, and not leave to convert the Indians, as had happened before. They also brought with them many beautiful things, such as 151 paintings dating from the 16th to the 18th century. These would be distributed among several churches and give birth to a new kind of holy art in Canada, a pictorial school.

The Church was extremely pleased. With the help of the French priests it would create the myth (one that the English would perpetuate), that the conquest of Canada by Britain before the Revolution had been providential. The English victory became an act of providence that allowed the *Canadiens* to save their souls and escape the sacrilegious, anticlerical and regicidal French Revolution. The *Canadiens* would accept this relatively well because they also would think that they had been able to save their property.

“ Thus, after the French Revolution had roused the enthusiasm of Canadiens by means of a budding parliamentary system and the Declaration of the Rights of Man, it ended up mainly serving the cause of the English, who took advantage of it to reinforce their power, and assisted the Church, which then took over the destiny of Quebec for the entire 19th century. ”

Some *Canadiens* did resist. Many realized, especially the most educated, that the English were taking advantage of the

Revolution to change the spirit of agreements and dominate them completely. From 1791 on, although they applauded the new law, they quickly realized that it was better in appearance than in substance. Protests were quick in coming. In May 1794, when the English established a militia on the pretext of defending the country, the *Canadiens* refused to register: they were afraid of conscription. In 1796 the English wanted to pass a public works act and force each *Canadien* to maintain the road in front of his house. The *Canadiens* refused to build their portion of road. From this point on, all the rumours circulated by the English about Napoleon's fleets or French fleets from the United States were no longer entirely groundless: several *Canadiens* turned them to advantage, and others would have been happy to see them become a reality. A few even circulated a petition to ask Napoleon to help Canada against the English, but it was signed by only 12 *Canadiens*.

The Nineteenth Century

Just as certain sentiments that cannot easily be expressed are often hidden within, the revolutionary spirit was not dead: it lived within the spirit of the *Canadiens*.

Certain ideas, that had originated with the French Revolution and had been enriched by contact with the United States and the effects of the American Revolution, would mark the entire 19th century.

In 1834 *Le Parti Canadien*, which had become the *Parti des Patriotes*, obtained 77 percent of the vote. Headed by Louis-Joseph Papineau, the party tried in vain to persuade the British governor that the Assembly which had been established in Lower Canada should be a completely responsible government. The governor then refused even to convene the Assembly. The *Canadiens*, in response, organized assemblies at the village, county and provincial levels. An Assembly met at St-Charles, and faced with the British government's refusal to meet any of its demands, decided to take up arms. Quebec rebelled, and the *Patriotes* won a first victory at St-Denis. The English army then organized and crushed the insurgents, whose rebellions were then systematically repressed, and whose leaders fled to the United States. Many of the *Patriotes* died; several others were imprisoned. The Rebellion had failed.

Papineau, who had not advocated armed revolt, was the first to take refuge in the United States in 1837. Robert Nelson followed, and others after him. On February 28, 1838, at the head of 300 men, Nelson, proclaimed the Republic of Lower Canada and, hoping for aid from the United States, crossed the border to recapture Canada. These revolutionaries were crushed and the English, wanting to prevent any repetition of the revolt, repressed it brutally. Several villages were burned and sacked. One thousand

people were thrown in prison, 108 of whom would be prosecuted and 99 hanged.

The Church excommunicated the Patriotes, although they were rehabilitated in the 20th century. Since 1960 the figure of the Patriote, with his toque, long woollen sash, pipe and rifle, has become a sort of folk hero. The Rebellion of the Patriotes did not succeed, yet the ideals of liberty would seem to have produced a movement with a considerable following in the last century. However, it was not until the Quiet Revolution of the 1960s that significant changes began to occur.

The Quiet Revolution and Beyond

Following his victory in the 1960 Quebec election Jean Lesage led a Liberal administration which took over health, education and even social services for which the Church had been responsible for two hundred years. Another important event was the nationalization of Hydro-Quebec, the asbestos industry, and natural resources, as well as the greater democratization of Quebec society.

Another important change was taking place. The term *Canadien* had gradually fallen out of use. In 1967 when General De Gaulle made his triumphal tour of the "Chemin du Roy" he was speaking to the French of Canada or French-Canadians. But the Quiet Revolution was already in the process of giving rise to a new Quebecois identity with a new mentality and a manifestation of the revolutionary spirit in poetry and song. This Revolution was indeed "quiet". When the *Front de Libération du Québec* (FLQ) assassinated Pierre Laporte in 1970, Quebecers were horrified, just as they had been when the French Revolution turned violent.

In 1976 the Parti Québécois came to office on the platform of independence for the province but it modified its ambitions when, in a 1980 referendum, it failed to obtain enough backing to make independence a reality.

The passion for independence cooled after the failure of the referendum but since then Quebec has played an increasing role in the international Francophone movement and the organization of the second Francophone Summit held in Quebec in September 1987.

French President François Mitterrand had chaired the first Summit for Heads of State and Government in Paris in February 1986. Eighteen months after the first summit, it was Quebec's turn to welcome the forty Heads of State and Government. At the instigation of the province of Quebec (a remarkable fact at the time, and one which has not been emphasized enough), a *Declaration of Solidarity* was issued at the end of the Summit.

This Declaration, which passed relatively unnoticed, draws once more upon the spirit that was behind the French Revolution. The community no longer wishes to be seen as revolving around France, with the other Francophone countries on a slightly lower plane, a kind of *sous-France*, as it was once called by the late Congolese poet Tchicaya U Tam'si. The Heads of Government wish to be collectively responsible:

Recognizing the importance of our *freely constituted association*, in which, as *equal partners*, we are bound by a common desire to contribute to a renewed equilibrium in our relations and inspired by the use, to varying degrees, of the French language as a tool for learning, dialogue, development and innovation....

After two centuries of struggle, after a Quiet Revolution, and after a referendum on independence it is perhaps within the framework of "la Francophonie" that Quebecois will best be able to realize the spirit of the French Revolution. ■

Notes

1 The area today known as Quebec was, at the time of the Revolution called Canada and the inhabitants, Francophone for the most part, referred to themselves as *Canadiens*, and to their British conquerors as the English. This would continue for the entire first half of the 19th century. The name Quebec would not really be used until after Confederation.

Fiftieth Anniversary of the 1939 Royal Visit

J. William Galbraith

In 1939 King George VI became the first reigning monarch to visit Canada when he and Queen Elizabeth spent a month touring the country from one coast to another. The tour succeeded in every way, including the King's expressed desire to give his "Canadian people a deeper conception of their unity as a nation". The constitutional significance of the 1939 Royal Visit is sometimes lost among the mass of emotional memories associated with the tour. This article looks at the importance of the visit for Canada's development into a fully sovereign independent nation.

Memories of the Royal Visit in the spring of 1939 are cherished because of the unprecedented excitement and activity created by the first visit to Canada by a reigning monarch. They are cherished also because of the joyful relief the visit provided from the barrage of foreboding news from Europe, of Hitler's bellicosity. In the 50 years that have elapsed, the country has grown into a mature, sovereign nation. The 1939 Royal Visit acted as a catalyst in that growth.

The Governor-General at the time, Lord Tweedsmuir, was a great admirer of Canada and an active promoter of developing Canadian pride and patriotism. As John Buchan, the well-known writer, he was the first non-peer to be appointed Governor-General of Canada. (He was granted a peerage by King George V shortly after his Vice-regal appointment in March, 1935). He knew the country well, having been a visitor in the 1920s and travelling widely since becoming Governor-General. He believed a Canadian's first loyalty should be to Canada and to Canada's King, not to the Empire. This opinion confronted the imperialist perspective

that pervaded much of Canadian thinking at the time. The imperialists could not conceive of Canada as anything but subordinate to the Empire.

The idea of the visit originated with Tweedsmuir, according to his friends, in a book published after his death in February, 1940. The official historian of the Royal Visit, Gustave Lanctot, who was also Dominion Archivist, recorded that the visit was apparently first suggested in early 1937, soon after the Duke of York acceded to the throne following Edward VIII's abdication. In the official account of the visit Lanctot explains that the "idea probably grew out of the knowledge that at his coming Coronation, George VI was to assume the additional title of King of Canada". The official invitation was presented by Prime Minister Mackenzie King while he was in London for the Coronation in May 1937.

The title "King of Canada" reflected Canada's sovereign status within the British Empire which derived from the Imperial Conference of 1926 and the 1931 *Statute of Westminster*. Therefore, the King would not act for Canada as King of the "mother country", Great Britain, but as King of Canada. Tweedsmuir's desire was to put the *Statute of Westminster* into practice, and that meant Canadians should "see their King performing royal functions, supported by his Canadian ministers". It meant having the King, and Queen,

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in Canada to perform those functions; the images on the coins and postage stamps resolving themselves into a real King and Queen.

“No one realized more profoundly than he did the real meaning of the *Statute of Westminster*” according to one of Tweedsmuir’s friends, Leonard Brockington. Before Tweedsmuir could begin to fulfil his wish, he had to secure



Lord Tweedsmuir, Governor-General from 1935-40. (National Archives of Canada C-8507)

a positive reply to the invitation, which in fact remained unanswered for over a year. From the time of delivery of the official invitation, the project consumed more and more of Tweedsmuir’s thoughts and activities. At the end of June, 1938, after receiving honorary degrees from Harvard and Yale universities, he sailed to England for a holiday where he pursued the invitation with “the persistence of a horse-leech”, as his letters to Mackenzie King reveal.

“The important question for me is, of course, the King’s visit to Canada” he wrote to the Prime Minister in mid-July from Elsfeld Manor, the Buchan home near Oxford. The visit could only be provisionally arranged, however, because of the tense situation in Europe, which bubbled with diplomatic activity, in reaction to Hitler’s designs for Europe. The events on the continent occupied much of the British government’s attention and was reported on in detail by Tweedsmuir in his correspondence to Mackenzie King. Even amidst these major concerns, Lord Tweedsmuir still found the King’s Private Secretary, Sir Alexander Hardinge, “all for it” and, after a preliminary discussion with the King, Hardinge reported that His Majesty was very sympathetic to the idea of the visit. Tweedsmuir also found both the British Prime Minister, Neville Chamberlain, and his Foreign

Secretary, Lord Halifax, “very strong about the importance of the thing”. Although an answer was not forthcoming for some time yet, Tweedsmuir was confident that it would work out all right, “as soon as I got Neville on my side ... for the King was most sympathetic.”

Rather than returning later that summer as scheduled, Lord Tweedsmuir was granted sanction from the King to extend his stay away from Canada and remained in the United Kingdom to take a recommended rest cure. His rest at Ruthin Castle in Wales in no way put him off the trail of pursuing the invitation. He continued his efforts, repeating in his correspondence to Mackenzie King, how His Majesty was sympathetic to the idea of the visit. The Canadian Prime Minister also hoped for an affirmative answer and, if not exhibiting the same enthusiasm, replied to his Governor-General’s optimism that he believed the visit would be “very much all to the good.”

By the time he finally sailed for Canada from Liverpool on October 1st, Tweedsmuir had secured the long awaited reply. Upon his return to Canada, and over the coming winter, the planning of the tour was to consume much of his time and energy. The delicate task for Tweedsmuir, and the Canadian Government, was “how to translate the *Statute of Westminster* into the actualities of a tour”, according to biographer J.A. Smith, “since this was the first visit of a reigning monarch to a Dominion, and precedents were being made.”

“ Amidst all the colour and excitement that Their Majesties’ presence produced, there are certain events that stand out for their constitutional significance of putting into practice the 1931 Statute, enhancing the relatively new Canadian sovereignty. ”

King George VI and Queen Elizabeth arrived aboard the Empress of Australia at Wolfe’s Cove, Quebec in the morning of May 17, two days late due to dense fog and ice at sea. Prime Minister Mackenzie King and Justice Minister Ernest Lapointe, attired in their gold-braided Windsor uniforms as Privy Councillors, greeted Their Majesties. From the Cove, they motored along flag-lined streets, thronging with thousands of the King’s Canadian subjects on their way to the historic Citadel, secondary residence of the Governor-General. There the Prime Minister, in his capacity as Secretary of State for External Affairs, presented His Majesty with the recommendation that he approve the appointment of Daniel C. Roper as “Envoy Extraordinary and Minister Plenipotentiary of the United States of

America.” The King signed the document in the top left-hand corner, executing his first official duty as King of Canada.

Two days later, in the study of Rideau Hall the Governor-General’s and the monarch’s official Canadian residence, Mr. C. Roper personally presented to the King his credentials that normally would have been delivered to the Governor-General. In the official history, Gustave Lanctot had set the context for this unprecedented ceremony by his dramatic description of the significance of the King’s and Queen’s arrival: “When Their Majesties walked into their Canadian residence, the *Statute of Westminster* had assumed full reality: the King of Canada had come home.”

“The King’s personal acceptance of Mr. Roper’s credentials was but one of the significant events that occurred on May 19, making it the most important day of the tour in terms of fulfilling Tweedsmuir’s special objective for the visit.”

Following a private lunch with the Governor-General and Lady Tweedsmuir, the King and Queen travelled with a mounted escort of the Princess Louise Dragoons to Parliament Hill where the political world of Canada waited for the “greatest royal function of all” to occur — the granting of royal assent. Nine bills were to be presented to His Majesty for assent.

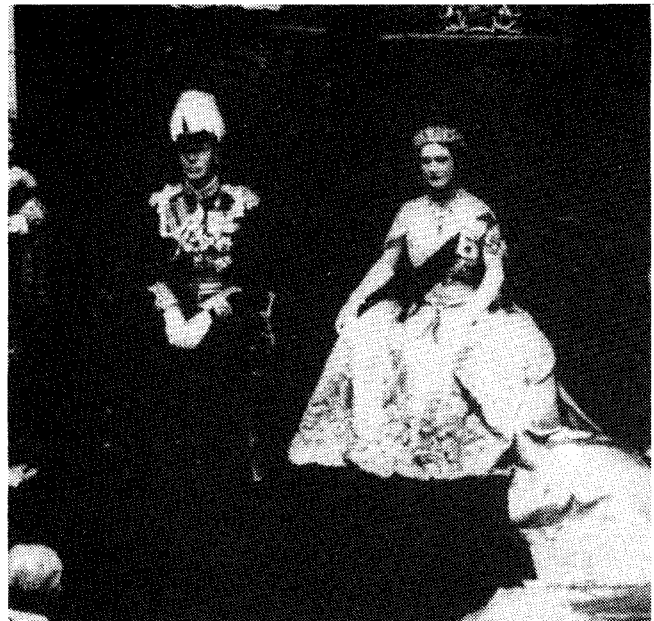
Lanctot’s description of the ceremony captures the mood and significance of that event: “...slowly, with a solemnity born of the dignity of centuries-old pageantry, mingling historic and present significance, the procession came to the foot of the throne... thereupon, (with everyone seated) the Clerk of the Senate ... bowed to the King, and holding the Bills aloft in sight of the King said in both English and French: ‘His Majesty doth assent to these Bills’ and His Majesty made an inclination of the head indicating assent.” One local newspaper described the scene as “breath-taking in its grandeur.” “No ceremony could more completely symbolize the free and equal association of the nations of the Commonwealth” stated the King in his speech following the granting of assent.

Lady Tweedsmuir was in attendance at this historic ceremony but the Governor-General was not. The official history of the tour makes a special point of noting the absence. He waited at Government House, determined that the visit should be “Canada’s show” and that he should remain in the background during the trip. His view was that while the King of Canada was present, “I cease to exist as Viceroy, and retain only a shadowy legal existence as

Governor-General in Council.” Even though he remained the King’s representative there was obviously no need for him to be present while the King was there. The “niceties of the situation ... suggested Lord Tweedsmuir’s absence” according to the *Ottawa Evening Citizen*. The Governor-General, in large part the author of this precedent-setting trip, thus did not witness one of the most significant events in Canadian constitutional history that he had helped plan.

Their Majesties left the Parliament Buildings accompanied by the cheers of thousands of people waiting outside. They returned to Government House for a brief rest and a “quiet tea”.

Later that afternoon, the Prime Minister presented to His Majesty two treaties for ratification, the implementing legislation to which he had given assent only a few hours earlier. Both were agreements with the United States: a Trade Agreement signed in Washington the previous November; and a Convention regarding the boundary waters of the Rainy Lake district, in northwestern Ontario, signed the previous September in Ottawa. In order for this event to take place, however, the Canadian Parliament had had to pass special legislation.



His Majesty King George VI gives Royal Assent to bills, in the Senate Chamber, on May 19, 1939.
(National Archives of Canada C-33278)

In a confidential letter to his Minister of Justice, Ernest Lapointe, dated December 10, 1938, Mackenzie King had set out certain issues he thought advisable for the law officers of the Crown to consider, “in view of the intended visit of His Majesty to Canada, next summer.” The most important of the issues he had pondered was “the constitutional position of

His Majesty, while in the Dominion, with respect to all matters of State.”

The law officers' response, given in a detailed letter signed by Lapointe and dated December 16, stated that the King “can do any act in respect of the Executive Government of Canada that is now done by the Governor-General, other than acts prescribed by statute to be performed by the latter as *persona designata*.” However, there were some royal functions that had not yet been delegated to the Governor-General by his Commission and Instructions and that were normally performed by the King in England. These included the issue of full powers and instruments of ratification, exequaturs to Consuls and the issue of letters of credence. If the King were called upon to perform an act during the visit such as the issuing of an instrument of ratification for a Canadian treaty, legal difficulties could arise concerning the use of the Great Seal of Canada, symbol of the Sovereign's authority imprinted onto documents such as treaties.

If the King ratified a Canadian treaty, the Great Seal of the United Kingdom would normally be used. However, if the King, as King of Canada, were to ratify a treaty under the Great Seal of Canada, the Justice Department opinion indicated that “it would seem to be necessary to secure the enactment by the Parliament of Canada of appropriate legislation to authorize (its) use ... for such purposes.” Lapointe proffered the opinion that the Parliament of Canada would be competent to pass such legislation and thereby replace the requirement for the Great Seal of the United Kingdom on such documents. His opinion was accepted and Parliament passed *The Seals Act of 1939*.

That Act allowed the King to ratify these international agreements under the Great Seal of Canada instead of the Great Seal of the United Kingdom. It was another step in this country's political maturity; at once, an event symbolizing Canadian independence and continuing loyalty to the Crown. In the words of the tour's official historian, “a new official procedure was established, which asserted and recognized Canada's equality of political status within the British Empire.”

This legislation, a direct result of the prospect of the King's visit, added to the sovereign status already granted to Canada by the *Statute of Westminster*. It allowed Canada to put her stamp, as it were, on her international relations. It also allowed greater scope in planning for the visit and therefore in translating the *Statute of Westminster* into reality.

These three special ceremonies that day contributed to a growing sense of Canadianism. They breathed life into the *Statute of Westminster*. But they were not the only events of the visit to make such a contribution.

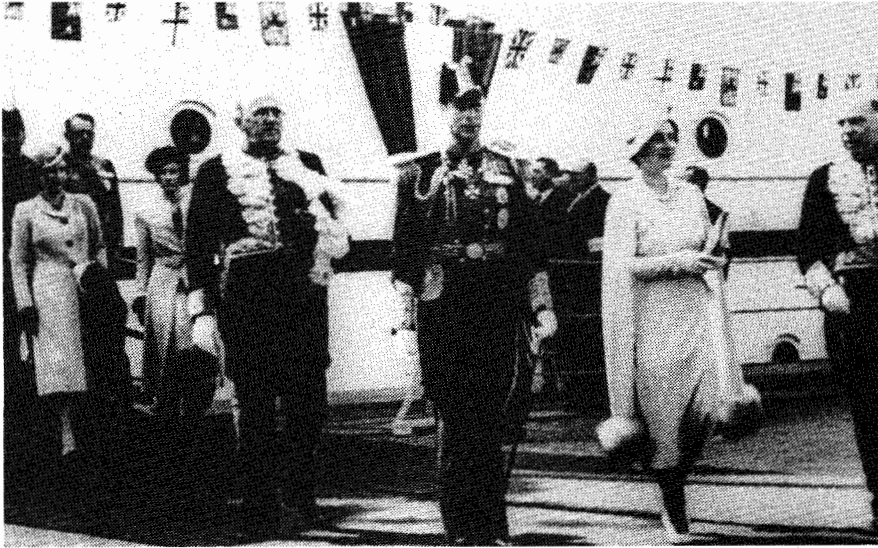
At a solemn ceremony two days later, May 21, Canadian national feeling received another boost, if in a more subtle fashion to those grand constitutional occasions of the 19th.

King George VI unveiled “The Response”, the national memorial, in Ottawa, to Canada's Great War dead. The drive along the crowd-lined streets from Rideau Hall to the memorial site was typical of Canadians' response to the presence of their King and Queen. At the memorial, after “God Save The King”, the bands played “O'Canada” and His Majesty remained at the salute. He was following the precedent set by Edward VIII at the Vimy Memorial in July, 1936. The tour's official historian commented that this royal recognition virtually raised the status of “O'Canada” to that of the Dominion's national song; although it was not until the country's centennial year, 1967, that it was approved by Parliament as the National Anthem, and not officially adopted until passage of the *National Anthem Act* in 1980. Their Majesties remained longer than planned among the flood of people, talking with war veterans and endearing themselves more than ever to their Canadian subjects. They then returned to their official Canadian residence to prepare for their departure from Ottawa.

When the King and Queen once again boarded the specially prepared, blue, silver and gold royal train that would be their home for the next several weeks, they left an excited city. The most significant royal functions had been executed personally by the King of Canada, leaving their legacy to a growing, sovereign nation. The Prime Minister continued to accompany His Majesty as his senior Canadian adviser. The Governor-General left to go fishing in Quebec, only being informed of the tour's progress by telegrams sent to him by the Prime Minister. It was as he wished, a direct relationship blossoming between the King of Canada and his people.

When the royal train pulled into Toronto on May 22, the Prime Minister presented to the King and Queen the Lieutenant-Governor and Mrs. Matthews, the Premier and Mrs. Hepburn, and the Mayor of Toronto and Mrs. Day. It was a scene often to be repeated during the tour. However, had not Mackenzie King turned his ever watchful political eye to certain matters concerning the Lieutenant-Governors, at about the same time that he had been pondering the constitutional ramifications of the Sovereign's visit, the receptions may well have been different. Protocol and the 1923 Revised Table of Precedence presented a problem. Though it may not have had the constitutional import of the Great Seal issue, it was nonetheless of concern to Mackenzie King the politician and did reflect the federal character of the country.

The Table of Precedence lists the highest positions in the government in order of rank or authority. The Table had been revised in 1923 and published in the *Canada Gazette* of December 22 that year. This revision moved the Lieutenant-Governors up to second place, after the Governor-General, replacing the “Senior Officer Commanding His Majesty's Troops within the Dominion.”



King George VI and Queen Elizabeth arrived at Quebec on May 17, 1939 and were greeted by Prime Minister Mackenzie King and Justice Minister Ernest Lapointe, resplendent in their Windsor uniforms.
(National Archives of Canada C-61621)

That change was made on the recommendation of the Prime Minister — Mackenzie King, who was then in his third year as head of Government. As the Table existed in 1938 then, the Prime Minister followed the Lieutenant-Governors.

Correspondence between the Prime Minister's office, the Governor-General's Secretary and the Under-Secretary of State for External Affairs toward the end of 1938, recorded the issue and decision of an amendment to the 1923 Revised Table of Precedence. "One of the reasons why the amendment is considered desirable at the present time", explained the Under-Secretary of State for External Affairs, Dr. O.D. Skelton, in a note to the Governor-General's Secretary, Shuldham Redfern, "is, that in connection with the visit of Their Majesties to Canada, it is desired to emphasize the national aspect of the occasion."

The Secretary of State, Fernand Rinfret, was working on a general revision to the Revised Table of 1923. Whether this particular amendment was proposed separately or as part of the general revision made little difference, according to Redfern, since the Governor-General would "seek His Majesty's approval without delay".

When the proposal was being prepared for submission to His Majesty, Skelton concurred with Redfern's suggestion that the reason cited for the amendment should be made "in the first instance, on its general merits, but to follow this up with an intimation of the special desirability in view of the visit of Their Majesties." In the first week of December, the Governor-General approved the recommendation that the amendment go forward to the King. His Secretary then sent a coded telegram to the King's Private Secretary, submitting the Canadian Government's request that His Majesty approve the amendments to the 1923 Revised Table of Precedence. The official view given in the telegram was that the objective of the amendment was to "place Prime Minister more in accordance with his national position and ahead of

Lieutenant-Governors who are appointed by the Government of Canada and whose status is provincial." It may well be that Mackenzie King felt that the Lieutenant-Governors, and hence the provinces, had been finally put in their place. As with the Great Seal issue, the prospect of the King of Canada's visit resulted in action being taken by the Government, this time to reflect more accurately the desired constitutional evolution of the nation.

By the time Their Majesties left the shores of Nova Scotia at the end of their tour on June 15, there was no doubt that Canadian sovereignty and national feeling had been given a great boost. This memorable and precedent-setting visit not only allowed Canadians to see *their* King performing royal functions in respect of the Government of Canada, it was also felt beyond Canada's borders, especially in England, where the visit, in all its constitutional meaning, had given Canada a heightened status not conceded to her up to that time. Some of these developments may have occurred at some future point in time but the 1939 Royal Visit was the catalyst in making them happen sooner, and in a very dramatic, real way, in the person of His Majesty King George VI. The heightened sense of pride and patriotism raised by the visit was also a fortuitous and timely gift for a nation that would be at war only three months later.

The memories of the 1939 Royal Visit, the excitement, the colour, the relief from gloomy news in Europe, "will endure for generations until (that day's) youngest child dies a centenarian" proclaims one beautiful souvenir publication. The legacy of that first visit to Canada by her reigning monarch will endure even longer. We celebrate 1867 as the year of our country's birth. But if we think of a State as a sovereign entity, acting independently in the world, then 1931 and the *Statute of Westminster* may be a more realistic date to celebrate, and the King's visit of 1939 helped to make the 1931 Statute a reality. ■

Electronic Surveillance and Members' Privileges

Donald E. Taylor

Parliamentary rights and immunities are priceless possessions. While not enshrined in a single authoritative document, they nonetheless form part of the doctrine by which legislatures function. Occasionally they undergo internal scrutiny and periodic adjustment to reflect the realities of the times.

Professor W.F. Dawson once described parliamentary privilege as "essentially the defensive weapon of a legislature which has been used to protect itself against interference." But are today's legislatures adequately equipped to combat the subtle pressures imposed upon their privileges by the employment of modern electronics? Incidences involving the practice of electronic surveillance are of particular concern.

" Today, technology enables the interception and recording of private communications of individual members without their knowledge or consent. "

Overtaken by technological advance, most jurisdictions are incapable of resisting these unauthorized electronic intrusions and equally unable to effect punishment upon offenders. Serious attention should be given to this disquieting phenomenon and its impact upon parliamentary authority. Until this matter is addressed and resolved, the

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confidentiality of members' communications cannot be assured.

Complaints of wiretapped telephones have been received in at least three Canadian legislatures. The member for Nickel Belt, John Rodriguez, rose in the House of Commons on March 16, 1978, to allege that his telephone calls had been intercepted by the RCMP and asked that the matter be referred to the Standing Committee on Privileges and Elections. The motion was rejected on division several days later.

In the British Columbia Assembly on March 5, 1980, the Minister of Consumer and Corporate Affairs rose to move that a Special Committee be appointed to consider allegations relating to the interception of his communications. In its report the Committee concluded that, while actions of the RCMP constituted a breach of privilege and a contempt of the House, no action should be taken because there was no evidence that the police were aware their actions might constitute a breach of privilege or contempt of the House.

The committee also emphasized the full time role of the modern legislator noting that his legislative and constituency duties extended beyond the session and, in many instances, into his home. It further went on record, "in the strongest possible terms as disapproving of these practices, particularly bearing in mind the right of the public to have free and uninhibited access to their elected members." In addition committee members were also unanimous in their opinion that fear of intercepts obstructed members in the performance of their legislative duties.

The report concluded, "Your Committee restates that the beneficiary of the law of privilege is the constituent and the public-at-large... a member does not have 'special status'. The member holds his privilege in trust for those who elected him and privilege exists only to the extent it is interwoven with his role as a legislator. Your Committee believes that parliamentary democracies flourish only when member and constituent can communicate freely, openly and without having the spectre of interception such as the one examined by your Committee."

In the Yukon Assembly it was learned that the telephone of the Minister of Justice had been subject to a wiretap. The matter was referred to a Special Committee on Privileges in April 1980. The Committee solicited information and opinion from a number of authorities, including Robert Fortier, former Clerk of the Senate:

I should think it would not be too difficult to argue that since the telephone is one of the most basic means of communication at the disposal of a member of parliament, and since it is normally used by a member in the legitimate and lawful discharge of his duties, conversations over the telephone relating to any business before the House or one of its committees, are covered by the term 'proceedings in parliament' and that consequently any attempt to interfere with or intercept a member's communications, would constitute a breach of that member's privilege.

In another response, former Counsel to the House of Commons, Joseph Maingot, noted:

A legislature must balance the otherwise lawful activity of the police which it requires to administer justice and which it is permitted to do by the code, with the corporate right of a legislature to administer its precincts and assist it and its members to perform their legislative tasks, the infringement of which may invoke the legislature's penal jurisdiction.

Following extensive examination, the Yukon committee recommended that electronic surveillance of the member's telephone constituted a breach of privilege and should be recognized as a contempt of the House. It further observed that failure of the RCMP to notify the Speaker that it intended

to place a member's telephone under electronic surveillance also constituted a contempt.

Interestingly, this Committee was able to elicit a commitment from the Solicitor General of Canada for the development of a new operational policy to be followed by the RCMP when seeking to intercept members' communications. In consideration of this, the Committee recommended that no disciplinary action be taken and the Speaker be directed to communicate with the Solicitor General of Canada on the subject and report back to the House. In 1983 the Speaker was provided with a final draft of a document entitled *Ministerial Directive on Legislators Privileges and Immunities, Part IV. I of the Criminal Code*. It should be noted that the directive applies only to the activities of the RCMP.

"Each incidence of unauthorized interference with the communications of a member in the performance of his duties threatens the very fabric of parliamentary independence and authority as we know it today."

In the search for an overall solution to this dilemma, consideration should be given to Criminal Code amendments, reflecting the spirit inculcated in the ministerial directive and in line generally with existing provisions regarding the immunities of solicitors. The advisability of seeking amendments to federal, provincial and territorial Evidence Acts might also be considered when examining questions of member privilege.

I urge members everywhere in Canada to give some thought to the importance of this matter and to seeing that measures are taken in respect to the use of electronic surveillance which will ensure that the privileges of the peoples' elected representatives are known and respected.■

Hansard Online in Manitoba

Susan Bishop

Two of the most heavily-used documents in any legislative or parliamentary library are the printed record of debates and the statutes currently in effect. In Manitoba, automation has been used to enhance access to both types of publications. The legislative library has been an active user of the *Hansard online* database since it was launched and has participated in trials of other related databases put up by Manitoba Data Services.

Like many of the databases which libraries have used since the 1970s, *Hansard online* evolved from a need to produce a hard copy product in a more timely and efficient manner. The impetus to create a database came from the Office of the Speaker as a means to speed up the retrieval process for MLAs and others who want to find out exactly what was said in the Chamber.

The Manitoba legislature's *Hansard* database was initially created using data transcribed by word processing staff in the Hansard office from the Debates and Proceedings of the fourth session of the Thirty-second Legislature which opened on March 7, 1985. Hansard staff input data using WANG word processing equipment and transmit their work to the Manitoba Data Services computer. Retrospective files from 1981 on were later added, giving a potential of eight years' worth of the Debates. Because the files are large, only the current session and the two previous sessions are available at any time. Special arrangements must be made to load the backfiles, with a charge levied for this service.

This database, as well as other related files, are maintained by Manitoba Data Services who provide user training, technical support, and documentation. Manitoba Data Services chose the STAIRS system to create the Hansard database, and users access the system using AQUARIUS (*A Query and Retrieval Interactive Utility System*), a sub-system of STAIRS.

The *Hansard* database and other related files are used extensively by legislative library staff, staff in the Offices of the Speaker and the Clerk, caucus researchers and legislative interns as well as government departments, making a total of 126 registered users of *Hansard* online. Most searches are

completed in five minutes or less. The system is available from 7 a.m. to 1:45 a.m., seven days per week. Normally the full text of the previous day's debate is available by 10 a.m.

Legislative library staff perform an average of 25 to 30 searches per month on behalf of clients. Most of these are done onsite at the Legislative Reading Room using a dedicated line which gives fast logon and response time, as well as fixed cost charges. Alternatively, if a user wishes to search using a multipurpose computer, it is possible to access the file through the Datapac network.

In order to use the databases effectively, a searcher needs two types of information. Because of the volume of data associated with a full-text database, a knowledge of parliamentary procedure and terminology is essential. A searcher who knows how to track legislation, where to find information related to estimates, and what type of language is used in the House can produce good results quickly. It is equally important to know the names of members as well as their individual responsibilities as ministers or critics.

Secondly, the searcher needs to become familiar with basic information retrieval concepts (Boolean logic, ranking, limiting and truncation) and then to learn the specific commands used in interacting with the system. Users who expect to use the system frequently would be well advised to take advantage of a formal Manitoba Data Services training session in the use of STAIRS and to order the STAIRS manual for a more complete understanding of the system.

The basic retrieval commands in AQUARIUS are "Search" and "Select". using the "Search" command, it is possible to locate occurrences of single words, words in proximity to each other, or terms with some logical relationship to each other. For example, the names "Filmon" or "Carstairs" or "Doer" can be searched to find out what any of the party leaders have recently said in the House.

Use of the standard Boolean operators "and" "or" and "not" allows a user to construct a query describing a subject. Since the database is a record of what is actually said, the terms found in the file reflect all the diversity of language used in the House – at least as it is recorded for posterity.

The effectiveness of the Boolean operators is somewhat mitigated by the structure of the database. A "document" is one section of a sitting, such as Oral Questions. One document can be as long as 100 screens, and can contain the

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discussion of several unrelated topics by several Members. A search strategy intended to identify what a given individual has said on a specific topic could retrieve documents in which the personal name appeared on "page" one, while the subject itself is found on "page" ninety-nine in the speech of another Member. While browsing a document, the searcher can command the system to display the specific portions of the document containing the search terms and to highlight the word(s). There are techniques which can help the searcher improve results within a full text system. Using the STAIRS commands "with" and "same" to link terms or groups of terms gives more precise recall since they require the terms specified to occur in the same sentence or paragraph. Another of the most useful methods to zero in on a topic is the "select" command which limits the retrieval to a given date range or a specific set of documents such as "oral questions".

The *Hansard* databases are used to answer several different types of questions. They can be used to pinpoint an exact date or the number of times a phrase such as point of order is used in the House. A new speech writer can sample the verbal style of a Member in order to write an appropriate text. With a change in government, a newly appointed Minister may want to know what the previous Minister or critic said in the last session on a given topic. Following the most recent election in Manitoba which saw a large number of first-time MLAs elected, the *Hansard* database was useful in answering questions related to procedure in the Legislature. The most obvious benefit from the Library's perspective is the ability to offer a faster and more comprehensive service while saving staff time. This is particularly true for queries where the client is unable to narrow down a time frame or requires a comprehensive search such as: "Find all occurrences of the expression 'affirmative action' in this session to date".

Access to the database on demand makes this information available to offices or libraries who do not have sufficient space or need to collect the printed *Hansard*. However, the searcher should be familiar with the printed version in order to search effectively.

Because *Hansard online* is relatively inexpensive, it can be used to demonstrate capabilities and techniques of online retrieval for both clients and staff. Given its subject content, it is of special interest for Members and caucus researchers.

Desiderata

Based on the legislative library's experience with other online retrieval systems and in guiding end-users to conduct their own searches, there are some areas in which the library would like to see this useful service made even better:

- Occasionally retrieval is limited by the data input quality or practice. Although rare,

this can result in failure to identify a key reference. Consistency in input would remove this problem.

- There is at present no way to link a "page" (i.e. screen) of *Hansard online* with a page of the printed *Hansard*. This can be confusing for clients and limits the usefulness of the option of printing brief references instead of lengthy full-text extracts.
- Increasingly, information providers are becoming aware that their systems must consider user needs and preferences in designing access procedures. Since both content and retrieval are relatively complex, users should have the option of a user-friendly menu-driven system which would walk them through the typical steps and options of a *Hansard* search. Experienced searchers could bypass the menu and use the system commands directly.

The Law Library of the University of Manitoba and the Winnipeg Public Library have indicated interest in accessing some of the files maintained by Manitoba Data Services, such as *Hansard* and the *Continuing Consolidation of the Statutes of Manitoba*, in order to make this information readily available to the public. If the database is going to be used by a wider user-base, there will be a need for documentation which explains the contents of the file for a novice and offers a tutorial walk-through. It might also be helpful to incorporate that information into the online help function.

Another desirable feature would be greater flexibility in browsing the database on screen or by printing. This function is perceived as cumbersome, particularly for those accessing the system at 1200 baud, since all information is transmitted one screen at a time. Manitoba Data Services indicates that new communications software and 2400 baud access could improve this function.

These comments and a wish list for improvements do not in any way negate the success of this initiative which has benefitted the legislature, the legislative library and the many other users of the system. Indeed, Manitoba Data Services has extended its range of databases to include online versions of the *Minutes of Standing Committees* as well as the *Continuing Consolidation of the Statutes of Manitoba* in both official languages. The combined group of databases contributes to efficiency within the legislative assembly and government operations. Public access to this information supports the concept of openness in government and recognizes the need to make this information available as quickly as possible to the citizens of Manitoba. ■

Is the Canadian Governing Process going American

Gary Levy

This lecture was originally delivered on January 25, 1989 to the Americas Society/Canadian Affairs in New York. The author was the Society's 1988-89 Visiting Fellow sponsored by the Donner Foundation. Views expressed are the responsibility of the author and do not represent those of the Americas Society, the Donner Foundation or the Canadian Region of CPA.

In the ongoing quest to maintain a separate North American existence Canadians have always prided themselves on adherence to parliamentary rather than congressional institutions.

The theory of parliamentary government is well suited to a political culture that emphasizes order, hierarchy and centralization in contrast to the American preoccupation with due process, individual freedom and the diffusion of power through an elaborate system of checks and balances.¹

The traditional elements of a parliamentary system — responsible government, limited judicial review, and a strong cabinet with power centralized in the hands of a Prime Minister characterized Canadian politics for over a hundred years. In the last decade, however, there have been significant changes in each of these areas. Today prerogatives formerly held by the Prime Minister and cabinet must be shared with a Supreme Court charged with interpreting the *Canadian Charter of Rights*, an activist Senate controlled by the opposition and a House of Commons reformed with the specific purpose of increasing the role of private members.²

Divided Government

The term “divided government” is usually associated with the American congressional system when one party holds the presidency and the other holds one or both Houses of Congress. In theory such a division between executive and legislative branches is impossible in a parliamentary system. But if one party does not control both the House and Senate

and if the Senate decides to exercise its constitutional right to block legislation, you have essentially the same situation — worse if there is no provision for an override or an effective mechanism for working out disputes short of an election.

In 1988 the Canadian Senate took the very unusual position of declaring it would not pass the Canada-US free trade legislation without an election thereby “forcing” the government to go to the people. That election has been held and the Free Trade Agreement adopted. In other respects the political situation is unchanged. There is still a Conservative Prime Minister supported by a majority in the House of Commons and a Liberal dominated Senate ready to exercise its full constitutional power.

The movement toward an activist Senate actually predates the free trade debate. It can be traced back to 1979 when Joe Clark managed to form a minority government, the first Conservative administration since 1962. With few seats from Quebec, a province that usually has anywhere from 8 to 12 ministers, Mr. Clark decided to appoint a number of Conservative Senators from Quebec to cabinet and give them some high profile portfolios including Justice.

There is always at least one Cabinet Minister from the Senate to look after the government's interests in that chamber but the presence of several Senators with departmental responsibilities posed obvious problems. The two chambers being completely independent there is no easy way for elected members of the House of Commons to question Senators and hold them accountable.

Under the circumstances Liberal Senators took the position that if the government was going to place ministers beyond the reach of the House of Commons, it would be up to the Senate to hold them accountable. But unlike the Commons, the Senate had no set period for questions; nor was there any time limit to the length of interventions; nor does the Speaker of the Senate have the same powers as the Speaker of the House to call members to order. The Upper House had functioned on the assumption that Senators, being mature legislators, had less need for the detailed rules of procedure and continuous vigilance of the presiding officer that one finds in the Commons.³ In the new circumstances the Senate became rather disorderly very quickly.

The minority Clark government was short lived as the Liberals under Pierre Trudeau recaptured control of the House in the 1980 election. However, with an absence of sufficient elected members from the western provinces Mr. Trudeau also decided to compensate by appointing several western Senators to the Cabinet. The Upper House continued to function more and more like a miniature Commons, a tendency reinforced by the appointment of several young and active MPs by Mr. Trudeau and his successor, John Turner, just before the 1984 election.

In 1984 the Conservatives won a massive electoral victory. The new Prime Minister, Brian Mulroney, had representation in the House from all parts of the country and appointed only one Senator to the cabinet to serve as Government Leader in that Chamber. The Liberals still had a large majority in the Upper House but the absence of ministers with departmental responsibility reduced the rationale for asking questions since the Government Leader could simply take the question as notice and forward it to the responsible Minister in the House of Commons who would report the answer back through the Government Leader in the Senate. Soon, Liberal Senators began to find other ways to hold the government accountable. After delaying several bills and forcing amendments to others their strategy reached its logical conclusion with the refusal to pass legislation arising from the free trade agreement unless there was an election.

That there have been so few deadlocks between House and Senate is due largely to long periods of one party dominance throughout most of Canadian history. When the House and Senate *were* controlled by different parties, the appointed Senate, after making its objections, usually yielded to the will of the popularly elected House. The convention of responsible government was interpreted to mean responsibility to the elected Chamber. This understanding and the conditions that made it possible have been changing for at least a decade. The free trade debate merely marked the culmination of this process. But such understandings or conventions, once broken, are not easily re-established. It would be foolish to expect the Liberal majority in the Senate to obstruct the Mulroney Government at the start of its second

mandate, as time goes by and issues emerge the Senate will surely be tempted to build upon precedents established during the last few years in its attempt to assert a larger voice in the Canadian political process.

For the immediate future the important point for observers of Canadian politics is to realize that we have a form of "divided government" *without* any effective dispute resolution mechanism short of a general election. The Fathers of Confederation are often maligned for not anticipating all the consequences of modernity but one problem they did anticipate was the possibility of disagreements between the House and Senate. They envisaged a mechanism for joint conferences to work out such disputes. This procedure has been used so little, the last time in 1947, that no one really knows how it should operate. Perhaps a small joint committee should be established to look at the way other federations, including the United States, deal with the issue.

The Meech Lake Accord

Canada is on the verge of some important constitutional changes that must be examined in the context of developments since the 1976 election in Quebec. In that year René Lévesque and the Parti Québécois came to office on a platform that promised a referendum on the question of Quebec independence. The referendum was held in 1980 and the NO forces prevailed. During the debate Prime Minister Trudeau and other federalist leaders promised, albeit vaguely, a better deal for Quebecers if they defeated the referendum. In line with this promise Prime Minister Trudeau called all the provincial premiers to a constitutional conference at which he proposed a constitutional amendment to establish a Charter of Rights and Freedoms.

The Charter set forth several categories of rights including: fundamental rights (speech, religion), legal rights (freedom from arbitrary arrest, right to counsel), democratic rights (right to vote) mobility rights, and equality rights. It also contained a section giving constitutional recognition to English and French as official languages and guaranteed certain rights for English and French language education, wherever numbers warrant, across Canada. He also proposed to "patriate" the constitution with an amending formula that would not require reference to the United Kingdom for future amendments.

When the conference failed to agree on the proposals Mr. Trudeau announced the federal government would proceed without provincial approval to ask Great Britain to make the changes. His plan to act unilaterally was opposed by all the provinces except Ontario and New Brunswick. The "gang of eight" took the position that provincial agreement was necessary for an amendment as fundamental as the Charter of Rights. They argued it was incompatible with the doctrine of parliamentary supremacy; that it would reduce provincial

authority at the expense of federally appointed judges of the Supreme Court.

Court challenges to the legality of unilateral federal action produced a variety of opinions in different provincial courts. Finally the Supreme Court was asked for an opinion. It said that while the federal government would be legally correct in going ahead without support from the provinces it would not be in keeping with conventions that had developed concerning amendments.

There is no way of knowing what would have happened if Mr. Trudeau had decided to go ahead with his threat because a last minute political compromise succeeded in winning over all the opposing provinces except Quebec. It was agreed to add a clause to the Charter allowing any legislature to declare that a specific act may operate notwithstanding some of the rights guaranteed by the Charter. For example, the fundamental freedoms, legal rights, and equality rights can all be over-riden for a five year period after which a legislature can renew the notwithstanding clause again if it wishes. The other rights are not subject to the notwithstanding clause.

All the governments, except Quebec, also agreed on an amending formula which, while requiring unanimous consent of all the provinces in a few areas, such as changes to the Supreme Court, provided that most other amendments would require the support of parliament and 2/3 of the provinces provided they had over 50% of the total Canadian population. Following this compromise the Charter of Rights and the new amending formula were submitted to and passed by the British Parliament.

Quebec had many problems with the 1982 changes. For one thing the 2/3 and 50% provision effectively eliminated what it claimed had been a traditional veto right for that province over constitutional amendments. Provisions of the Charter relating to minority language education also rendered unconstitutional some Quebec education legislation. To mark its displeasure the Quebec government, still led by Rene Lévesque, refused to participate in federal-provincial conferences except as observers and systematically prefaced every bill introduced in the National Assembly with a clause stating that it operated notwithstanding the new Charter of Rights.

By 1985 Mr. Trudeau, Mr. Lévesque and their respective parties were out of office and the new governments led by Brian Mulroney in Ottawa and Robert Bourassa in Quebec promised to bring Quebec back into the constitutional fold. Mr. Bourassa established five conditions for accepting the 1982 changes.

- Recognition in the constitution of Quebec as a distinct society.
- Changes in the amending formula to re-instate Quebec's veto right over amendments.

- Participation in the appointment process of Supreme Court judges.
- Constitutional guarantees of an increased role in immigration policy.
- Limitations to the federal spending power giving it the right to opt out of national programs and still receive funding for its own program having similar objectives.

After discussions with the other Premiers, some of whom added their own items, such as a new method of appointing Senators from lists submitted by the provinces, an agreement was signed in 1987. Under terms of the 1982 amending formula the Accord had to be approved by Parliament and all ten provinces. Unlike the 1982 amendment which required the consent only of the governments, it was agreed that the 1987 amendments would be submitted to the legislatures in each jurisdiction for ratification. So far Ottawa and eight provinces have given their approval. Two provinces where there have been elections and changes in government since the Accord was signed (Manitoba and New Brunswick) are threatening to withhold consent unless certain changes are made.

In less than a decade we will have seen changes that reflect some American assumptions about the political process. These include a Charter of Rights limiting the powers of all levels of government, a sharing of certain appointment powers formerly held by the Prime Minister and a movement toward a system characterized more by the principles of checks and balances and less by responsible government as traditionally understood in Canada.

Reform of the House of Commons

Aside from constitutional changes during the last decade there have also been a number of important reforms to the rules of the House of Commons. Indeed, soon after taking office Mr. Mulroney made it clear that one of his priorities was reforming an institution which had reached a nadir in 1982 during the so-called "bells crisis" – a shut-down of the Chamber caused when the Official Opposition refused to appear for a vote and the Speaker let the bells ring for 14 days and nights until the parties had worked out a compromise.

The Office of Speaker

Nothing personifies the principles of parliamentary government more than the office of Speaker of the British House of Commons. The historic struggle between Crown and Commons produced an office dedicated to upholding the rights of individual members against the government and acting as a spokesman for the House collectively. For historical and social reasons the Canadian Speakership never enjoyed the prestige and independence of its British counterpart. But only recently did legislators realize that the conditions responsible for the strength of the British

Speakership may not be reproducible. The need for imitation was less than the need for innovation.

One of the first recommendations of the Special Committee on Reform accepted by the Government and adopted by the House was that the Speaker cease to be nominated by the Prime Minister and instead be chosen by secret ballot of members. Canadian Speakers have always been very reluctant to use their considerable authority as exemplified by former Speaker Sauvé during the Bells crisis. By contrast the first Speaker elected by the secret ballot process, John Fraser, has indicated he is willing, if necessary, to play a more active role to foster the smooth operation of the House. In 1987 he effectively ended a filibuster to a bill extending drug patent protection even though he had to allow a rather unusual government motion in order to accomplish this. The following year the Senate instructed its Finance Committee to divide a bill that had been passed by the House. When the Senate returned half the bill to the House the Speaker took the initiative in suggesting this was an infringement of the rights of the House. Eventually the Senate reconsidered its position.

Both issues were more political than procedural. With the House and Senate controlled by different parties for the foreseeable future and no dispute settlement mechanism in sight, we may see a continuing role for the Speaker in expediting parliamentary business and as spokesman for the House vis-à-vis the Senate. In fact having given the Speaker a very powerful mandate it would not be illogical if, over time, legislators begin to expect more leadership from the Chair in certain areas such as time allocation. Of course such a development will not happen overnight. It may take a couple of minority parliaments to establish the full powers of the new Speakership. But ultimately we may see an office having more in common with the Speakership of the U.S. House of Representatives than that of the British House of Commons.

The Role Of the Private Member

The business of the House of Commons is, for the most part, controlled by the government. It decides which bills are introduced, how long they are debated and, assuming it has a majority, the outcome of the debate. One carryover from earlier days when government control was less pervasive is a special one-hour period several times a week known as private members business when motions or legislation can be introduced by private members — i.e. those who are not members of the cabinet. Such bills are limited in scope in that they cannot impose a tax or require the expenditure of public funds, although to some extent the decision as to what constitutes an expenditure can be rather subjective and is ultimately decided by the Speaker.

In the past these bills, after being discussed for one hour, were usually dropped from the order paper without as much as a vote. Under the new rules bills and motions are still

drawn for by lot but the decision as to which bills come to a vote rests with a Committee on Private Members Business. This obviously encourages lobbying, coalitions and horsetrading across party lines in an attempt to convince the committee to choose one bill or another. That will hardly seem unusual to anyone familiar with congressional politics but Canadian parliamentarians have had little scope for such activity since the advent of disciplined parties a hundred years ago. In fact, if Canadian politicians are criticized for being obsessed with process perhaps it is because 75% of elected members (i.e. those not in the cabinet) have little input into day-by-day policy-making so there is an understandable tendency to concentrate on process and problems of constituents.

Has the reform of private members business make a difference? Traditionally the best a private member could hope for was the mixed joy of seeing an idea taken over and implemented by the government. In 1988 Lynn McDonald an NDP member introduced a bill to prohibit smoking virtually anywhere under jurisdiction of the federal government. When the Health Minister introduced a modified version of the anti-smoking bill it looked as though the Conservative majority would defeat the private members bill and support the government. But they did not. Lynn McDonald's bill became law, preempting the government on this issue. Not exactly a revolution but something that would not have happened five years ago.

The Committee System

A legislative body with nearly 300 members is not an effective forum for many kinds of debates so it is not surprising that most work of the House is done in committees. Without going into detail about the structure and operation of the committee system before and after the recent reforms, a few general points should be kept in mind.

In reforming their committee structure Canadian legislators made a conscious effort to avoid the more anarchical features of the congressional committee system, such as the proliferation of subcommittees. The objective of the reform was to make committees less dependent on the executive. For example in order to undertake studies committees formerly needed a reference by the House which in effect gave the cabinet pretty close control over committee activity.

Now every standing committee can, without a mandate from the House, launch its own study or investigation into matters falling within its jurisdiction. To obtain money to travel or to hire staff its budget is approved by a committee made up of the chairmen of all standing committees and chaired by the Speaker. Thus, a hierarchical system of operating and thinking has been replaced by a more egalitarian one whereby chairmen and members have to lobby each other to see "who gets what, when".

During the last parliament the best example of a committee operating as envisaged by the new rules was the Standing Committee on Finance. It undertook independent studies of tax reform, credit, banking and other areas under consideration by the government. It became an alternate source of public policy discussion. The chairman became a figure of some importance on Parliament Hill and membership on the committee was perceived as a political asset, not a thankless and unrewarding obligation⁴

The greater freedom has not produced any discernable problems for the government or any serious breakdown in party discipline. Committee chairmen are about two steps removed from the cabinet and, human nature being what it is, they would have to think very hard about jeopardizing their chances for promotion by being too critical. Nevertheless a framework has been provided for a much wider participation in the legislative process and further movement in this direction can be expected.

Review of Appointments

Traditionally Canadian parliamentarians have had little experience with scrutinizing government appointments. During the 1984 election campaign Mr. Mulroney suggested that patronage could be reduced if there were some kind of legislative scrutiny process. This question too was referred to the Special Committee on Reform of the House.

From the very outset some argued that an American type confirmation process was incompatible with the principles of responsible government. After long and difficult debate the reform committee recommended two categories of appointments for scrutiny. One did not give any veto power to members of the legislature and would apply to deputy ministers and heads of some crown corporations. The other would be used for appointments to a few specified regulatory agencies having a substantive policy making role with little executive control over their activities. Appointment to these agencies would be automatically referred to the appropriate parliamentary committee. Should the committee report negatively on a nominee the government would be obliged to withdraw the nomination.

This latter part of the recommendation was eventually rejected by the government. The result is a situation whereby nominees are examined by committees but their appointment cannot be stopped. Presumably adverse publicity itself is enough to discourage unsuitable appointments. But one must

wonder if this argument holds much appeal to parliamentarians. Having started down the path of scrutiny will they not seek to enlarge their role in the review process? Again, it may take a minority parliament before the issue is revived. Or, the review of appointments might eventually be considered as part of Senate reform which is where it probably belongs.

Conclusion

Canadians have always been attracted by certain aspects of the American political system – federalism in the last century, the Bill of Rights in this one. Does this mean we are on the way to full scale congressionalism? I do not think so. For one thing, in practical terms the American legislature's distinctiveness derives not so much from a different constitutional theory as from the process by which Members of Congress are elected and the independence this gives them vis à vis their party.

The American laissez-faire approach to voter registration and primaries, their ritualistic conventions and debates, and their methods for election financing and reapportionment hold little attraction for most Canadians. Without significant changes in Canadian electoral law and party organization there is little cause to worry about Canada's parliamentary system becoming "congressionalized". Sir John A. Macdonald was a great admirer of the American form of government and never hesitated to borrow ideas. He simply sought to improve upon defects which time and events had shown to exist in the American system. This is probably still a good rule of thumb for Canadian reformers. ■

Notes

1. Numerous authors have written about the differences between American and Canadian political culture. See for example, Edgar Z. Friedenberg, *Deference to Authority*, M.E. Sharpe, Inc., White Plains New York, 1980.
2. The origin of most reforms since 1984 will be found in the *Report of the Special Committee on Reform of the House of Commons*, Ottawa, June 1985. (Also known as the McGrath Report).
3. See statement by former Senate Speaker Allister Grosart, *Senate Debates*, October 18, 1979, pp 115-116.
4. See Robert J.O. O'Brien, "The Finance Committee Carves Out a Role" *Parliamentary Government* Vol. 8 No. 1 pp. 3-10.

Letters

Sir:

The last two issues of the *Canadian Parliamentary Review* contain several statements that surprise me.

The article by Beverley Bosiak, "By One Vote: The Defeat of the Manitoba Government," (Spring 1989) is not altogether clear but it seems to say that if Mr. Pawley had resigned, the Lieutenant-Governor could have gone shopping around for some "particular person" to form an alternative Government. Surely the only constitutional course for him with the party standing in the House would have been to call upon the Leader of the Opposition? With 26 Conservatives, 27 loyal NDP, 1 Liberal, 1 dissident NDP, and 1 vacancy, what on earth would have been the sense of calling on anyone *but* the Leader of the Opposition? If the standing had been, let us say, 22, 18, and 16, then, if the Leader of the Opposition had declared himself unable to form a Government, the Lieutenant-Governor could have tried the leader of the third party; or, if that leader also had said he (she) could not, then, if there was reason to believe that some compromise choice could make a go of it, conceivably the Lieutenant-Governor could have done the "sounding out". But with the standing as it was, the second and third choices would have been cloud-cuckoo land.

The second surprising statement is, again, not altogether clear. But this one

seems to say that, if the Lieutenant-Governor was not satisfied that any alternative Premier could "sustain the confidence of the House," he "could use his reserve power to dissolve the House and call an election, whether or not the Premier was prepared to recommend it."

This is the first time I have ever heard any suggestion that the Crown or its representative could dissolve without advice. I should be interested to see any quotations from any recognized constitutional authority which supports it.

Rod Scarlett's interesting article, "A Political History of Alberta," (Summer 1989) contains three statements which are erroneous.

1. "Over the next four years" (from 1935), "the Supreme Court of Canada declared *ultra vires* several Bills basic to the implementation of the Social Credit platform."

The Governor-General-in-Council disallowed five Acts: three in 1937, two in 1938. The Supreme Court of Canada did not come into the matter at all. The Acts were simply wiped off the statute book.

2. The "*Accurate News and Information Act*, a Bill which would require newspapers to publish statements correcting or amplifying any stories related to government policy ... was passed by the Assembly but was refused Royal Assent."

That bill, and two others, were not refused Royal Assent. The Lieutenant-Governor neither gave nor refused assent: he reserved them for the signification of the Governor-General's pleasure. This meant that they went to Ottawa in a state of suspended animation, and could not come into force except by the assent of the Governor-General-in-Council (which was never given).

These bills, in their state of suspended animation, were indeed referred to the Supreme Court of Canada for an opinion as to their constitutional validity, and were found invalid. But what knocked them out was the failure of the Governor-General-in-Council to give assent.

3. Among Mr. Lougheed's achievements, Mr. Scarlett lists "his appointment of Ralph Steinhauer, a full treaty Indian, as Lieutenant-Governor."

Lieutenant-Governors are appointed by the Government of Canada, not by a provincial Government or Premier. Mr. Mackenzie King made this very clear to Premier Douglas of Saskatchewan and Premier Duplessis of Quebec in 1944, though he scarcely needed to, as the *Constitution Act, 1867*, says it explicitly, in section 58....

Yours sincerely,

Eugene Forsey
Ottawa, Ontario

The Commons: Then and Now

Press and Politics in the 1850s

Of all the famous incidents in Canada's parliamentary history, both before and after Confederation, few are more interesting to recount than those in which journalists and politicians are pitted against each other in open conflict. One pre-Confederation case – the George Ure affair, as it was then called – so well illustrates such conflicts that it bears retelling, if only to show what can happen when the media and Parliament bring the full force of their powers to bear on each other.

The affair began on Thursday, July 18, 1850 during an evening sitting of the Legislative Assembly of the United Province of Canada, then meeting in Toronto in the old Front Street Parliament Buildings. Debate was well under way when a Member, Robert Christie from Gaspé, happened to wander from his appointed seat to the Bar of the House at the other end of the Chamber. There he proceeded, while still technically inside the Chamber, to engage in some light-hearted banter with some unidentified persons seated just outside the Bar in an area reserved for spectators.

Unbeknownst to Christie, the reporters' box, which happened to be immediately beside the spectators' area, was at that moment occupied by a greenhorn reporter from the *Toronto Globe* who was busily trying to follow the debates of the House. That reporter's name, the reader may have guessed by now, was George Ure. No

doubt already having enough difficulty keeping up with the proceedings – reporters kept a verbatim transcript in those days – Ure was distracted from his work by the conversation and abruptly shushed Christie.

Annoyed and taken aback, the Member asked the Sergeant-at-Arms to take the reporter into custody, but his order was not obeyed. When the reporter left the box about an hour later, he was intercepted in the lobby on his way out by Christie, who told him that unless he privately apologized for insulting him and for his "impertinent and offensive" actions, the matter would be raised in the House. Ure was unrepentant. "You were" he observed, "talking and making a noise by setting two other persons near you at laughter, so that I could not do my duty; you were out of your place, which is at the other end of the room, while I was in mine; and you were where you had no business to be". Another Member, overhearing the conversation, intervened and pleaded with Ure for even a slight apology which, however, was not forthcoming. The parties concerned dispersed and the affair remained unresolved for the time being.

On learning the next morning that Christie had not been bluffing and fully intended to raise the matter in the House that afternoon, Ure quickly came to his senses. Determined to avoid further trouble, he sent the following note to the Member:

SIR,— It is contrary to my inclination to insult or wound the feelings of any one, and if my asking you to allow me to perform my duty, was considered by you as an insult I sincerely ask your pardon. I trust that you nor no hon. member will again have occasion to say that I violated that principle of politeness and courtesy due to your rank as a gentleman and a senator.

I am, & c.

Whether it was Ure's mistaken (or was it mischievous?) reference to Christie as a Senator of the latter's own determination to have the matter aired in public, the note did not sufficiently mollify the angry Member.

Thus, at the appointed time later that day, Christie informed the House of the incident and lodged a formal complaint. As a result, the unfortunate reporter was called to the Bar of the House. When he appeared at the Bar later that day, it was with a contrite heart. He apologized profusely and, it appears, with sincere regret. The Speaker, however, was not about to let him off without a stern reprimand which, it turned out, proved to be all too harsh under the circumstances.

Mr. Ure,

You have been admitted into this House as one of the Reporters for the Public Press—a body upon whom, up to this day, no reproach

could be cast for their behaviour. It is, therefore, a matter of regret that in this respect you should have been the exception. You happened to be, by the position you have thus assumed for yourself, under the sufferance of this Honourable House, a self-constituted expounder of the proceedings of Parliament; if you are in any way qualified for that position, no one better than you should have known what are the privileges of the House and of its Members, and the respect due to the liberty of their proceedings by every member of the community, and particularly by yourself.

Of a breach of those privileges, you have been adjudged guilty, in repeatedly addressing one of the Members in insulting and unbecoming language—displaying and ignorance of the relative position in which you stood. You had every opportunity to reflect on your offence after it was committed, which, however, you did not think proper to do, as appears from your conduct.

You are totally mistaken as to your position; you are no part of this House, and have no pretended position to maintain, or duty to perform, which can interfere with the privileges of Members, or give you any right over them. You have, your explanation, admitted the facts, and endeavoured to ground them on the position thus

erroneously assumed by you. However, as you express repentance, and being a stranger, deny having had any intention to commit an offence, the House, acting leniently, merely orders me to reprimand you which I do; and the House allows that you be henceforward discharged.

The press reaction was swift. Parliamentary reporters were so outraged that they immediately stalked out of the reporters' gallery and later drafted their own "reprimand" to the House, affixed their names to it, and had it published in several newspapers:

"The decision of the House that it is a breach of the privileges of that body deserving of marked censure for Reporters courteously to request silence of a member outside the bar of the House, is such a gross act of disrespect to the Press, and interferes so directly with the fulfillment (sic) of their duties to the public, that the members of this meeting feel it incumbent on them to protest against it with withdrawal from the House.

S. Thompson, *Globe*. Hugh Scobie, *British Colonist*. James Lesslie, *Examiner*. Charles Donlevy, *Mirror*. W. Kingston & Co., *North American*. Charles Lindsay, do. *Examiner*. Peter Brown, *Globe*. Edward Goff Penny, *Montreal Herald*. Robert R. Smiley, *Hamilton Spectator*.

John Lowe, Reporter, *Montreal Gazette*. Thos. B. Dewalden, Reporter, *Toronto British Colonist*. John Popham, Reporter, *Toronto Patriot*. F. Ward, Reporter, J. Gordon Brown, Reporter, *Toronto Globe*. M. Moore, Reporter, *Toronto Globe*."

True to their word, the reporters stopped attending the debates and from that day forward, to the end of the session, there was virtually no parliamentary reporting. There the matter rested, and when the next session began the following year, it was as though nothing had happened. Both sides, it seems, had paid a heavy enough price for their high-handedness.

Of course, had the year been 1989 instead of 1850, the George Ure affair would never have occurred. Still, that it happened at all is perhaps one of the reasons why today the media and Parliament entertain a more cautious respect for each other. Journalists and politicians alike realize that their relationship is not adversarial but symbiotic, and that there is nothing to be gained by pointless sabre-rattling.

Marc Bosc
Procedural Clerk
Committees Branch
House of Commons

CPA Activities: The Canadian Scene

CPA Regional Conference in Alberta

The annual conference of the Canadian Region of CPA was held in Calgary and Edmonton from July 12 - 17, 1989. It was attended by more than sixty legislators from every Canadian jurisdiction as well as two British MPs, four representatives from the neighbouring state of Montana and the President of CPA **Lawson A. Weekes** from Barbados. The host of the conference was **David Carter**, Speaker of the Alberta Legislative Assembly.

One of the most interesting sessions dealt with the issue of National Parks policy. The guest speakers were **Sandy Davis**, Regional Director of the Canadian Parks Service and **Brian Evans** MLA for Banff-Cochrane. They outlined some of the difficult policy decisions in achieving a balance between development and preservation.

One of the lead-off speakers, **Art Webster** Minister of Tourism of the

Yukon called for "succinct development, carefully controlled". If necessary he preferred to "err on the side of preservation". A colleague from the Yukon, **Bill Brewster**, took a different approach noting that development meant jobs. While agreeing with the need to control access he suggested there was no point in having parks if people could not get into them relatively easily.

The other lead-off speaker, **Ed Clark**, MLA of Prince Edward Island said it was important not to generalize about parks policy since each national park had its own individual history and problems.

Another session dealt with the viability of Energy Megaprojects. The Deputy Minister of the Alberta Department of Energy, **Myron Kanik**, focused on the heavy oil reserves in the Tar Sands. The critical factor in their

development was pricing since it was very expensive to bring these large reserves to market. In general he thought megaprojects of this type were good long term investments and governments should look at them as such and be prepared to share the risks as well as the rewards.

Rod Gardner MLA, Saskatchewan gave two examples of viable energy projects in that province and said it was important to keep in mind the impact of large projects on smaller industries. **Bill Blaikie** of the House of Commons argued that megaprojects be required to meet non economic as well as economic criteria. Projects launched for purely political reasons and without due attention to environmental impact would lead to public skepticism. Finally he suggested the concept of "mega project" be expanded to include such things as expanding passenger rail ser-



The conference began with an opening reception in Calgary (*Alberta Legislative Assembly*)



The business sessions were held at the Carriage House Inn.
(*Alberta Legislative Assembly*)

vice which would have many of the same effects on the economy as more traditional energy oriented megaprojects.

Another aspect of energy policy was dealt with in a session led by the senior Vice President of Nova Corporation, **Bruce Simpson**. He outlined the present state of natural gas pipelines in Canada and the United States and the prospects for self sufficiency now and in the future. The lead-off Speaker from Newfoundland, **Tom Lush**, contrasted the relatively optimistic picture in natural gas with less encouraging prospects for crude oil, particularly in the Hibernia project off the coast of Newfoundland. New Brunswick Speaker **Frank Branch** suggested it was time to extend the natural gas pipeline to the Maritime provinces.

One session of the conference was devoted to substance abuse. **Stan Nelson**, Chairman of the Alcohol and Drug Abuse Commission said that substance abuse was a social rather than an individual problem. He said governments had a responsibility to act although they should not over-react. He cautioned legislators to avoid quick fix solutions and to refuse to cater to the loudest interest group. Instead he said there was a need for more interprovincial cooperation to assure that citizens of all provinces have access to facilities not available locally. **Ken Black** of Ontario outlined the recommendation of that province's Task Force on Drug

Abuse and Nova Scotia MLA **Marie Dechman** focused on the particular drug related problems in Canadian prisons and among the native population.

Another subject on the agenda was water management. **Alan Hyland**, Chairman of the Alberta Resources Commission and MLA for Cypress pointed out the variety of demands on Alberta and Canadian waters. He concluded it was not possible to have a single water management objective but rather to continually try to resolve conflicts within a multi-use philosophy. **Edward Helwer** of Manitoba noted that his province was particularly vulnerable to water management policies of its neighbours and there was no dispute settlement mechanism between the provinces. **John Mooney** of New

Brunswick said the Atlantic provinces were less concerned with management than with the quality of water and the danger of pollution.

The role of the government in waste management was also considered by the delegates. Guest speaker **Bob Clark**, Chairman of the Alberta Special Waste Management Corporation pointed out the background, organization and technology of the new Swan Hill treatment plant. **Jean Joly** of Quebec said that the problem for legislators is that the public has high expectations about the need for effective disposal but is unwilling to change its attitude. Without a different attitude toward waste management little substantive progress can be expected in this area. **Cliff Serwa** of British Columbia said the mismanagement of waste was a growing threat to the global environment and he outlined the recommendations of a recent BC Task Force on Waste Management.

In addition to the business sessions held in Edmonton and Calgary delegates had an opportunity to visit Banff, Lake Louise, Red Deer and to take in some of the festivities associated with the Calgary Stampede. Typical western friendliness and hospitality by the Alberta Speaker and staff made for a successful conference. ■



Speaker's Ruling

*Limitation of Speaker's jurisdiction over committee proceedings,
Speaker Denis Rocan, Manitoba Legislative Assembly, June 2, 1989.*

Background: At 8 pm on May 1, 1989 the Manitoba Standing Committee on Economic Development convened to hear testimony from the Minister of Finance (Clayton Manness) concerning the Annual Report of Manitoba Forest Industries Limited and in particular an agreement concerning the divestiture of the pulp and paper company to Repap Enterprises Corporation Inc. The proceedings continued into the wee hours of the morning on May 2 when the Minister moved a motion that the committee now rise. The motion was defeated by the opposition who wished to continue the meeting. At this point the government members left and the meeting ended amidst some confusion upon being recessed by the Chairman. The member for St. Norbert (John Angus) subsequently asked the Speaker of the legislature to decide whether the government members and the Chairman had acted in contempt of the Standing Committee.



Ruling (Speaker Denis Rocan): I have a ruling for the House, but before delivering it I wish to inform the House that in my rulings from now on references to Beauchesne will be to the 6th edition, unless otherwise indicated

As is required by our practices, the Honourable Member did raise this matter at the earliest opportunity. As I understand the matter raised by the Honourable Member, it consists of three principal elements:

- the alleged contempt of the Standing Committee on Economic Development by its Government Members who rose and left the meeting im-

mediately following the defeat of an adjournment motion;

- the alleged contempt of the same Committee by the Chairman who recessed the meeting in the early hours of May 2nd and did not resume or reconvene it; and
- the failure of the Government Members of the Committee and of the Chairman to comply with Manitoba Rule 11 which requires the attendance of members in the service of the House and its Committees unless granted leave of absence by the House.

As all Honourable Members know, privilege and contempt are very serious matters. This particular case is one which may be without precedent in the Commonwealth. Therefore I have reviewed with special care the advice provided by Honourable Members on May 19th. I have had extensive research and consultation undertaken with respect to our own practices and those of the House of Commons of Canada. Consultation has also been un-

dertaken with the Ontario Legislative Assembly

Although privilege and contempt are closely related and are generally raised and considered in an identical manner and often, at least in this House, under the heading of privilege, there are certain differences. Maingot's *Parliamentary Privilege in Canada* explains that privileges are enumerated and known, whereas contempts are not. Privilege is defined by Beauchesne citation 24 as "the sum of the peculiar rights enjoyed by each House collectively as a constituent part of the High Court of Parliament, and by members of each House individually, without which they could not discharge their functions."

The same citation also points out that "the privileges of Parliament are rights which are absolutely necessary for the due execution of its powers." The principal privileges of a legislature are: the freedom of speech; the freedom from arrest; the power to discipline; the right to have the attendance and service of members; and the right to regulate its internal affairs. Erskine May on p. 143 defines contempt in the following words, "Any act or omission which obstructs or impedes either House of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such House in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results may be treated as a contempt even though there is no precedent of the offense." To state it more simply, Speaker Brand of the United Kingdom House of Commons

ruled on July 25, 1877 that, "any Member wilfully and persistently obstructing public business, without just and reasonable cause, is guilty of a contempt of this House."

There are certain matters regarding the references by Honourable Members to Manitoba Rule 11, and to the privilege of a legislature to have the attendance and service of its members, which I would like to point out to the House. Research has indicated that our Rule 11 has generally fallen into disuse. Our records do not identify any matter of privilege in this House as having been based on a contravention of Rule 11. The corresponding Canadian House of Commons provision (S.O. 15) has not been applied since 1878 and is generally considered to be obsolete. Speakers of that House in more recent times have generally discouraged any reference to this provision.

Both the Honourable Member for St. Norbert and the Honourable Government House Leader addressed some of their remarks to a question of order, in that the matter was being raised directly in the House instead of by a report from the Committee. First of all I believe that, as Speaker, I have an obligation to point out to the House that under our Rules the Speaker is required at all times to "enforce the Rules" and "decide all questions of order." Our own Rules, just referred to, are reinforced by Beuchesne citation 171, which states in part that "the Speaker has the duty to maintain an orderly conduct of debate by repressing disorder when it arises, by refusing to propose the question upon motions and amendments which are irregular ..."

The Honourable Government House Leader supported his contention that the matter was improperly before the House by reference to certain citations in Beuchesne's 5th edition and to specific Speakers' rulings in Manitoba

and in Ottawa. The research which was undertaken revealed the following additional references relevant to the question of whether or not this matter is properly before the House. Erskine May on p. 235 states that "the opinion of the Speaker cannot be sought in the House about any matter arising or likely to arise in a Committee." Beuchesne citation 760(3) reads "the Speaker has ruled on many occasions that it is not competent for the Speaker to exercise procedural control over the Committees. Committees are and must remain masters of their own procedure." Beuchesne citation 107 states, in part that "Breaches of privilege in Committee may be dealt with only by the House itself on report from the Committee."

A review of the relevant pages in Erskine May indicates that the Canadian practice outlined in Beuchesne citation 107 also applies in the United Kingdom Parliament. On November 26, 1987, Speaker Fraser of the Canadian House of Commons ruled on an alleged matter of privilege, which had not been brought to the attention of the House by a report, respecting the impeding of a Committee "that there is no *prima facie* case of privilege as Committees are in control of their own procedure and it is not competent for the Speaker to exercise procedural control over Committees."

When this matter was raised in the House, the Committee had not met since it was recessed on May 1st and therefore had had no opportunity to consider and agree upon a report to the House. Understandably, the Honourable Member for St. Norbert may have been concerned that raising the issue in the procedurally correct manner could lead to a decision that the matter had not been raised at the earliest opportunity and therefore could not be considered.

In conclusion, firstly, there is no doubt that the charges which have been brought before the House are very serious ones. Secondly, I do understand the circumstances which led the Honourable Member for St. Norbert to believe that proceeding in the manner in which he did may have been the only course open to him if the matter was to be brought to the attention of the House and given the consideration which he felt was necessary.

Nevertheless, based on the authorities to which I have referred earlier and the specific extracts which I have quoted, it is my opinion that to be handled in accordance with long established practices and procedures this issue would have to be brought to the attention of this House by a report considered and agreed upon by the Standing Committee on Economic Development and presented to the House. To do otherwise would run the risk of establishing a precedent which could lead to an increasing involvement of the House in the affairs of the Committees which must, as indicated by the authorities, be masters of their own procedure.

The Standing Committee is now able to meet and could be called, at which time it could consider the matter raised by the Honourable Member for St. Norbert and could decide whether or not to report the matter to the House. That, however, is something which only the Committee is competent to address and which it may wish to examine.

With great respect to the Honourable Member for St. Norbert and to all Honourable members, my ruling, based on the precedents and authorities cited, is that the matter is out of order as a matter of privilege. This does not preclude the matter from being raised in another manner. ■

Interview

Leonard "Red" Kelly is a member of the Hockey Hall of Fame and a former star with the Detroit Red Wings and the Toronto Maple Leafs. He played on eight Stanley Cup winning teams including Toronto's last in 1967. He is also a former Member of Parliament having twice been elected to the House of Commons in 1962 and 1963. In this interview he reflects upon the unusual experience of simultaneous competing in Canada's two unofficial national sports. The interview was conducted by Gary Levy on June 1, 1989.

It is rather unusual for a National Hockey League player to be elected to the House of Commons. How did that come about?

One day, after playing in Detroit for twelve and a half years I was informed that I had been traded to the New York Rangers for Bill Gadsby and Eddie Shack. I was shocked and, thinking that my hockey career was coming close to an end anyway I decided to retire from hockey since I had a farm in Ontario at the time. A few days later everything changed when I was informed that a new deal had been worked out to send me to the Toronto Maple Leafs. I reconsidered my retirement and reported to Toronto.

They put me up at the Westbury Hotel just opposite the radio station owned by Foster Hewitt. One of the people who worked for Foster was Keith Davey (now a Senator) and we had breakfast together at the Westbury. He got me involved in a number of community projects for the Maple Leafs and eventually convinced me to run for office.

In 1962 the Conservatives, led by John Diefenbaker, were still in office. I

had some doubts about the possibility of being both an MP and a hockey player but Davey set up a meeting with Lester Pearson at the Park Plaza Hotel. I told Mr. Pearson I did not think it was possible to combine the two. He agreed! I thought Keith Davey was



From 1962-1965 Red Kelly, was both a Member of Parliament and a star player for the Toronto Maple Leafs. (Courtesy of the Hockey Hall of Fame, Toronto)

going to fall off his chair. But Lester Pearson had a great ability to bring people together and the more we talked the more I liked and admired him. I decided I would do whatever I could to help him become Prime Minister.

Essentially they gave me the choice of running in any of five seats in Toronto. One of these was York West which had a very strong Conservative candidate, John Hamilton. As one without any previous political experience I thought I might as well run there and if I was defeated neither I nor the party would have really lost very much. Keith Davey helped set up an organization and I followed the advice of the political pros. I had a couple of unusual factors in my favour. For one thing the Maple Leafs were in the process of winning the Stanley Cup and my riding was one of the first with Pay TV so I had a lot of free and valuable publicity.

How did your first campaign go?

It started on a really low note at my first all-candidate's meeting. We drew lots for speaking order and John Hamilton spoke last. I made a very low key speech and then Hamilton, an ex-

perienced and eloquent speaker got up. With his cue cards, political rhetorical and sense of timing he gave a very impressive performance.

When it was over I knew I had done poorly and even apologized to my campaign manager, Clem Nieman, for letting him down. But there was no time for post mortems because we had to get to another candidate's meeting that night and I think I made a better impression — probably because I was so darn mad at myself. I do better when I get mad.

A few days later Paul Martin called and asked me to come down to Windsor to campaign with him and attend his nomination meeting. I was so busy I asked my wife to call Martin's office and say I was having my hands full in Toronto and did not think I could take the time off. She called and was told that one does not refuse such invitations and that Martin would return the favour by campaigning in my riding. So, reluctantly, I flew up there but it turned out to be the best thing that happened to me during the campaign.

He was a real professional politician and in one day I saw how a campaign should be run. He had everything timed down to the last minute as we went around to factories, nursing homes and shopping centers, meeting hundreds of people. He knew how to work a crowd. I had a little problem in that we were engaged in a playoff series with the Detroit Red Wings and everywhere we went people would say hello to Mr. Martin and then try to talk hockey with me. He would get way ahead of me and then come back to rescue me from a crowd and move on.

That night I was to address his nomination meeting. The place was packed. There were people hanging from the rafters. I sat on the stage waiting for him to finish his speech but he went on and on. Thirty minutes, forty, fifty, an hour as the crowd grew noisier and noisier. I wondered what I could possibly say when he finally did finish. To tell the truth I do not even remember

what I said but that trip was a great experience. My wife says it turned me into a politician.

As promised he came to campaign in my riding as did Judy LaMarsh and others. In fact I was in Niagara campaigning for Judy when my wife, who was pregnant at the time, had to get herself to the hospital. In three years we had two babies, two elections and three Stanley Cups. It was quite a time. On election day the Conservatives managed to win a narrow minority nation-wide but I took York West for the Liberals. A few hours before the polls closed it began to dawn on me, for the first time, that I might actually win. John Hamilton was very gracious in defeat. I was struck by his dignity.

What was your first impression of the House of Commons?

I suppose my first impression was one of awe. I was in awe of the atmosphere, of the rules and of the political personalities present. Eventually I came to look on it more as a kind of sport, not unlike hockey. You had several teams, you had a Speaker who was referee. The Sergeant-at-Arms like the linesman was sometimes called upon to break up the fights (and I recall seeing Gilles Gregoire and Réal Caouette escorted out of the House by the Sergeant-at-Arms). You even had a Press Gallery to give us the thumbs up or thumbs down sign and in those days the "fans" in the public gallery occasionally broke into applause during some of the heated debates that characterized those years. There was no incident quite like the Rocket Richard riot at the Montreal Forum but I did see at least one punch thrown outside the Chamber and I was in the House the day a bomb exploded in one of the bathrooms outside the Chamber.

The Diefenbaker administration lasted only a few months and although I asked a few questions I did not even make my maiden speech before the Government was defeated and a new election called for April 1963.

Was your second campaign similar to the first?

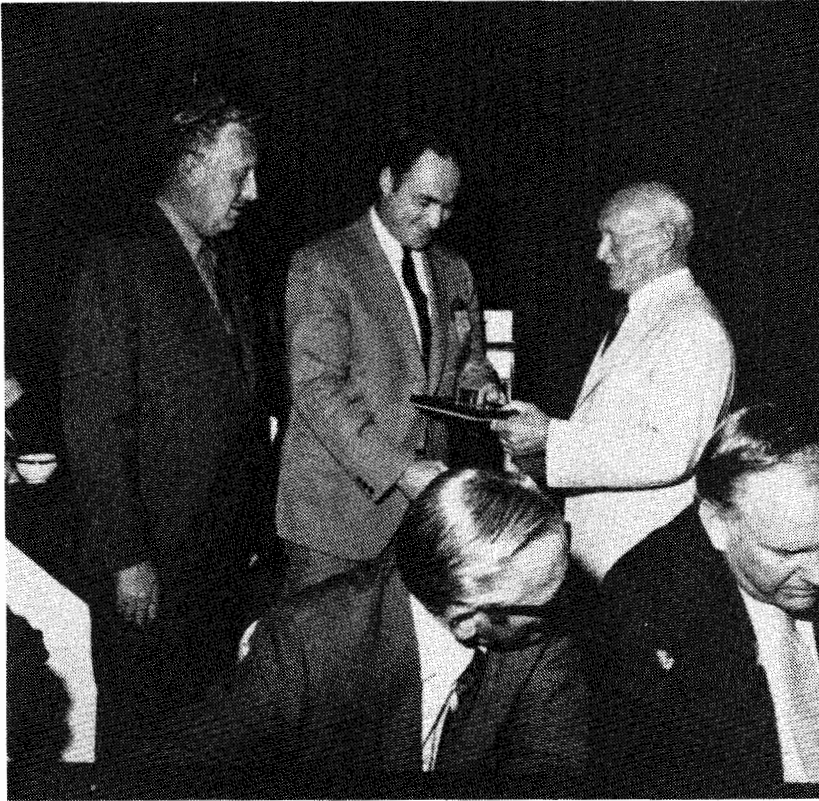
No it was quite different. For one thing I was now the incumbent. More importantly my opponent was Al Eagelson. He made more personal attacks against me and there seemed to be professional hecklers at the back of every town hall meeting. One time I listened to them carrying on for a while and then said, "Thanks for making me feel right at home. You sound just like the fans at Chicago stadium".

As for my riding, the result was the same and this time the Liberals managed to win enough seats to form a government. Lester Pearson became Prime Minister. I had little time to celebrate our victory. We had a playoff game the very next day and I had to leave the hotel where the victory party was taking place to get some rest.

What do you recall of your second term?

For one thing it was even more hectic than the first. The travel was incredible. It seemed like I was going from coast to coast all the time. People wanted me to be everywhere at once. I was told that aside from Mr. Pearson, I received more invitations to speak to various groups across the country than any other Liberal in the country.

People with problems called me from all over and when I told them I was not their MP they said they did not know their member and asked me to help. My family had moved to Ottawa but decided to go back to Toronto, in part because of the incredible number of calls to handle there. People in British Columbia would call at midnight, which is three in the morning Toronto time. I could not go anywhere without being recognized. It seemed like everyone knew me. After a hockey game in New York someone grabbed me on the way out of Madison Square Garden and insisted I look at a document relating to the Seafarers International Union.



Conn Smythe (Right) inducting Red Kelly into the Hockey Hall of Fame, August 21, 1969. (*Hockey Hall of Fame, Toronto*)

In 1964 I missed all of training camp when Mr. Pearson asked me to represent him at the summer olympics in Tokyo. I took my skates and rented ice in Tokyo to try and keep in shape. I got back to Toronto just in time for the first game of the season played in Detroit and the coach, Punch Imlach, told me he wanted me to dress and be on the bench even if I was not ready to play. That was the first time I put on the equipment that year. Things started off poorly and pretty soon we were behind 2-0. Imlach turns to me and says "Kelly get out there".

I made an important discovery that night. The rest of the team had been training twice a day for a month. But their discipline was imposed on them. I found I was in as good or better shape than any of them by following my own disciplined program. It convinced me that doing something yourself is much better than being forced to do it.

In 1965 Mr. Pearson called a snap election in an attempt to win a majority. I decided I had enough and declined to run again. As soon as I made the

decision I felt as though a 200 pound weight had been lifted from my shoulders. When I look back now I wonder how I ever managed to survive those two and a half years. The National Hockey League played games mainly on Wednesday night, Saturdays and Sundays. The House of Commons did not sit Wednesday or Friday evenings or on the week-ends but the sessions extended well into the summer. I missed few sessions and no games but was frequently unable to practice with the Maple Leafs and took my skates to Ottawa where I would rent some ice at 5 a.m. in Hull or from the Minto skating club.

Were there particular issues that motivated you to go into politics and did you have an opportunity to pursue them during your years in office?

I came from a family with a Liberal background but had never been profoundly interested in politics. In the mid 1950s I went with a four other people to Korea and the Far East to entertain Canadian troops. Ken

Charlton (football player), Lloyd Saunders (football broadcaster), and Henry Viney (sports writer) came from the Western Football League; and Bob Hesketh (writer and radio commentator), from Toronto. I gave a hockey clinic in Japan and met a number of officials interested in international hockey. That was probably the first time I thought seriously about politics but it was in the sense of being Canadian and representing Canada abroad rather than in any partisan sense.

It is not surprising, therefore, that my maiden speech was delivered during the debate over adoption of a Canadian flag in 1964. I spoke in favour of the new flag arguing that the old Red Ensign had been borrowed. The time had come to give it back and have our own distinctive flag. I remember the speech for another reason. I was being kidded a lot for not speaking out more often in the House. "Kelly can skate but cannot speak", they said.

The rules say you must not read your speech and I wanted to deliver my

maiden speech on a topic on which I could speak freely and genuinely without notes. I was scheduled to speak in the evening and my wife told me she would prepare a typical pre-game meal to get me ready for the big event. For once things moved faster than expected in the House. I got the floor in the afternoon, so by the time I got home for the steak dinner, the speech was already in the record.

Another thing I remember about that speech was that after I finished talking about cutting the apron strings from Britain, a fellow MP, Russell Honey, turned to me and said, "Red, I couldn't have said that. I would never get re-elected. It goes to show how high the emotions were running those days. Later I tried to advance the idea of adopting legislation that would encourage farmers to donate some of their used equipment which could be sent to less developed countries. There were some practical problems and with all the elections and short sessions it never really got any serious consideration. But I still think it is a good idea.

How did the players look upon your job as a member of the House. Did they treat you any differently?

No not at all. Of course the owner, Conn Smythe, gave me a hard time over the flag debate. He called me up to his office one day and said he could never accept the Maple Leaf Flag. He had served in the first war under the Union Jack and he did not see any reason to change. I mentioned his position to some colleagues in caucus. They pointed out that Canadian soldiers in the First War were identified by a Maple Leaf on their uniform and gave

me a number of other good arguments to use on him.

When I got back to Toronto I asked to see him and gave him these arguments. He listened and made no comment. A few weeks later he again called me in and had obviously done some more research on the matter. He gave me some more new arguments and told me he was going to write every Member of Parliament to ask them to vote against the new flag. He was a tough character but at least he listened to what I had to say.

Have you maintained an active interest in politics since leaving parliament?

Not really. I remained in professional hockey for several years as a coach and player including eight years in the United States in Los Angeles and Pittsburgh. When you are out of the country for that long you tend to lose touch with what is happening politically.

When I finally left hockey in 1977 I started a small business in Toronto. We provide a preventive maintenance service for aircraft. It started as a small operation with no government subsidy and with one part-time secretary. We work on corporate jets such as the Challenger. We now employ nine people and service 1400 aircraft including the Dash 8 and other planes out of Toronto and New York. We also provide information to manufacturers about the service life of their parts. It is a rapidly expanding industry and a very interesting kind of work to be in at the moment. We recently got our first contract for preventive maintenance on some

Department of Transportation airplanes.

Do you see the Canada-US Free Trade Agreement as having any impact on your business?

I do not think it will have any direct benefits or costs for our business. I followed carefully the debate over the agreement and my main problem was trying to obtain accurate information about the agreement. I suppose like a lot of people I was not convinced it was necessarily the best thing for Canada but I hope it will prove to be beneficial. Being out of politics now I did not presume to try and influence anyone about how he or she should have voted in the last election.

Have you ever been asked for advice by hockey players considering running for public office and what have you told them?

Over the years at least a couple of players have spoken to me along those lines. I can only tell them my experience. They have to decide for themselves. It depend's a lot on one's personal situation. I would certainly advise anyone with young children to think very carefully before making any such decision.

I can still remember the incident that helped me decide finally and irrevocably to leave public life. As I returned to Toronto from one trip my four-year old daughter saw me coming up the driveway and shouted: "Look Mommy here comes Red Kelly" It was as though she had seen more of me on television than in person and did not even think of me as Daddy.■

Legislative Reports



The second session of the Thirty-fourth Legislature opened on Thursday, May 18, 1989 at 1:30 p.m. with the presentation of the Speech from the Throne by **George Johnson**, Lieutenant Governor of the province.

In announcing its vigorous agenda for change the government made reference to its first throne speech, outlining a competitive and diversified economy to facilitate increased job opportunities and quality health, education and social services.

Since then spending has been reprioritized and government reorganized. The speech noted that after one year, the government has lowered the deficit by two-thirds to its lowest level since 1981, and it will continue to reduce taxes. The commitment to holding the line on personal taxation remains intact.

Among its environmental promises, the government pledged to implement legislation covering environmental protection and dangerous goods handling. The legislation would provide stiff penalties for polluters, and increase the capacity to respond to environmental accidents.

Other environmental issues on the agenda include an *Endangered Species Act* and legislation to promote recycling.

The 15-page throne speech also promised a series of initiatives for rural and northern Manitoba, including a

task force to study decentralization of government operations. A Rural Development Strategy will focus on the economic challenges affecting agriculture.

The government promised to proceed with reforms and improvements in crop insurance and income stabilization. Additional support will be provided for agricultural marketing to diversify agricultural exports.

Initiatives to encourage trade included Free Trade planning workshops, marketing plan assistance, and export development training. The government's Manitoba Business Start Program will provide loan guarantees for new small business with a specific focus on women and rural Manitobans.

On health care, the government promised to set up a women's health directorate, provide more funding for AIDS education and prevention programs, and provide more money to allow the Manitoba Cancer Research and Treatment Foundation to become a world-class facility.

Education initiatives were highlighted by a commitment to introduce a White Paper proposing changes aimed at making the system more accessible and flexible. The complex issues of education finance will be looked at in a consultation paper.

Opposition Leader **Sharon Carstairs** introduced a non confidence amendment to the motion for an Address in Reply to the Speech from the Throne saying that "this throne speech is a hollow shell of rhetoric that provides many platitudes but few initiatives and fewer still innovations."

New Democratic Party Leader **Gary Doer** told the Legislature his 12-member caucus would not vote with the Liberal party, believing "the people of Manitoba do not want another election". The non confidence motion was defeated 35-21.

On June 5, 1989, Finance Minister **Clayton Manness** introduced what was quickly labelled his "good news budget".

In presenting the budget, Mr. Manness re-affirmed his government's commitment to protecting vital services and providing tax relief while continuing to reduce the deficit. Highlights of the budget included:

- personal income tax rates reduced by two points;
- tax exemptions for each dependent child raised to \$250 from \$50;
- doubling the tax exemption on payroll tax from \$300,000 to \$600,000;
- initiating an environmental protection tax on non-deposit alcohol containers;
- gasoline tax increased by one cent a litre;
- tobacco tax by one cent per cigarette;
- a temporary 1.5% mining tax.

The government introduced legislation to create a Fiscal Stabilization Fund to draw from when revenues are down or spending must be increased. The first deposit of \$200 million resulted mainly from increases in mining taxes and increased federal equalization payments.

Health and education remained the central spending priorities receiving

\$2.4 billion which is over half the total budget. A seven per cent increase in each of these departments raised spending by \$99 million and \$57 million respectively.

Although total government spending for the fiscal year of 1989-90 increased 4.5% to \$4.77 billion, the budget projected a dramatic cut in the provincial deficit, reducing it to \$87 million from \$152 million.

On June 14, 1989, eleven NDP MLAs voted with the Conservative government to approve the \$4.77 billion budget 34-21.

The first six weeks of the session saw 35 bills introduced with five receiving Royal Assent.

As promised in the Throne Speech the government introduced the toughest impaired drivers legislation in Canada. The bill will allow police to impound a driver's car for 30 days and suspend a driver's license for three months after a motorist is stopped for driving while impaired. The penalties are in addition to any suspensions imposed by the courts. In an amendment passed by committee, the appeal process requires a paper hearing to be held within 15 days of application and an oral hearing within 30 days. Justice Minister **Jim McCrae** targeted October 1, 1989, for putting the law into effect.

The *Child and Family Services Amendment Act*, making it mandatory for school officials and others to report abuse of children by third parties, received Royal Assent.

MLAs passed a bill redrawing electoral boundaries for the next provincial election – a move that will decrease rural seats to 26 while increasing the number of Winnipeg seats to 31.

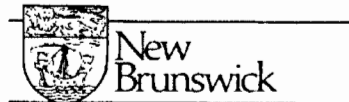
The only other bills passed during the session were an act retroactively validating the establishment of the native justice inquiry and an interim supply bill.

Also on the order paper for debate are Private Members' Public Bills to protect consumers and laid-off workers

and government bills to protect endangered species, toughen fines for polluters and repeal the controversial final offer selection provisions of *The Manitoba Labour Act*.

Bev Duncan

Hansard Production Assistant
Manitoba Legislative Assembly



During the 38-day spring session, the **D**all-Liberal House amended the Standing Rules to allow more input from registered political parties, passed 51 pieces of legislation, adopted comprehensive committee reports resulting from extensive public hearings, received numerous papers, including a strategy for major economic development, and heard Premier **Frank McKenna** name four backbenchers to Cabinet.

Registered political parties took advantage of the recent provisional changes to the Standing Rules, and through the Speaker, the Clerk and the Clerk Assistant asked written questions. A total of 249 questions were presented on behalf of the Progressive Conservative Party and another 236 asked on behalf of the New Democratic Party. Further provisional amendments to the Standing Rules provide for "Introduction of Guests and Congratulatory Messages" after Prayers.

On May 15, 1989, **Gérald Clavette**, Chairman of the Board of Management, introduced Bill 41, *Pay Equity Act*. It proposes to provide a gender-neutral job evaluation system which will measure female-dominant jobs against male-dominant jobs to determine if they are of the same value.

After Bill 31 amended the *Motor Vehicle Act* by proposing to do away with the unsatisfied judgment fund, Bill 32 amended the *Insurance Act* and proposed to provide a compulsory

uninsured motorist coverage up to the statutory limit of \$200,000.

Bill 45, which amended the *Judicature Act*, transfers the authority to hear small claims from court clerks to Justices of the Court of Queens Bench and raised to \$5000 from \$3000 the maximum limit which can be dealt with in small claims cases.

On May 17, 1989, **Raymond Frenette**, Minister of Health and Community Services, introduced Bill 50, *Mental Health Commission of New Brunswick Act*, which proposes to establish an organizational structure to provide a focal point of responsibility for provincial mental health services.

New Brunswick's Legislature has no elected opposition and while there has been a striking decrease in the number of motions requiring notice, participation in the legislative committee process has increased dramatically. Since 1988, Select, Special and Standing Committees have received submissions on a variety of issues including a *Clean Water Act*, beverage container legislation, changes to the *Family Services Act*, the 1987 Constitutional Accord, Via Rail cutbacks, adequate highways, a stock savings plan, ambulance services, an *Aquaculture Act*, and major projects in the construction industry. Committees met 66 times in 1987 and 98 times in 1988. During the first four months of 1989, committees sat 33 days, suggesting that the number of meeting days this year could well exceed 100.

As a result of these public hearings, the legislature received comprehensive committee reports. The report on the Special Committee on Social Policy Development's review of ambulance services, tabled May 16 by Dr. **Marilyn Trenholme**, recommended the establishment of an Emergency Health Services Branch in the Department of Health and Community Services (DHCS) to replace the Ambulance Services Branch. It also recommended that the DHCS be responsible for Emergency Health Services planning and

policies as well as its design, development, standards, licensing, improvements and implementation; that DHCS encourage the participation of volunteers and provide financial assistance to those who wish to upgrade their training; that there be a minimum standard of service throughout the province and standardized training for all ambulance personnel, and that there be a province-wide maximum fee for ambulance services. It further recommended a Hospital Based Ambulance Service in which hospitals utilize existing private, volunteer and St. John Ambulance services and a centrally located air ambulance helicopter service to complement and enhance the ground system and to handle emergency inter-hospital transfers both within and outside the province.

On May 19, the same committee tabled its final report on its review of proposed amendments to the *Family Services Act*. Recommendations include extending provisions for protective care of abused or neglected seniors and disabled adults; liability protection for professionals who report suspected abuse or neglect of seniors and disabled adults; requiring parents to obtain independent legal advice before signing a guardianship agreement; limiting to 24 months the duration of child custody orders granted by the courts and custody agreements, and the protection of every child from any offending person, including those in a position of trust or authority or with whom the child is in a relationship of dependency, whether or not that person is living with that child.

The Social Policy Development Committee chaired by **Paul Duffie** and mandated to review the discussion paper *Water Management Issues and a Clean Water Act*, tabled its final report on May 4. Subsequently, **Vaughn Blaney**, Minister of the Environment, introduced Bill 51, *Clean Water Act*, on May 17. According to the minister, the Act incorporates virtually all the recommendations contained in the report and will make corporate pol-

luters subject to fines up to \$1 million a day and individual polluters subject to fines up to \$50,000 a day. It will give the minister the authority to take immediate action against sources of contamination, while forcing polluters to pay for and clean up their mess. The minister stated that regulations to implement the Act should be ready within six months, whereupon the Act will be proclaimed.

The Special Committee on Economic Policy Development received public comment on the discussion paper, *Major Project Agreements in the Construction Industry*. Several weeks after Chairman **Camille Thériault** tabled the Committee's final report, **Michael McKee**, Minister of Labour, introduced Bill 46, *An Act to Amend the Industrial Relations Act*, which is designed to facilitate collective bargaining and improve labour relations on major construction projects.

On May 2, the Premier tabled *Toward 2000, An Economic Development Strategy for New Brunswick*, which sets out a number of specific actions the government, in partnership with the private sector, will implement over the next three years.

Papers entitled *Federal-Provincial-Territorial Working Group on Confidentiality in Relation to HIV Seropositivity, November 1988* and *Report of the Integration Review Committee, English Working Group* and *Report of the Francophone Advisory Committee on School Integration* were referred to the Special Committee on Social Policy Development. A Social Policy Committee subcommittee chaired by Dr. Trenholme has been mandated to consider the issues raised by school integration, to receive public opinion and to make recommendations to the legislature during the fall sitting.

Geographic Information Corporation - A Discussion Paper was referred to the Special Committee on Economic Policy Development for public comment. The discussion paper *Municipal*

Conflict of Interest Legislation and another entitled *Strengthening Inshore Fishermen Associations* were referred to the Law Amendments Committee for public comment.

On May 19, New Brunswick's Legislature adjourned to December 12. In the interim, a busy schedule of public hearings is anticipated.

Diane Taylor Myles
Research and Planning Officer
Legislative Assembly
New Brunswick



The Third Session of the Thirty-fourth Parliament adjourned on July 20, 1989.

The bulk of the Government's program was acted upon by the Assembly during June and July. On June 15, the House began sitting until 10:00 p.m. in an effort to expedite all of the business it had set for itself. As well, all of the Estimates were adopted.

On Friday, May 26, 1989, **Larry Chalmers**, Chairman of the Select Standing Committee on Labour, Justice and Intergovernmental Relations presented the Committee's First Report to the Legislative Assembly respecting judicial salaries in British Columbia. Essentially, the Committee had been referred a document entitled the *Compensation Advisory Committee Report and Recommendations*.

The Compensation Advisory Committee is established every two years pursuant to the *Provincial Court Act*. The process appears to be that the Attorney General initiates the referral of the report to the appropriate legislative committee.

On July 14, Mr. Chalmers presented the Second Report of the Select Standing Committee on Labour, Justice and Intergovernmental Relations respecting the matter of electoral reform in British Columbia. The Committee had

been referred the *Report of the Royal Commission on Electoral Boundaries for British Columbia*, dated December 1988.

The Committee's Report contained several important recommendations including the establishment of an Electoral Boundaries Commission; the elimination of dual member ridings; an increase in the size of the Legislature to 75 Members; that the Board of Internal Economy, "review on a regular basis the requirements of each Member, in particular, those Members representing rural and northern ridings in the Province in respect of their ability to effectively and efficiently serve their constituents as well as their constituencies". It called for specific legislation to be enacted to the effect that while the House is not in session, "the Lieutenant-Governor in Council shall not enact a regulation ... unless the Select Standing Committee on Labour, Justice and Intergovernmental Relations has made a unanimous report to the Legislative Assembly recommending the names and specifying the areas and boundaries of the electoral districts".

The Committee is continuing its review of the Royal Commission Report and has been in contact with the Honourable Judge **Thomas K. Fisher**, Commissioner.

On Thursday, July 20, 1989, **Darlene Marzari**, Chairman of the Select Standing Committee on Public Accounts presented the Committee's First Report to the House. One of the recommendations contained in the Report requests the Government to "consider the ways and means by which the public accounts for the Province of British Columbia can be made publicly available as soon as possible after the end of the fiscal year for which they have been completed".

To date, the Third Session has consumed 116 separate sittings which enabled the House to give Royal Assent to 86 Government Bills out of 92 introduced; there were 35 Members' Bills

introduced; 3 Private Bills; and, including subcommittee meetings, sittings of the Select Standing Committees amounted to nearly 35 during the period March through July.

Craig James
Clerk of Committees and Second
Clerk Assistant
British Columbia Legislative
Assembly



The First Session of the 22nd Legislature opened on June 1 and adjourned on August 18. During its 48-day sitting, the Assembly passed 35 Bills including a Private Member's Bill which established the bighorn sheep as an official emblem of Alberta.

On July 24, Premier Getty announced that a review panel had been established to make recommendations with respect to conflict of interest guidelines for MLAs. The committee is composed of the Chief Justice of the Provincial Court, **Edward Wachowich**, Chairman; **Walter Buck**, former Member for Clover Bar; and **Frank King**, former Chairman of the Calgary Olympic Organising Committee. The panel is to report by October 31, 1989.

The Final Report of the Inspector **William Code** into the collapse of the Principal Group of companies was released on July 18. An emergency debate was held in the House the following afternoon and the Government responded to the report on July 28. The Report of the Ombudsman into this matter was released on August 28.

Two Committees of the Legislature were struck before the session adjourned: a Special Committee to review Electoral Boundaries and a Special Committee to Select an Ombudsman. The present Ombudsman, **Aleck Trawick**, resigned his position September 15, 1989.

In an amendment to the *Legislative Assembly Act*, the Assembly gave authority to the Members' Services Committee to prescribe the rates set for Members' indemnities and allowances. On August 28, the Committee increased Members' indemnities from \$44,322 to \$57,505. The Committee also instituted salaries for party Whips and Assistant Whips and payment for Members serving as Chairmen of the Standing or Special Committees of the Assembly.

Karen South
Clerk Assistant
Legislative Assembly
Alberta



The opening weeks of the Second Session of the Thirty-fourth Parliament, described in the last issue of the *Review*, saw what appeared to be the beginning and the end of the Budget controversy, but the issue returned to the fore when dribbles of new information on the circumstances surrounding the Budget leak fuelled further opposition questions. In fact, much of the time allotted to oral questions from mid-May until the first week of June was taken up with Budget leak questions.

These questions were finally overtaken by the violent events in the Republic of China, which led Speaker **John Fraser** to grant an emergency debate at the request of New Democrat MP **Howard McCurdy** on Monday, June 5th. Many members made moving and eloquent speeches decrying the use of force against the Beijing students who, as Secretary of State for External Affairs **Joe Clark** put it, "were peacefully advocating democratic principles and human freedoms as is the fundamental right of all peoples of the world".

Liberal MP **Peter Milliken**, first elected in 1988, continued to show a

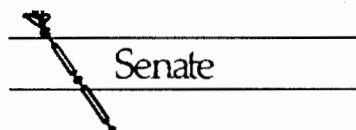
keen interest in procedural matters and placed a Private Member's Notice of Motion on the *Order Paper* recommending wholesale changes to the Standing Order governing written questions, after a variety of complaints about the current rule had been voiced by Members from all sides. He also raised questions of privilege having to do with supply proceedings and the use of Governor General's warrants between sessions. The latter point became all the more crucial when the supply bill covering the use of the warrants in the early spring of 1989 was closely scrutinized in the Senate for several days. The Senate then took the precedent-setting step of amending the bill, although the House disagreed with the amendment and the bill eventually emerged unchanged for Royal Assent on May 17th.

By mid-June, the pace of legislative activity had quickened considerably, with over 35 government bills introduced, several of these passed at third reading, and several others were given second reading. Coming on the heels of the all-summer sitting of 1988, the autumn general election, and the special "Free Trade" session of December, the mood of the members this trimester was decidedly in favour of a normal summer adjournment in accordance with the parliamentary calendar introduced in 1982. In fact, the spring trimester of the session ended even before the date provided for by the calendar.

Because so many pieces of legislation were passed by the House in the last two weeks of June, a special order was adopted allowing a post-adjournment return solely for the purpose of Royal Assent. This eventuality brought some Members back on June 29th, only two days after the adjournment. As he had in December 1988, Liberal MP Marcel Prud'homme raised a point of order regarding quorum provisions in such cases. The Speaker promised to consider the matter over the summer,

while still allowing the Royal Assent ceremony to proceed as planned.

Marc Bosc
Procedural clerk
Committees Branch
House of Commons



On June 29, 1989, Senator **Allan J. MacEachen**, Leader of the Opposition in the Senate, rose to comment on the relatively amicable relations between the two parties in the passage of legislation. So far this Session ten pieces of government legislation have been given Royal Assent, with four government bills remaining in their respective committees. Senator MacEachen continued by commenting on the twenty government bills at various stages of progress in the Other Place and hoped that this Spring's evidence of accommodation would be remembered once these bills reached the Senate.

Non-Smoker's Health Act: Privileges of the Senate

At Third Reading of Bill C-27, *An Act to amend the Non-Smoker's Health Act*, Senator **Lorna Marsden**, Chairman of the Standing Senate Committee on Social Affairs, Science and Technology, rose to put on record a concern raised during Committee hearings on the Bill. The Senator pointed out that, in two scenarios, the Senate's privileges might be infringed upon by the Act. In the first instance, naming the Senate as an employer for the purposes of the Act might possibly subject the Senate to prosecution in court. While she said the Committee accepted the assurances of the legal officer for the Ministry of Labour that the Senate's unique privileges would exempt it from prosecution, Senator Marsden wanted

this to be doubly recorded in the annals of the Senate records. Furthermore, Senator Marsden recommended that, in the future, legislation which subjects the Senate or the Other Place to the provisions in an Act, should contain "...a specific clause stating that the houses are to enforce the rule internally and setting out, if necessary, the mechanics by which each house is to do so."

In the second instance, Senator Marsden raised the contradictory rights given to designated inspectors to inspect any work space under the control of an employer, versus the privileges of the Senate, its Committees and individual Senators. To her mind this contradiction remains unresolved.

Report on Terrorism

On June 28, 1989, Senator **William M. Kelly**, Chairman of the Special Senate Committee on Terrorism and Public Safety tabled its report. The Committee had been struck to review the recommendations contained in the Report of the Special Committee of the Senate on Terrorism and Public Safety, tabled in the Senate August 10, 1987.

The Committee identified the greatest risk from terrorist-style activities as coming not from international sources but from domestic issues. The Committee noted that a certain level of "...emotionalism and radicalism..." was deemed necessary for such activity and that causes which might fuel this passion could possibly come from "...language issues, native concerns, groups associated with the animal rights or animal liberation movement and 'white power' groups".

The Committee also had advice and comments on the role of the media and its relations with the police, the preparedness of the government to handle terrorist situations and data on the extent and nature of the terrorist threat to Canada and Canadians. A copy of the report can be obtained by writing to the Director, Public Information Service, The Senate, 140 Wel-

lington Street, Ottawa, Ontario, K1A 0A4.

Special Studies

The Standing Senate Committee on Energy and Natural Resources received an Order of Reference on June 21, 1989 to "... review the extent to which Petro-Canada has met its original purpose and to evaluate this purpose with respect to Petro-Canada's evolving role in the Canadian energy scene." The Committee is to report to the Senate by 31 March 1990.

The Standing Committee on Social Affairs, Science and Technology will report by 31 December 1989 on its study of Childhood Poverty. It will continue working on another study, due 31 March 1990, on the problems encountered by short-time care hospitals and institutions under the National Health Program.

Speaker's Ruling

The financial rights of the Senate were explored again this session. On May 18, 1989, Senator **C. William Doody**, Deputy Leader of the Government in the Senate, rose regarding the private members' bills S-3 and S-4 introduced by Senator **Jack Marshall**. Senator Doody was not sure whether there were "...money implications ... or whether it is even within the Senate's purview to consider such bills, but perhaps the Chair could take them into consideration and give us a ruling at a later date".

On June 13, 1989, the Acting Speaker, Senator **Martial Asselin**, ruled that both bills had financial implications and were consequently out of order. In his ruling, Senator Asselin quoted precedents from the House which were relevant to the substance of Senator Marshall's amendments and to the Fourth Edition of *Bourinot's Parliamentary Procedure*. In all instances, it was stressed that without the recommendation of the Crown and the endorsement of a Minister of the Crown, no

bill which has financial implications can be accepted.

In substance, the bills submitted by Senator Marshall were deemed to increase the need for funds since they respectively increased the number of eligible recipients. Senator Marshall argues that, while the bills may, indeed, "... increase the need for funds ...", they do not directly touch upon the Consolidated Revenue Fund as defined in sections 53 and 54 of the *Constitution Act 1867*.

This subject had been discussed in the Senate most recently during debate over Bill C-103, *An Act to increase economic development in Atlantic Canada*. Moreover, Senator **John B. Stewart** raised the subject of the seemingly indiscriminate use of Royal Recommendation when, as a member of the Standing Senate Committee on Transport Communications during its deliberations over C-2, he noted that a Royal Recommendation had originally been attached to the Bill. This, despite the fact, in his view, one was never required.

Blair Armitage
Committee Officer
The Senate



The spring sittings of the Legislative Assembly have been anything but quiet. There have been bells ringing, hours taken by members presenting petitions; an all-night filibuster occurred; and Question Period has been dominated by the Leaders of both Opposition Parties.

Things started to happen when the then Solicitor General, **Joan Smith**, received a call in the middle of the night. The point of the call was the safety and well-being of a girl's brother. She assured the Solicitor General her family was out of town and she did not know what to do and was deeply distressed about the safety of her

brother. The Solicitor General tried to reassure her that the police are dependable, reliable and that her brother was in no danger. The girl continued with her accusations and the Solicitor General could not persuade her that her brother was safe. The Solicitor General decided the best thing to do was to go to the police station stating to them that she had had a phone call expressing concern for the safety of this young man.

The Opposition called for the resignation of the Solicitor General, suggesting that she had demonstrated bad judgement when making the decision to go personally, after a call from a family friend, to the Ontario Provincial Police. The Opposition suggested that as the Solicitor General was responsible for the O.P.P. her presence would influence the judgement of the investigating officer in the matter related to a family friend. This could be interpreted as unequal treatment for those residents of Ontario who know the Solicitor General from those that do not.

After several days of calling for her resignation with the Premier defending her position and refusing to ask for her resignation, **Bob Runciman** of the Progressive Conservative Party decided to introduce a bill entitled the *Executive Council Amendment Act, 1989*. The intent of the Bill was to set down certain criteria governing the relationship of Ministers of the Crown and members of the judiciary and police forces, also putting a demand on the Premier to call for an investigation of anyone accused of violating these criteria.

When a division was required on First Reading of the Bill the members left and did not return for two days; the vote was taken on the motion for First Reading of the Bill and lost.

The House Leader for the Progressive Conservative Party, **Mike Harris**, then moved a motion requesting that the sitting be extended to consider the motion on Interim Supply. The motion

was considered and passed. This was done to ensure that salaries and bills were paid.

Before the Speaker could adjourn the House, the member for Welland-Thorold, **Peter Kormos**, rose on a point of privilege and stated that the Premier had deliberately misled him and the House when answering one of his questions on a previous day. The Speaker asked the member to withdraw the offending words, however, the member refused and was named and ordered to leave for the balance of the day's sitting. The Opposition House Leader, **David Cooke** (Windsor-Riverside), challenged the decision of the Speaker to name Mr. Kormos. When the question, "Shall the Speaker's ruling be sustained?", was put, members of the Opposition caused the division bells to be rung as a means of continuing the protest against the Solicitor General continuing to remain in Cabinet.

The bells rang from Thursday, May 30 at 4:43 p.m. until Tuesday, June 6 at 1:13 p.m. Each day when it became evident that the division would not be taken, the Speaker came to the Chamber, announced the fact, deemed the bells to ring until 9:00 a.m. the next sessional day and suspended the meeting of the House until that time. This procedure was also followed over the weekend.

On June 6, when the division was taken, the ruling was sustained. The Speaker then indicated that the business of the House for 29 May 1989 was concluded and the House adjourned.

At 1:30 p.m. on June 6, the House met to conduct business as normal. During Question Period, the issue of questionable campaign contributions became the topic for the attack by the Opposition. The resignation of a senior member of the Premier's staff led to a decision for a judicial inquiry into the matter under the auspices of Justice Holden of the Ontario Supreme Court.

While Bill 162, *An Act to amend the Workers' Compensation Act*, was being

examined by the Standing Committee on Resources Development, many hours were used during Routine Proceedings under the proceeding "Petitions". In most cases, members stood in their places and read the full text of the petitions being presented, requesting the government to withdraw the Bill.

On July 11, **Bud Wildman**, the Vice-Chairman of the Standing Committee on Resources Development, presented a report of the Committee reporting Bill 162, *An Act to amend the Workers' Compensation Act*, as amended. The Committee had concluded its business on the Bill on July 10 when government members determined that clause by clause consideration of the Bill was not proceeding and moved a motion in Committee that the Bill be reported. After debate, that motion passed.

The debate in the House on the motion for the adoption of the Committee report continued from 4:05 p.m. on July 11 until 9:45 a.m. on July 12, at which point the motion to receive and adopt the Committee's report was passed.

Shelley Martel, New Democratic Party Critic for the Workers' Compensation Board, spoke for three and one-quarter hours, the third longest speech delivered in debate in the Ontario Legislative Assembly.

Reforms

Before the Legislature adjourned for the summer the three parties agreed on reforms that restricted bell ringing to no longer than 30 minutes in cases not specifically provided for in the Standing Orders; limited the presenting of petitions to 15 minutes; changed the order of routine business by moving consideration of "Motions" before "Petitions", and allowed a motion to adjourn a debate following Question Period. These changes were aimed at assisting a government to get its business through the House without prolonged procedural delays.

There will now be an election for Speaker and the number and duties of other presiding officers has been changed. There will now be a Deputy Speaker and Chairman of Committees of the Whole House, and a First and Second Deputy Chairman. The procedure for emergency debates has been repealed, replaced by a provision that gives 5 Opposition Days in each of 2 periods set down in a new parliamentary calendar, which establishes set dates on which the House will meet in each calendar year, subject to variation by the Speaker if such variation is deemed to be in the public interest. The Opposition Days will be distributed among the recognized Opposition Parties in proportion to their membership. On these days, with notice, the Opposition will set the agenda for debate in the House.

The Standing Committees' responsibilities have been changed significantly with the establishment of a Standing Committee on Estimates. This will free the time of the Standing Committees on Administration of Justice, General Government, Resources Development and Social Development to concentrate on the other matters referred to them. Sub-committees of these four Committees may consider matters relating to their mandate. The Sub-committee reports shall take precedence over other Committee business except government public bills. The reform package was passed on July 25 and when the Legislative Assembly resumes on October 10 it will be operating under the reformed Standing Orders.

Committees

The Standing Committee on Administration of Justice, chaired by **Robert Callahan**, completed clause by clause consideration of several Bills including Bill 187, *An Act to amend certain Acts as they relate to Police and Sheriffs*, which transfers responsibility for courtroom security to municipal police forces; and Bill 10, *An Act to*

control Automobile Insurance Rates, which sets a capped rate of increase in automobile insurance premiums, and requires the Ontario Automobile Insurance Board to monitor for compliance.

The Committee held public hearings on Bill 2, *An Act to amend the Courts of Justice Act, 1984*, and Bill 3, *the Court Reform Statute Law Amendment Act, 1989*. They would bring major structural and administrative changes to Ontario's trial court system, the first large-scale overhaul since 1981. A single trial court would be created with three informal divisions covering family law, civil law and criminal law.

The Committee also devoted considerable time to a review of the 1988 Report of the Ontario Provincial Courts Committee ("Henderson Report"), dealing with the issues of Provincial Court judges' salaries, benefits and allowances. The Committee is expected to make a report to the House following its further consideration of this matter during the summer adjournment.

The Committee will resume its public hearings with regard to Bill 4, *An Act to amend the Metropolitan Toronto Police Force Complaints Act*.

The Select Committee on Education, chaired by **Dianne Poole**, tabled its Second Report with its comments and recommendations resulting from its consideration of the matter of the length of the school year and the length of the school day. The Committee recommended that the Ministry of Education review the *Education Act* and regulations to ensure that boards have the flexibility to adjust semester lengths and minor variations in length of school year and day; the Ministry allow for, facilitate and assist in funding a representative sample of year round pilot projects; and the Ministry set out protocol for boards to follow when considering changes to the school year.

The Committee will deal with the financing of elementary and secondary

education in its next set of hearings during the summer adjournment.

The Standing Committee on General Government reviewed the final progress reports to the Ministry of the Environment of Inco, Falconbridge, Algoma Steel and Ontario Hydro on acid rain abatement programs. It is expected that the report will be finalized during the summer adjournment. The Committee will hold three weeks of public hearings on Bill 119, *An Act to amend the Ontario Lottery Corporation Act*, during the adjournment and may complete clause by clause consideration as well.

The Standing Committee on the Legislative Assembly, chaired by **Herb Epp**, continued its review of Election Laws and Process. The Committee held public hearings which culminated in the Committee tabling its First Report on Election Laws and Process on Wednesday, 19 July 1989. The report contains proposed draft legislation for an amended *Elections Act*. It includes provision for access to the polls for the disabled, the appearance of party affiliation on ballots and voting rights for the homeless. The Committee has invited all members of the Assembly to send comments on the draft legislation to the Chairman. In addition, the Committee met with **Murray Elston**, Chairman of Management Board of Cabinet to review his report on Freedom of Information and Protection of Privacy.

In the Second Session, the Standing Committee on General Government reviewed the final progress reports to the Ministry of the Environment of Inco, Falconbridge, Algoma Steel and Ontario Hydro on acid rain abatement programmes. It is expected that the Committee's report will be finalized during the summer adjournment. The Committee will also conduct 3 weeks of public hearings on Bill 119, *An Act to amend the Ontario Lottery Corporation Act*, during the adjournment and may complete clause by clause consideration as well.

The Standing Committee on the Ombudsman is to consider the denied cases of Farm "Q" Ltd. and Mrs. "H", the report of the Ombudsman on denied cases, and the Ombudsman of Ontario Annual Report 1988-89.

The Public Accounts Committee, chaired by **Ed Philip**, presented its First Interim Report 1989 in July. The report covers sections of the Provincial Auditor's report dealing with concerns over tax collection and unsatisfactory monitoring procedures by the General Welfare Assistance Program. The Second Interim Report 1989 in August dealt with the Ministry of Natural Resources - fire fighting facilities.

The Standing Committee on Resources Development will conduct one week of public hearings and will spend another week on clause by clause consideration of Bill 30, *An Act respecting Funeral Directors and Establishments*, and Bill 31, *An Act to revise the Cemeteries Act*.

The Standing Committee on Social Development held hearings on three government bills: Bill 124, *An Act to amend the Children's Law Reform Act*, Bill 5, *An Act to amend the Education Act* and Bill 211, *An Act to revise the Rental Housing Protection Act, 1986*. All three Bills have now received Royal Assent.

Another Bill, Bill 194, *An Act respecting Smoking in the Workplace*, was subject to a one-man filibuster by **Norman Sterling**. This Bill was the subject of public hearings in the Social Development Committee, but Mr. Sterling was not successful in getting his amendments accepted there. Accordingly, he has argued for his amendments again in Committee of the Whole House.

Other Matters

At the May 15 meeting of the Board of Internal Economy, a motion was passed completely banning smoking from the Legislative Precinct Buildings and the workplaces under the control and su-

pervision of the Office of the Legislative Assembly effective June 30, 1989.

The motion included a further paragraph with an incentive to stop smoking, offering a payment of up to \$100.00 per employee upon registration and completion of an approved Smoking Cessation Program.

The policy has been generally accepted with varying degrees of enthusiasm. On occasion you can notice a hand extended from certain windows holding a cigarette, or the occasional puff of smoke from certain windows.

Lynn Mellor
Committee Clerk
Ontario Legislative Assembly



The Third Session of the Twenty-first Legislature has developed, as promised, into a pitched battle over the government's policy of public participation. In the wake of the 17 day bell ringing episode over plans for a public share offering in the SaskEnergy subsidiary of Saskatchewan Power Corporation, the government appointed a commission to conduct public hearings. In the meantime the series of bills that created the controversy remain stalled on the order paper and the Minister of Justice, **Bob Andrew**, introduced a motion to amend division rules by restricting the length of time the bells could ring to one hour.

In his remarks to the Assembly, the minister argued that bell ringing goes against the principles of parliament and pointed out that only Saskatchewan and Ontario have failed to place limits on the ringing of division bells. The opposition denounced the proposal as anti-democratic and unilateral. The debate preoccupied about a dozen sitting days before an agreement was reached to refer the whole matter to the

Special Committee on Rules and Procedures.

Debate on Bill 20, *An Act Respecting the Reorganization of the Potash Corporation of Saskatchewan*, resumed to become the focus of the struggle over crown corporation privatization. In its efforts to secure the bill's passage, the government became almost single-minded in its purpose. Most other business was deferred in favour of Bill 20 debate and on July 26, after some 36 hours of debate, a motion to extend sitting hours to 8:00 a.m. to 11:00 p.m. daily was moved by the government. In moving the motion, the government said its aim was to expedite Bill 20's passage while increasing the number of hours available for debate. Opposition House Leader, **Dwain Lingenfelter**, argued that extended hours were a bully tactic designed to squelch the opposition. A compromise was eventually reached to exempt Tuesday and Thursday mornings to facilitate the sitting of the Standing Committees on Crown Corporations and Public Accounts.

In the course of the next week the debate continued, being interrupted only by the daily Oral Question Period. The opposition members showed their defiance with many speeches of over 10 hours duration. On August 4, after some 80 hours of debate, the government's deputy House Leader, **Grant Hodgins**, took the unprecedented action of moving a time allocation motion to restrict further debate. In citing its reasons for bringing forward such a motion, the government described the opposition as obstructionists. For its part, the opposition attacked the measure as draconian and anti-democratic. Debate on the time allocation motion ended on August 7 when closure, another first in Saskatchewan parliamentary history, was invoked to force a vote.

As a Special Order, consideration of Bill 20 continued for just over four sitting days. On the morning of Monday, August 14, Bill 20 was passed

ending 118 hours of debate and a most significant chapter in the province's legislative history.

The release of the 1988 Provincial Auditor's Report sparked two *prima facie* cases of privilege. In his report, Provincial Auditor **Willard Lutz** charged that the government had obstructed his office in fulfilling its statutory duties. Before debate was concluded on that issue, another case of privilege was brought forward concerning remarks made by the Minister of Justice about Mr. Lutz's professional conduct. After a week of debate, both motions were defeated on May 29.

Outside the chamber the standing committees continued their work with the most notable events occurring in the Public Accounts Committee. Review of the 1986-87 fiscal year came to a close but not before certain controversy arose when the committee's report prompted a debate in the house over the committee's recent difficult history. In light of the 1988 Provincial Auditor's Report, the committee then struggled over its agenda for the review of the 1987-88 fiscal year. The Crown Corporation Committee, in the meantime, managed to complete review of nearly half its agenda. Both committees continue to sit.

Following the end of the potash debate, the Assembly resumed its other business but not its regular hours. Extended sitting hours continued and in the ensuing nine sitting days, the various departmental estimates and subsequent appropriation bill passed, together with another 52 pieces of legislation. On the 106th days, some 36 days after expiration of members' 70 day sessional expense per diems, the House adjourned to the call of the Chair.

Gregory Putz
Committee Clerk
Saskatchewan Legislative Assembly

