
Legislative Reports

Saskatchewan

On June 18, 1991 the fourth session of the Twenty-first Legislature finally prorogued after having sat a total of 116 days since first convening on March 19, 1990. It was the last meeting of the Legislature before the general election held on October 25.

Procedural Standstill

The main issue of the last portion of the session was the government's plans for harmonization of the provincial sales tax with the federal GST. For both sides of the House, the tax has become a plank in their respective election platforms. The government, which has pinned its electoral prospects on support from rural Saskatchewan, maintains that the tax increase is necessary to fund a number of agricultural programs vital to rural Saskatchewan. Opposition leader Roy Romanow has announced that if the NDP is elected it will repeal the tax, for the reason that fiscal mismanagement is at the root of the government's need for more revenue. This set the stage for a series of unprecedented events in the Saskatchewan Legislative Assembly.

Bill 61, *An Act to amend The Education and Health Tax Act (No.2)*, set out a plan for full tax harmonization with the GST, had only received some eleven hours of debate before the government gave notice of a time allocation motion designed to restrict any further

debate to a total of five hours. The Opposition reacted by obstructing the Assembly with the presentation of thousands of petitions opposed to the provincial sales tax and by allowing the division bells to ring on adjournment motions. Opposition finance critic Ned Shillington said that the delaying tactics were the only means left to give vent to public frustration.

For its part, Government House Leader Grant Hodgins defended the government's actions by accusing the Opposition of having already delayed the passage of various items of routine business through filibusters and procedural manoeuvres to avoid consideration of Bill 61. For eleven sitting days during the month of May the Assembly remained stalled while the Opposition presented some 120,000 signatures of petitioners opposed to the tax. Finally on May 30, the government agreed to drop its immediate plans to use time allocation and the House resumed the consideration of Bill 61, which was debated a further twenty hours before the government resorted to closure and time allocation to pass the bill.

Not surprisingly the events surrounding the passage of Bill 61, in particular the presentation of petitions and the use of time allocation to curtail debate, became the subject of many points of order. Members on both sides of the issue staunchly defended their respective positions and resolved not to give way, leaving the House at a complete standstill. The opposition demanded the withdrawal of the time allocation threat and the

government pointed to the House of Commons and claimed that it should be permitted to use superseding motions to by-pass Presentation of Petitions, which is the first item under Routine Proceedings on the daily Order Paper.

Speaker Arnold Tusa was left with a difficult situation of having to judge the propriety of the proceedings before him without the benefit of applicable rules or practice. Because the rules of procedure provided no equitable solution to the impasse, Speaker Tusa took the position that he would not intervene before Members themselves tried to negotiate a compromise. He stated that the primary responsibility for resolving serious difficulties, which surely have wide-ranging implications for the proper functioning of the Assembly, should lay with the Members themselves. It was his opinion that Members as well as the Speaker have a responsibility for the well-being of the province's parliamentary institution. Speaker Tusa gave the House wide opportunity to discuss the issue and on numerous occasions called on the House Leaders to negotiate a settlement. He deferred his ruling until after the House re-established normal operations.

In his ruling given on June 12, Speaker Tusa noted that the protection of the minority against oppression and the protection of the majority against obstruction are both functions of the chair; that it is the job of the Speaker to find a balance between the competing

interests of the House. He noted that although the rules put no limitations on the time permitted for the presentation of petitions, the intent of the rule was not to totally prevent the House from doing any business. The manner in which opposition used the order for presentation of petitions, he said, was an abuse of the rules but so too was the unreasonable restriction of debate. He stated that he did not intervene during the impasse because anything the Speaker might have done would have given advantage to one or the other side in a situation where there were two abuses of equal seriousness.

To ensure a future balance, Speaker Tusa rejected the government's case to allow superseding motions and warned the government that it should take note of the consequences of unduly restricting debate. He also indicated that he would not permit the unrestricted use of presenting petitions to become a precedent and accordingly ruled that in future the chair would limit petitioning to a period no longer than one hour daily.

Committee Activity

The Standing Committee on Public Accounts and the Special Committee on Rules and Procedures were the only two committees of the Assembly which held meetings during the spring.

The Rules Committee met to confirm procedures on the election of a Speaker by secret ballot, which was reported in the last edition of this Review.

Since April when the House reconvened, the Public Accounts Committee was active on a regular basis. After presenting its Fifth Report, regarding the Provincial Auditor's Annual Report for the 1988-89 fiscal year, the Committee

began consideration of the Provincial Auditor's 1989-90 Annual Report.

The Committee also examined a number of questions pertaining to certain departments and agencies. It held a number of debates on other issues of long-time interest. These included the public release and inter-session availability of the Public Accounts of Saskatchewan and of the Provincial Auditor's Annual Report, in order to enable the Committee to consider these documents forthwith rather than having to wait for tabling in the Assembly, which sometimes is many months later. The Committee also discussed the complexity of the presentation of the Public Accounts of Saskatchewan as well as the relevance of certain information contained therein, and agreed to recommend certain modifications in this regard.

In addition, at the Committee's request, the Assembly ordered the referral of Bill 35, *An Act to amend The Provincial Auditor Act* to the Public Accounts Committee for clause by clause consideration. The Minister of Finance **Lorne Hepworth** appeared before the Committee to defend his bill, a practice which is most exceptional, as ministers are rarely asked to participate in Public Accounts Committee meetings.

The key features of Bill 53 include provisions regulating the tenure of office for the Provincial Auditor (a six year term with one-time renewal); the enhancement of the independence of the Office of Provincial Auditor by having its budgetary estimates approved by the Board of Internal Economy rather than the Department of Finance; expansion of the role of the Provincial Auditor by legislative provisions for comprehensive auditing. This bill died on the Order

Paper when the House prorogued on June 18.

Prorogation

Besides the various farm bills introduced and passed by the Assembly, another major plank in the government's re-election platform is its "Fair Share Saskatchewan" programme of government decentralization from Regina to rural Saskatchewan. To date announcements have been made for moves of some 1200 civil servants. The reaction of those affected and their union has been negative to say the least and has been the reason for a number of large demonstrations within the Legislative Building. The biggest blow to the decentralization policy, however, came on June 17, when the government House Leader and Minister of Environment **Grant Hodgins**, announced to the Assembly his resignation from cabinet and the government caucus because he could no longer support the "Fair Share" programme. Mr. Hodgins has decided to sit as an independent Member. On June 18, the Premier decided to prorogue the Assembly.

In the two weeks before prorogation the Assembly passed into law a number of democratic reform bills. Included among these bills was legislation enacting measures to provide for "freedom of information" and for referendums and plebiscites. Among the business that died on the order paper was the government's budget. No departmental estimates were considered by the Assembly before prorogation but Premier **Grant Devine** pointed out that the Assembly has passed much of the business that the government felt was critically important so a "cooling off" period was needed before an election campaign. In the

absence of an election call, which the Premier stated would not be before August, the opposition called into question the ability of the government to finance its operations on special warrants. The Minister of Finance has stated that the opposition's concerns are unfounded, especially in view of the fact that an election call was imminent.

In regard to the forthcoming election, the government decided to abandon new electoral boundaries drafted in accordance with Saskatchewan Court of Appeal ruling in favour of the disputed boundaries which were upheld by the Supreme Court of Canada on June 6. The government did not make its final decision, however, until Speaker Tusa tabled the report of the 1991 boundaries commission on June 18, the same day the session was prorogued. In explaining the sudden prorogation of the Assembly, Premier Devine stated that with the 1989 electoral boundaries firmly established as constitutionally sound, among other reasons, it was time the MLAs got back into their ridings so the "voters will be able to fully acquaint themselves with the candidates of the political parties."

Gregory A. Putz
Clerk Assistant

New Brunswick

On May 9, the fourth and last session of the Fifty-first Legislative Assembly adjourned until November 19, 1991. During the 25-day sitting, the shortest since 1964, 69 of the 70 bills introduced by the government, as well as four private bills, received Royal Assent.

Among the Government Bills passed were the *Beverage Containers Act*, amendments to the *Political Process Financing Act*, and a wage freeze Bill entitled *Expenditure Management Act*.

Soon after the Law Amendments Committee reported six recommendations to the House with respect to Bill 76, *Beverage Containers Act*, the government moved to introduce a new Act, Bill 53, *Beverage Containers Act*, the result of extensive consultation and public hearings. The *Beverage Containers Act* provides that beverages sold in New Brunswick will be available only in refillable or recyclable containers. Distributors who sell containers must ensure that the containers are recycled. The Act provides for a variable refund, depending on the type of container purchased. It provides the authority to ensure that pricing policies do not cancel financial incentives provided to consumers through the full refund on refillable containers. Retailers will not be obligated to accept empty containers. The private sector will be encouraged to establish redemption centres to accept all containers subject to the Act. Labelling requirements are simplified. Industry retains 50% of the environmental fee to help defray recycling costs. The remaining 50% share is directed toward the environmental trust fund to finance administration, antilitter public education, cleanup initiatives and financial assistance to private sector companies. Minister of the Environment, Vaughn Blaney, estimated the Act will create about 200 jobs, the majority at the community level in small businesses.

Amendments to the *Political Process Financing Act* provide that an individual, corporation or trade union may, during a calendar year, make a contribution of up to \$6,000

to each registered political party or any registered district association of that registered party, and up to \$6,000 to one registered independent candidate. The \$6,000 maximum contribution may be portioned to the registered political party and the registered district association of that party.

Prior to the amendment, the total contribution that an individual, corporation or trade union could make during a calendar year was set at a maximum of \$9,000.

The *Expenditure Management Act* introduced a one-year wage freeze that applies to all portions of the New Brunswick public service and directs universities, municipalities and nursing homes to implement the wage freeze in the same manner. The wage freeze provisions apply to all non-union employees of the same public sector organizations.

The *Clarification of Titles Act*, which proposes to remove a number of uncertainties regarding ownership of land in the province and to simplify the process of searching and certifying titles, was also introduced during the session and referred to the Standing Committee on Law Amendments for public hearings.

After consideration of the Green Paper entitled *Proposal for Reform of the Machinery of Public Prosecutions*, the Law Amendments Committee reported to the House on April 24, 1991. The Committee's recommendations define and set out the parameters of the responsibilities for a position that already exists; i.e. the Director of Public Prosecutions.

Included among the Committee's recommendations are that:

- The Director of Public Prosecutions should be Statutorily empowered in a *Public Prosecutions Act*. The legislation should clearly establish the office of the Director and should define the

- roles and responsibilities pertinent to that office.
- A middle ground should be followed between total control of the Director of Public Prosecutions and Crown Prosecutors, and absolute immunity from control.
 - The legislation must recognize the Attorney General's constitutional, legal and historical role as the principal legal authority in relation to the system of public prosecutions. The legislation should also recognize the Attorney General's supervisory authority in relation to prosecutions by empowering the Attorney General, personally or through the Deputy Attorney General, to issue directives in specific cases and to issue general written guidelines.
 - The legislation should also recognize an authority in the Attorney General, either personally or through the Deputy Attorney General, to intervene in and to assume conduct of particular cases.
 - The Director should have supervisory powers over individual Crown Prosecutors, and should have the right to issue general written guidelines, to issue specific directives in particular cases and to intervene in and assume conduct of particular cases.

The legislation should also set out the role and responsibilities of the Crown Prosecutor in relation to public prosecutions, recognizing the roles and responsibilities of the Director, the Deputy Attorney General and the Attorney General.

While the Committee recognized that arguments could be made favouring complete autonomy of

Crown Prosecutors in the initiation and conduct of prosecutions, the Committee felt that such autonomy would clearly lack the requisite accountability and would conflict with the constitutional, legal and historical roles and responsibilities of the Attorney General, the Deputy Attorney General and the Director of Public Prosecutions.

In order to achieve both prosecutorial autonomy and accountability, the Committee favoured a middle path between total subordination of Crown Prosecutors and their absolute immunity from control.

The Special Committee on Economic Policy Development presented an interim report to the House on April 26, 1991, with respect to the Discussion Paper *Private Woodlots: Considerations for Future Action* tabled November 1, 1990 and referred to Committee for further consideration and public input. The Committee endorsed the concept of "Primary Source of Supply". It recommended a review of the *Crown Lands Act* with regard to the size of clear cuts, harvesting methods, and accessibility; that marketing boards be encouraged to promote better forest management practices, and that the Committee continue to evaluate forest policy and programs related to the private woodlot sector.

While few motions have been introduced and debated on the floor of the House by Private Members since Frank McKenna's Liberal government captured all 58 New Brunswick seats and left the registered political parties with no opposition seats on the floor, an unprecedented number of papers were referred to committees and offered for public input.

In 1988, as part of its effort to become more accessible to the public, the McKenna government

introduced television cameras into the Chamber for the first time.

Standing Rules, adjusted provisionally, allowed the registered political parties to participate. Initially, the registered political parties submitted written questions which were read by the Clerks-at-the-Table and answered by the Minister to whom they had been directed. Following the 1989 session, the Standing Committee on Procedure reviewed ways to improve the provisional Question Period and recommended retaining the 30-minute Question Period for the unelected Opposition Parties. Subsequently, the House passed a resolution allowing the leaders of the Registered Political Parties the privilege of appearing at the Bar of the House to ask questions of Ministers of the Crown relating to public affairs or to any matter of administration for which they are responsible. During the 1990 session, additional changes allowed Leaders of Registered Political Parties to present petitions from the Bar of the House during the Ordinary Daily Routine of Business. Participation of nonelected political representatives extended to Public Accounts, Crown Corporations, Estimates and Law Amendments Committees.

The Speaker paid special tribute to retiring Sergeant-at-Arms, Leo F. McNulty, in recognition of his many years of service to the people and to the province of New Brunswick.

Four years into his government's mandate, Premier Frank McKenna called an election for September 23, 1991. The results appear elsewhere in this issue.

Loredana Catalli-Sonier
Clerk Assistant

Ontario

The Spring meeting of the Ontario Legislature was marked by the presentation of the first budget of the 35th Parliament, a series of obstructionary tactics, the Chair's ruling on these tactics, resignations of Cabinet ministers, the Chair's exercise of a casting vote on a bill, the naming of a member, speeches on the approach of the end of the term of the Lieutenant Governor, the resignation of the Leader of the Official Opposition, a Cabinet shuffle, and the creation of the Ontario-Quebec Parliamentary Association.

Treasurer Floyd Laughren presented a budget on 29 April that projected an unprecedented \$9.7 billion deficit. This prompted a series of procedural occurrences that disrupted the usual business of the House and its committees for 2 weeks. This was done by moving a large number of motions for the adjournment of the debate, alternated with motions for the adjournment of the House as well as motions to proceed from one part of Routine Proceedings to another (or to Orders of the Day).

Other tactics included points of order on the absence of timely responses to written questions and first reading of a large number of private members' public bills. (The long title to one of these bills contained the names of so many water bodies in the province that its reading by the mover, Michael Harris, Leader of the Progressive Conservative Party, and then by Noble Villeneuve, the Acting Speaker and by the Clerk Assistant and Clerk of Journals filled 12 pages of the *Votes and Proceedings* for 6 May.)

Faced with these occurrences, Shelley Martel, the Government House Leader, rose on a point of order on 13 May and asked Speaker David Warner to rule that these occurrences amounted to an abuse of the rules of the House. The Speaker reserved his ruling until 27 May, at which time he declined to act on the request of the Government House Leader. He was of the view that there was still room for negotiation among the Parties and that the situation in the House had yet to approach a deadlock or standstill. After the ruling, the Parties resolved their differences and agreed to hold public hearings on the budget. The business of the House resumed at its usual pace thereafter.

On 13 June, Anne Swarbrick, Minister without Portfolio responsible for women's issues and Miss Martel informed the House that they were tendering their resignations for sending letters to the College of Physicians and Surgeons of Ontario. The letters had expressed concerns about the College's decision to allow a doctor to continue practising medicine pending his appeal of 4 convictions of sexual assault. Premier Bob Rae initially accepted Ms Swarbrick's resignation, and was contemplating accepting Miss Martel's resignation, but later that same day he decided not to accept either resignation.

On 2 May, Deputy Speaker Gilles Morin cast his vote in favour of a motion for second reading of a private member's public bill after the Clerk of the House had announced that the votes in favour of the motion were the same as the votes against it. The Deputy Speaker indicated to the House that he would not prevent further consideration of the bill by voting against second reading.

Committees

On 20 June, the Special Committee on the Parliamentary Precinct, co-chaired by David Warner and Noel Duignan, tabled a report entitled *Restoration Proposals for the Parliament Building*. It contained a proposed Restoration Master Plan that had specific recommendations on how to make the Legislative Building more accessible to the public, and on repairing and refurbishing it.

The Standing Committee on Finance and Economic Affairs, chaired by Jim Wiseman, held public hearings on cross-border shopping. The Committee heard presentations from groups representing the agricultural sector, the manufacturing sector, retailers, marketing boards, labour unions, grocery distributors, and municipal representatives. The Committee also discovered the magnitude of this problem and realized that there was no panacea for its resolution.

In its report to the House, the Committee called for the establishment of a multi-jurisdictional forum to collect and analyze data on cross-border shopping and to provide a united, co-ordinated effort to address this problem. The Committee also called for a public awareness campaign aimed at informing the public that large-scale cross-border shopping damages the domestic economy, causes job losses, and has a deleterious effect on border communities. The campaign would encourage the public to buy locally in order to ensure the stability and integrity of the Ontario and Canadian economies and the quality of life. In the course of the summer, the Committee held extensive hearings on the 1991-1992 provincial budget, the first budget of the new government.

The Standing Committee on Public Accounts, chaired by Robert Callahan, tabled its first Report,

1991 on 15 July. This report reviews the February 1991 audits of three universities and two school boards. The Committee has also started a comparative review of drug and alcohol treatment centres in Ontario and the United States. The Committee travelled to seven places in the United States in August and plans to visit Ontario facilities in the Fall.

The Standing Committee on Resources Development, chaired by **Peter Kormos**, held hearings on the Workers' Compensation Board for 12 hours in May and June pursuant to a designation under Standing Order 123. The Committee will complete its report in the Fall. In the meantime, the Committee will consider the government's employee wage protection bill. The Committee will hold public hearings and clause-by-clause review in July and August.

The Select Committee on Ontario in Confederation had its mandate extended to November so it could receive further input on its consideration of Ontario's role in Confederation. The Committee also plans to travel to other provinces and to the territories for informal discussions with similarly established committees.

The Committee also organized a conference in October at which delegates from across the province had an opportunity to exchange their thoughts on and aspirations for the future of Ontario in Confederation.

The Standing Committee on General Government, chaired by **Remo Mancini**, considered two matters designated pursuant to Standing Order 123. The first was a matter, designated by **Yvonne O'Neill**, relating to the impact of cross-border shopping, particularly with regard to its effect on job losses, decreased sales and tax avoidance. The Committee heard from the

Ministry of Treasury and Economics, the Ministry of Industry, Trade and Technology, the Ministry of Revenue, and the Ministry of Labour. In addition, it invited witnesses from various retail and business organizations affected by cross-border shopping. The Committee expects to continue consideration of this matter in September and hopes to submit a report to the House in October.

The Committee also commenced consideration of a matter, designated by **David Turnbull**, relating to the decision of the Ministry of Consumer and Commercial Relations to close 14 Land Registry Offices across Ontario. The Committee heard from the president of the Canadian Bar Association and other representatives of the legal community, land surveyors and municipal officials. The Committee will report to the House on this matter in the Fall.

The Standing Committee on Government Agencies, chaired by **Robert Runciman**, began scrutiny of intended appointees to government agencies, boards and commissions under the new appointment review process. Between January and June, the Committee presented 12 reports to the House based on its interviews of 53 intended appointees, all of which were concurred in, although some passed only on division.

The Committee also presented a report on 16 May, as required by the House, outlining its views and recommendations on what should be included in the Committee's permanent order of reference (Standing Order 104(g)) governing the appointment review process. The recommendations of members of both Opposition Parties were contained in a joint dissenting opinion included in the report. Following presentation of the report, discussion among the House

Leaders, and debate in the House on 26 June, the order of reference was amended effective 28 June.

During the Summer adjournment, the Committee resumed its traditional work of reviewing the operations of selected agencies, boards and commissions. In one week of meetings, the Committee heard from interested parties (including the Canadian Environmental Law Association and CBA-Ontario) on the Ontario Municipal Board. It also met with 2 district health councils, TVOntario, and the Eastern Ontario Development Corporation. A report is expected in the Fall.

The Standing Committee on the Legislative Assembly, chaired by **Noel Duignan**, continued its review of the *Freedom of Information and Protection of Privacy Act, 1987*. The Committee also reviewed members' services and facilities, including the provision of an identifying pin for all members for security purposes.

At the request of the Speaker, the Committee reviewed the issue of members' partisan activities or identities in relation to publicly funded constituency offices, newsletters, etc. After surveying the rules and practices of other Canadian jurisdictions, a vigorous debate produced no consensus for sweeping change of the status quo.

In August, a sub-committee of the Committee attended the annual meeting of the National Conference of State Legislatures in Orlando, Florida.

Other Matters

Lincoln Alexander's term as Lieutenant Governor of Ontario ends on 20 September. Members paid tribute to him on the last day of the Spring meeting of the House. In the course of his 6-year term, the ubiquitous and well-liked Lieutenant Governor made 672

visits or revisits to cities, towns and villages outside of Toronto, he held 675 receptions for approximately 76,000 guests in his suite at the Legislative Building, he accepted over 4,000 engagements throughout the province, he visited 230 schools, and he shook over 240,000 hands.

On the same day, Robert Nixon announced in the House that he would be resigning as Leader of the Opposition effective 31 July, ending nearly 30 years of service in the Ontario Legislature. (Mr Nixon and his father have represented the riding of Brant-Haldimand and the predecessor riding for more than 70 years of combined service.) Among those who paid tribute to him in the Legislature were Premier Bob Rae, Michael Harris, and James Bradley.

Speaker Warner and the Speaker of the National Assembly of Quebec, Jean-Pierre Saintonge met in Quebec City on 21 and 22 May and in Toronto on 31 May and 1 June to create a bilateral parliamentary association, the Ontario-Quebec Parliamentary Association. This body will promote interparliamentary co-operation between the two Assemblies, and foster greater friendship, goodwill and mutual understanding.

Peter Sibenik
Committee Clerk

House of Commons

The beginning of the Third Session of the 34th Parliament brought with it a Speech from the Throne, a House of Commons governed by new Standing Orders, a great debate to reinstate and a plethora of questions about the who's, what's, when's, why's and

how's of the immigration into Canada of the former Iraqi Ambassador to the United States, Mohammed Al-Mashat.

The Speech from the Throne on May 13, 1991 outlined the Government's plans for what could be the last session of Parliament before a general election. Figuring prominently on the list of Government priorities for the Third Session were: Canadian unity; constitutional reform; the establishment of a special joint committee on the constitution; North American free trade; the environment; a Royal Commission on Native Affairs; education; changes to the administration of the justice system; implementation of the commitments made at the 1990 Children's Summit in New York; a blue ribbon panel to investigate violence against women; legislation to cap federal spending and to create a debt servicing fund; and further parliamentary reform to help parliamentarians better fulfil their obligations to their constituents.

Having cleared the legislative slate with its prorogation of the Second Session of the 34th Parliament, the Government sought unanimous consent of the House to forgo the notice requirements to move motions to reinstate certain bills at the stages they had reached by the end of the Second Session. For all of these reinstatement motions, the House denied consent. Having later obtained the House's consent on one of the previously denied reinstatement motions, the Government again attempted, this time by presenting a motion containing several proposals, to reinstate several bills at their respective stages. Points of order abounded. Opposition members claimed that by reintroducing all of these bills at their Second Session stages, prorogation had meant

nothing and the legislative process was being "circumvented" and "subverted". They argued that the motion was out of order because it contained a provision to adopt a legislative motion on which the House had already taken a decision. Arguing against the legitimacy of the motion on the grounds that it contained several distinct proposals to reinstate six separate pieces of legislation, they further contended that reinstating bills by means of a votable motion was unprecedented and that such reinstatement could be done and should be done only with the unanimous consent of the House. They also noted that one of the provisions of the motion would have the effect of passing a bill through the House in the Third Session without any debate whatsoever, because the bill would be deemed to have been read a third time and adopted. After a lengthy discussion during which the Government attempted to refute one by one the arguments of the Opposition, the Speaker reserved his decision on the admissibility of the motion and allowed the debate to proceed. He later returned to the House and ruled that he could find "no compelling reason to preclude proceeding by way of notice of motion," and that he had not been "persuaded to reject the motion outright". He did add, however, that because "the Chair does have some difficulty in accepting the argument that a Member in casting a single vote can adequately express his or her opinion on six distinct pieces of legislation", the House would hold a single debate, but separate votes, on the provisions of the reinstatement motion touching each of the five bills not yet dealt with by the House. The following day, the Government moved closure on the debate, and at the end of the debate the House adopted the motions to reinstate at their Second

Session stages Bill C-26, *Railways Act amendment (grain and flour subsidies)*; Bill C-58, *Young Offenders Act and Criminal Code amendment*; Bill C-78, *Federal Environmental Assessment Process Act*; Bill C-82, *Port Warden of Quebec and Montreal Act amendment*; and Bill C-85, *Airport Transfers Act*. (As noted above, the motion dealing with the reinstatement of the sixth bill listed in this complex motion, Bill C-73, *Dissolution or transfer of Crown Corporations Act*, had already been adopted at an earlier sitting by unanimous consent.)

In addition to the reinstatement debates, other activities on the legislative front included the House's adoption of motions for the Standing Committee on Finance to pre-study, that is, examine before second reading in the House, Bill C-19, *An Act respecting banks and banking*, and for the Standing Committee on Consumer and Corporate Affairs and Government Operations to pre-study Bill C-22, *An Act to enact the Wage Claim Payment Act, to amend the Bankruptcy Act and to amend other Acts in consequence thereof*. Royal Assent was given to the following bills during the first six weeks of the Third Session: Bill C-2, *National Energy Board Act amendment*; Bill C-6, *Export and Import Act (weapons)*; Bill C-9, *Proceeds of Crime (money laundering) Act*; Bill C-24, *Appropriation Act No. 2, 1991-92*; and Bill C-25, *British Columbia Grain Handling Operations Act*.

The House also adopted motions to reinstate as at the Second Session the Special Committee on the process for amending the Constitution; the Standing Committee on Health and Welfare, Social Affairs, Seniors and the Status of Women; and the Standing Committee on Privileges and Elections. The first continued its study on constitutional amending

formulas; the second completed its study of the health care system in Canada; and the third resumed its study and reported to the House on the February 28, 1991 question of privilege raised by Derek Lee. Lee had contended that the privileges of Members of the Standing Committee on Justice and the Solicitor General had been breached because the Solicitor General had refused to deliver to the Committee unexpurgated copies of two reports requested by the Committee. The first report in question dealt with the escape of Daniel Gingras from a federal penitentiary in Alberta; the second with an offender, Allan Légère, unlawfully at large in the province of New Brunswick. Having heard testimony from several witnesses, the Committee recommended in a report on May 29, 1991 that the House of Commons adopt an Order requiring the Solicitor General to provide to the Committee within 30 days unexpurgated versions of the two reports. On June 18, 1991 the House ordered the Solicitor General to lay before an *in camera* meeting of the Committee the unexpurgated versions of the reports.

Several Members of the House pushed for the Government to speed up the schedule on the parliamentary reform announced in the Throne Speech. On numerous occasions, private Members of the Conservative party and independent Members of the House rose after Question Period to protest the fact that they were not being recognized to ask questions. Citing procedural authorities to support their contentions that other Members were taking too much time to pose and respond to questions, these Members claimed that they, like their colleagues on the opposite side of the House, also had pressing questions to ask of the Government and should therefore be given the

same opportunities to express their concerns and to call the Government to account for its actions. Suggestions were made that Members discuss the issue among themselves, that the time allotted for Question Period be extended, and that there be limits placed on the time allowed for posing and responding to questions. With no distinct resolution in sight, the newly created Standing Committee on House Management undertook to study the broad question of parliamentary reform, in addition to its tasks as Committee responsible for establishing committee memberships, conducting draws for Private Members' Business, allocating rooms to the newly created "committee envelopes", and establishing guidelines for the broadcast of committee proceedings. Judging from the discussions which have occurred in the Committee to date, it appears that Question Period will be one of the major items to be found on the Committee's reform agenda.

The relationship between Question Period and committee activity was also evident in the sometimes vociferous debates which began in the House during Question Period and extended into the meetings of the Standing Committee on External Affairs and International Trade. In early May, it was reported that the former Iraqi Ambassador to the United States, Mohammed Al-Mashat, had been given speedy entrance into Canada shortly after the end of Persian Gulf war, without the knowledge of any Cabinet minister. After announcements that two high level public servants were responsible, the Standing Committee used its power "to study and report on all matters relating to the mandate, management and operation of the department or departments...assigned to (it)" and began an examination of the fast-track immigration of Al-Mashat. The mini-

sters involved, either as a result of their current or pre-Cabinet shuffle portfolios (Joe Clark, Minister responsible for Constitutional Affairs; Barbara McDougall, Secretary of State for External Affairs; Bernard Valcourt, the Minister of Employment and Immigration; Pierre Cadieux, former Solicitor General) and several high level officials, including Norman Spector, Chief of Staff to the Prime Minister; Paul Tellier, the Clerk of the Privy Council; de Montigny Marchand, the Under-Secretary of State for External Affairs; Raymond Chrétien, the Associate Under-Secretary of State for External Affairs; Arthur Kroeger, Deputy Minister of Employment and Immigration; and David Daubney, Chief of Staff to Joe Clark, all appeared before the Committee to explain their roles in the incident and the circumstances surrounding Al-Mashat's entrance into Canada. With the information obtained from several Committee meetings and from the questions in the House about the issue, the Committee issued its report on June 20, 1991. Split along party lines as to the actual events in the case, the Committee presented a report containing Liberal Party and New Democratic Party minority opinions, as well as the opinion of the Committee majority. Although Members did not agree on the sequence of events or on the question of who held responsibility in the matter, they did agree that several steps should be taken to prevent such an incident from occurring again. Among other things, the Committee recommended that:

The Government continue to review and strengthen the system of communication regarding sensitive matters both within and between government departments so as to prevent in the future the striking failures of communication evident in the Al-Mashat case;

The House of Commons Standing Committee on Labour, Employment and Immigration examine the Immigration Act and Regulations, as well as immigration procedures, to recommend ways in which the evident unfairness associated with Mr. Al-Mashat's admission to Canada may be avoided in the future;

Given the crucial importance of a commonly understood and accepted principle of ministerial responsibility to the sound working of the Government of Canada, the Committee recommends that the Government immediately appoint a high-level task force of retired politicians, public servants and experts to clarify and foster consensus concerning the meaning of ministerial responsibility so as to safeguard close and cooperative working relations between Ministers of the Crown, their officers and public servants. The Government should consult with the Opposition parties concerning the membership and terms of reference of this task force.

The activity of at least one other committee also received extensive attention during this period, namely the Standing Committee on Health and Welfare, Social Affairs, Seniors and the Status of Women. On June 19, 1991, Barbara Greene, Chair of both the Standing Committee and its Sub-committee on the Status of Women, tabled in the House the Committee's First Report entitled *The War Against Women*, and requested that the Government table a response to the Report within 90 days. Included on the list of recommendations by the Sub-committee were that the Government establish a Royal Commission to examine violence against women; that it mount a national, multi-media education campaign on violence against women; that police be obliged to lay criminal charges whenever allegations of physical or sexual abuse against women or children

are made; that counselling and treatment be made available to men convicted of spousal abuse; that assault rifles be restricted; and that judges be empowered to order the removal of men charged with spousal abuse from the home. In the Report the full Committee made to the House, however, it was stated not that the Committee had "adopted" (the term usually found in reports) this Sub-committee report that it was presenting, but rather that it had "received" the report. Media coverage of the events surrounding the disputes in the Committee over the report was widespread and much was made of the fact that the Government Committee members had not endorsed the Report in the full Committee. Shortly after the presentation of the Report, the Government reiterated its Throne Speech promise to establish a "blue-ribbon panel" to investigate violence against women in society.

The new committee envelope system, created under the April 1991 changes to the Standing Orders to assist the House in budgeting, scheduling committee meetings, allocating the use of committee rooms, establishing effective membership substitution systems and managing the legislative timetable appeared to dissatisfy at least one committee, the Standing Committee on Aboriginal Affairs, which found itself placed in the "Human Resources" committee envelope. At the Committee's June 4, 1991 meeting, it adopted the following motion:

That the Chair of the Standing Committee on Aboriginal Affairs move immediately to advise the House Management Committee of this Committee's profound objection with its placement within the Human Resources envelope; and that the Chair requests, on behalf of the Committee, that the Standing Committee on

Aboriginal Affairs be place in an envelope entitled "Aboriginal Affairs".

The House Management Committee has since been advised of this decision of the Aboriginal Affairs Committee, but to date has taken no further action.

Under the new parliamentary calendar, the House is scheduled to resume sitting on September 16, 1991.

Barbara Whittaker
Procedural Clerk
Table Research Branch

British Columbia

A feature of the Fifth Session of the 34th Parliament, which began on May 7, 1991, was the creation of two new Select Standing Committees: Ethical Conduct and Conflict of Interest, and Constitutional Matters and Intergovernmental Relations. On Thursday, June 27, 1991 the latter Committee was asked to consider the state of the Canadian federation and to consult broadly with British Columbians to determine their views on: the social and economic interests and aspirations of British Columbians and other Canadians

within the federation; and the form of federation that can most effectively meet the social and economic aspirations of British Columbians and all Canadians.

The Committee was composed of fourteen members with **Bruce Strachan** as Chairman and **Colin Gabelmann**, an opposition member, as Deputy Chairman. An initial date of August 15, 1991 was imposed upon the Committee by the Legislature for the preparation of a preliminary report. The first round of public hearings were conducted at Terrace, Prince George, Cranbrook, Nanaimo, Vancouver and Kamloops.

The meeting format that the Committee found most useful could not be employed during the first round of public hearings. Ideally, the Committee believed that a combination of the approaches taken by the Citizens Forum and the Ontario and Alberta Committees would elicit a province-wide dialogue with British Columbians.

The Committee found the public response to its work overwhelming given the amount of time allotted to the preparation of the preliminary report. Approximately 1,000 people responded to the Committee by telephone, oral presentation or written submission. As a result, nine distinct themes emerged: Quebec and Canada; Federalism and division of powers; Aboriginal peoples; Charter of Rights, the

notwithstanding clause and the amending formula; fiscal responsibility; language and culture; women in Canadian society; multiculturalism; and parliamentary reform and political institutions.

The Preliminary Report contained the following recommendations: (a) all British Columbians be given an opportunity to participate in any constitutional review process; (b) a variety of innovative educational and participative programs be developed to assure communication between the Committee and the public; (c) an all-party legislative committee be the vehicle to accomplish these goals; (d) that all administrative work begun by the Committee continue during dissolution. Such work would be administered through the Office of the Clerk of Committees; (e) that once the Thirty-fifth Parliament has been elected and the Executive Council has been appointed the Lieutenant Governor in Council authorize the creation of an all-party committee with similar terms of reference and a significant continuity in membership.

The Committee continued its review of this issue until the legislature was dissolved for a provincial election.

Joan L. Molsberry
Committees Secretary