



Legislative Reports



New Brunswick

The legislative Assembly resumed sitting December 1, 1992, following a six-month adjournment. During the eight-day fall sitting, the House passed the 1993-1994 Capital Budget, considered and passed 39 Government Bills and 3 Private Bills, and debated and adopted a number of resolutions, including a resolution to enshrine in the Constitution the principle of the equality of the English and French linguistic communities of the Province.

Procedural Issues

On December 4, Dennis Cochrane, Leader of the Progressive Conservative Party, rose on a matter of privilege requesting a ruling from the Speaker with regard to the vacancy of the seat in the Legislative Assembly for the riding of Carleton North.

In reserving her decision, Speaker Shirley Dysart advised the Assembly that she had received a certificate of conviction of Fred Harvey, Member for Carleton North for an offence under subsection 111(1) of the *Elections Act*. This subsection makes it an offence of illegal practice for any person to induce or procure any other person to vote at an election,

knowing that such person is for any reason not qualified to vote at the election.

Under paragraph 119(c) of the *Elections Act*, the seat of a Member of the Legislative Assembly convinced under the Act for any offence that is a corrupt or illegal practice is vacated at the time of such conviction. On December 8, Speaker Dysart delivered her ruling. She informed the House that a Notice of Appeal had been filed on behalf of the Member for Carleton North appealing his conviction.

Speaker Dysart cautioned that it would be imprudent for Members of the Legislative Assembly, in the absence of special circumstances, to move to vacate the seat of a Member under section 119 before the normal right of appeal had been exhausted or expired. The Speaker ruled the matter *sub judice* and asked Members to refrain from bringing it forward in debate or otherwise.

Committee Activities

The Standing Committee on Law Amendments which had been reviewing the *Outfitters Act* and suggested changes to the *Right to Information Act* held public hearings in November and December. The *Outfitters Act* was passed during the 1990 session of the Legislature and has never been proclaimed. The Act would regulate outfitting activities within New Brunswick, with respect to the licensing and disciplining of outfitters. An "outfitter" is defined in the Act as "a person who provides or offers to provide hunting, angling or canoe trips to paying

customers." The *Outfitters Act* would limit the number of outfitters in terms of the available fish, wildlife and recreation resources and the number of outfitters currently in the industry.

The Standing Committee on Law Amendments presented its report on December 10.

The Committee recommended that proclamation of the *Outfitters Act* be held in abeyance until such time as the issues are considered and appropriate amendments to other Acts are brought to the Legislature dealing with the substantive issues identified in the public hearings.

The Committee recommended that the *Right to Information Act* be extended to school boards and hospital boards and that consideration be given to the need to amend the exceptions listed in section 6 of the Act to accommodate the appropriate particular activities or organizations of the added bodies.

Three Bills introduced during the fall sitting were referred to the Standing Committee on Law Amendments for a more detailed consideration including Bill 89, *An Act to Amend The Residential Tenancies Act*, Bill 115, *An Act Respecting the Balancing of the Ordinary Revenues of the Province* and Bill 121, *Personal Property Security Act*.

On December 1, 1992, the Select Committee on Representation and Electoral Boundaries, mandated to review the interim report of the Representation and Electoral District Boundaries Commission,

presented its interim report to the Legislative Assembly.

The Committee recommended:

- That the number of electoral districts be set at (55) fifty-five, one of which will consist exclusively of the Fundy Isles because of their geographic and representation uniqueness.
- That the average number of voters per electoral district be set at (9411) nine thousand four hundred and eleven.
- That the allowable variation for voter populations in electoral districts be set at plus or minus (25%) twenty-five per cent with the exception of the proposed Fundy Isles constituency.
- That the Representation and Electoral Boundaries Commission not initiate further consultations with the aboriginal community with reference to their representation in the Legislative Assembly of New Brunswick unless the native community requests such a consultative process.

The Standing Committee on Legislative Administration which had been reviewing Members' benefits and support services presented a report on December 11, 1992.

Subsequently, A Discussion Paper entitled *New Brunswick Legislative Assembly Members' Services* was tabled in the House and referred to the Committee for public input. The Discussion Paper deals with a number of issues concerning Members' services and proposes various options for consideration. The Legislative Administration Committee will seek public input on Members' services and benefits before presenting a final report to the Legislative Assembly.

On the last day of the session, Michael McKee (Liberal), an eighteen-year veteran of the Legislative Assembly, resigned his seat in the Assembly. Mr. McKee was first elected to the Legislative Assembly in 1974 to represent the

riding of Moncton North and won re-election at general elections held in 1978, 1982, 1987 and 1991. Mr. MacKee served during the Fifty-First Legislative Assembly as Minister of Labour and Minister responsible for Multiculturalism. Following the 1991 election, Mr. McKee was elected Deputy Speaker and Chairman of the Committees of the Whole House.

After sitting forty-eight days, the first session of the Fifty-second Legislative Assembly was prorogued on December 11, 1992.

Loredana Catalli Sonier
Clerk Assistant (Procedural)



Quebec

This fall the National Assembly sat for only seventeen days between November 24 and December 21, 1992. The referendum on the Charlottetown Constitutional Accord, which took place on October 26, accounts for the fact that this part of the session was so brief. Nevertheless, the Assembly passed 28 bills, of which 21 were public bills.

The resumption of the session was marked by the resignation of the Government House Leader, Michel Pagé, who is now working for a major private corporation. He was replaced as Government House Leader by the Minister of the Environment, Pierre Paradis, while the Minister of Higher Education and Science, Lucienne Robillard, became acting Minister of Education.

The economy was the main topic of discussion among Members,

especially during question period. In fact, the government was questioned on several occasions on the following subjects: the economic recovery plan, the opening of gambling casinos, the liquidation of Les Coopérants insurance company, the effects of the break-up of the Steinberg grocery store chain, the impact of the GATT negotiations on Quebec agriculture, the signature of the North American Free Trade Agreement between Canada, the United States and Mexico and the possible sale of the Provigo food giant to American interests. The last of these was also the subject of the only emergency debate this fall.

Other subjects that aroused Members' interest during this period were the right of immigrants to attend English schools, the review of Bill 101 (Charter of the French Language), the statute governing commercial advertising and the new government requirement that health insurance cards contain photographs of the holders. Relocation of the Hôtel-Dieu hospital centre away from the downtown core of Montreal was also discussed on a number of occasions. This move was even the subject of the only debate set down by the members of the opposition.

A number of bills of an economic nature were tabled. The *Act to amend the Act respecting hours and days of admission to commercial establishments* certainly produced the liveliest debates in the Assembly and among members of the public. This Bill is designed to allow stores to open on Sundays and every evening during the week. The Government House Leader had to invoke a motion for suspension to ensure that this Bill and three others would be passed.

Two of these bills involved further steps to reform the division

of responsibilities between the government and municipalities, as announced by the Minister responsible, especially with respect to the maintenance of the local highway network.

As regards Bill 61, the *Act to amend the Environmental Quality Act*, the Government House Leader opted to have the Bill considered in detail by a Committee of the Whole rather than by a committee of the Legislature, despite the fact that it was contentious. As a result, the Committee of the Whole had to innovate on many occasions and adapt the rules applying to committees of the legislature to its needs.

An *Act respecting the Conseil des aînés* was passed before Christmas. The main purpose of the Conseil is to promote the rights and freedoms of the elderly and participation by them in the life of the community. The creation of this body is assured while the debate on the imposition of a two-dollar patient's contribution on prescriptions for the elderly is still continuing in the Assembly.

The passage of two bills relating to culture is worthy of note. The first provides for the creation of the Department of Culture to replace the former Department of Cultural Affairs and gives the Minister responsible powers over heritage, the arts, literature, cultural industries and public libraries. The Minister may also develop a policy to integrate the arts with architecture and the environment.

The second bill creates the Conseil des arts et des lettres du Québec, which will be responsible for supporting creation, experimentation and production in the fields of literature, the artistic trades and the visual arts and promoting the diffusion of these arts in Quebec, the rest of Canada and abroad.

We should also note the tabling by a government Member of a bill designed to promote the disclosure of unlawful activity on the part of a public agency or a business that is contractually bound to the agency. This Bill also contains rules to protect persons who disclose such information.

In order to give effect to requests to withdraw notices of motion or Private Bill Notices, the Speaker has issued a private ruling to the effect that prior notice of a bill or motion may be withdrawn at any time from the Order Paper by means of a written request to the Secretary General or an oral request made during the sitting to the Speaker.

On December 17, 1992 the National Assembly held an official ceremony to commemorate the first sitting of the first Parliament of Lower Canada. This ceremony formed part of the activities of the Bicentennial of Parliamentary Institutions in Quebec. In 1792 the members proceeded to elect their first Speaker, Jean-Antoine Panet, before debating the use of the English and French languages in the Assembly.

The last official activity in the celebration of the Bicentennial ran from January 21 to 24, 1993. This was the 1992-1993 Student Forum on Parliamentary Institutions, the purpose of which was to introduce students from colleges throughout Quebec to the life and work of elected members and the operations of the National Assembly. The activities for the students took the form of a simulation of parliamentary work.

Jean Bédard et Nancy Ford
National Assembly Secretariat

Committee Activities

In Quebec the fact that the National Assembly resumed work on No-

vember 24, 1992, some four weeks later than its fall schedule would normally have required, did not mean that committee work was neglected.

Thus, on November 4, the Education Committee undertook a general consultation to examine the state of college education in Quebec.

This consultation coincided with the 25th anniversary of passage of the *General and Vocational Colleges Act* and the creation of the first public colleges. During the 16 sittings devoted to public hearings, the last of which took place on December 18, 1992, the Committee examined 222 briefs and heard some 109 interested persons and organizations; this involved more than 103 hours of work.

It seems that, given the large number of briefs received, this is one of the consultations that have aroused the greatest public interest in a mandate of a Standing Committee of the Assembly since the legislative reforms of 1984 were adopted. In fact, it came third after the consultation on the draft Health and Social Services Bill (266 briefs) and the Bill respecting the Proposed Policy on Culture and the Arts (264 briefs).

The detailed study of Bill 141 to reform private education was the other item in the activities of this Committee.

The main feature of the intensive sitting in December was the completion of legislative mandates.

In fact, 29 bills were referred to committee for detailed study and 60 sittings or more than 187 hours of work were devoted to improving the bills submitted. The examination of two of these bills was not completed because the Assembly passed a closure motion.

Several of the bills examined in committee are worthy of attention.

First, there was Bill 59, *An Act to amend the Act respecting hours and*

days of admission to commercial establishments, to allow businesses to open on Saturdays and Sundays from 8:00 am to 5:00 pm and to extend opening times during the week from 8:00 am to 9:00 pm. Discussion of this Bill, especially the provisions allowing Sunday opening, meant that, although four sessions totalling more than 26 hours of discussion were devoted to the Bill, the Economy and Labour Committee was not able to complete its task before it was recalled by the Legislature.

Quebec business was also affected by two other bills examined by this committee, namely, Bill 48, *An Act to amend the Act to promote the capitalization of small and medium-sized businesses*, and Bill 49, *An Act respecting certain regulations made pursuant to the Act respecting Quebec business investment companies*. Three sittings were sufficient to complete these two items of business.

In the field of transportation the Development and Facilities Committee had to examine two major bills. The first, Bill 46, *An Act to amend the Act respecting the Société de l'assurance-automobile du Québec*, was essentially designed to authorize the corporation to pay \$275,000,000 to the Consolidated Revenue Fund following the contribution announced in the 1992-1993 Budget Speech. Bill 57, which primarily concerned the division of responsibility between the Department of Transport and municipalities for the management of the highway network, was the subject of a closure motion following more than 18 hours of discussion in committee.

After four sittings, however, the Committee was able to complete its examination of Bill 55, *An Act to amend the Act respecting municipal taxation and other legislative provisions*, which had provoked a

number of disputes. This Bill has the effect, except in excluded municipalities, of requiring individuals who own cars to pay an annual contribution to fund certain public transportation services.

Furthermore, the Committee is still examining Bill 56, *An Act to amend the Act respecting land use and development and other legislative provisions*, which came before it on December 15.

However, following the amendments made by Bill 18 to the *Act respecting farm income stabilization insurance*, the Quebec Régie des assurances agricoles has been given the power to negotiate loans for the purpose of concluding transactions relating to financial contracts and instruments. The Agriculture, Fisheries and Food Committee devoted one sitting to an examination of this Bill.

In the Social Affairs Committee two bills deserve particular attention. The first was Bill 51, which created the Conseil des aînés and gave it the primary task of promoting the rights and interests of the elderly and participation by them in the life of the community and advising the Minister on questions relating to the elderly. The second, Bill 30, *An Act to amend the Supplemental Pensions Plan Act*, removed the four-year ban on payment of all or part of any surplus assets of retirement plans to employers who are parties to such plans. This Bill attempts to resolve the highly complex question of the ownership of surpluses in retirement funds, which have been estimated to amount to \$12,000,000,000, by creating a framework for labour-management negotiations concerning the distribution of these surpluses. If the parties fail to reach agreement on distribution of the surpluses, an arbitration board will render a definitive decision.

The Culture Committee, for its part, examined Bill 52, *An Act creating the Department of Culture*, and Bill 53, which created the Conseil des arts et des lettres du Québec, an agency that will to some extent be the provincial counterpart of the Canada Council.

December was a very busy month for the Institutions Committee. First, it examined an imposing item of legislation, Bill 28, an Act respecting the implementation of the Reform of the Civil Code, 697 articles of which were improved in 319 amendments. Bill 42, *An Act respecting the implementation of certain provisions of the Code of Penal Procedure and amending various legislative provisions*, with its 686 sections, also required several hours of discussion.

Finally, Bill 11, *An Act to amend the Consumer Protection Act and other legislation*, and Bill 14, *An Act to amend the Code of Civil Procedure regarding family mediation*, completed the Committee's legislative duties. All these items required 19 sittings and more than 42 hours of work.

The public service was the focus of the deliberations of the Budget and Administration Committee, which first examined Bill 47, *An Act respecting the payment of a retirement allowance and other benefits and amending the Act respecting the Government and Public Employees Retirement Plan*, and later Bill 66, *An Act to amend various legislative provisions respecting pension plans in the public and parapublic sectors and amending other legislative provisions*.

On December 15 the Committee began its examination of Bill 198, *An Act respecting the limitation on hiring in public agencies and the accountability of government managers and directors of public agencies*. One unique feature of this Bill was the fact that it was piloted by Henri-François Gautrin, the

member for Verdun, and a member of the governing party, although he is not in the Cabinet.

To complete this brief examination of the principal legislative tasks of the committees, we note that only four private bills, two concerning estates and two others concerning municipalities, were examined by the appropriate committees in the last four sittings held for this purpose.

The National Assembly Committee held two working sittings to review the membership of the Economy and Labour Committee and the Institutions Committee and the distribution of voting rights on these committees among the groups represented in the Assembly and to decide various current issues.

In addition to these committee activities during the current quarter, we should also note that in January the Development and Facilities Committee will devote three sittings to an examination of the financial commitments of the Department of Transport and the Economy and Labour Committee will take two sittings to examine those of the Department of Industry, Trade and Technology.

Furthermore, it should be noted that shortly before the Assembly adjourned on December 21 six of the eight standing committees were asked to consult the public on a number of questions. The first of these consultations was to begin on February 2, 1993.

The Budget and Administration Committee will conduct a general consultation and hold public hearings on the funding of public services in Quebec; the Education Committee on the draft Bill to amend the professional Code and other legislation governing the professions; the Economy and Labour Committee on Hydro-Quebec's draft development

plan for 1993-1995; the Culture Committee on Bill 68, *an Act respecting the protection of personal information in the private sector*; the Social Affairs Committee on alternative therapies and the Institutions Committee on the North American Free Trade Agreement. As this report was written, these committees were in the process of organizing their activities.

Denis Lamontagne
Secretary, Social Affairs
Committee

Alberta

The Legislature resumed the Fourth Session of the Twenty-Second Legislature on January 25. This special 3-week sitting was called by the new Premier, **Ralph Klein**. The main issue dealt with by the House was Bill 55, the Electoral Divisions Statutes Amendment Act (1993).

Albert's electoral boundaries have been under review since 1989. The Select Special Committee on Electoral Boundaries was established in August of 1989, and was charged with the mandate of consulting with Albertans to obtain their view on electoral boundaries in Alberta. On November 26, 1990, this Select Special Committee tabled its report in the House. This report, submitted by the all-Party Committee, was a reflection of this public process in combination with a review of the Canadian Charter of Rights and Freedoms.

In its report, the Select Special Committee on Electoral Boundaries

made the following recommendations:

- the number of electoral divisions remain at 83
- in establishing electoral divisions the following factors should be considered: sparsity and density of population; community interests such as Indian reservations, Metis settlements, special areas, and improvement districts.
- number of municipalities, school boards, and hospital boards in an area; geographical features including road systems.
- no sitting members of the Legislative Assembly should be part of the Electoral Boundaries Commission.

The committee also established that the population size of at least 95 per cent of the electoral divisions must be within a variance of plus or minus 25 per cent of the average of electoral division population size in Alberta. The final recommendation made was that electoral divisions be designed either as single municipality divisions or as multi-municipality divisions.

The legislature then established an independent Commission to transform the recommendations into new electoral boundaries. Five members of the general public served on the Commission as well as Alberta's Chief Electoral Officer.

The Commission elected to use a plus or minus 10 per cent variance rather than the plus or minus 25 per cent variance which was recommended by the Legislative Assembly and approved by the Supreme Court of Canada on the Alberta Court of Appeal. The final report tabled by the Commission consisted of five individual reports, one from each of the Commission's members. Due to the lack of a majority decision, the Legislature passed a motion relegating the duty of drawing Alberta's electoral boundaries back to an all-party Select Special Committee on Electoral Boundaries.

The new Select Special Committee consisted of seven members of the government, four members of the Official Opposition and one member of the Liberal Opposition. The Official Opposition and the Liberal Opposition, however, declined to participate in the Select Special Committee. The two opposition parties cited concerns of a perceived conflict of interest with Members of the Legislative Assembly directly drawing their own electoral boundaries.

The Select Special Committee on Electoral Boundaries studied and drew heavily upon the documents, submissions, transcripts, research and data from the work of the previous Select Special Committee on Electoral Boundaries (1989-1990), and the Electoral Boundaries Commission (1991-1992).

The Select Special Committee recommended that the number of electoral divisions in Alberta remain at 83. This resulted in 39 multi-municipality divisions, 20 Calgary divisions, 18 Edmonton divisions, two Lethbridge divisions plus one division each for Fort McMurray, Medicine Hat, St. Albert, and Sherwood Park. Four divisions were designated as Special Consideration Electoral Divisions and permitted to exceed the plus/minus 25 per cent variance due to their extensive size, sparse population density and distance from the Capital.

The recommendations of the Select Special Committee were presented in Bill 55. It received first reading on January 25 and second reading on February 8. Several amendments, including name changes were passed at the Committee of the Whole stage on February 10. Bill 55 received third reading February 12 and received Royal Assent on February 16. The new electoral boundaries have been

sent to the Alberta Court of Appeal for an advance ruling on their acceptability under the *Canadian Charter of Rights and Freedoms*.

One of the results of this legislation is two additional seats for the City of Calgary and one additional seat for the city of Edmonton, the two major cities, in the province. These two cities, which contain 54 per cent of the province's population will now have 46 per cent of the seats in Albert's 83 seat assembly. The most populous riding in Alberta will be Edmonton-Strathcona with a population of 37,961. The least populous will be the riding of Chinook with a population of 15,815.

Jessica Benjamin and
Suresh Mustapha

Legislative Interns



Manitoba

With the demise of the Charlottetown Accord on October 26, 1992, there was no need to re-convene the Legislature to consider the Accord. Instead, the Government could continue with its planned legislative timetable. The Fourth Session of the Thirty-Fifth Legislature was opened on Thursday November 26, 1992. The Speech from the Throne was read by Chief Justice Richard Scott as Lieutenant-Governor George Johnson had not been well enough to take part in the Opening Day ceremonies.

House Business

The House sat for fifteen days before calling a Christmas recess. The Throne Speech debate lasted for the full eight days allowed by the Rules of the House. Non-confidence amendments were moved by the Official Opposition NDP and the Second Opposition Liberals and were defeated. The remaining House business included the introduction and at least first reading of twenty public bills, thirteen of which were Government Bills. The remainder were Private Members Bills. The most controversial to date was The Retail Businesses Sunday Shopping (Temporary Amendments) Act. The bill retroactively amended the current *Retail Businesses Holiday Closing Act*, which allowed retail business with four or less employees to be open Sundays from 12:00 to 6:00 p.m., to allowing businesses with more than four employees to also be open at the same time. This temporary change covers the time period from November 29, 1992 until April 6, 1993.

The Official Opposition was strongly opposed to the legislation for many reasons. A primary one was the Government's decision to allow temporary Sunday shopping prior to passage of the bill by the Legislature. The Leader of the Second Opposition, Sharon Carstairs, allowed for a free vote in her caucus as she believed that it was an issue which her caucus members should be able to vote on according to their own conscience. However, the Liberals were also concerned because the Government did not follow the usual legislative processes and raised this as a Matter of Urgent Public Importance on the second day of sitting, before the bill was introduced. Speaker Rocan ruled that the issue did not meet the criteria for a matter of urgency. Twenty-two Members spoke to the

Bill at Second Reading and on the last day of sitting, the question was put, passed on division and thereupon referred to a Committee of the House. The Opposition had indicated its wish for inter-session committee meetings and public hearings on the bill. This, however, has not occurred.

The House was adjourned on December 16, 1992 until March 1, 1993.

House Changes

Since Manitoba's last Legislative Report, more changes in House membership were announced. **Reg Alcock** (Osborne) announced on November 12, 1992 that he will seek the Liberal nomination for the federal riding of Winnipeg South, currently held by Progressive Conservative MP **Dorothy Dobbie**. Mr. Alcock has served in the Provincial Legislature for five years as the Liberal's Critic for Finance and Industry, Trade and Tourism. **Elijah Harper** (Rupertsland), announced his resignation on November 27, 1992. Mr. Harper, representing the aboriginal peoples' opposition to the Meech Lake accord, became well known for his role in blocking the consideration of the Accord in the Manitoba Legislature. He currently is considering running in the next federal election. **Judy Wasylycia-Leis** (St. Johns) announced on January 27, 1993 that she is planning to seek the NDP nomination for the federal riding of Winnipeg North, currently held by Liberal MP **Rey Pagtakhan**. Ms. Wasylycia-Leis has been the Deputy Leader of the Provincial NDP and their Health Critic.

Procedural Matters

Despite the short sitting, it did not take long before Members took up their adversarial roles, keeping Speaker **Denis Rocan** busy maintaining order. One particularly acri-

monious debate in Question Period motivated **Gerry Ducharme**, Minister of Government Services, to rise on a Matter of Privilege. **Steve Ashton**, Official Opposition House Leader, accused the Minister of lobbying Cabinet Members on behalf of insurance agents in Manitoba. Mr. Ducharme asked Mr. Ashton to provide proof of his allegations or withdraw and apologize. After taking the matter under advisement, Speaker **Rocan** ruled that the matter was not one of privilege as it did not impinge upon Mr. Ducharme's ability to carry out his parliamentary work. Further, the matter was raised with regard to him as a Minister and not as a Member. Speaker **Rocan**, however, did rule that the personal charge was unparliamentary and that Mr. Ashton must withdraw the charge. He did so.

New Lieutenant-Governor

On January 22, 1993, Manitobans received the long-awaited announcement of the appointment of a new Lieutenant-Governor. **Yvon Dumont** succeeds Dr. **George Johnson**. Mr. Dumont, 42 has been president of the Manitoba Metis Federation since 1984. A respected member of his community, Mr. Dumont has been involved in advancing the rights of his people since the 1960s. He recently came to national prominence as one of four aboriginal leaders who worked with the First Ministers in negotiating the Charlottetown Accord. As well, he was instrumental in the movement to have **Louis Riel** recognized as a national hero in the House of Commons. Mr. Dumont will take office on March 5, 1993.

Judy White

Clerk of Committees

Manitoba Legislative Assembly

House of Commons

From late 1992 to early 1993, political watchers focused as much on the events occurring outside the House as they did on those inside. A Cabinet shuffle, the sometimes vociferous debates on several pieces of legislation and, of course, the announcement of the upcoming resignation of the Prime Minister were but a few of the many items that kept the media, Parliament and the public buzzing.

When the House resumed sitting on November 16, Members proceeded with their discussions on the *Immigration Act*, the *Public Service Act*, the *Budget Implementation Act*, the *Patent Act* and on issues surrounding the North American Free Trade Agreement. As the sittings continued throughout December and into the new year, the House adopted a constitutional amendment to give equal status to the English and French linguistic communities in New Brunswick, and held a special debate concerning the humanitarian relief efforts in Somalia.

During the Supply day debates in this period, the Opposition called for a general election (November 20); requested that the House reject any North American Free Trade Agreement (December 1); stated that the Government's policy of denying unemployment insurance benefits to workers who quit their jobs or who are dismissed is "too severe", "too tough for people", "puts people in a desperate situation", "goes beyond fairness",

is "extremist" and "right-wing" and is therefore unacceptable to the Canadian people (February 3); and condemned the Government for its "...continued adherence to is failed economic policy of trickle-down misery" (December 7); for reneging on its commitment to Canadian farmers by having changed certain policies (February 9); and for "...its continued failure to establish and adhere to a clear and high standard of public sector ethics..." (February 17). Also on the financial front, the *Auditor General's Annual Report* and the *Auditor General's report to the Senate and House of Commons on matters of Joint Interest* were tabled, the Government gave a major economic policy statement on December 2; and Supplementary Estimates A and B for the fiscal year 1992-93 and Main Estimates for the fiscal year 1993-94 were tabled.

Privilege

In early December 1992, **Don Boudria** rose on a question of privilege concerning the matter of alleged threats made against a witness who had appeared before the Sub-committee on Recodification of the General Part of the Criminal Code (a Sub-committee of the Standing Committee on Justice and the Solicitor General). On November 24, 1992, Cheryl Eckstein had appeared before the Sub-committee and during her presentation had played a videotape of a Nazi film "I Accuse", which portrayed euthanasia in a positive light. (This video clip had been a part of a program entitled "Selling Murder." Based on a British production, this program had been aired on the Canadian Broadcasting Corporation's (CBC) program *The Fifth Estate*.) Following her appearance before the Sub-committee, Mrs. Eckstein had a conversation on December 3, 1992 with **Kelly Chrichton**, the executive pro-

ducer of *The Fifth Estate*, during which Ms. Chrichton explained the copyright issues involved in using footage from the CBC's program, raised concerns about the use of a CBC program out of context, and in association with a particular cause or point of view, and then allegedly threatened legal action on behalf of the CBC because of the testimony given before the committee. Mrs. Eckstein contacted **Don Boudria** after her discussion with Ms. Chrichton.

In his argument before the House, Mr. Boudria contended that witnesses before committees enjoy the same privileges as Members of the House and are therefore accorded the temporary protection of the House. He added that if such threats as were apparently made against Mrs. Eckstein were left unchallenged, it could imply that witnesses before committees could not testify without the threat of being sued or intimidated, a security which they have had "from time immemorial". The Member noted that the telephone call between Mrs. Eckstein and Ms. Chrichton had been independently verified by a journalist, and concluded by stating that because the Committee in question had adjourned its meetings for the next few months, he would be effectively prohibited from raising this matter in committee. Two other Members of the House also rose to speak on the matter, one of whom argued that the central item at issue could be seen as one of copyright, and that this matter should be reviewed by the Standing Committee on House Management. Following the discussion, the Speaker ruled that there appeared to be a *prima facie* breach of privilege, and added that while matters arising from committee are normally referred back to the committee, "...my own feeling is that under the

circumstances which have been explained to me that is not the convenient or appropriate thing to do at this time." He invited Mr. Boudria to move the appropriate motion, and with the agreement of the House, the matter of the threats made against Mrs. Eckstein was referred to the Standing Committee on House Management.

The Committee heard testimony from Mr. Boudria, Mrs. Eckstein and Ms. Chrichton and, as was noted in its report tabled in the House on February 18, 1993, much of the testimony related to the question of the copyright of video materials. The report explained the role and importance of parliamentary privilege with regard to witnesses before committees, and concluded with the following observations:

In her testimony, Ms. Chrichton acknowledged the right of Mrs. Eckstein to say whatever she wanted to the Sub-committee. The Committee concludes that at the time of the telephone conversation Ms. Chrichton and her advisors were unaware of the law of Parliament regarding the protection of witnesses before parliamentary committees. The Committee is concerned that this lack of knowledge may have influenced the conversation.

In order to abrogate parliamentary privilege, an express provision in a statute is necessary. As the *Copyright Act* contains no mention that it applies to the House of Commons, it can be concluded that the Act does not apply to parliamentary proceedings, and that a Member or a witness may quote a work without first obtaining permission of the holder of the copyright. Another way of viewing the matter is to say that the usual remedies available for breach of copyright are not available in the case of parliamentary proceedings. (This would be in addition to the normal defences to charges of

copyright violation, such as fair dealing.) It would be useful for Members and witnesses to acknowledge the source of materials that they use, and to give full credit to the authors or creators.

The Committee acknowledges the concerns of the CBC and Ms. Crichton regarding the journalistic integrity of their work. At the same time, it appears that they may have been over-zealous in asserting these concerns in the present case. It is important that the rights of Parliament be acknowledged, and that witnesses not be "chilled" by the prospect of legal action over their use of copyrighted materials.

There is not sufficient evidence in this case that intimidation of a witness occurred such as to justify a finding of contempt of Parliament. We believe that the appearance of the witness before the committee was a salutary exercise and provided an opportunity for the parties to explain their actions and motivations.

The Committee believes that Mrs. Eckstein was entirely correct to bring this matter to the attention of Mr. Boudria, and we wish to express our thanks to Mr. Boudria for raising the question of privilege. It has provided us with an opportunity to reiterate the general principles regarding interference with witnesses appearing before parliamentary committees. This is a very serious matter. It is important to the functioning of Parliament, and of parliamentary committees, that witnesses not be intimidated or interfered with in any way whatsoever. It is important that organizations such as the CBC understand and respect parliamentary privilege insofar as it relates to witnesses.

The committee recommends that the Speaker write to the CBC and to Ms. Crichton advising them of the contents of this report. (Standing Committee on House Management, Sixty-fifth Report, *Minutes of Proceedings and*

Evidence, February 18, 1993, Issue 46:10)

The report was concurred in on February 25, 1993.

Committees

Broadcasting issues also formed part of another House Management Committee report, this one dealing with the broadcasting of House of Commons proceedings. In its 57th Report, tabled on December 4, the Committee commented on the positive responses to the experimental camera angle guidelines which had been used for a few months, and noted the importance of the continued monitoring and study by the Committee of the broadcasting of proceedings. Accordingly, the Committee recommended that the House continue to use the new wider camera angles in the broadcasting of Question Period and the taking of divisions, and that the Standing Committee on House Management continue to monitor and work with the broadcasting staff of the House of Commons to produce a more accurate visual image of the House. The Committee concluded by requesting that these recommendations be adopted as the permanent practice of the House of Commons. The report was concurred in on December 11, 1992.

The House Management Committee also presented its 55th and 56th reports, which recommended, respectively, changes to committee memberships for certain standing committees and changes to the list of Members at Large for the Economics Envelope. The presentation of the reports on November 27 was followed by the adoption of a motion of the House to permit, notwithstanding any special or Standing Order of the House, the incumbent chairmen and vice-chairmen of the committees to continue in office

until the committees concerned order otherwise. In cases where the chairman and/or vice-chairman ceased to be members of a committee as a result of concurrence in the report, the committee would, of course, proceed to the election of a new chairman as its first order of business, and to the election of new vice-chairmen as the committee deems necessary.

Other committee activities which received considerable attention over this period include the Standing Committee on Consumer and Corporate Affairs and Government Operations' comprehensive review of the *Lobbyist Registration Act* and the examination of violence on television by the Standing Committee on Communications and Culture. The activity of the Standing Joint Committee on the Scrutiny of Regulations was also noteworthy. In its Sixth Report, tabled on November 19, the Committee recommended the disallowance of a controversial 1990 Public Works Nuisance Regulation which made it an offence for any person to demonstrate, make a disruptive noise or distribute literature within 50 metres of any entrance to any parliamentary building during the work week. Under the rules of the House, the recommendation to disallow the regulation would become an Order of the House unless it was contested within 15 sitting days. On February 1, 1993, Derek Lee, Co-chairman of the Committee, notified the House that, as the recommendation had not been contested, the Committee's report would be concurred in and the regulation consequently revoked.

Electoral Reform

On February 13, 1992, the Report of the Royal Commission on Electoral Reform and Party Financing was tabled in the House. The following

day, the House of Commons adopted a motion to establish an eight-Member Special Committee to undertake a comprehensive review of this report. On December 11, 1992, the Committee tabled its first report on the subject of electoral reform. In it, the Committee outlined a three phase plan for its study of the issues involved in the Report of the Royal Commission, and noted that its first phase study had culminated in the draft bill to reform the *Canada Elections Act*, which was included in the report. The amendments suggested by the bill dealt primarily with activities undertaken by Elections Canada prior to and on election day. Specifically, the Committee recommended changes in systems to make it easier for Canadians to be put on the list of electors, and to make the act of voting accessible to more Canadians. The second phase of the Committee's study will deal with matters to be changed before the next election, and will include an examination of issues such as broadcasting, disclosure of information in public opinion polls, third party advertising, decriminalization of certain election offenses and election campaign financing on both a local and national level. Finally, phase three of the Committee's study will focus on long-range changes to the system which, while they may not be in place in time for the next election, are equally important. Notably, this phase will include study of the assignment of seats to provinces, the drawing of constituency boundaries, measures to increase the number of female candidates and the establishment of Aboriginal constituencies. On February 22, 1993, the Government introduced Bill C-114, *An Act to amend the Canada Elections Act*, which was based on the recommendations of the Royal

Commission and the report of the Committee. The *Act* as it is now written includes provisions to place limits on the amount individuals and groups can spend to promote a politician or a party; extends the four-week blackout on political party advertising at the beginning of a campaign and in the final 48 hours to include independent advocacy groups, whether they directly or indirectly refer to a candidate or party; and places a ban on the publication and broadcasting of polls for the final 72 hours of the election campaign.

Legislative Update

Several other legislative initiatives also kept the media and parliamentarians occupied. Bills C-113, *An Act to provide for government expenditure restraint* (the bill which eliminates unemployment insurance payments for those who voluntarily quit their jobs without cause); C-110, *An Act respecting the Northumberland Strait Crossing* (the bill which sets in motion the procedures for the fixed link between Prince Edward Island and the Mainland); and C-115, *An Act to implement the North American Free Trade Agreement* were introduced during this period. The following bills were passed by the House and are now being studied by the Senate: C-69, *Criminal Code Act amendment (air and maritime safety)*; C-76, *Budget Implementation (fiscal measures) Act, 1992*; C-79, *An Act to amend the Divorce Act and the Family Order and Agreements Enforcement Assistance Act*; C-88, *Copyright Act amendment*; C-99, *Small Business Loans Act amendment*; and C-111, *Tobacco Sales to Young Persons Act*.

Members of the House

Events and announcements of the last few months have brought and will bring changes to the face of the

House of Commons. In the Government caucus, Jim Edwards replaced Jim Hawkes as Chief Government Whip and Charles Langlois assumed the duties of Parliamentary Secretary to the Government House Leader. In early January 1993, a Cabinet shuffle changed the portfolios of several ministers. In late February, former Prime Minister and current Minister Responsible for Constitutional Affairs, Joe Clark, announced that he will not seek re-election. And, most notably, on February 24, the Prime Minister, Brian Mulroney, announced that he will resign as Prime Minister after a successor is chosen in a leadership convention. The convention is scheduled to be held in Ottawa from June 9-13, 1993.

In the House of Commons itself, Catherine Callbeck, MP for Malpeque, resigned her seat upon her election as leader of the Prince Edward Island Liberal Party, and her consequent swearing in as Premier of the province. More recently, the House was saddened by the passing away of North Vancouver MP, Chuck Cook, who died of cancer on February 23. By-elections to fill the vacancies for the constituencies of Shefford, Quebec (held by former Bloc Québécois Member, Jean Lapierre) and Malpeque will be held on October 25, unless, of course, a general election precedes them. No by-election date has yet been set for the North Vancouver riding. Party standings in the House as of March 8, 1993 were: Progressive Conservative, 157; Liberal, 80; New Democratic Party, 44; Other (including Bloc Québécois, Reform Party and Independent Conservative members), 11; and Vacancies, 3.

Barbara Whittaker
Procedural Clerk
Table Research Branch