

Legislative Reports



House of
Commons

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

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

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

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

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

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

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

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

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

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

Summer Sitting

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

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

Private Members' Business

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

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

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

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

Committees

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

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

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

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

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

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

Nora S. Lever



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

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

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

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

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

Craig H. James

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

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

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

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

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

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

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

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

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

Committees

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

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

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

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

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

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

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

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

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

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

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

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

Franco Carrozza



Manitoba

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

W.H. (Binx) Remnant