

# Canadian Parliamentary review



## *All Together Now: Government Bill Bundling in the 42nd Parliament*



Volume 41, No. 4



# *Know Your Mace*

The House of Commons cannot convene without its Mace. On February 3, 1916, when fire ravaged the Parliament Building, the original Mace was lost. In the immediate aftermath of the fire, the House used the Mace belonging to the Senate and then that of the Ontario Legislature until a temporary wooden Mace was fashioned. The Lord Mayor and Sheriffs of London, upon hearing of its destruction, commissioned a replacement. A new Mace was crafted by the renowned Goldsmiths and Silversmiths Company Ltd. of London. It is similar in design to the House of Commons Mace at Westminster and is made of sterling silver with an amalgam of gold and mercury. As the Mace was commissioned during the reign of George V, the Royal cypher GR was placed around the vase-shaped head. This cypher was altered in 1953 and replaced with ER for Her Majesty Queen Elizabeth II. The new Mace was presented to Prime Minister Robert L. Borden on March 28, 1917, and first used in the House on May 16, 1917. The wooden Mace was kept and since 1977 is used when the House sits on February 3 to commemorate the anniversary of the fire.

Kerry Barrow  
Curatorial Services, House of Commons



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### Temporary Special Measures: A Possible Solution to Get More Women Into Politics

Julie Green, MLA .....2

### Inclusive and Diverse Leadership in Parliamentary Politics and Beyond

Hannah Bell, MLA .....5

### All Together Now: Government Bill Bundling in the 42nd Parliament

Charlie Feldman .....7

### Renewing the Senate Under the Section 44 Amending Formula

Dan Hays .....13

### The Real Problem with Senate Appointments

David Gussow .....16

### Ten Years of Exit Interviews with Former MPs

Jane Hilderman and Michael Morden .....19

### Keep Calm, And Carry On: Business Continuity Planning In Parliaments

Tommy Lynch .....22

### Experiential Education at its Best: The Case of the Ontario Legislature Internship Programme

Peter P. Constantinou .....25

### CSPG: Spotlight on 42: Changes, Challenges and Conclusions

.....29

CPA Activities .....35

Parliamentary Bookshelf: Reviews .....38

New and Notable Titles .....40

Legislative Reports .....43

### Purliament Hill: The Capital Cat Colony

Will Stos.....60



# Temporary Special Measures: A Possible Solution to Get More Women Into Politics

In some ways, the Legislative Assembly of the Northwest Territories has been a trailblazer in terms of diversity of representation in Canada. Since full responsible government returned in 1983, a majority of its MLAs have been Indigenous, as have all but two of its premiers. Moreover, Nellie Cournoyea became the first Indigenous woman to become premier of a province or territory in Canada and only the second woman ever to hold a premiership in the country. In terms of electing women to the Assembly, however, it has lagged behind many other jurisdictions. Currently only two MLAs are women (10 per cent of the Assembly) and since 1999 the Assembly has only surpassed this number of women MLAs once – three (or 15.8 per cent in 2007). In order to become a more representative body, the territorial Assembly unanimously adopted a motion to ensure at least 20 per cent of MLAs are women by 2023, and at least 30 per cent of MLAs are women by 2027. In this article, the author explains the concept of temporary special measures to achieve this goal. She outlines the experience of Samoa, another small jurisdiction with Westminster roots in which women were substantially underrepresented in parliament, to demonstrate how the NWT might reach these benchmarks. She concludes by noting that temporary special measures are one way of increasing women's representation in assemblies, but others may work as well depending on the jurisdiction's political culture and institutions.

**Julie Green, MLA**

One of the priorities of the 18th Legislative Assembly of the Northwest Territories is “supporting initiatives designed to increase the number of women running for elected office.”

The Speaker of the Legislative Assembly, Jackson Lafferty, has taken up this challenge, along with his MLA colleagues. On International Women's Day, he shared his vision: “We, as elected leaders of this territory, have the ability to act as role models and also supporters to change the status quo. We must encourage female participation in all aspects of work and life, but especially within our own legislature.”

On March 8, 2018, all 19 members unanimously adopted a motion to give that aspiration meaning by establishing a goal of increasing the representation of women in the Legislative Assembly to 20 per cent by 2023 and 30 per cent by 2027. The United Nations has

determined that 30 per cent is the threshold at which elected women can bring about significant and lasting policy changes.

In many ways, the Northwest Territories and its institutions are an example for the rest of Canada and for the world in terms of diversity. In 1991, Nellie Cournoyea became the first Indigenous woman – and only the second woman in Canada – to hold the position of provincial or territorial Premier.

Since the return of full responsible government to the NWT in 1983, a majority of the Members of the Legislative Assembly have been Indigenous, as have all but two of its Premiers. At the time of its passage in 2002, the NWT *Human Rights Act* was the most comprehensive law of its kind in Canada, affording protection from discrimination to vulnerable groups that is still not in place in many parts of the country. The Commissioner of the Northwest Territories, the Chief Justice of the NWT Supreme Court and Territorial Court, the NWT Languages Commissioner, Chief Electoral Officer, Access to Information and Protection of Privacy Commissioner and the President and CEO of the NWT Power Corporation are women.

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*Julie Green is MLA for Yellowknife Centre, Northwest Territories. She was first elected in 2015.*





**Northwest Territories MLA Julie Green discusses proposed temporary special measures to increase the ranks of women within the Legislative Assembly at the Commonwealth Parliamentary Association’s 2018 Canadian Regional Meeting in Ottawa.**

Success in these areas has not translated into success in elections. Women currently occupy only 10 per cent of the 19 seats in the Legislative Assembly. Underrepresentation is a chronic problem, dating back decades. Since the separation of Nunavut from the Northwest Territories in 1999, the proportion of women in our legislature has only surpassed 10 per cent once. Three women, constituting 15.8 per cent, were elected in 2007 to the 16th Legislative Assembly. In the meantime, many provinces and territories have increased women’s representation; some to as much as 40 per cent (British Columbia). It’s time for the NWT to catch up. The question is how?

Women have made gains in southern jurisdictions thanks in part to assistance from political parties. In New Brunswick, for example, an initiative called

“Women for 50 per cent” had the goal of having each party run 50 per cent female candidates in the September election to address the underrepresentation of women. In the end, 96 women became candidates (38.6 per cent) up from 71 in the 2014 election, with only the NDP reaching the goal of 50 per cent.

Lobbying parties to run more women candidates won’t work in the Northwest Territories because there are no parties. Each candidate is an independent in this consensus government system. Historically, nine or 10 women have run and two or three have been elected. It is not unusual to have no women running in more than half the constituencies in NWT elections.

Women say they are reluctant to run for a number of reasons including living away from their families,

being less available as caregivers, the cost of a campaign and a lack of confidence that they have the skills necessary. Campaign schools offered by the Status of Women Council of the NWT since 2010 have not been successful in increasing the number of women running, despite their best efforts. (Both women elected in this Assembly are graduates of the 2015 school.)

Speaker Lafferty, now in his fourth term in the Assembly, is the proud father of three girls. He began looking for ways to address the chronic underrepresentation of women. He found inspiration at a Commonwealth Parliamentary Association conference in 2017 where the South Pacific island nation of Samoa, in partnership with the United Nations Development Program, addressed this issue with an approach called temporary special measures. Samoa is a democracy with the same roots as ours, at Westminster.

Women in Samoa didn't get the vote until 1990 and have been underrepresented in Parliament since then, occupying fewer than 10 per cent of the seats. After a lengthy debate and a constitutional amendment, the country adopted temporary special measures, with a goal of ensuring there were five seats for women of the 49 seats in Parliament. Of the 164 candidates in the 2016 election, 24 were women; four women were elected through normal elections and one was appointed for the term to achieve the five seat minimum.

Inspired by the Samoan example, Speaker Lafferty tabled a White Paper during the Spring 2018 sitting of the Legislative Assembly on temporary special measures "in the hopes that it will initiate a public discussion about the role of women in public office in the Northwest Territories, particularly leading up to the next general election."

This is how temporary special measures work. Members of the Legislative Assembly agree to allocate a set number of seats for women, using the guideline already agreed upon – four in 2023 and six in 2027. During these elections, all the work that goes into getting women to become candidates and then campaigning for support will continue in the same way that it does now. After the ballots are counted, let's say three women are elected or one short of the 2023 goal. In that case, there would be a temporary seat created. The woman candidate who finished best across the territory (based on the percentage of votes earned) but who didn't get elected would be appointed to a seat and hold the seat for the duration

of the Assembly. Note that the additional seat brings the total number in the Assembly up to 20.

If temporary special measures had been in place during the 2015 election, two women would have been appointed to the special seats based on the percentage of votes they received. The same would have happened in 2011. It is interesting to note that the extra seats would have been distributed among different regions of the NWT – a key political consideration in the Territories as elsewhere.

Temporary special measures are exactly what they say they are. They are an immediate, extraordinary and short-term way to shake off the stubborn underrepresentation of women in our legislature. The experience in Samoa and elsewhere is that these measures are, by their nature, self-fulfilling. The strongest determinant of the number of women who are elected to political office is the number who actually run. By encouraging more women to enter political life, these measures quickly become unnecessary and redundant. This is why they are called "temporary." Speaker Lafferty's White Paper proposed that the legislation to create temporary special measures in the NWT automatically sunset after two general elections.

Could temporary special measures work in the NWT? The answer, based on the Samoan experience, is that there are three conditions necessary for success: support and commitment by incumbent office holders; support by the electorate; and a set of measures that are specific to the political realities of the jurisdiction in question. Work to evaluate whether these conditions are in place in the Northwest Territories is underway now and will involve public consultation.

Temporary special measures are one way of increasing women's representation, but there are others. Research has shown that incentives are necessary, whether guaranteed seats for women or increasing rebates to political parties (where available) for getting more women into the House.

I believe that having more women in the House will encourage more women to run. When women demonstrate their competence, initiative and tenacity voters are more likely to elect them. Temporary special measures is a jumpstart to give women not only the equality of opportunity, which they have now, but also equality of representation. To ensure half the population has a seat at the table, the status quo must change. The question is not whether change must happen but how.



# *Inclusive and Diverse Leadership in Parliamentary Politics and Beyond*

It's undeniable that there are systemic barriers which prevent certain people from fully participating in society. Inside and outside of parliamentary politics, there has been much discussion and debate about the kinds of barriers women face. In this article, the author explores how a tendency for women to take on caregiving roles for children, and increasingly the elderly, is one such barrier to full participation – particularly for caregivers who are single. She writes that parliamentarians can and should lead by example by finding creative ways to eliminate these barriers in their own organizations and professional development activities.

**Hannah Bell, MLA**

There has been a lot of discussion and debate inside and outside parliamentary jurisdictions about addressing the barriers for women to participate in leadership and political roles. There is no shortage of solid, evidence-based reports that objectively analyze the data and stories of women in PEI, across Canada, and around the world to identify what needs to change to create a more inclusive and diverse leadership landscape.

Over and over we hear that the systemic barriers for women's participation are not about ability, interest, or skill. The unpleasant reality is that the barriers are in the wage gap, violence and safety, childcare access, and caregiving roles. In this article, I'd like to focus on this caregiving role and provide an example of how parliamentarians can lead by example to break down this barrier.

Women are more likely than men to be unpaid or underpaid caregivers for children and, increasingly, also for seniors. This means that their participation in formal politics often requires them to either find and/or pay someone else to provide care. Single parents and primary care providers – both women and men – are least likely to have flexibility and options around caregiving roles.



**Hannah Bell**

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*Hannah Bell is the Member of the Legislative Assembly for District 11: Charlottetown-Parkdale in Prince Edward Island.*

To allow caregivers full participation in the life of society, government and associated organizations must enact policies that increase supports, not burdens, for caregivers.<sup>1</sup> The PEI government has the opportunity to show leadership in this regard by implementing the suite of changes recommended by the PEI Coalition for Women in Government in its much-referenced 2009 research report ‘Whose Job is it Anyway?’<sup>2</sup>

We must design policies, programs, and services that recognize and respect this reality and are truly inclusive. It takes work to recognize and that move beyond our assumptions, uncover the realities of people’s lives, and find ways to address their needs. Too often this means that we put the burden onto those affected to agitate and advocate for themselves and their peers. Yet, even then, we do not listen when they speak up, acknowledge their story, or explore their experience. Without this commitment and a willingness to change, we will continue to see the underrepresentation of entire groups of professionals who are excluded because of uninformed and incorrect assumptions and resulting omissions.<sup>3</sup>

Let’s look at an example of how being sensitive to the experience of people burdened by systemic barriers can lead to positive change. If a single parent involved in parliamentary politics and leadership wants to attend a professional development opportunity that includes travel, overnight stays, and full days of meetings and panels, what are the barriers to their participation? Should event organizers consider providing a free child care program and appropriate activities for children and/or unaccompanied minors, shared accommodations, and subsidized travel for accompanying minors or support? Should they ensure that all attendees are given the same opportunities to attend key events including informal dinners and networking socials? And, should they consider any additional costs that may be incurred which may be beyond the financial capacity of the attendee?

In my mind, the answer to all of these questions is yes. At the very least, event organizers should recognize that by failing to address these barriers they may unintentionally exclude the very people whose lived experience would give them deep insight into the struggles a significant portion of the population faces. If they don’t make a meaningful effort to

expand the group membership by eliminating barriers to participation, is it surprising that these groups continue to struggle to adequately represent the diversity of the general population?

Writing in the *Guardian*, Bella DePaulo explains that “single-parent and cohabiting-parent households are just a few of the many contemporary ways of living [and that] creative ways of living will continue to proliferate. Never again will huge swaths of the population follow the nuclear family path or any other predetermined road to the good life. We get to design our own life spaces.”<sup>4</sup> Yet, there continues to be individual and systemic discrimination against single and non-married parents. I believe that a representative parliamentary democracy should reflect the people we serve and the only way to ensure this occurs is to remove significant barriers to full participation in politics for all people.

If every report, anecdote, and excluded participant tells you that the barriers are there and that change is required to remove or mitigate those barriers for true inclusion, then the fact that you are personally inconvenienced by that action or even that you do not believe it to be true does not change the reality that the objective data presents. We have to make a decision as to whether we really want to be inclusive or if we are just saying that because we think we should.

The time for reports, discussion, and debate is long past. The time for meaningful action is right now. After all, it’s 2018.

## Notes

- 1 Prince Edward Island Advisory Council on the Status of Women. *Prince Edward Island Equality Report Card 2018*. (June, 2018). Retrieved July 18, 2018, from PEI Advisory Council on the Status of Women: [http://www.gov.pe.ca/photos/original/acsw\\_erc18EN.pdf](http://www.gov.pe.ca/photos/original/acsw_erc18EN.pdf)
- 2 PEI Coalition for Women in Government. (2009). *Whose Job is it Anyway?* Charlottetown: PEI Coalition for Women in Government
- 3 Government of Canada, Status of Women Canada. Retrieved July 18, 2018, from Gender Based Analysis Plus Framework: <https://www.swc-cfc.gc.ca/gba-ac/s/apply-appliquez-en.html>
- 4 Bella DePaulo, “Discrimination against single parents has vast implications for their children,” *The Guardian* (UK), March 15, 2015. <https://www.theguardian.com/commentisfree/2015/mar/13/discrimination-single-parents-children>



# All Together Now: Government Bill Bundling in the 42nd Parliament

Bill bundling – the reintroduction of all the substantive provisions of a bill without any modification in another bill – has been used on several occasions by the government during the 42nd Parliament, 1st Session. In this article, the author notes that this method of packaging a legislative agenda is somewhat unusual and warrants further consideration from a legislative planning perspective. He explains that while combining or consolidating related matters into one bill maximizes efficiency, the introduction of government legislation carries with it a myriad of legal and practical consequences beyond the Senate and House of Commons, some of which are heightened when bills are bundled. The author suggests that the recent trend of bill bundling is linked to recognition of the limited time in the legislative calendar before the next scheduled election. However, if bill bundling becomes a more common practice in future parliaments, some questions about predictability and consistency of a legislative agenda should be considered.

**Charlie Feldman**

## Introduction

Avid readers of legislation likely feel a strong sense of déjà vu when perusing government bills introduced in the 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session. For example, Bill C-75 is perhaps best likened to a legislative Russian doll: it contains the *Criminal Code* amendments proposed in C-28, C-38 and C-39, the latter of which itself contains the legislative amendments proposed in C-32. Yet, C-75 is not alone: C-71 in relation to firearms contains the provisions of C-52; C-62 respecting public sector employment includes the proposals of both C-5 and C-34; C-44 implementing the budget includes C-43; and C-76 on elections contains the measures from C-33.

While governments often bundle previously-introduced legislative initiatives when bringing items forward in a new session or new Parliament,<sup>1</sup> governments do not commonly repackage legislative proposals within a single session of Parliament without any modifications.<sup>2</sup> Although the government of the day is free to package its legislative agenda as it sees fit for presentation to Parliament, the practice of copying provisions holus-bolus from one government bill into others during the same parliamentary session warrants further consideration from a legislative planning perspective.

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*Charlie Feldman is a Member of the Law Society of Ontario. The views reflected in this work are his own. He would like to thank Wendy Gordon, John Mark Keyes and Alexa Biscaro for comments on a previous draft.*

The focus of this work is the reintroduction of all the substantive provisions of a bill without any modification in another bill.<sup>3</sup> This is a unique case that must be distinguished from situations where portions of a bill are re-introduced over the course of the same session in another bill. An example of this latter phenomenon is seen in the 41<sup>st</sup> Parliament: Bill C-31, *Protecting Canada's Immigration System Act*, included portions of Bill C-4, the *Preventing Human Smugglers from Abusing Canada's Immigration System Act*. Notably, only some provisions from C-4 were reintroduced in C-31 without modification whereas others were changed.<sup>4</sup> It may be that as a government's policy evolves, the need for new legislation emerges that includes some previously-introduced provisions.<sup>5</sup>

## Legislative Planning: An Overview

It perhaps goes without saying, but no government bill is introduced in Parliament without careful planning.<sup>6</sup> To begin with the basics, a government must decide, from among its policies that require legislation, which legislative initiatives to introduce, when, in which Chamber, and in what form (i.e., stand-alone measure, included in a budget implementation act, etc.). It must plan how it will seek to advance that legislation through Parliament, giving thought, *inter alia*, to which committees it might task with the study of a bill, whether the bill should be referred before or after Second Reading in the House, and whether to seek pre-study in the Senate. It must consider potential parliamentary consequences, such as the

application of new Standing Order 69.1 in the House that allows the Speaker to divide omnibus bills for the purposes of voting.

This task, difficult as it is, is further complicated by the sheer unpredictability of Parliament and the nature of governance. A government that has identified its legislative priorities might find itself having to put aside those priorities to legislate quickly in response to an unexpected Court ruling or because back-to-work legislation is required on an urgent basis. At the same time, a government caucus might lose hours or days for debate owing to procedural maneuvers of which it has little notice,<sup>7</sup> or owing to completely unforeseeable circumstances.<sup>8</sup>

Without careful planning, parliamentary time may be squandered and a government's legislation may go undebated or fail to complete the legislative process prior to dissolution. Indeed, a government may decide in some cases that while its agenda could be pursued through legislation, there is a better way to use Parliament's time on an issue.<sup>9</sup>

The potential impact of failed government legislation extends far beyond questions of political or parliamentary embarrassment. Failure to pass a confidence matter may lead to the fall of a government and trigger an election. Failed appropriations may need to be remedied with a Governor General's Special Warrant to ensure continued funding for essential services and payments such as Old Age Security.<sup>10</sup> Practically, failed legislation may represent the breaking of an electoral promise that later becomes a campaign issue and thorn in the side of the governing party. That said, not every government bill is introduced with the objective of passage.<sup>11</sup> However, each represents an investment in time and resources at taxpayer expense, from legislative drafters and jurilinguists to policy advisers and press release-writers who must trumpet every bill as the apotheosis of legislative excellence.

Of course, legislative planning does not happen in a policy vacuum. There are numerous considerations that might influence the substance of the legislation and its associated timing, such as the time it will take for regulations to be developed – perhaps in consultation with the provinces – in order for a legislative scheme to be fully operational. As well, legislation might need to meet an international commitment before a particular date or to respond to certain international events that may also be highly unpredictable.<sup>12</sup> Further, there may be a deliberate choice made to include provisions within certain bills that would otherwise seem to make for strange bedfellows.<sup>13</sup>

Moreover, legislative planning intersects with politics, and sometimes in quite uncomfortable ways. Minority governments often struggle with whether the inclusion of certain measures in their legislation may risk their government's defeat.<sup>14</sup> However, even majority governments must consider whether and when the governing caucus should be forced to vote on a potentially divisive issue that could have electoral consequences for certain Members.<sup>15</sup> This is where parliamentary and political strategy is often on full display – such as in cases where a government appears to orchestrate the absence of some of its Members from a vote.<sup>16</sup>

As the foregoing alludes, execution of the government's legislative plan requires careful parliamentary coordination. This can be difficult in a new Parliament in which many government MPs are also new. For example, the 42nd Parliament has already seen the accidental defeat of a clause of a government bill at committee, seemingly caused by confusion at the committee.<sup>17</sup> As well, the government had a tie vote on one of its measures, which its Whip conceded was “a very close call. Too close, actually.”<sup>18</sup>

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### Current Context

Given the foregoing, the bundling of government bills seen in the 42nd Parliament reflects curious legislative planning. To a pure process pragmatist, combining or consolidating related matters into one bill maximizes efficiency – a paramount consideration given the limited time and resources of the legislature. However, the inquiry quickly turns to why the introduced measures were tabled at all if they would not subsequently be advanced. As it has played out, almost all government bills that are later repackaged in other initiatives are not brought up for debate at Second Reading and simply remain on the Order Paper with an uncertain fate.<sup>19</sup>

If there is no change to the provisions in subsequent iterations, it is difficult to understand why the measures were not proceeded with in their initial legislative vehicle. That is, if the measures were first introduced as trial balloons to gauge public reaction, perhaps instead of a tabled bill there could be public consultation on a draft, as occurs in other legislative contexts.<sup>20</sup>

In its press release on C-75 the government indicated that, in relation to the other bills it incorporated, “Including these amendments in one bill will enable Parliament to consider all of these reforms in a timely fashion”.<sup>21</sup> This phrasing perhaps provides a clue to the government's motivation.



The first bill contained in C-75, introduced in March 2018, is C-32, which was introduced in November 2016. Arguably, there has been time for Parliament to consider C-32, a bill that has only five pages of legislative text. Given that the bills contained within C-75 could have been advanced at any time, the phrase “timely fashion” might be read to suggest that the government is now keenly aware of the ticking legislative clock. With an election nominally fixed for the fall of 2019, there is only so much time remaining for the House to move matters into the Senate with the hope of completing the legislative process before the next election. Complicating matters for the government is its lack of Senate influence occasioned by the appointment of independent Senators, thereby reducing the government’s ability to facilitate the passage of its agenda through the Upper House on its preferred timetable.<sup>22</sup>

However, upon closer inspection, a slightly more puzzling state of affairs emerges. For example, the provision proposed in C-32 contained in C-39 and repackaged in C-75 concerns the repeal of the *Criminal Code* prohibition against anal intercourse, which has been found unconstitutional by several courts of appeal. Yet, this provision was not included in C-51, which, per its summary, “amends the *Criminal Code* to amend, remove or repeal passages and provisions that have been ruled unconstitutional or that raise risks with regard to the *Canadian Charter of Rights and Freedoms*”. It’s unclear why the repeal of this provision was not included in C-51, for which it would seem to be a logical fit. For perspective on why the legislative vehicle matters timing-wise, consider the state of both bills as of the summer 2018 recess: C-51 was under consideration by the Standing Senate Committee on Legal and Constitutional Affairs having already passed the House, whereas C-75 was before the House’s Standing Committee on Justice and Human Rights.

Also in the realm of criminal law, C-74 implementing the budget amends the *Criminal Code* to establish a “remediation agreement regime”, commonly known as deferred prosecution agreements. When introducing C-75, the government announced that it aimed “to improve the efficiency of the criminal justice system and reduce court delays”.<sup>23</sup> Seemingly, the *Criminal Code* amendment made in the budget would have been a natural fit for C-75. Its inclusion in the budget makes it a confidence matter. Why should some criminal justice-related matters speed through the budget process as matters of confidence while others move separately? The public record is

silent on this point, though surely analysis within government yielded the bundling advice that gave rise to the decisions reflected in C-51, C-74 and C-75.<sup>24</sup>

## Introduction Implications

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The mere introduction of any government legislation carries with it a myriad of legal and practical consequences beyond the Senate and House of Commons. Some of these consequences are heightened in the case of bundled bills.

First, litigation may be impacted by the presentation of new legislation.<sup>25</sup> In a recent case, for example, the government wrote to the court to advise of the introduction of legislation after a hearing was concluded but before the judgment was rendered.<sup>26</sup> In another, a Prothonotary (a judicial officer of the Federal Court) was put in the precarious position of having to decide whether to stay proceedings pending the proposed repeal of a provision, given the “balance to be struck between avoiding needless expenditure of public funds and resources in the very likely event that matter may become moot [...] and ensuring, if the repealed legislation is delayed or fails, that the matter can proceed without undue delay”.<sup>27</sup>

The impact of proposed legislation on litigation should not be considered lightly – indeed, lives can be put on hold pending Parliament’s disposal of a matter. For example, a divorce case was stayed after the introduction of government legislation that would determine the outcome of the legal controversy.<sup>28</sup> The bill sat on the Order Paper from February 2012 until its unanimous consent passage by the House with amendment at all stages in June 2013 and its subsequent adoption by the Senate.<sup>29</sup> While the legislation remained stagnant, the couple was neither sure of the validity of their marriage in Canadian law nor able to complete their divorce.

As might be imagined, bundling may present a particular challenge in the litigation context. That is, if the government asks a Court to hold off until a piece of legislation is advanced through Parliament, it may quickly erode any good will when it appears that the legislation is being abandoned. Indeed, once the bundled bill is introduced, the government will need to notify those involved in the litigation and possibly prepare new submissions that could perhaps be viewed as less credible given any previous assertions in relation to the prior bill.<sup>30</sup>

Second, bundling has unique consequences for parliamentary actors. For their part, parliamentarians may have acquainted themselves with the previous bills and perhaps planned amendments. In addition, parliamentarians – including those in the governing caucus – need to be aware of the government’s legislative initiatives when preparing non-government bills as their hard work could be overtaken or require subsequent amendment.

As an example, a recent private member’s bill (PMB)<sup>31</sup> to reduce the voting age coordinated, at introduction, with the “register of future electors” proposed in C-33. This makes sense because the age of those to be included on a register of ‘future’ electors would certainly be impacted by the lowering of the voting age. However, as the PMB was on Notice, the government introduced C-76 which included the “register of future electors” provisions of C-33. As such, if the PMB advances, it will need to have a new coordinating amendment to address the amendments made by C-76.

Other parliamentary actors are also impacted by the introduction of legislation. For example, the Library of Parliament prepares a legislative summary for government bills, and officers of Parliament may review and comment on bills.<sup>32</sup> Their work will need to be updated and changed to reflect the government’s new legislative slate.

Finally, the public and public service are impacted by the introduction of legislation. While much federal public service work contributes to the introduction of legislation, the public sector responds to events in Parliament by considering the impact of proposed legislation on its work and preparing to implement bills that are passed into law. This can include, for example, provinces preparing to address any impacts that federal legislation may have on them. By extension, members of the public may respond to legislation by planning their affairs in accordance with what the law proposes.<sup>33</sup>

In short, when bundling bills a government should consider not only its needs vis-à-vis Parliament and the advancement of its agenda, but the potential consequences on judges, litigants, advocacy groups, parliamentarians – including in its own caucus – and everyday Canadians. Expectations form when a government introduces legislation, particularly when that government has a majority.

## Analysis

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It may be that the current spate of legislative bundling represents not only recognition of the limited time to legislate before an election, but also of the difficulties with moving many legislative items through at once. Indeed, tasking one committee with one bill is simpler and creates less room for error at clause-by-clause. It also reduces the burden on government officials who might otherwise need to make multiple committee appearances on otherwise related measures.

That said, legislative bundling is a curious legislative planning choice that raises more questions than answers: Is it appropriate for a government to introduce legislation it does not intend to advance? At what point after a new government forms should its legislative plan be in place? Should a government signal in some direct way that it is abandoning a bill,<sup>34</sup> or that more is yet to come?

The nature of legislation before Parliament was once wisely summarized by a former Speaker of the House in his later capacity as Associate Chief Justice of the Federal Court: “I cannot imagine anything less predictable than the course of legislation through Parliament. Indeed, the only thing that is certain about life in Parliament that nothing is certain”.<sup>35</sup>

Complete parliamentary predictability would be undesirable – that is, there is no suggestion that the Senate or House should speed government matters through as a rubber stamp. However, it is possible for a government to be predictable and consistent with its approach to legislative planning in Parliament. Predictability is arguably maximized when a government measure is contained in only one introduced bill, and the government advances that item through the legislative process. As well, if provisions are repackaged, there should be discernable logic as to their associated legislative vehicles.

In the 42<sup>nd</sup> Parliament, the government’s curious legislative combinations have proven to be anything but predictable. Perhaps this is an outgrowth from growing pains – a new government needs time to adjust to the realities of Parliament.<sup>36</sup> However, with an election looming and the government having more experience, might this bundling continue? Or, might this be a mere blip on the parliamentary radar after which predictability is restored? The answer, of course, is anything but predictable.



## Notes

- 1 For example, Bill C-10 of the 41<sup>st</sup> Parliament, 1<sup>st</sup> Session grouped together nine bills from the 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session. See: Library of Parliament, Legislative Summary of Bill C-10: *An Act to enact the Justice for Victims of Terrorism Act and to amend the State Immunity Act, the Criminal Code, the Controlled Drugs and Substances Act, the Corrections and Conditional Release Act, the Youth Criminal Justice Act, the Immigration and Refugee Protection Act and other Acts*. Similarly, C-2 of the 39<sup>th</sup> Parliament, 2<sup>nd</sup> Session, combined items from government bills introduced in the 39<sup>th</sup> Parliament, 1<sup>st</sup> Session and included elements from a government bill introduced in the 38<sup>th</sup> Parliament, which had a different government from that of the 39<sup>th</sup> Parliament.
- 2 It does happen – for example, C-59 of the 41<sup>st</sup> Parliament, 2<sup>nd</sup> Session was budget implementation legislation that contained provisions from C-58, the *Support for Veterans and Their Families Act* of the same session.
- 3 That is, everything other than titles, coordinating amendments and coming into force provisions that may differ in a bill that subsumes other bills.
- 4 See Library of Parliament, Legislative Summary of Bill C-31: *An Act to amend the Immigration and Refugee Protection Act, the Balanced Refugee Reform Act, the Marine Transportation Security Act and the Department of Citizenship and Immigration Act*.
- 5 This may be occasioned by procedural realities as well. For example, C-31 contained additional immigration measures that were not contemplated in C-4, including an amendment to the *Department of Citizenship and Immigration Act*. As this statute was not modified by C-4, it would have been procedurally inadmissible to amend C-4 in respect of it at committee in the House given the Parent Act rule.
- 6 See Privy Council Office, *Guide to Making Federal Acts and Regulations*.
- 7 Rachel Aiello, CTV News, “Conservatives preparing to force ‘about 40 hours’ of votes in the House,” 21 March 2018 online: <https://www.ctvnews.ca/politics/conservatives-preparing-to-force-about-40-hours-of-votes-in-the-house-1.3853412>.
- 8 Time this session in the House has been lost to a fire alarm (28 September 2017) and the unexpected death of a Member after which the House adjourned for the day (2 March 2016 and 2 May 2018).
- 9 Though perhaps a unique example, in 1966 the Cabinet of the day supported abolishing the death penalty and commuted all death sentences. Rather than spend time in the Commons on death penalty legislation, the government instead chose to pursue an abolition resolution. As explained by the *Globe and Mail*, “The advantage of a resolution over one of the private bills is that it will keep the issues clearer and prevent the Commons from tying [*sic*] itself in a knot, procedural and otherwise, over the many detailed clauses in each of the abolition bills”. Normal Webster, “A Life and Death Debate in the Commons” *Globe and Mail*, 21 March 1966, p. 7.
- 10 For information on Governor General’s Special Warrants, see: <https://www.canada.ca/en/treasury-board-secretariat/services/planned-government-spending/governor-general-special-warrants.html>.
- 11 Consider bills introduced in the dying days of a Parliament for use purely as election fodder.
- 12 Note for example that Bill C-74 of the 42<sup>nd</sup> Parliament, 1<sup>st</sup> Session contains a provision that “comes into force on a day to be fixed by order of the Governor in Council, which may not be earlier than the day – if ever – on which the United Kingdom ceases to be a member state of the European Union.”
- 13 Consider the issue in Reference re *Supreme Court Act*, ss. 5 and 6, 2014 SCC 21, [2014] 1 S.C.R. 433. The government asked for confirmation of the validity of the *Supreme Court Act* as proposed to be amended by *Economic Action Plan 2013 Act, No. 2*. Presumably, the inclusion of a *Supreme Court Act* amendment in a budget bill was to advance the measure quickly and as a confidence matter. However, at the same time as it introduced the amending legislation, the government submitted the reference to confirm its constitutional validity rather than wait for related litigation (then underway) to proceed through the courts. This legislative planning choice was part of a broader policy response to an issue not solely motivated by parliamentary considerations. In theory the government could have introduced the legislation and waited for litigation, waited for the existing litigation to proceed (without the legislation) or submitted a reference on the issue without any ties to pending legislation.
- 14 Gloria Galloway, “Cabinet split on gambling with content of legislation,” *The Globe and Mail*, 23 March 2005 at A8.
- 15 A notable example is in relations to firearms legislation. As one author explains, “much of the original opposition to Bill C-68 from rural backbenchers was attributed to the fact that they heard from many angry gun owners during the Christmas recess of 1994. To prevent this from happening again, the government pushed C-68 through the House before Parliament recessed for the summer so backbenchers would not [have] another wave of confrontations with angry gun owners.” See Samuel A. Bottomley, “Parliament, Politics and Policy: Gun Control in Canada, 1867-2003” Ph.D. Thesis, Carleton University, 2004 at 40, FN 38.
- 16 See, for example: “‘We don’t have enough Liberals tied down’: Missing members could decide noose issue,” *The Globe and Mail*, 29 May 1978, p. 10.
- 17 See Evidence, Standing Committee on Public Safety and National Security, 29 November 2016 on Bill C-22.
- 18 “Near-miss on Air Canada vote scares federal Liberal whip”, *Times-Colonist* (Victoria, BC), 17 May 2016, A-12.
- 19 Only Bill C-5 was debated - for one sitting at Second Reading. See *Journals*, 21 September 2016.
- 20 See Department of Finance Canada, “Department of Finance Canada Consulting Canadians on Draft Tax Legislative Proposals” 8 September 2017 <https://www.fin.gc.ca/n17/17-079-eng.asp>.

- 21 Canada, "Canada tables legislation to modernize the criminal justice system and reduce court delays" <https://www.canada.ca/en/departement-justice/news/2018/03/modernizing-the-criminal-justice-system-and-reduce-court-delays.html>
- 22 See Gloria Galloway, "Increasingly independent Senate injecting uncertainty into parliamentary process," *Globe and Mail*, 3 February 2018, page A-22.
- 23 *Supra* note 21.
- 24 It is worth considering that certain policies may not be developed in time to support a particular legislative package. For example, as this article goes to press, Bill C-84 has been introduced to amend the *Criminal Code* in relation to bestiality and animal fighting. The bill is quite short and its provisions might have been appropriate for inclusion in larger *Criminal Code* amendment packages such as Bill C-51 or C-75. Considering, however, that the bestiality provision responds to the June 2016 Supreme Court case *R. v. D.L.W.*, 2016 SCC 22, [2016] 1 S.C.R. 402, it is possible that the policy response implemented in C-84 was simply not ready in time for inclusion in the June 2017 tabling of C-51 or the March 2018 tabling of C-75. Similarly, in relation to animal fighting, it is worth noting that these provisions required consultation in their development, something highlighted in the government's press release on the bill (<https://www.canada.ca/en/departement-justice/news/2018/10/government-of-canada-announces-measures-to-strengthen-legal-protections-for-children-vulnerable-individuals-and-animals.html>).
- 25 For example, see Miriam Katawazi, "Ottawa fails in bid to delay Ontario solitary confinement lawsuit" *Globe and Mail* 6 July 2017, which notes federal government efforts to postpone proceedings in relation to administrative segregation (solitary confinement) in both British Columbia and Ontario owing to the introduction of Bill C-56.
- 26 See Federal Court of Appeal Proceeding Query A-105-16 – "Letter from the respondent dated 18-JUL-2017 writing to advise the Court of the tabling of Bill C-51, enclosing a copy of the bill and requesting that it and the letter be forwarded to the panel, received on 18-JUL-2017".
- 27 *Bernard v. Canada* (National Revenue), 2017 FC 536 at 20.
- 28 Tobi Cohen, "Ottawa in no rush to pass gay divorce bill," *Leader Post* (Regina, Sask.), 1 June 2013, page C 9.
- 29 LegisINFO, 41<sup>st</sup> Parliament, 1<sup>st</sup> Session, C-23, *Civil Marriage of Non-residents Act*.
- 30 As noted in footnote 25, *supra*, the government unsuccessfully sought to postpone certain proceedings in relation to administrative segregation (solitary confinement) on the basis of Bill C-56's introduction. Bill C-56, introduced in June 2017, sought to limit the use of administrative segregation to a certain number of days; it was never debated. As this article goes to press, Bill C-83 has been introduced and would, per its summary, "eliminate the use of administrative segregation and disciplinary segregation". One can imagine that if a Court and other parties were waiting on C-56 to advance, they would be in for quite a surprise at C-83's tabling.
- 31 Bill C-401, *An Act to amend the Canada Elections Act (voting age)*, 42nd Parliament, 1st Session.
- 32 As an interesting example, consider the *Elections Canada Briefing Book for the Minister of Democratic Intentions* (January 2017) which contains analysis in respect of "Should Bill C-33 become law". Bill C-33 was overtaken by Bill C-76 several months later.
- 33 In particular, businesses impacted by a new law will likely plan their affairs as soon as possible.
- 34 In the previous Parliament, for example, the Minister of Justice announced "We will not be proceeding with Bill C-30 and any attempts that we will continue to have to modernize the Criminal Code will not contain the measures in C-30" Tobi Cohen, "Government kills online-snooping bill over privacy issues," *The Vancouver Sun*, 12 February 2013, page B2.
- 35 *Iscar Ltd. v. Karl Hertel GmbH*, 18 F.T.R. 264, 19 C.P.R. (3d) 385, 8 A.C.W.S. (3d) 207.
- 36 Rachel Aiello, "Chagger says time allocation to be used 'more often' by Liberals to pass legislative agenda," *The Hill Times*, 2 May 2017.

# Renewing the Senate under the Section 44 Amending Formula

Parliament has the ability to modernize aspects of the Senate without needing to resort to constitutional amendment. In this article, the author highlights some archaic provisions of the *Constitution Act, 1867* that could be updated without altering the Senate's fundamental nature. These changes would arguably allow the Senate to better reflect contemporary Canada.

**Dan Hays**

The Liberal government, elected in 2015, has chosen to renew the Senate by means of a one-step non-statutory reform. The change is limited to making only non-partisan, merit-based appointments and accompanying adaptations. All other features of the Upper House's antiquated constitutional foundations continue, even though many of them serve no public purpose.

'Complex' comprehensive institutional change must inevitably involve the provinces, First Nation representatives and regional public input. There is, however, much more that Parliament can do to reform the Senate that goes well beyond the appointment process.

Section 44 of the *Constitution Act 1982* states that "Subject to sections 41 (*amendment by unanimous consent*) and 42 (*amendment by general procedure*), Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons." In its 2014 opinion, the Supreme Court interpreted s. 44 as meaning "unilateral amendment of aspects of government institutions that engage purely federal institutions." It went on to state that "section 44 encompasses measures that maintain or change the Senate without altering its fundamental nature."

While provinces must have a say in constitutional issues that engage their interests, there would be no constitutional prohibition to Parliament acting alone through ordinary legislation to update those sections dealing with the Senate's basic design as long as such changes do not affect its fundamental nature and role. For example, the relatively open appointment process that has been created by the current government uses a selection committee to examine the qualifications of potential appointees and make recommendations.

In my view, nothing being proposed herein would change the Senate's fundamental nature or make any structural change that would require provincial consent. That said, it is important to maintaining basic standards of governance that a Senate Modernization Bill be laid before Parliament.

## Updating antiquated sections of the *Constitution Act, 1867* through s. 44

Section 23 outlines the qualifications of senators. Subsection 23(1) requires a senator to be of the age of 30 years. Section 3 of the *Canadian Charter of Rights and Freedoms* provides that "Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein." As well, section 3 of the *Canada Elections Act* states: "Every person who is a Canadian citizen and is 18 years of age or older on polling day is qualified as an elector." Subsection 23(1) could be replaced by a statement that a senator must be a qualified elector. This would ensure that only eligible voters could be appointed to the Senate and would allow flexibility as the age for voting could be changed without any further need to amend section 23. Such a change would have the added advantage

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of bringing the qualifications of senators into line with the *Canadian Charter of Rights and Freedoms*. This amendment becomes highly relevant if the Senate becomes an elected legislative body.

Subsection 23(2) goes on at length about the qualifications of a senator in terms of a “natural born subject of the Queen” or a person naturalized by the “Parliament of Canada after the Union.” The wording is archaic. Given the proposal that to qualify to be a senator, one need only to be a Canadian citizen and the age of majority at the time of appointment, this qualification could simply be deleted.

Subsections 23(3) to (6), unchanged since the date of Confederation, require that every senator must own lands having a value of \$4,000, as well as real and personal property of a net value of \$4,000. A property qualification has no apparent public benefit. These subsections also specify that each senator shall be resident in the province they represent. In the case of Quebec, the senator shall have his or her property in the Electoral Division for which the senator is appointed or be resident in that district. We should update or eliminate where appropriate as many of these archaic qualifications as possible. Obviously, subsection 23(4), that senators should be resident in the province for which they are appointed, is relevant, particularly in anticipation of an elected Senate. The other five are questionable.

It has been suggested that neither the residency nor the property qualifications can be amended by Parliament alone since section 42 of the amending formula requires that changes to the residence qualifications of senators involve provincial agreement. However, section 31 of the *Constitution Act, 1867*, which deals with the disqualification of senators, refers to a senator ceasing “to be qualified in respect of property or of residence.” The use of the word “or” suggests that the Fathers of Confederation distinguished between the two types of qualifications, and I believe it is entirely within Parliament’s powers under section 44, as does the Supreme Court, to delete any reference to a property qualification.

It should be noted that the provisions for Quebec are quite distinctive, and the references to the 24 electoral districts as of 1867 included only a portion of the southern area of the present province. The residents of the northern part of the province on a strict interpretation of this requirement are today formally without representation in the Senate since the boundaries of the 24 senatorial districts of Quebec

were not adjusted as, for instance, the province grew to include the region known as Nunavik. This section could, I believe, be modernized pursuant to section 43 of the *Constitution Act, 1982* which deals with the amendment of provisions relating to some but not all provinces and requires only resolutions from Parliament and the government and legislature of the province affected. In addition, the requirement that a senator from Quebec must be a resident in the Electoral Division from which they are appointed could also be modernized in accordance with section 43. This is particularly relevant if Quebec should choose to retain the concept of Senate constituencies. Something other provinces might wish to consider.

Under subsection 31(1), the seat of a senator is vacated if he or she fails to appear for two consecutive sessions. Section 33 states that any question respecting the qualification of a senator or a vacancy in the Senate shall be heard and determined by the Senate. There is a need to specify, through constitutional amendment, that the Senate can determine, from time to time, the attendance requirements necessary for a Senator to retain his or her place.

As for subsection 31(3), I agree that a senator who becomes bankrupt should vacate his or her seat. However, the *Act* also refers to a senator who “applies for the benefit of any law relating to insolvent debtors.” This situation could have applied, for example, to a hypothetical senator from the prairies in the 1930s who sought creditor relief under the *Farmers’ Creditors Arrangement Act*. Again, we must face the issue that nothing about constitutional reform is easy, even if it is a reform purely within federal jurisdiction. I am sure, however, that the wording of this section can be modernized and improved by adopting current standards of what constitutes insolvency.

One subsection of the 1867 Constitution in need of modernization is 31(4) which specifies that the seat of a senator attainted of treason or convicted of a felony or any infamous crime must be vacated. The crime of treason is still in the *Criminal Code* although very rarely invoked. The word has been contentious in Canadian history, and should perhaps be removed. The concepts of felonies and misdemeanors were replaced in the original *Code* by indictable offenses and summary conviction offences. Generally speaking, in 1867 felonies were graver crimes perhaps punishable by death which resulted in the forfeiture of the perpetrator’s lands and goods to the Crown. The word felony should be replaced with “indictable offence.”

The concept of an “infamous crime” found in subsection 31(5) is harder to translate into modern circumstances. Generally speaking, it is likely to be associated with a disability such as an inability to hold office. Crimes involving public fraud or the corruption of public justice or public administration tend to be classed as infamous crimes. If a senator violates the public trust, his or her seat should be vacated.

Subsection 31(5) requires a seat to be vacated if a senator no longer meets the property or residence qualifications. The residence qualifications cannot be addressed except by the general amending formula but, as I have discussed, it is interesting that subsection 31(5) refers to “property OR residence qualifications.” Consideration must be given to removing the outdated reference to “property.”

There is also the language of the oath of allegiance contained in the fifth schedule to the *Act*. I think the time is ripe that in addition to swearing an oath of allegiance to Her Majesty the Queen, senators should also swear an oath of loyalty to the people of Canada.

Though more problematic and controversial, a Senate Modernization Bill should give consideration to including term limits for Senators. I am in agreement that until such time as the Senate is elected, the tenure of senators should be for a fixed term, say 15 years. Such a change would permit a greater turnover of senators, allow senators to stay more in tune with public opinion, and be the first step toward a more comprehensive renewal of the Senate. However, the basic rule, set out in the 1980 Supreme Court ruling in *The Upper House Reference*, and re-confirmed in the 2014 SCC opinion, is that if a change impacts on the fundamental feature or essential characteristic of the Senate, the provinces must be involved. As we know, the Court stated in 2014 that “the imposition of fixed terms for Senators

engages the interests of the provinces by changing the fundamental nature or role of the Senate.”

Arguably, the changes to the appointment process made by the government of the day alter the “fundamental nature and role of the Senate” by removing time-honored features of the Westminster system where most appointments are partisan. Polarizing objectivity and partisanship does little justice to the historical record of the Senate which shows that it has, for the most part, performed both functions effectively. The loss of cohesion, rooted in partisanship, weakens the Senate’s role in our democracy to the advantage of the House of Commons and the government of the day. The new appointment process has, and will increasingly, impact on the way parliamentary business plays out and, therefore, constitutes a significant change in its basic design. To date, however, the provinces have not objected.

There having been no formal provincial objections to the “reformed” appointment process. It follows that other amendments can be made to the Senate’s fundamental nature as long as the provinces do not disagree. Notably, this was the case in 1965 with regard to the compulsory retirement age of 75 when Parliament proceeded unilaterally hearing no provincial objections.

The proposals noted herein would be an important step forward and would improve the quality of governance in what the Supreme Court has noted is “one of Canada’s foundational institutions.”

As to the urgency of such an initiative, I am reminded by the statement attributed to President Kennedy: “The time to fix the roof is when it is not raining.”

Now is the opportune time.

# The Real Problem with Senate Appointments

Canada has observed a ‘winner take all’ approach to making Senate appointments. Historically, the prime minister has made all appointments to the Upper Chamber. Even now, the current prime minister is making all the appointments, albeit from names submitted by the Independent Advisory Board for Senate appointments. In this article, the author suggests that a procedure for sharing appointments to ensure all leaders of parties are fairly represented. If the current process for selecting independent senators is maintained by future governments, all party leaders should still take turns in choosing senators from the nominees selected by the Independent Advisory Board for Senate Appointments.

**David Gussow**

The real problem with Senate appointments has been that the different party leaders since Confederation have not shared the appointments when they have become prime minister.<sup>1</sup> Even now, the current prime minister is making all the appointments, albeit from names submitted by the Independent Advisory Board for Senate appointments. It’s the same problem whether independent senators are named or party-based ones. Sharing the appointments among the party leaders is the only solution. Interestingly enough, appointments to the House of Lords have been shared by the prime ministers of the United Kingdom.<sup>2</sup>

## Sharing appointments

For the first appointments to the Senate, the Québec Conference decided that “...all political parties...be fairly represented.”<sup>3</sup> It’s now time to let the leaders of parties be fairly represented in making the nominations. If the current prime minister wants to at least have the possibility of a long-term ‘independent’ Senate then he should start sharing the appointments. Let each of the party leaders in their proper turn select their nominee from those recommended by the Independent Advisory Board for Senate Appointments. And if a new prime minister decides the appointments should be party-based or some other method, then they should still be shared in the same way.

## Who nominates and how many?

The process of sharing has to be clear. The simplest way is to allocate the appointments in proportion to the popular vote at the latest federal election in each of the provinces and territories.<sup>4</sup> This way all the party leaders would have nominations to make. It would be like proportional representation (PR) but would be proportional appointments by party leaders. It is very simple, just use the Sainte-Laguë method<sup>5</sup> for deciding which party leader would be entitled to nominate senators and how many.

As a result of the 2015 federal election in Ontario, the current leaders<sup>6</sup> of the different federal parties would be entitled to nominate the following numbers according to the Sainte-Laguë method:

- Justin Trudeau 11 senators
- Andrew Scheer 8 senators
- Jagmeet Singh 4 senators
- Elizabeth May 1 senator

If one could start with a clean slate after each federal election it would be very simple. The above leaders would immediately make their appropriate number of nominations. However, a fixed membership of the Senate (no swamping<sup>7</sup>) and tenure to the age of 75 both foreclose that possibility. The opportunity to make a nomination, therefore, is only available if there is a vacancy. This means there must be another step in the process.

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## Filling each vacancy

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It must be clear which leader will receive the next nomination. That too can be very simple—give it to the most deserving leader. There is an unambiguous mathematical approach that can determine this leader. The next choice, whenever there is a vacancy, is decided by making the following calculation for each of the leaders<sup>8</sup> that are to nominate a senator:

$$\frac{(\text{the number of senators for a province or territory already nominated by the leader}) \times 100}{(\text{the number of senators for a province or territory entitled to be nominated by that leader})}$$

The leader with the lowest percentage would be the most deserving. If the lowest percentages happen to be tied, then the leader with the higher/highest popular vote at the time of the election would choose.

Since neither the New Democratic Party leader (Jagmeet Singh) nor the Green Party leader (Elizabeth May) have nominated any senators in Ontario, according to the above formula they both would have zero percent and therefore would be the most deserving. Since the NDP recorded the higher popular vote at the most recent election, Singh would be able to fill the first vacancy from the list provided by the Independent Advisory Board for Senate Appointments; May would make the second choice if and when a vacancy occurred. If a leader decides not to participate then the appointment would immediately go to the next most deserving leader.<sup>9</sup>

## Approval by the Senate and House of Commons

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How can a system like this be put in place? The policy should be agreed to by the Senate and House of Commons. The Nickle Resolutions, which related to a policy of ceasing to confer royal titles upon Canadians,<sup>10</sup> are a good example of how this policy would work.<sup>11</sup> After their agreement, the policy has been followed by every prime minister to this day – now nearly 100 years.<sup>12</sup> It's quite possible that a policy respecting Senate appointments could become the accepted practice. The motion to create this procedure could be something along the lines of the following:

That, in the opinion of this House, whenever there is a vacancy in the Senate, the names to be submitted to the Governor General for summoning to the Senate should be recommended by the leaders of the different

parties according to the following rules: (a) for each province and territory the Sainte-Laguë method is applied to the popular vote from the last federal election to calculate the number of names to be submitted by each leader, (b) the names are recommended by each leader in turn starting with the leader having the lowest percentage of names already recommended for submission divided by the number of names entitled to be submitted pursuant to the Sainte-Laguë method, (c) if more than one leader has the same percentage of names, the leader with the party having the highest/higher popular vote starts first, and (d) if any leader does not participate in recommending names then the next leader in turn would make the recommendation.

## Mandate of the Independent Advisory Board for Senate Appointments

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The Independent Advisory Board for Senate Appointments would implement this policy if passed by the Senate the House of Commons and agreed to by the government. Except for the additional party leaders making recommendations, in the case of appointments of independent senators there would be no change in the procedure. If party-based appointments are to be reinstated or some other method of appointment, then the criteria that the Board now uses for approving candidates would have to be updated.<sup>13</sup>

## Result of sharing appointments

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If the current prime minister is willing to proceed as outlined above regarding appointments of independent senators, the concern expressed by some about the kind of appointments made would certainly be lessened. More of a consensus would have been reached. If, for policy reasons, a future prime minister wished to revert to party-based appointments or set up a new method then at least it would be hoped that a consensus could be maintained by following the same procedure so that all party leaders share in the appointments. And finally, if it were desired, this same procedure could lead to an “elected” gender-neutral Senate and House of Commons.<sup>14</sup>

## Notes

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- 1 The appointments made pursuant to the Queen's Proclamation of Union in 1867 were an exception. There were occasions where prime ministers made appointments akin to sharing. Prime Ministers P. Trudeau, Mulroney, Martin and Harper made or were willing to make appointments that were party-based, but not necessarily from their own party.
- 2 See for instance “The Coalition: our programme for government” published by the Cabinet Office in May

2010 at p.27 where it states: "...Lords appointments will be made with the objective of creating a second chamber that is reflective of the share of the vote secured by the political parties in the last general election." See also the article "How members are appointed" on the UK parliamentary website. Under the House of Lords section, "Types of peerages": "Members can be appointed, on a party basis on political lists to 'top up' each of the three main party groups' strengths..." And, finally, see: Meg Russell and Tom Semlyen, "Enough is Enough, Regulating Prime Ministerial Appointments to the Lords," The Constitution Unit, School of Public Policy, University College London, February 2015. (In this last publication, the overall problems are applicable to appointments to the Senate, but the solutions are inapplicable because of the size of the House of Lords, the federal nature of Canada and the fixed membership of the Senate. In Canada, for example, the largest provinces only have 24 senators which obviates the need for a threshold. In any event, the solutions in the publication are far too complicated for a simple and clear process being suggested in this article.)

- 3 See resolution #14 adopted at a Conference of Delegates... held at the city of Québec, on October 10, 1864.
- 4 One can infer from the Premier of Canada's speech at pages 238-239 of the Confederation Debates that he would have been supportive of allocating appointments in proportion to party strengths. As Premier and Chair of the Quebec Conference, Sir Étienne-Paschal Taché moved approval of the Quebec Resolutions in the pre-Confederation "Senate" of the Province of Canada. He suggested that the spirit of partisanship that existed from 1841 to 1848 regarding appointments to the pre-Confederation "Senate" would change as can be seen by the spirit of the 14th resolution. It's also exactly what the UK coalition agreement in May 2010 sets out for appointments to the House of Lords. (However, as a chamber subject to swamping, which is not the case in Canada, it could easily be unworkable if not implemented properly.)
- 5 The Sainte-Laguë method, for instance, is used to determine the number of members elected by party in the New Zealand Parliament. The same mathematical calculation, although called the Webster method was used to determine the number of members for each state in the US House of Representatives.

- 6 The current leaders of the different federal parties would inherit what their leader at the time of the election would have been entitled to nominate.
- 7 Section 26 of the *Constitution Act*, 1867 provides for a limited exception that has been used only once since Confederation.
- 8 The appointments of the past party leaders would be attributed to the current leaders.
- 9 For example, if Jagmeet Singh refused to participate then the appointment would devolve to Elizabeth May. If he continued to refuse for the next vacancy then it would go to Conservative leader Andrew Scheer.
- 10 See, for example, the Nickle Resolution: *The Journals of the House of Commons*, Second Session, 13th Parliament, April 14, 1919, p.171.
- 11 In the case of the Nickle resolutions only the House of Commons approved the policy. At this time it would be appropriate to have both houses agree to the policy. When one Chamber approves the motion a message can be sent to the other Chamber requesting concurrence.
- 12 Prime Minister R.B. Bennett did not follow the policy for the last two years of his five-year term.
- 13 In the UK, the House of Lords Appointments Commission has a role to play for both independent (crossbencher) members as well as party-based members. Also if any other method of appointment is chosen it would still be important to continue a role for the Independent Advisory Board for Senate Appointments.
- 14 See the brief submitted by the author to the Special Committee on Electoral Reform of the House of Commons in the First Session of the 42nd Parliament. The "elected" aspect is particularly discussed in paragraph 4.5 on p.3 of the brief. Note, the Sainte-Laguë method is now proposed rather than the Droop quota method in the brief. It's much simpler. The gender-neutral aspect is particularly discussed in paragraph 4.2 on p.2 of the brief. These "elected" proposals do not need a constitutional amendment; like the appointments of independent or party-based senators, they can be changed or done away with by the next prime minister. The gender-neutral aspect would first require a legislative change for the House of Commons and could continue whether or not it was decided to use the same approach for the Senate.

# Ten Years of Exit Interviews with Former MPs

Ten years after commencing the initial round of exit interviews with departing Members of Parliament, the Samara Centre for Democracy has recently published three new reports based on a second round of interviews. These publications, and the best-selling book *Tragedy in the Commons*, have received tremendous attention in the media and amongst parliamentary observers who have been interested in the candid observations of former parliamentarians. In this article, the authors outline the organization's evolving interview process and overall methodological approach and discuss tentative plans to make the individual long form interviews available to future researchers.

**Jane Hilderman and Michael Morden**

Ten years ago, as a brand new nonpartisan charity, the Samara Centre for Democracy launched a pan-Canadian project founded on the belief that a chasm was opening between political leaders and citizens, but that leaders themselves might hold some clues for how to begin to close it. So began the Member of Parliament exit interviews project.

Our initial round of exit interviews was undertaken between 2008 and 2011. We worked in partnership with the Canadian Association of Former Parliamentarians, whose support permitted us to reach former members from across parties, and across the country in both English and French. In total, the Samara Centre spoke with 80 former MPs who had sat in the 38<sup>th</sup>, 39<sup>th</sup>, and 40<sup>th</sup> Parliaments, including more than 20 cabinet ministers and one prime minister. Those interviews formed the basis for four reports, and the best-selling book *Tragedy in the Commons* (2014).<sup>1</sup>

The 2015 federal election brought tremendous turnover to the House of Commons—cumulatively over 400 years' worth of MP career experience was departing. We decided, therefore, that it was important to replicate the project. Throughout 2017, we spoke to another 54 MPs who had sat in the 41<sup>st</sup> Parliament

and were defeated or retired in 2015. Those interviews form the basis of a series of three new reports released this year that flesh out the job description for Members of Parliament.<sup>2</sup>

The idea of exit interviews is straight forward. It's a concept borrowed from the private sector where staff or executives departing an organization are asked to speak candidly from intimate, insider knowledge about what is and is not working. In the same way, former MPs have unique insights into the functioning of our pinnacle democratic institutions. And having exited public life, they are freer to speak frankly, with attribution, unbound by the fear that their openness might cost them at election time or earn their leader's disapproval.

The Samara Centre began applying the exit interview approach to MPs systematically after observing that much of that insight was being missed, and ultimately lost. It's especially true for ordinary MPs—MPs who never landed in senior cabinet positions, for example—that they have limited opportunities to share their knowledge on the state of our politics after making their exit. Former MPs have told us that when they leave office, things can get very quiet very quickly. Letting MPs simply walk away from public life with their knowledge and experience in hand is letting data disappear down the drain—data that should be captured and used to bring clarity to Parliament, and to drive positive change. Moreover, our experience is that many MPs crave such an opportunity to seed the ground for a better political future—even if it's one that does not involve them directly.

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*Jane Hilderman and Michael Morden serve as executive director and research director of the Samara Centre for Democracy, respectively.*

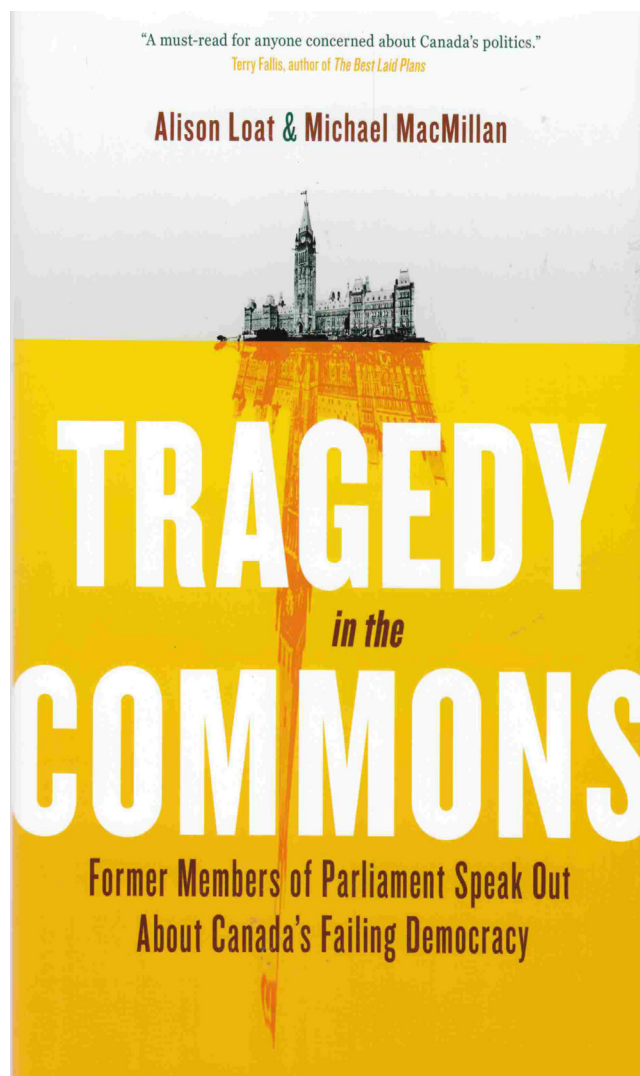


The methodological approach is defined, first, in flexibility. But there are certain aspects on which we are firm; this reflects our experience, with the benefit of having conducted several iterations of interviews. We interview former MPs in person. We interview them in a venue of their choice, though we encourage a quiet and relatively private space. That almost always means their home communities, and often their homes. We've interviewed former MPs at fishing lodges, local libraries, kitchen tables, living rooms, backyards, parking lots and coffee shops.

The interviews are long-form and relatively unstructured. Although we work from interview guides that identify themes we hope to probe, we want MPs to lead the conversation. We ask former MPs for two hours, and that is generally the time the interviews take. We ask all participants to agree to be on the record, though we sometimes withhold attribution in our publications in order to draw attention to commonality of experiences across parties and members.

One of the ways in which the Samara Centre's exit interviews are distinct from some academic research interviewing political elites is in the use, in part, of "biographical interviewing". Biographical interviewing encourages interview subjects to move chronologically through their experiences—in our case, their experience in public life, beginning with reflection on how they came to pursue elected office. There is initially just minimal intervention from the interviewer, which means that the interview subject is given freedom to shape a narrative. This approach has several advantages, including providing an easy point of entry for the interviewee, and allowing the interviewee to speak comfortably from closely held knowledge. The challenge comes in analysis, when we must pull apart the dense mass of data produced in this way, to find the data points that are particularly interesting.

Another distinction from academic research is that the purpose of exit interviews is first, to create an overall record or oral history, and second, to answer specific research questions. So while we do, at points, direct former MPs toward particular topics, the interviews are considerably less directed than academic interviews with politicians that seek answers to highly defined and specific questions. This sometimes provides less leverage over some questions than we would like. The advantage of this approach, for our purposes, is both in creating a complete record for posterity, and in allowing former MPs themselves to identify aspects of their experience that they find salient—to let us know what they think matters.



To get to the Samara Centre's own research output based on the interviews, we examine the interview data in ways that are both positivist and interpretive. We look to identify real information about the typically hidden domains of MPs' lives, trying when possible to test the veracity and accuracy of anecdotes by comparing them against one another and the public record where possible. We also examine MPs' subjectivity, the meaning they perceive in their experiences. We consider the implications of what they do not know or care to comment on. Interview data is first coded thematically. This means that interviews can be read vertically, as single documents, or horizontally, with thematically similar material from different interviews (for example, MPs' descriptions of their nomination experience) read together. This makes possible the search for patterns and shared experiences.

In our output, we try to strike a balance between simply documenting and advancing an argument. But we are not stenographers. As an organization committed to provoking improvement in the health of our democracy, we reserve the right to advance a point of view. That involves making normative choices about what ought to be, based on how MPs describe what is. The result is that in some instances, we reach different conclusions than some of our interviewees did. Our conclusions are not unassailable and they invite debate—but they are always founded on careful consideration of the interview data as a whole.

The reports published by the Samara Centre, as well as the book *Tragedy in the Commons*, have made their way into offices of elected representatives at all levels, in the post-secondary curriculum of many Canadian political studies courses, and into key training places like the Institute for Future Legislators at the University of British Columbia. Like the “samara” seeds that our organization are named for, we believe this research is planting seeds for a different way of pursuing politics for those who go on to be active citizens, political staff and public office seekers. In particular, the second volume of reports has grown more explicit in recommendations that could improve the functioning of Parliament, constituency offices and parties, based on the insights of former MPs.

But the interviews are not meant to be viewed only through the lens of the Samara Centre for Democracy. Our ambition is broader than that. We want the interviews to stand alone as a public resource. Following the growing emphasis in the social sciences on openness and transparency, we are enthusiastic to share the interviews with interested academics on request. But time and resources permitting, the Samara Centre intends to render all the material—currently interviews with 134 MPs, totalling more than 250 hours of audio across four different parliaments—in a form that is more broadly and publicly accessible. In the immediate term, we hope it will be a useful source for interested citizens, aspiring politicians,

political scientists and other professional observers. In the longer term, it will live as a rich oral history of Parliament in the early 21<sup>st</sup> century—unlike anything that has existed before.

Many who learn about the project have encouraged the Samara Centre to expand the scope of the exit interview project—to include senior political staff, to include Senators, to cover provincial and local levels for comparison, or even to return to interviewees a decade later to see how their views have changed. Though this has not been possible for the Samara Centre given our limited capacity for what is a resource-intensive project, we have always welcomed and encouraged others to take up this work, too.

A foundational belief of the Samara Centre remains intact 10 years later: that it is elected office-holders who can and must be key players in the effort to stimulate new energy and enthusiasm in our democracy. Despite popular dissatisfaction with “elites,” representatives remain at the heart of Canada’s democratic machinery. For the last 10 years, the exit interviews project has tried to capture some of former MPs’ capacity, insight, and commitment to public service—to drive change now, and create a lasting record of Canadian democracy.

## Notes

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- 1 Alison Loat and Michael MacMillan (2014), *Tragedy in the Commons: Former Members of Parliament Speak Out about Canada’s Failing Democracy*, Toronto: Random House Canada.
- 2 Michael Morden, Jane Hilderman, and Kendall Anderson (2018), *Flip the Script: Reclaiming the legislature to reinvigorate representative democracy*, Toronto: the Samara Centre for Democracy; Terhas Ghebretelle, Michael Morden, Jane Hilderman, and Kendall Anderson (2018), *Beyond the Barbeque: Reimagining constituency work for local democratic engagement*, Toronto: the Samara Centre for Democracy; Michael Morden, Jane Hilderman, and Kendall Anderson (2018), *The Real House Lives: Strengthening the role of MPs in an age of Partisanship*, Toronto: the Samara Centre for Democracy.

# *Keep Calm, And Carry On: Business Continuity Planning In Parliaments*

For several years a group of legislatures have been working together to create guidance that will help similar organisations in considering business continuity planning necessary to maintain operations in the event of unexpected events or a crisis. In this article, the author outlines the progress of the work and explains how interested parties can get hold of the resulting guide which will be available from January 2019.

**Tommy Lynch**

In May 2014, the Clerk of the Scottish Parliament, Sir Paul Grice, met with his counterparts in Ottawa where the topic of business continuity cropped up. It became clear during the discussion that there would be mutual benefit if the House of Commons and the Scottish Parliament began sharing information on strategic plans, resources and approaches to business continuity.

Over the following months there were conference calls, regular email correspondence and the bilateral sharing of information between Ottawa and Edinburgh soon expanded to include representatives from the Canadian Senate, the UK Houses of Parliament in London, Provincial Legislative Assemblies based in Toronto and Victoria and, most recently, the House of Representatives in Wellington, New Zealand.

As we shared information, there were clearly areas of overlap. Moreover, some legislatures had particular areas of strength that other participants could learn and benefit from. Representatives from most of these organisations agreed to meet in Toronto in June 2015 to continue our discussion and gave our group a name – Legislative Assemblies Business Continuity Network or LABCoN.

Our first set of meetings focussed on direct comparison of our approaches to business continuity. We shared stories, noted our successes, and also lessons learned from work that could have gone better. The group created a questionnaire based on the international standard for business continuity, ISO 22301.

The Toronto meetings were very positive and the group, as well as sharing expertise and enthusiasm for business continuity, also hit it off personally. The extent of what we learned over those two days drove home the value of this information exchange to the group – there are undoubtedly other legislatures that could benefit from the knowledge and experience of participants if it could be captured and shared in some fashion.

Over the following months we agreed that creating a business continuity guide specifically for legislatures was the way forward. The guide would be based on sound business continuity planning processes. We believed real value could be gained from exploring legislature-specific aspects of what has worked well and instances where things haven't quite turned out as planned.

Martin Fenlon formally of the UK Houses of Parliament and now working as a consultant, created our technical guide. His draft was reviewed by the group at a three-day meeting in Edinburgh in August 2016 where we also discussed what other areas could and should be included in our guide. Training on

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*Tommy Lynch is Business Continuity Manager at the Scottish Parliament*





**During a meeting on Parliament Hill in 2018, LABCoN participants toured the Library of Parliament.**

incident communications and incident management occurred during this gathering as well sessions where we explored how to look after the welfare of Members, staff and visitors at a Parliament after a disruptive event.

One of the main outputs from the Edinburgh meetings, in addition to the technical element of the guide, was a determination that each of us to concentrate on capturing “case study” information to help show the resources, approaches, challenges and benefits that business continuity thinking and planning could bring to a legislature.

When meeting in Victoria, British Columbia in August 2017, the group reviewed this material and also had the opportunity to explore the planning and resources that BC’s Legislative Assembly use in its earthquake planning. Moreover, we discussed the impact of the 2001 Nisqually earthquake with colleagues from the Washington State Legislature

in Olympia; these staff had to carry out extensive repair work to their capitol building and decant their Chambers during that time.

The most recent LABCoN conference, in Ottawa during July 2018, focussed on completing content for the guide. In addition to the technical BC chapter, it includes also includes chapters on:

- Governance & Resources
- Planning Approach
- Assessing Business Continuity plans

With the content of the guide now complete, we are applying the finishing touches to give it a bit of style, translating it into French and creating a hub website for the work we have been doing. The website will also have information to allow people interested in LABCoN to contact the authors and ask questions about what has been set out. We are aiming to “publish” this guide in early 2019 and LABCoN

members will be using contacts established by their own organisations to advertise the availability of the guide.

All participants in LABCoN have benefitted from our discussions, sharing information and the opportunity to work across legislatures with colleagues in a very specialized area. As Michelle Hegarty, Assistant Chief Executive for the Scottish Parliament, offered: “I hope that the information in our guide can help other legislatures plan for the delivery of their services and make their overall operations more robust, not just for their benefit but to also demonstrate that to politicians and to the public. I think all of us who have been involved with the work have learnt a lot and we look forward to making that available to others”

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### Next Steps

LABCoN members would love to hear from other legislatures if this guide interests them and for feedback on how the guide can be improved over time. LABCoN is also keen to continually improve the

quantity and quality of knowledge and information available on legislature-specific aspects of business continuity, resilience and other related topics. Depending upon interest and feedback, LABCoN may schedule a conference focussed on education for interested legislatures, later in 2019.

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### Contact Information

Since its creation, LABCON has been supported by the following legislatures:

- Canadian House of Commons – labcon@parl.gc.ca
- Canadian Senate – labcon@sen.parl.gc.ca
- Legislative Assembly of British Columbia – labcon@leg.bc.ca
- New Zealand House of Representatives – labcon@parliament.govt.nz
- Legislative Assembly of Ontario – labcon@ola.org
- The Scottish Parliament – labcon@parliament.scot

Visit our website at: [www.labcon.network](http://www.labcon.network)

# *Experiential education at its best: The case of the Ontario Legislature Internship Programme*

Increasingly universities are embracing the use of experiential education as a way to improve employability skills, to better prepare participants for their transition to work and to give them “real world” experience. Many programs adopt such approaches and work to embed new pedagogy and learning into their curriculum. While most programs are moving quickly to experiential education models, we are only starting to consider how to measure the success of these efforts; more work needs to be done to evaluate such programs. In this article, the author reflects on 25 years of offering internships, practicums and experiential education. He uses the Ontario Legislature Internship Program (OLIP) as an example of a best practice and to inspire additional thinking about the improvement and sustainability of such programs.

**Peter P. Constantinou**

## **Introduction**

At the heart of every internship program should be a desire to provide participants with four important things:

- First, more and better information about the workplace or the profession so participants can make informed decisions about career choices.
- Second, exposure to real, hands-on learning or experiential education. This is the opportunity to learn differently and to begin to practice what participants are learning. Participants do, pause, reflect on their experiences, develop lessons and takeaways, and then apply their learning.
- Third, a real and formal emphasis on learning outcomes to ensure that experiences are aimed at knowledge and skills that are relevant and transferable. Getting experience leads nicely to enhanced employability skills that will assist in transition to work. .
- Fourth, experience in the workplace that introduces participants to many new contacts and helps them build a network. Often, participants have a chance to impress potential employers with their initiative, skills and potential. This burgeoning network can lead to further employment. After all, internships can be viewed as trial periods where both sides find out about the other.

Many universities are moving towards doing more of this kind of learning and training as part of a mad dash to convince participants and parents that theirs is the program to take. One example of a great success is the Ontario Legislature Internship Programme (OLIP). This article will highlight the key components of the structure and processes related to OLIP and provide some reflections.

## **History of OLIP**

The Ontario Legislature Internship Programme (OLIP), established in 1975, is administered by the Canadian Political Science Association and supported by a financial grant from the Legislative Assembly of Ontario. OLIP is a non-partisan organization and is not associated with the Government of Ontario or any political party.

The Programme is designed to provide backbench Members of Provincial Parliament with highly qualified assistants. In addition to providing practical experience with the daily workings of the Ontario Legislature, OLIP provides Interns the opportunity to supplement their university training through regular academic discussions and by writing an academic paper on a topic of their choice. Interns also visit other legislatures to ensure a comprehensive knowledge of the legislative process through a comparative lens.

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*Peter P. Constantinou is a professor in the School of Public Policy and Administration at York University and Academic Director of the Ontario Legislature Internship Programme*





**The 2018-2019 Ontario Legislature Internship Program participants.**

### *Non-partisanship*

At the heart of the OLIP program is a commitment to non-partisanship. This allows the participants to see and experience multiple perspectives, and specifically to work for both a government and opposition member of the Legislative Assembly. The interns are engaged in the real work of an MPP's office and have an opportunity to participate as a member of the office staff. This typically involves constituency work, support of the member's committee duties as well as their work in the chamber.

### *Recruitment*

Attracting the best quality candidates means ensuring that there is wide circulation of information on the programme. This includes a number of approaches:

- First, use of traditional methods such as information posters and in-person information sessions held on university campuses.
- Second, electronic mail to political science and public policy and administration programs, as well as other relevant programs helps to ensure potential candidates are aware.
- Third, social media and a robust website are important.
- Fourth, word of mouth is invaluable. The rigor of the selection process ensures a very strong cohort that results in a consistent quality of participants and ensures the reputation of the program is maintained.

### *Deep investment in orientation and training*

Ten candidates are chosen for the 10-month programme. Considerable effort is made to invest

in their knowledge and skills through five weeks of orientation and training, along with an ongoing rigorous academic program. Moreover, this education is accompanied by the opportunity to meet with as many as 100 prominent officials, politicians, and professionals. The programme includes a mixture of lectures, workshops, experiential education exercises, team-building exercises and meetings with key officials in the legislature.

The design of such a program works backwards from expectations in the workplace. At the heart of the orientation program are simple questions: "What do interns need to know? What skills do they need to have to be prepared for the workplace so that they cannot only survive but also thrive?" Working with alumnae – both recent and from earlier cohorts – along with MPPs themselves, we position our interns to hit the ground running in an environment where there is little time for a rather steep learning curve.

### *Learning by doing*

The best way to build leaders is to give them a platform to experiment and practice. Our interns lead the work of the group. They agree on their program and decide what they want to focus on and learn. They are expected to plan and arrange events, meetings and study tours. Each intern chairs a committee that focuses on different aspects of this agenda and reports on their progress each week. The chance to come to a consensus and set an agenda, to prepare and implement operational plans and to be held accountable for their performance is crucial to helping them develop leadership skills.

# Selection of OLIP Alumni



**Tim Murphy**

**1980-81** - John W. Wright - Pollster, Angus Reid / Ipsos

*Interned for Sheila Copps (Lib) and John P. MacBeth (PC)*

**1982-83** - Timothy John “Tim” Murphy, MPP; Chief of Staff, Office of the Prime Minister

*Interned for James A. “Jim” Renwick (NDP) and Alan Robinson (PC)*

**1983-84** - Annette M. Boucher - Chief Clerk of the House, Nova Scotia Legislature

*Interned for Don Boudria (Lib) and Robert c. “Bob” Mitchell*

**1983-84** - Cheryl Diane Mitchell - Senior Counsel, Department of Justice

*Interned for William M. “Bill” Wrye and Philip A. “Phil” Gillies (PC)*

**1992-93** - Jonathan Peter “Jon” Malloy - Professor at Carleton

*Interned for Sharon M. Murdock (NDP) and Jim Wilson (PC)*

**2011-12** - Craig Ruttan - Director, Policy at Toronto Region Bd of Trade

*Interned for Mike Colle (Lib) and John Yakabuski (PC)*

**2012-13** - Gillian Hanson - Issues Advisor, Office of the Prime Minister of Canada

*Interned for Helena Jaczek (Lib) and Steve Clark (PC)*

**2012-13** - Leanna Katz - Law Clerk, Supreme Court of Canada

*Interned for Mike Colle (Lib) and Christine Elliott (PC)*

**2013-14** - Mitchell “Mitch” Davidson - Executive Director of Policy, Office of the Premier of Ontario

*Interned for Mike Colle (Lib) and Ernie Hardeman (PC)*

**2013-14** - Vanessa Dupuis - Strategic & Operations Advisor to the Auditor General of Ont.

*Interned for Bas Balkissoon (Lib) and Laurie Scott (PC)*

**2016-17** - Rachel Nauta - Executive Assistant to the Speaker, Ontario Legislature

*Interned for Daiene Vernile (Lib) and Ernie Hardeman (PC)*



**Annette Boucher**



**Jon Malloy**



**Leanna Katz**

### *Solid partnerships*

OLIP's success is based primarily on the relationship the Canadian Political Science Association and the Ontario Legislative Assembly have established and built over time. Further, the relationships developed between the program and MPPs over the years has also been critical to its lasting success. But two more relationships have also proven to be key – the alumni and the sponsors.

The alumni provide a valuable network of insight and assistance to help interns realize the full potential of their opportunity and to support their exposure to the various careers available to interns after OLIP. The sponsors, private companies and associations, are there to help support the program financially. Specifically, they fund their study tours and receptions. The sponsors also meet with the interns and provide them with valuable insight into their issues and aspirations that helps to better understand government and public relations. Increasingly in all sectors of society, these partnerships are the new normal. OLIP provides the opportunity for interns to realize the value of partnerships as a way to tackle opportunities and challenges, and gives them the opportunity to tend to existing one and build and maintain new partnerships.

### *The placement process*

The interns get to interview the MPPs and then express their preferences for the two placements they have. A lot of thought goes into ensuring that the right fit occurs. In some instances it has to do with the two personalities; other times it has to do with the work of a particular MPP and sometimes with the potential for growth. For example, an intern who has mostly grown up in and lived in an urban centre may get more out of a placement with a MPP who represents a rural riding. This also puts interns – often for the very first time – on the opposite side of the interview table. The perspective of what interviewers think about and how they conduct themselves is also very informative. There is a great potential for revelations as interns

work through this process; it is not uncommon for pre-existing thoughts about a candidate to change substantially over the course of an interview.

### *Clear and well established learning outcomes*

One of the best ways to deal with difficult decisions that may arise relating to competing interests is to keep the learning outcomes front and centre. These desired outcomes help guide the decision. Further, evaluating performance is also made easier when there are clear goals and objectives guiding these learning objectives. Ongoing assessment, both formal and informal is critical to ensuring continued success.

As one of the fundamental operating principles of OLIP is to share knowledge from one cohort to the next, two things are guaranteed to occur. First, traditions emerge and best practices are shared from one year to the next. There are many aspects of programme operation that are the same as they have always been, because they work. Second, adjustments and new approaches also emerge. Since each cohort leads the work of the programme, they lean on best practices and traditions while also adding or testing new elements to reflect the interests and talents of the new cohort and the changing context (such as advancements in technologies).

## **Conclusion**

We now know more about teaching and learning. As we think about what we want participants to gain from an internship program, it is not enough to simply place them in the workplace and hope they learn. New ideas about experiential education help us to understand what key elements are necessary to have a successful experience for all participants. If we are going to continue to work to inspire young people to take an interest in government and public service, we must continue to think of ways to invest in their learning, to provide the opportunity for real experiences. The OLIP programme provides a good example of such an approach and can serve as a model for such internships.



# Spotlight on 42: Changes, Challenges and Conclusions

In the year leading up to an anticipated federal general election in 2019, the Canadian Study of Parliament Group gathered together parliamentary officials, interested observers and parliamentarians to examine what has transpired in the current parliament and what may lie ahead. This well-attended conference included four panels which explored “the changes and challenges facing each Chamber in light of recent procedural and structural innovations.” In this article, the author provides summaries of each of these panels and some of the discussion that followed the presentations.

**Will Stos**

## The Changing Bicameral Relationship

Cathy Piccinin, Acting Principal Clerk of Chamber Operations and the Procedure Office in the Senate, outlined a series of changes which occurred in the upper chamber prior to and during the 42<sup>nd</sup> Parliament. Following a decision by Liberal Leader Justin Trudeau to remove Liberal Senators from caucus in 2014, for the first time in Canadian history a government had no Senate representative when the Liberals took office following the 2015 election. Peter Harder was subsequently named to act as the government’s representative in the Senate. Facing a historic number of vacancies in the upper chamber, Prime Minister Trudeau created a new appointment process to select independent Senators. The composition of the Senate has thus changed dramatically in the past few years with Conservative senators continuing to sit with the party’s MPs, a group of Senate Liberals who function as a partisan caucus but who are not affiliated with the Liberals in the House of Commons, a new plurality of Independent Senators who have organized themselves in an Independent Senator Group (ISG) caucus, and other senators who sit as independents without affiliation to any group.

Piccinin explained that with these changes, the work of the Senate has become much less predictable. While

contending that using metrics to gauge the effect of amendments is not a great way to just legislative work, she said it does bear noting that in this parliament the number of Senate amendments per year has tripled. There has also been an increase in the numbers of bills that have been amended. But, Piccinin says, the Senate still seems to respect the Commons’ ability to reject amendments by not insisting upon amendments.

Recognizing the absence of cabinet ministers sitting in its ranks, the Senate has begun inviting cabinet members to the chamber to answer questions. There have been no changes to the rules to accommodate this practice; rather, it’s been a matter of negotiations among members.

Piccinin also provided several examples of legislation that has been dealt with in novel ways:

- Bill S-3 – Aboriginal Peoples Committee decided to defeat the bill, then adjourned, but then changed its mind and instead proposed many changes and amendments.
- Bill C-49 – If a Senate insists on an amendment, a committee must be struck to explain why. It did this expeditiously. When the Commons rejected the amendment a second time the Senate did not proceed.
- Bill C-45 – Various Senate committees discussed the subject matter (recreational cannabis legalization), but one social affairs committee dealt with the legislation in substance. Senate party leaders and facilitators agreed to structure debate thematically during third reading, similar to the assisted dying bill. It added a sense of organization that Senators seemed to appreciate.

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*Will Stos is Editor of the Canadian Parliamentary Review. He would like to thank Peter Price for contributing notes for portion of a panel he missed due to a previously scheduled meeting.*



From left: Moderator Charlie Feldman, Till Heyde, Cathy Piccinin, and Jeremy LeBlanc.

She concluded by stating the Senate has become more multi-centred in terms of power and highlighted that many things have been accomplished through negotiations among members rather than formal rule changes.

**Jeremy LeBlanc**, Principal Clerk of Chamber Business and Parliamentary Publications in the House of Commons, discussed some themes evident in the 42<sup>nd</sup> Parliament (timing pressures for the government, financial prerogatives, and procedural changes) and the impact they have had what's happening in the lower chamber. He reported there has been a marked increase in legislation being returned to the House of Commons with amendments from the Senate (27 per cent of bills have been amended) and noted that the House of Commons rejected all of these amendments in only two cases.

LeBlanc pointed out that there have been more instances of double ping-pong between the chamber – legislation going back and forth a number of times – and also an increase in the number of sitting days where Senate amendments are considered. He explained that time pressure is most keenly felt before long adjournments.

Two pieces of legislation, C-14 and C-45, were complex bills with many different issues to consider, yet adjustments, amendments and messages between the two houses were exchanged rapidly. LeBlanc suggested that budget implementation bills have noticeably lengthened. Typically, there are two per year and they tend to go through the system quickly. While it has been rare for Senate to amend financial legislation, there were two instances where this did occur. Bill C-29 was seen as an omnibus bill and there was concern, particularly in Québec, about changes to the *Bank Act*.

A group of independent Senators wanted this portion split off from the main bill and the Government in the Commons decided to agree to this change to help speed its passage. With Bill C-44, the Senate made amendments on excise taxes. The Government rejected these amendments, stated the Senate should not interfere in financial aspects, and then adjourned. Although the Senate accepted this rejection, senators reiterated that they believe the Senate has the power to insist upon amendments to any legislation.

During a Q&A session with the audience, one attendee asked about an obscure procedure called 'pre-conferences' on legislation between chambers that were last used in the 1940s. Piccinin responded that there had not been a big clamouring for these conferences yet. **Till Heyde**, Deputy Principal Clerk of Chamber Operations and the Procedure Office in the Senate of Canada, said procedural staff would have to investigate it but they are not yet near a point where it would be required.

In response to other audience questions, Piccinin highlighted that the procedural complexities present with the new composition of the Senate require staff to have agility and flexibility (for example, thematic debate at third reading). Heyde explained that staff used to know with 90-95 per cent certainty how the day would go. Now, with many more actors present, they tend to have around 70-75 per cent certainty and on some days it's much lower. "We now have to keep track of a lot more Senators," Heyde said, whereas previously it would be the leader of the Senate and the Leader of the Opposition. In general, senators are becoming much more active and the newer senators have become more confident in learning about what their rights and privileges are.

**Lori Turnbull**, Director of the School of Public Administration at Dalhousie University, made a point

of raising questions as she explored new trends in the Senate and House of Commons. She suggested she was fascinated with how much control political parties had gained over the Senate in past years since, once appointed, a Senator has more job security than the prime minister appointing them. When she asked a Senator why members of the upper chamber had not exercised more independence, he answered: “because in politics you’re part of a team.” Even though new kinds of teams are forming, Turnbull said new senators are still being chosen for their community involvement. She noted “they want to show they’re value-added, but they still have a legitimacy crisis.” Turnbull asked: “Who are Senators accountable to? Citizens? But, they didn’t choose them. If we elected senators we might have answers to these questions.”

Since 2015 election, Turnbull revealed anecdotally that she had heard both the House and Senate have taken very different approaches to staffing. Senators now appear more likely to hire lawyers and she said she wondered if this new staffing is affecting how they’re working.

Turnbull suggested that the increasing lack of predictability in the Senate has affected how the government in the House of Commons is working. The government now has less confidence it can tell the public that it can deliver on its agenda; this uncertainty can be a concern in the retail state of politics. If voters are selecting a product, and the Senate is becoming less predictable, she explained that it’s not that a party can’t do what it wants when forming a government in the house, but it may take longer than anticipated. During a question and answer period, an audience member used the analogy of the parties running on a platform that is a service contract in a retail politics environment. He likened the Senate’s role to reading the fine print in these contracts.

Turnbull concluded by wondering if we will be back to a more traditional Senate in another 10 years. She said she doubts this will be the case as she thinks “we’ve unleashed the beast.”

### **Innovations in the House of Commons**

**Guillaume LaPerrière-Marcoux**, Chief of Staff to the Clerk of the House of Commons, described the advance of social media channels in the House of Commons. Five Twitter accounts (@OurCommons, @HoCChamber, @HoCCommittees, @ParlDiplomacy, @HoCSpeaker) and three Instagram accounts now provide insight into various aspects of the House, its committees and other



**Charlie Feldman and Lori Turnbull.**

programming. To date, there have been more than 200 photos posted on Instagram with a total of 10,000 likes, and 8,000 Tweets which have garnered more than 4.4 million impressions.

LaPerrière-Marcoux explained how the House of Commons will continue to innovate and refine its messaging to respond to the unique features of each type of social media. They plan to create more dynamic content and use less text and more images on Twitter, including using GIFs that automatically play when viewed while scrolling through feeds.

Jeremy LeBlanc reported on new rules surrounding omnibus bills. This type of legislation had long been used, but it became especially contentious in recent years, and particularly in the last parliament. Some budget implementation bills were hundreds of pages long and some parts did not appear to be clearly related to the budget.

The new government gave the Speaker the power to divide the questions for the purpose of voting, but there was an exemption for budget implementation bills. The bill is not divided, but at the second reading stage there can be multiple votes on questions.

LeBlanc cited a number of rulings made by the Speaker since this change was made to the standing order. For example, he pointed to Bills C-69 and C-59. C-69 was a bill relating to environmental assessments while C-59 was the government’s national security bill. In both cases, all parts of these bills were related to one subject matter, but various parts could conceivably stand on their own for voting.

For budget implementation acts C-63 and C-74, the Speaker had to consider whether some measures within the bills were announced as a part of the budget. In one case he divided it, but in the other he ruled that the part in question had been announced in the budget





**From left: Moderator Chloé O'Shaughnessy, Christopher Cooper, Jeffrey LeBlanc, Guillaume LaPerrière-Marcoux and Aurélie Skrobik.**

address and the length of the part was not out of the ordinary for the complexity of the changes.

**Aurélie Skrobik**, a 2017-2018 intern with the Parliamentary Internship Program, explored the theme of populism and e-petitions in Canada as a part of the programme. Her work contrasted the experience with e-petitions in the United Kingdom and outlined the differences in how they are accepted, considered, and potentially debated. An article based on Skrobik's work will be published in a future issue of the CPR.

**Christopher Cooper**, an associate professor at the University of Ottawa's Department of Political Studies, reviewed the prime minister's appointments and growing centralization of power in government. He highlighted the Savoie Thesis: no one, at least in government, believes the prime minister is the first among equals any longer. In explaining the increasing degree of centralization, he cited the news media cycle, personalization of politics, distrust in public service, dissatisfaction with deliberative process, influence of business management, and desire for responsive competence rather than neutral competence (for example, being able to deliver).

### **Making Parliament More Inclusive Panel**

**Jeanette Ashe**, chair of the Political Science Department at Douglas College, discussed her ongoing research into "gender sensitive parliaments." There are a variety of ideas for how to make a parliament more gender sensitive, including: legislating quotas; incentivizing parties to recruit women; and requiring Elections Canada to gather data on candidate selection.

Although the current prime minister describes himself as a feminist, she wondered what that means

substantively. Currently 27 per cent of MPs are women and there has been slow movement in increasing this percentage. Ashe stated that a gender sensitive parliament would have more artwork that includes women, a prohibition on single gender committees and a prohibition on all-male panels. Although she concluded that the current parliament is more gender sensitive than previous one, she stressed that there is much more to do.

**Adelina Petit-Vouriot**, a research analyst with Samara Canada, suggested that Canadians want to see a Parliament that reflects the population. *Democracy 360*, Samara's report card on the House of Commons, includes a section on diversity of representation. Petit-Vouriot's presentation focused on electing, empowering, and engaging youth in our parliamentary democracy. She noted the average age of MPs now is 51 and the cabinet is marginally younger at an average age of 50.7. Samara has been exploring constituency youth councils/advisory groups to examine some ways youth are participating in parliamentary democracy. She noted that the structure and activities of these groups often differed greatly.

**Manon Tremblay**, a professor of Political Studies at the University of Ottawa, stated that in terms of composition, the House of Commons is not representative of the number of women in Canada, but is a bit more representative of LGBTQ people. Of 338 seats, five are held by openly LGBTQ people. By comparison, openly LGBTQ people hold seven per cent of seats in the United Kingdom's House of Commons. Moreover, she said "emotional representation" is an important aspect to consider. For example, she cited the appointment of Randy Boissonnault (Special Advisor to the Prime Minister on LGBTQ2 Issues) and the Prime Minister's official apology to LGBTQ2 people



**From left: Moderator Marie-Ève Belzile, Adelina Petit-Vouriot, Jeanette Ashe and Manon Tremblay.**

for historic wrongs members of the community had experienced.

Tremblay expressed sadness that Canadians have to give political parties incentives to achieve more representative slates of candidates and encouraged discussion of quotas to achieve more equitable representation. During a Q&A period following the panel an audience member asked about a potential backlash if a quota system were introduced. Ashe noted there was a lot of backlash in the 1990s when the Labour Party instituted all-women shortlists in the UK, but it has found more acceptance in recent years and other parties now looking at them as an option.

### **A Check-in on Senate Modernization Panel**

Independent Senator **Diane Bellemare**, who initially sat as a Conservative the Upper Chamber, noted that Senate modernization talks are nothing new, having first begun in the 1890s. Since she arrived in the Senate it's been a steady topic of discussion as the institution has been in a crisis mode. Although she belonged to a party caucus when she first arrived, she knew she also had a constitutional role to play. She began to research the role of the Canadian Senate and other Senates in order to determine how it could be successfully modernized.

Bellemare listed six conditions she believes are necessary for successful modernization. Condition 1: The existence of several groups who share policy views and can be called caucuses. In most countries it's rare to have only two parties in the upper chamber. Condition 2: These groups or caucuses should not be partisan. They should be more independent. Condition 3: An appointment process that is transparent and favours the selection of qualified senators who are non-partisan.

Condition 4: The implementation of policies and rules that prevent caucus leaders or group facilitators from rewarding or sanctioning senators for their views. Condition 5: A shared idea of a common vision of their constitutional role in the Canadian Senate and objective criteria by which to review bills in order to help separate personal opinions and emotions. Condition 6: The explicit recognition by government and the House of Commons of changes in the Senate by establishing a sincere and respectful dialogue with the Senate and by adopting relevant changes to the *Parliament of Canada Act*.

Liberal Senator **Art Eggleton**, who joked that he would be 'graduating from the Senate' upon his mandatory retirement at age 75 (two weeks from the date of the conference) expressed his view that the Senate has never been a better place to work. He suggested the Senate spending scandal/auditor investigation helped, but that Senators really got their own house in order. Senate Communications have been transformed to allow the Senate to better communicate its work. Moreover, he said he believes the change in the appointment process has made things better because a majority of Senators are no longer bound by a caucus whip and the Senate is no longer a rubber stamp.

Eggleton cautioned that there are still concerns. The modernization project has gotten bogged down badly. He noted that two years ago 10 reports were published, but since that time four are still on the order paper. He also said some of the changes the Senate undergone may not last depending on what future governments decide to do. Eggleton contended the Conservatives have indicated they really want to maintain the old system or something similar to it – especially the notion of the Official Opposition. He said he doesn't mind a group opposing, but he doesn't think there is a need to



From left: Moderator David Groves, Senators Diane Bellemare, Art Eggleton, Marc Gold and Vernon White.

belong to a caucus with a whip associated to a political party. Eggleton pointed to a Nanos Poll in *Policy Options* which showed significant support among Canadians (84 per cent of those polled) who agreed with the idea that Senators should vote independently.

He concluded by suggesting the need for future work updating the *Parliament of Canada Act*. The Independent Senators Group Facilitator is not recognized in the current legislation, and therefore doesn't get paid for his/her additional responsibilities which are similar to the paid role of caucus leaders in the Senate.

Independent Senator **Marc Gold** suggested we could use three possible criteria to evaluate the 42<sup>nd</sup> Parliament: efficiency, predictability and effectiveness. He offered that efficiency of the Senate could be improved by better planning amongst the government, Senate representatives and others. A more organized structure would help the Senators work more efficiently; but efficiency should not be the sole measure to look at the Senate's sober second thought mandate. Gold noted that critics cite the lack of predictability resulting from the government's appointment process is one of its flaws. But, he asked, is lack of predictability a bad thing? Do we really want a rubber stamp? Government must now keep on its toes and pay attention to what's happening in the Senate.

Finally, in order to be effective, Gold said the Senate must provide reasonable scrutiny of legislation. He cautioned not to confuse assertiveness with effectiveness. For example, he pointed to the government's *Cannabis Act*. Gold contends the quality of the Senate's review, both in committees and in third reading debate, made for much more effective review. With this level of review Gold stated he believed the Senate is truly adding value to the legislative process. He warned

the process is fragile, however, and identified a risk that an increasingly assertive Senate will undermine its role if it proposes too many amendments. Gold noted there is a lot of internal debate in the ISG about how much change to legislation is too much and why. He also cautioned against hyper-partisanship in the modernization process. "We ought to be humble when we proceed with fundamental institutional change," Gold concluded, adding that there's a wisdom in tradition that is sometimes missed by cold, rational thought.

Conservative Senator **Vernon White** encouraged attendees to consider the Westminster system when discussing Senate modernization. He suggested it's very important to understand where we're going by understanding where we've come from, and he noted that the Senate's historic role a voice of and for regions must not be lost in discussions.

White suggested the current appointment process will likely continue, but said alternatives should be considered – for example, allowing provinces to nominate candidates for appointment. Moreover, he said if the current process is missing small 'c' conservative candidates but including small 'l' liberals and small 'p' progressives, there's a problem. He stated the Senate is not as representative as it could or should be.

White stressed that the Senate must serve as a check against the power of the prime minister, especially in a majority government. As the modernization project continues, he encouraged greater involvement of provinces and territories in the selecting new members and in discussions of what a future Senate should look like. After all, he said, these provinces and territories were involved in creating the Senate to begin with.



# The Canadian Scene

## New Speaker of the New Brunswick Legislative Assembly

On October 23, during the first session of the 59th legislative assembly of New Brunswick, Restigouche-Chaleur MLA Daniel Guitard was elected Speaker. He will preside over the province's first minority government in a century.

"The population of New Brunswick has asked us to work together," he said. "I'll try to do my best to make it work in the house."

First elected as a Liberal MLA on September 22, 2014, he was named deputy government whip and later appointed chair of the government caucus. Speaker Guitard has also served as vice-chair of the standing committee on economic policy and the standing committee on private bills and as a member several other standing committees.



Prior to entering politics, he worked with the federal Department of Employment and Immigration and owned a business specializing in the sale and servicing of recreational products. He also worked as a financial planner with the National Bank.

Active in his community, Speaker Guitard has served as the chair of various festivals, team manager for a minor hockey and baseball team, a municipal councillor, and the chair of Atlas Park.

"The role of Speaker is critical to the operation of this legislature and to ensuring we can all work collaboratively and productively for the people who elected us," Speaker Guitard said. "I am honoured to have been chosen and promise to do my best to impartially serve the legislative assembly and all New Brunswickers."

## New Quebec Speaker

Lévis MNA François Paradis was elected as the new President (Speaker) of Quebec's National Assembly on November 27, 2018. He was unopposed for the position.

"I want to lead this presidency by focusing on communication and transparency," he said "I would like to bring Quebecers closer to the National Assembly and discover a modern, efficient and innovative democracy. May our institution project a more positive image of the people who work there."

Speaker Paradis thanked his colleagues for giving him the opportunity to preside over the Assembly and vowed to earn their confidence.



Speaker Paradis said Quebecers are demanding more transparency and ever more rigorous management of their democratic institutions.

Prior to first winning election for the Coalition Avenir du Quebec in 2014, Speaker Paradis worked as a radio and television journalist and presenter for Télé 4, Radio-Canada and TVA among others. He hosted Café show, L'enfer ou le Paradis, Première ligne and TVA en direct.com.

Speaker Paradis has a Bachelor's degree in political science and journalism from Laval University. During his first term in the National Assembly he held a variety of critic portfolios for the Second Opposition Group.

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# Parliamentary Bookshelf: Reviews

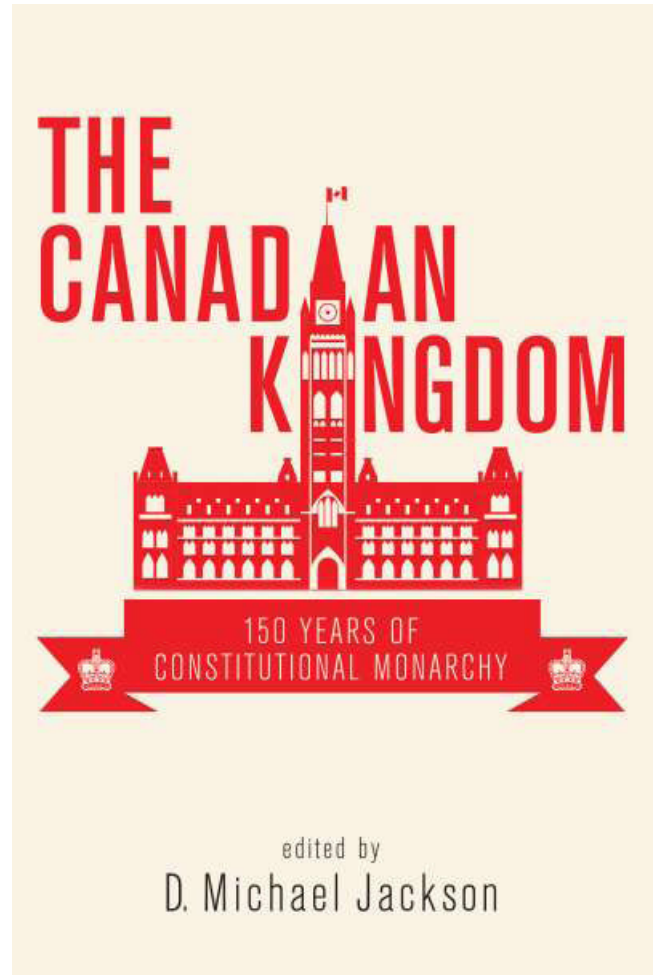
*The Canadian Kingdom: 150 Years of Constitutional Monarchy*, D. Michael Jackson, ed., Dundurn Press, Toronto, 2018, 248 pp

As a monarchist, *The Canadian Kingdom* had already been on my radar before I was asked to write this review. When provided this opportunity, I knew that I would have to consciously acknowledge this bias in order to provide an effective review. Coincidentally, the day after I was asked to write the review, I received an invitation to attend a book launch hosted by Ontario's Lieutenant Governor, Elizabeth Dowdeswell. I suppose my monarchical tendencies are more broadly known than I realized.

*The Canadian Kingdom* is, at first glance, the type of text one might find listed on a syllabus of required reading for a university course on constitutional law or political science. Yet, while it can certainly be brought into the academic realm, it is no less an enlightening read for anyone interested in the building blocks of the Canadian Constitution and the influence of the monarchy thereon. I am glad that I did not let the guise of an academic text discourage a casual read, as each essay on its own has an easy flow and structure, unlike some academic texts, and taken together the entire collection has a solid structure.

The book is divided into four parts: The Crown in Canadian History; The Crown and Indigenous Peoples; The Crown and Contemporary Canada; and, The Crown and the Realms. Each part is well and worthy on its own merits, yet when brought together here, the common thread that "[o]ur unique constitutional monarchy, the product of 150 years of thought, compromise and accident, is a fluke work of genius" (p. 22) is evident and a key concept in Part 3 of the book.

Editor D. Michael Jackson successfully assembled an accomplished field of 11 contributors, including academics, a former Lieutenant Governor, and a sitting Senator. The venerable John Fraser, long-time master of Massey College and founding president of The Institute for the Study of the Crown in Canada, co-wrote the preface and contributed the final essay.



Part 1, consisting of three essays, is an interesting reflection on the development of Canada. The first essay by Barbara Messamore brings an interesting view on Confederation. She details how Canada's birth was "not a dramatic change that pivots on 1867, but continuity, the gradual evolution that has characterized Canada's constitutional history" (p. 29). Carolyn Harris set aside her royal commentary hat to provide a look at how the monarchy and Indigenous art in Canada developed together from Queen Anne to the present. Robert Hawkins rounds out the three essays by discussing the involvement of Canadians and Canada's Crown at the Battle of Vimy Ridge.

In Part 2, the focus turns from the Crown and the creation of Canada to the Crown's impact, influence, and interconnection to Canada's Indigenous peoples. As a first generation Canadian, my understanding of Indigenous relations between the Crown and country has been rather meagre. I delved into this part of the book hoping to emerge with enhanced knowledge and I am pleased to say that neither Steven Point (the former British Columbia Lieutenant Governor and elected Indigenous Chief) nor Nathan Tidridge disappointed. Point provided an engaging first-person narrative of being both a man of Indigenous ancestry while serving as the representative of the Crown in British Columbia. Tidridge traced the development of the treaties and the "Dignified Crown" (p. 18).

Part 3 moves from the history of the Crown in Canada to its modern impact and the influence of the "Queen of Canada" and the roles of the Lieutenant Governors. Andrew Heard begins with his essay "The Crown in Canada: Is There a Canadian Monarchy?" where he details the evolution of the legislative rise of the "Queen of Canada" from the "colonial origins of the relationship" (p. 115).

Senator Serge Joyal continues this theme with his essay "The Oath of Allegiance: A New Perspective" detailing the development of the oath from 1867 which was "focused on the person of the Queen" to the modern oath that "identifies the Queen, the Crown, as an ideal that embodies the values and principles of Canada" (pp. 132-133).

Christopher McCreery, Private Secretary to the Lieutenant Governor of Nova Scotia, rounds out the series of essays with his on "The Vulnerability of Vice-Regal Offices in Canada" and vindicates my personal use of the phrase "paradoxical dichotomy"

(p. 157) in explaining the relationship of the Lieutenant Governors' separation from, and dependence on, the government of the day.

The final three essays in Part 4 effectively leave the confines of the land stretching from sea to sea to sea for surveys of the Crown in Australia and the other realms. Essays penned by Peter Boyce and Sean Palmer are complemented by the final essay by John Fraser on how the "Queen of Canada Helps the Queen of the United Kingdom". In a jovial first person narrative, Fraser's essay, originally a part of an address given at The Charterhouse in London in 2016, elaborates how "Canada offers a valid and working precedent of holding a country together through the symbolism of the Crown" (p. 229), to the "Queen of the United Kingdom" through the lessons learned by the "Queen of Canada."

Overall, *The Canadian Kingdom* is well worth the time for any and all readers interested in experiencing a breadth of views on the Canadian Crown. My only serious critique is the brevity of Part 2 on the Crown and Indigenous Peoples. While the other parts of this collection each contained three contributions, Part 2 had only two and could have benefitted from an additional voice – perhaps former Ontario Lieutenant Governor James Bartleman.

*The Canadian Kingdom* is edited by D. Michael Jackson. Jackson is the former chief of protocol for the Government of Saskatchewan and the current president of The Institute for the Study of the Crown in Canada at Massey College, the collection's sponsor.

**Jonathan Brickwood**

Procedural Services Branch, Legislative Assembly of Ontario

# New and Notable Titles



A selection of recent publications relating to parliamentary studies prepared with the assistance of the Library of Parliament (July 2018-November 2018)

Beamish, David. "Court injunctions and parliamentary privilege: is there a case for new restrictions?" Hansard Society blog November 2, 2018: 2p.

- Following the controversy surrounding the breaking of the Philip Green court injunction, has the time come for new restrictions on the use of parliamentary privilege, as previously suggested by a Joint Committee of both Houses of Parliament? A former Clerk of the Parliaments outlines the legal and procedural issues that inform the debate.

Bourrie, Mark. "Unscrambling the accreditation egg: Deciding qualification for membership in the Parliamentary Press Gallery." *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique* 12 (2), August / août 2018: pp. 407-26.

- The Parliamentary Press Gallery plays an integral part in the national political discourse... the problem lies in establishing a fair, workable criteria for determining eligibility for membership in the Press Gallery...has no checks on its power to accredit, and may, in fact, be stifling diverse, informed journalistic voices while favoring mainstream and traditional media...

Bowden, James W.J. "Legislation - Repealing a statute when the legislature is prorogued: The practice in Ontario." *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique* 12 (2), August / août 2018: pp. 505-12.

- ...this article argues that there are limits to how extensively a legislature can delegate its authority to the executive and that delegating the authority to repeal a law to the executive violates the separation of powers and is unconstitutional.

Cox, Laura. "The bullying and harassment of [UK] House of Commons staff." Independent Inquiry Report (Dame Laura Cox DBE), 155p., October 15, 2018.

- On March 19, 2018 the House of Commons Commission decided that there should be an inquiry into the nature and extent of bullying and harassment, the procedures available to address them and the general culture of the House as a place of work...it was agreed that this inquiry should be carried out independently...

Fonck, Daan and Yf Reykers. "Parliamentarisation as a two-way process: Explaining prior parliamentary consultation for military interventions." *Parliamentary Affairs* 71 (3), July 2018: pp. 674-696.

- This article investigates the drivers of the parliamentarisation of war powers.

Gligorijević, Jelena. "Breaching injunctions in Parliament: An unconstitutional abuse of parliamentary privilege." U.K. Constitutional Law Blog October 29, 2018: 6p.

- Two days after the Court of Appeal granted an interim injunction restraining reportage of harassment allegations against a high-profile businessman, Lord Hain named the individual involved, in the House of Lords under parliamentary privilege.

Kelly, Richard. "Proxy voting in divisions in the House." UK House of Commons Library *Briefing Paper* 08359, 6 September 2018: 22p.

- On September 13, 2018, there will be a general debate on proxy voting in divisions in the House of Commons...the Procedure Committee brought forward proposals for a non-compulsory scheme for proxy voting that would require some changes to Standing Orders. It recommended that 'proxy voting ought to be available to new mothers, new fathers and adoptive parents.' The scheme should operate under the authority of the Speaker, who would certify the appointment of a proxy.



Lagassé, Philippe. "Royal succession and the constitutional politics of the Canadian crown, 1936-2013." *The Round Table* 107 (4), 2018: pp. 451-62.

- Canadian governments held opposite views on how to alter the laws of royal succession for Canada in 1936 and 2013...constitutional politics, not the law of the constitution, explains how these two Canadian governments fundamentally disagreed with each other over royal succession.

Medeiros, Mike, Damien Bol, and Richard Nadeau. "Democratic legitimacy or regional representation: Support for upper chamber reform in Scotland and Quebec." *Parliamentary Affairs* 71 (4), October 2018: pp. 738-59.

- This article studies support for upper chamber reforms in multinational countries.

Poirier, Johanne and Daniel Turp. "The draft Constitution of Canada, 2017 and the potential of constitutional conversations." *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique* 12 (2), August / août 2018: pp. 307-10.

- Can 150 years of constitutional history be rewritten? This was the challenge we faced in an unprecedented course offered by the McGill University and Université de Montréal law

faculties during the 2017 winter semester and which we have had the privilege of co-teaching and following...a new Draft Constitution of Canada, 2017 with 150 articles, a nod to the 150th anniversary of the Constitution Act, 1867, was passed. The full text of this 'legible,' 'living,' and 'current' constitutional instrument is reprinted in the appendix.

Pow, James. "Amateurs versus professionals: Explaining the political (in) experience of Canadian members of parliament." *Parliamentary Affairs* 71 (3), July 2018: pp. 633-655.

- In contrast to many democracies that lament the rise of professional politicians, 'amateur' politicians have typically dominated federal politics in Canada.

Purser, Pleasance. "Overseas Parliamentary News – September 2018: A summary of news from overseas parliaments." New Zealand Parliamentary Library: 6p.

- Ireland - New internship programme for people with intellectual disabilities - Ten young people with intellectual disabilities are taking part in a new year-long internship programme whose goal is to achieve paid employment for its participants, based on the experience they gain in working in the Houses of the Oireachtas.



Purser, Pleasance. "Overseas Parliamentary News - August 2018: A summary of news from overseas parliaments." New Zealand Parliamentary Library: 3p.

- Australia - Senator censured for words spoken to another senator in the chamber - An exchange between two senators was not heard by the chair and did not form part of the Senate's proceedings, nor were the comments drawn to the chamber's attention. They did, however, become the subject of public debate and commentary afterwards.

Purser, Pleasance. "Overseas Parliamentary News - July 2018: A summary of news from overseas parliaments." New Zealand Parliamentary Library: 6p.

- United Kingdom - Parliamentary behaviour code endorsed - The House of Commons voted to endorse a Parliamentary Behaviour Code setting out principles of respect, professionalism, understanding others' perspectives, courtesy and acceptance of responsibility that must be observed by everyone visiting or working in Parliament.

Purser, Pleasance. "Overseas Parliamentary News - June 2018: A summary of news from overseas parliaments." New Zealand Parliamentary Library: 10p.

- Scotland - Members must comply with data protection legislation - To comply with the new data protection legislation, members who intend to lodge a motion, e.g. to recognise an achievement or comment on an event, that contains information identifying a living person, or from which a living person can be identified, must have a legal basis for doing so.

Rush, Michael. "Essays on the history of parliamentary procedure in the house of commons in honour of Thomas Erskine May [book review]." *Parliamentary History* 37 (3), October 2018: pp 453-55.

- ... is it a book for clerks by clerks? Emphatically not – it is of interest to all parliamentary historians, those specialising in legislative studies, and to anyone wanting to understand the Westminster parliament...Review of *Essays on the history of parliamentary procedure: in honour of Thomas Erskine May*. Oxford [UK] (2018).

Scholtz, Christa. "The architectural metaphor and the decline of political conventions in the Supreme Court of Canada's *Senate Reform* Reference." *University of Toronto Law Journal* 68 (4), Fall 2018: pp. 661-93.

- In 2014, the Supreme Court of Canada rejected the federal government's Senate reform agenda. This article focuses on the Court's response to the government's proposal for consultative (non-binding) elections, which would have had the prime minister consider recommending an electorate's preferred candidate for nomination by the governor general.

Serban, Ruxandra. "Punch & Judy politics? The roles and functions of Prime Minister's Question Time." The Constitution Unit blog October 23, 2018: 5 p.

- Prime Minister's Question Time does not have a particularly good reputation. Designed as a weekly opportunity for MPs to question the Prime Minister, it is criticised for being noisy, excessively theatrical, scripted, and confrontational. But to what extent does it fulfil its role in holding the Prime Minister to account? What other roles does it perform for parliament and for the political system?

Smith, Tony. "'High and Exacting Demands' on the Speaker: Preparing for the role of Chair." *The Parliamentarian - Journal of the Parliaments of the Commonwealth* 99 (3), 2018: pp. 186-89.

- This article sets out the author's perspective on the role of Chair in the Australian House of Representatives, beginning with a glimpse at the characteristics of the 'ideal' Chair and comparing that to the author's own experience.

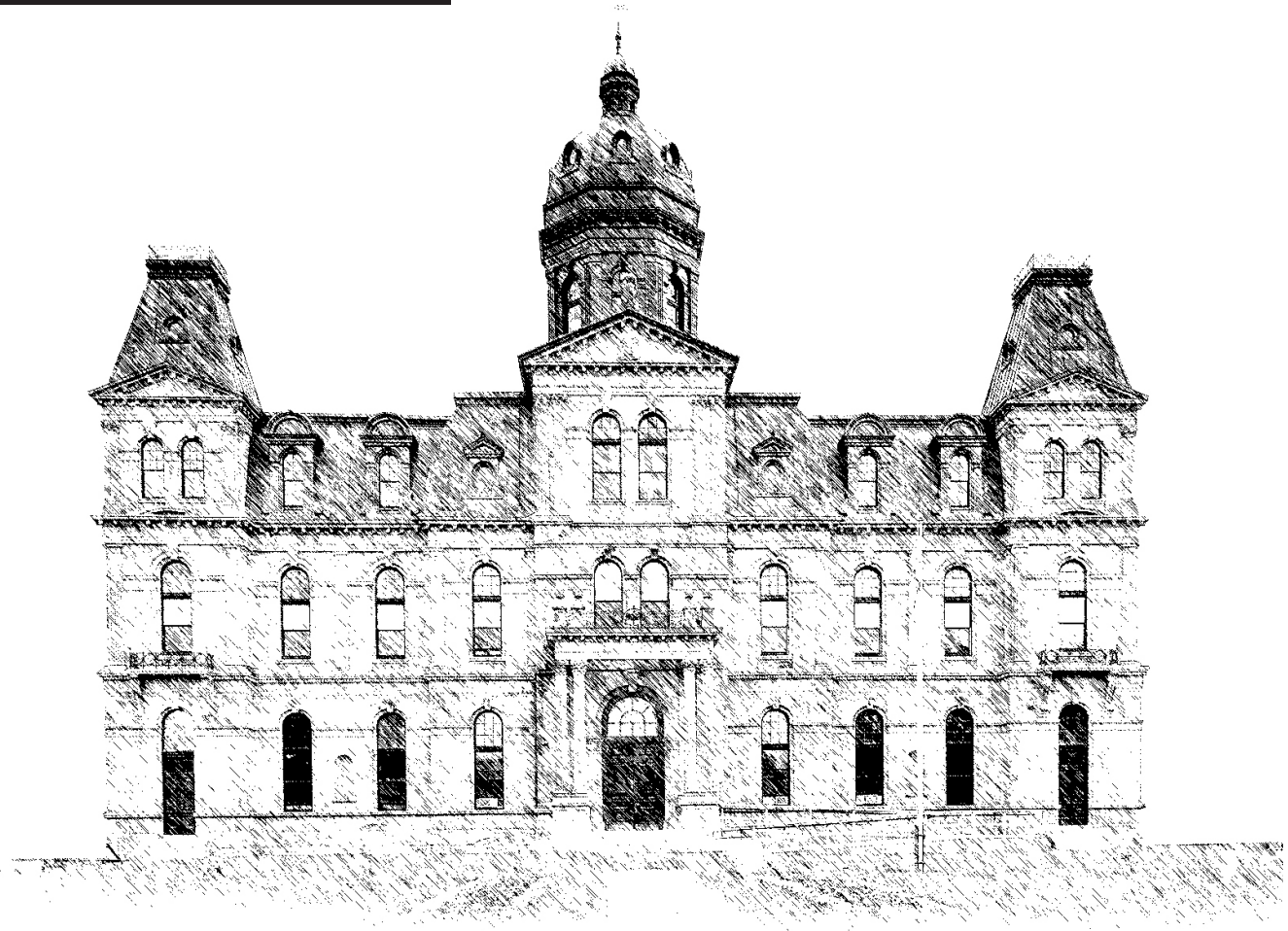
Walker, Charles (Chair), "Time limits on speeches in the Chamber." House of Commons Procedure Committee - Seventh Report of Session 2017-19 HC 1157, 12 September 2018, 22p.

- The Speaker and Deputy Speakers have asked the Procedure Committee to examine how the present system of speaking time limits in the Chamber is operating, and whether the current provisions for adding 'injury time' to speech times when Members take interventions should be amended.

Dionne, Benjamin. "Le Sénat du Canada: l'avenir de la Confédération," *Journal of Parliamentary and Political Law / Revue de droit parlementaire et politique* 12 (2), August 2018: pp. 379-405. [Available in French only]

- The issue is nevertheless simple: the Senate suffers from a serious lack of moral and democratic legitimacy that prevents it from playing its proper role in the confederal system.





## New Brunswick

### Appointment of Legislative Officer

The Commissioner of Official Languages for New Brunswick, **Katherine d'Entremont**, announced her retirement effective July 22, 2018. Five years earlier on July 22, 2013, she was sworn-in as New Brunswick's second Official Languages Commissioner on recommendation of the Legislative Assembly. Ms. d'Entremont's retirement closes out a 37-year career of public service and dedication to the Province of New Brunswick.

On July 23, 2018, **Michel A. Carrier** became Interim Official Languages Commissioner. Mr. Carrier was appointed as New Brunswick's first Official Languages Commissioner in 2003 and served a ten-year term. He will serve as interim commissioner until a new commissioner is appointed.

The Commissioner of Official Languages for New Brunswick is an independent agent of the Legislative

Assembly. The Commissioner's role is to investigate, report on, and make recommendations with regards to compliance with the *Official Languages Act*, as well as being responsible for the promotion of the advancement of both official languages in the province.

### Dissolution

The Fourth Session of the 58<sup>th</sup> Legislature adjourned on March 16 after 39 sitting days. The 58<sup>th</sup> Legislature was subsequently dissolved on August 23. At dissolution, the standings in the House were 24 Liberals, 21 Progressive Conservatives, 1 Green, 1 Independent, and 2 vacancies.

### 39<sup>th</sup> General Election

New Brunswick's 39<sup>th</sup> general election took place on September 24. The results of the provincial election produced a minority government, the first since 1920. Twenty-five of the 49 seats are needed to form a majority government in New Brunswick.



**Brian Gallant's** Liberal Party won 21 seats, while **Blaine Higgs' Progressive Conservative Party** won 22, and **David Coon's Green Party** won three. The People's Alliance Party won their first seats in New Brunswick's history by electing their leader, **Kris Austin**, as well as two other candidates. In total, 18 new Members were elected. Eleven women were elected, representing 22 per cent of the seats in the House, a 6 per cent increase compared to the 2014 election results.

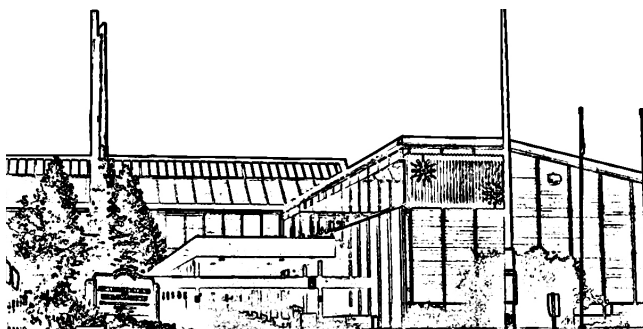
In October, Members of the 59<sup>th</sup> Legislature are expected to take their Oath of Allegiance and sign the Members' Roll during a ceremony in the Chamber, presided over by Lieutenant-Governor **Jocelyne Roy Vienneau**. Following which, the expectation is that the House will elect a Speaker by secret ballot and **Premier Gallant** will test the confidence of the House at the opening of the First Session of the 59<sup>th</sup> Legislature with a Speech from the Throne.

### Judicial Recounts

Three judicial recounts were requested for the ridings of Saint John Harbour, Memramcook-Tantramar, and Oromocto-Lincoln-Fredericton. The preliminary results in Saint John Harbour saw a difference of only 10 votes, 11 votes in Memramcook-Tantramar, and 93 votes in Oromocto-Lincoln-Fredericton.

**Alicia R. Del Frate**

Parliamentary Support Officer



## Yukon

### Fall Sitting

The 2018 Fall Sitting of the Second Session of the 34<sup>th</sup> Legislative Assembly commenced on October 1, and is expected to conclude on the 30<sup>th</sup> sitting day, November 22.

### Government Bills

During the first five days of the Sitting, the following government bills were introduced:

- Bill No. 19, *Electoral District Boundaries Act* (whose objects, per the bill's explanatory note, are "to

establish Yukon's electoral districts in accordance with the final report of the Electoral Boundaries Commission...");

- Bill No. 20, *Societies Act*;
- Bill No. 21, *Equality of Spouses Statute Law Amendment Act*;
- Bill No. 22, *Act to Amend the Forest Resources Act and the Territorial Lands (Yukon) Act* (2018);
- Bill No. 23, *Lobbyists Registration Act*;
- Bill No. 24, *Access to Information and Protection of Privacy Act*;
- Bill No. 25, *Act to Amend the Legislative Assembly Act* (2018);
- Bill No. 26, *Technical Amendments Act* (No. 2), 2018;
- Bill No. 27, *Coroners Act*;
- Bill No. 207, *Second Appropriation Act*, 2018-19;

### First Nations Acknowledgement

At the outset of the Fall Sitting, Speaker **Nils Clarke** began the proceedings by acknowledging that the Assembly was meeting upon the traditional territory of two First Nations – the Kwanlin Dün First Nation and the Ta'an Kwäch'än Council. This first-day-of-the-Sitting acknowledgement was given pursuant to Standing Order 11(7) which was adopted on April 23, 2018. The Standing Order says: "On the first sitting day of a Spring Sitting, Fall Sitting or Special Sitting the Speaker shall commence the proceedings by acknowledging the traditional territory of the Yukon First Nation, or Yukon First Nations, upon which the Legislative Assembly is meeting." The acknowledgement was followed by a prayer written by **Sam Johnston**, Speaker from 1985-1992. Mr. Johnston was the first First Nation Speaker of a Legislative Assembly in Canada.

### Art on Display in Chamber

Following the First Nations acknowledgement, the Speaker delivered a statement regarding artwork newly installed in the Chamber. He noted the four showcases (two each on the government and the opposition side) came about as a result of a decision taken on February 23, 2017 at the first meeting of the Members' Services Board (MSB) to form an all-party subcommittee to consider changes to the Chamber's décor. It was subsequently decided that more art by Yukon artists should be included in the Chamber. The Speaker observed that in 1976, when the Assembly first sat in the then-new Chamber, the room did not feature any Yukon art.

The eight works now on display, chosen from the Yukon permanent art collection, are: *Traditional Doll – Girl* by **Annie Smith**; *Tlingit Eagle Frontlet*, by master carver **Keith Wolfe Smarch**; *Arrival of the Dog Team* (a traditional type of blanket designed to be worn by a

dog, featuring beadwork, bells and tassels), by **Deb Enoch**; *Caribou Flagon* (sterling silver and antler), by jeweler/sculptor **David Ashley**; *Fire Bag* by **Gertie Tom**; *Raven's Flight* by carver **Eugene Alfred**; *Forget-Me-Not Mukluks* by **Mary Deguerre**, and *Wood-Ash Glazed Vessel With Lid* by ceramicist **Monika Kate Steputh**. The works are fashioned from a variety of materials, including aster, birch, caribou, moosehide, beaver fur, and wolf paws. Different artwork will be selected for the start of the 2019 Fall Sitting.

### **Motion re: Chief Electoral Officer**

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On October 1, the Assembly adopted a motion moved by Premier **Sandy Silver** recommending that the Commissioner in Executive Council appoint **Maxwell Harvey** as the Chief Electoral Officer of Yukon. The motion carried unanimously on a recorded division, fulfilling the stipulation in Yukon's *Elections Act* that the Assembly's recommendation be made by at least two-thirds of all MLAs.

As detailed in Yukon's preceding Legislative Report, the Assembly's Members' Services Board (MSB) had announced in a May 31, 2018 news release its recommendation that Mr. Harvey be Yukon's fourth Chief Electoral Officer. As also noted in that Legislative Report, on June 26, Max Harvey joined Elections Yukon.

### **Report on MLA Salaries and Benefits**

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On September 30, Speaker Clarke (Chair of the Members' Services Board) released a report that had been presented to MSB by a non-partisan, independent contractor, **Patrick Michael** (the retired Clerk of the Assembly) respecting MLA salaries and benefits. The report, which is not binding, is posted on the Assembly's website: [http://legassembly.gov.yk.ca/pdf/MLA\\_Salaries\\_and\\_Benefits\\_Report\\_February\\_27\\_2018.pdf](http://legassembly.gov.yk.ca/pdf/MLA_Salaries_and_Benefits_Report_February_27_2018.pdf).

The report was issued pursuant to section 54 of the *Legislative Assembly Act* ("the Act"), which tasks MSB in each new Legislative Assembly with deciding whether such a review should take place, and if so, "establish[ing] a mandate for that review and make the appointment of a person or persons to conduct the review not later than six months' after the polling day of the past general election."

Section 54 was added to the Act "pursuant to a recommendation made to the Yukon Legislative Assembly by the MLA Salaries and Benefits Commission in October of 2007" (Mr. Michael had also authored that Commission's 2007 report).

After the 2011 general election, MSB deemed that the review was not required.

The 2018 report makes recommendations regarding MLA indemnities and expense allowances, the salaries of certain office holders, the MLA pension plan, severance allowances, and expense reimbursement.

In light of an amendment to the federal *Income Tax Act* making members' formerly non-taxable expense allowances taxable effective January 1, 2019, the report recommends that as of April 1, 2019, the annual indemnity for members be increased, and that members cease to receive an expense allowance.

The report also recommends increases to salaries of presiding officers, ministers, and leaders. These increases would also be effective as of April 1, 2019.

Another recommendation in the report is that the Assembly ensure the sustainability of the MLA pension plan with a view to "equitably sharing the costs of the plan between MLAs and the Government of Yukon." In that vein, the review recommends replacing members' current pension plan.

Another recommendation in the salaries and benefits report is that the *Legislative Assembly Act* be amended to contain "simple and clear direction" on severance allowances.

Finally, the report recommends that MSB undertake a comprehensive review of the *Legislative Assembly Act*, and focus in particular on governance authority.

Some of the recommendations contained in the report are reflected in Bill No. 25, *Act to Amend the Legislative Assembly Act* (2018).

### **Bill No. 25, Act to Amend the Legislative Assembly Act (2018)**

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On October 9, following the introduction of Bill No. 25, *Act to Amend the Legislative Assembly Act* (2018) by Government House Leader **Tracy-Anne McPhee**, Speaker Clarke (in his role as Chair of the Members' Services Board) issued a news release regarding the bill. The release notes that the bill, which concerns MLAs' pay and benefits, "proposes four amendments to the *Legislative Assembly Act*:"

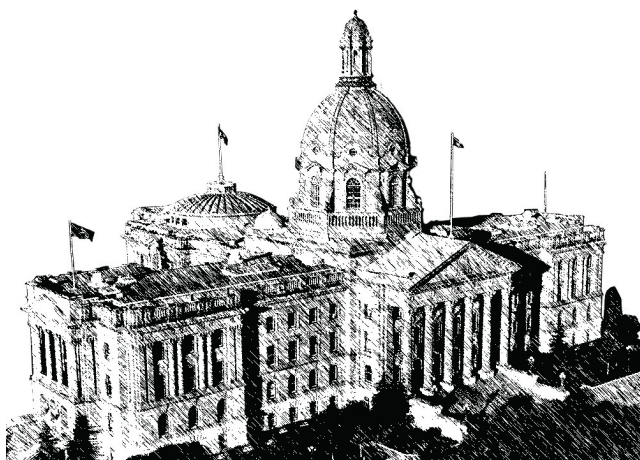
- The amounts specified for indemnities and salaries are changed to reflect adjustments that have been made since 2007 (the last time the Act was revised for this purpose). The adjustments are based on changes to the Consumer Price Index for Canada and do not represent a net increase.
- The amount specified for the expense allowance has been changed to reflect Consumer Price Index adjustments since 2007 and to compensate MLAs for the loss of tax-exempt status due to changes to the *Income Tax Act* (Canada). These changes take effect on January 1, 2019 and needed to be addressed. The changes do not represent a net

increase. Yukon is one of only three remaining jurisdictions where MLAs still receive a tax-free expense allowance as part of their pay.

- The salaries of the Premier, the Speaker, the Deputy Speaker and the Leader of the Third Party will be increased. The increases will take effect on April 1, 2019. Once they are changed, the salaries will be at a level equivalent to 25 percent below the national average for each respective office holder. Salaries paid to Yukon office holders remain the lowest in Canada. The salaries for Cabinet Ministers (other than the Premier) and the Leader of the Official Opposition will not increase as their current compensation is slightly higher than 25 percent below the national average proposed benchmark.
- The formula for calculating the severance allowance for former MLAs has been changed. The new formula links severance payments to completed years of service rather than to fixed service thresholds. This results in significantly lower severance costs going forward and reflects the approach of most other jurisdictions."

The news release is posted at the following link: [http://legassembly.gov.yk.ca/pdf/news\\_release\\_oct9\\_2018.pdf](http://legassembly.gov.yk.ca/pdf/news_release_oct9_2018.pdf).

**Linda Kolody**  
Deputy Clerk



## Alberta

### Change to Cabinet

On June 18, 2018, **Brian Malkinson**, MLA (Calgary-Currie), replaced **Stephanie McLean**, MLA (Calgary-Varsity) as Minister of Service Alberta. In addition, **Brandy Payne**, MLA (Calgary-Acadia), is no longer serving as Associate Minister of Health and this portfolio has been discontinued. This move reduces the size of Cabinet to 19 ministers in addition to the Premier.

### Change to Caucus

On July 14, 2018, **Prab Gill**, MLA (Calgary-Greenway), resigned from the United Conservative Party (UCP) caucus following the completion of a report into accusations of his alleged involvement in procedural irregularities during the election of a board for the constituency association in Calgary-North East. Mr. Gill indicated that he disagreed with the findings of the report but would accept them and that he would continue serve his constituents as an Independent MLA.

**Derek Fildebrandt**, MLA (Strathmore-Brooks), who has been sitting as an Independent in the Assembly, has become the interim leader of the new Freedom Conservative Party of Alberta (FCP) and will be recognized in the upcoming sitting as a member of the FCP in the Assembly. The FCP has indicated it will have a leadership contest this fall, and that it will only run candidates in areas of the province where the governing New Democratic Party (NDP) is less popular in order that a conservative candidate may have the best opportunity to prevail.

With these developments the composition of the Legislative Assembly is now 54 seats for the NDP, 26 seats for the UCP, three seats for the Alberta Party, and one seat each for the Alberta Liberal Party, the Progressive Conservative Party, the FCP and an Independent Member.

### Changes to the Standing Orders

On May 8, 2018, the Assembly approved amendments to the Standing Orders which impacted the daily routine of the Assembly and participation in committee meetings. Standing Order 7, which requires unanimous consent for the Daily Routine to extend beyond 3 pm, was amended with the addition of a suborder stating that the "Government House Leader, or member of the Executive Council acting on the Government House Leader's behalf, may provide notice to the Assembly prior to 3 pm on that day that the daily routine shall continue beyond 3 pm." Standing Order 56 was also amended to remove the 24-hour notice requirement for the temporary substitution of committee members at meetings. While the 24-hour notice requirement remains in place for the Chair and Deputy Chair, the substitution of other Members is now permitted right up to the scheduled start time for the meeting. In addition, the Chair or Deputy Chair may now designate an existing committee member to act as Chair or Deputy Chair, while also designating another Member as a substitute on the committee.



## Committee Activity

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The Standing Committee on Resource Stewardship completed its review of the *Conflicts of Interest Act* and released its report which contains recommendations regarding changes to employment and post-employment restrictions, clarification related to receipt of gifts and travel on non-commercial aircraft, and multiple changes to the consideration of private interests.

The Standing Committee on Alberta's Economic Future is continuing its review of Bill 201, *Employment Standards (Firefighter Leave) Amendment Act, 2018*. The Committee has received written submissions and stakeholder presentations regarding the Bill and will pursue its deliberations this fall.

## Clerk of the Assembly - Retirement

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The seventh Clerk of the Legislative Assembly of Alberta, **Robert Reynolds**, retired at the end of September 2018. During his 25-year career with the Legislative Assembly Office, Mr. Reynolds served in many capacities including Senior Parliamentary Counsel, and Law Clerk and Director of Interparliamentary Relations, before taking on the role of Clerk in 2016.

**Jody Rempel**  
Committee Clerk



## British Columbia

As reported in the Volume 41, No. 3 (Autumn) issue, the Legislative Assembly of British Columbia adjourned on May 31. While the fall sitting of the 41<sup>st</sup> Parliament did not resume until October 1, parliamentary committees were active during the July to September reporting period, with two public consultations and two statutory appointment processes underway.

As consideration of the budget and estimates were completed in the spring, the fall sitting, which is expected to conclude by the end of November, will likely focus on legislation.

## Parliamentary Committees

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### *Public Consultations*

As previously reported in the fall, the Select Standing Committee on Agriculture, Fish and Food was reinstated and given a terms of reference to inquire into and make recommendations concerning local meat production and inspection. The Committee travelled to five communities and heard 50 presentations from those in the meat producing and processing industries. The Committee also received 36 written submissions, and 74 survey responses during the consultation and received informational briefings from the Ministry of Agriculture, officials from two regional health authorities, and a representative of the Sustainable Ranching Program at Thompson Rivers University. The Committee's unanimous report was released on September 28 and presented to the Legislative Assembly on October 2. The report makes 21 recommendations to address challenges including local slaughter capacity and training and retention of skilled labour, and focuses on ways to support and encourage industry growth.

The Select Standing Committee on Finance and Government Services held its annual budget consultation from September 17 to October 15, pursuant to the *Budget Transparency and Accountability Act*. This year, the Committee renewed their consultation outreach and engagement to encourage more British Columbians to participate, particularly Indigenous organizations, community-based groups and first-time presenters. The Chair and Deputy Chair reached out directly to 37 Indigenous leaders in the 14 communities visited by the Committee to encourage participation. Advertisements were placed in local newspapers in three languages, and distributed to libraries, constituency offices, and community centres across the province. The Committee will review all input to make recommendations to the Legislative Assembly on what should be in the next provincial budget. The Committee's report must be released by November 15.

### *Statutory Officer Appointment Processes*

As reported in the previous issue, the Legislative Assembly appointed the Special Committee to Appoint a Representative for Children and Youth in April following **Bernard Richard's** announcement of his resignation as B.C.'s Representative for Children and Youth, effective August 31. In a report released

on July 16, the Special Committee to Appoint a Representative for Children and Youth unanimously recommended **Jennifer Charlesworth** be appointed as Representative.

Pursuant to section 2(1) of the *Representative for Children and Youth Act*, the Representative is appointed by a resolution of the House. As the House would not be sitting until October 1, to provide continuity in the position, the Select Standing Committee on Children and Youth unanimously appointed Ms. Charlesworth as Acting Representative effective August 31, 2018, pursuant to section 5(2) of the Act. On October 1, 2018, the Legislative Assembly adopted a resolution appointing Ms. Charlesworth as B.C.'s third Representative for Children and Youth for a five-year term.

The Special Committee to Appoint a Police Complaint Commissioner is continuing its work pursuant to section 47 of the *Police Act*. The committee is accepting applications until October 12.

#### *Legislative Assembly Management Committee Accountability Report*

The Legislative Assembly Management Committee released its *Accountability Report 2016-17* on August 27. The report summarizes and reports on the financial and administrative work of the Assembly. The independently audited financial statements for the 2016-17 fiscal year received an unqualified opinion from the Auditor General of B.C. for the fourth year in a row.

Key Assembly initiatives highlighted in the report include transition services for the large number of new Members following the 2017 provincial election including a new website, procedural briefings, and orientation open houses. The Assembly is also working to ensure that citizens are informed about the work of the Legislative Assembly through information initiatives such as digitizing documents, and conducting engagement through the Assembly website, social media accounts, and a new consultation portal. Finally, constituency office expenses were centralized to streamline administration, enhance reporting, provide consistent procedures and ensure that Members remain in control of spending decisions.

#### *Statute Revisions*

On May 16, 2018, the Legislative Assembly referred the revision of four statutes to the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills for examination and recommendation, pursuant to section 3 of the *Statute*

*Revision Act*. At its meeting on May 28, the Committee approved the recommended revisions to three statutes: the *Health Act*, the *Veterinary Drugs Act* and the *Trespass Act*. The Committee considered revisions for the fourth statute, the *Workers Compensation Act*, on July 25. As there were concerns that additional revisions may be made to the statute in the fall sitting, the Committee decided further discussion was warranted.

#### **Social Media**

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The Legislative Assembly launched an Instagram account on September 28. The account will add to the existing social media presence that the Legislative Assembly has built through its Facebook and Twitter accounts. Instagram will serve as another outreach tool to reach a new demographic of British Columbians. As with all of the Assembly's social media accounts, the focus will be on raising awareness of and educating British Columbians about the work of the Legislative Assembly and its Members, and the history of parliamentary democracy in B.C.

The account already has 200 followers, and as it grows will reach a new audience adding to the Assembly's 5,500 Facebook and Twitter followers. All three accounts are also a part of outreach efforts for parliamentary committee consultations. Over the summer, there has been a new interest in producing and posting videos, and Members have been featured in videos shared from the road to promote committee consultation opportunities.

#### **Sustainability Initiatives**

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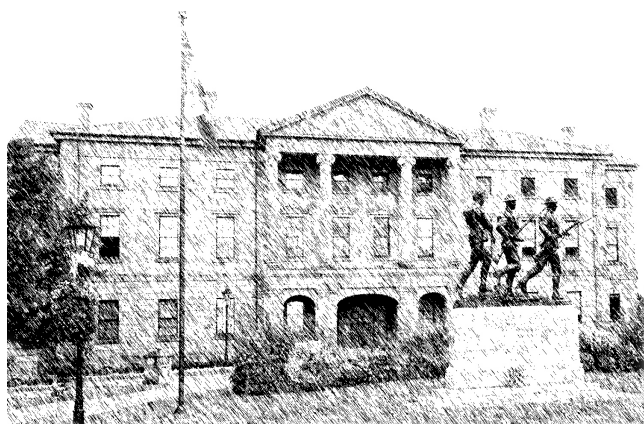
Two bike repair stations were added to existing bike racks and lockers at the Legislative Assembly on August 24, 2018. The repair stations are equipped with hand pumps and nine tools for performing repairs and adjustments to bikes. The initiative is part of ongoing work to promote sustainable and healthy modes of transportation by facilitating cycling, public transit, and the use of electric vehicles.

#### **Employee Recognition**

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The Legislative Lights Employee Recognition Program recognizes Legislative Assembly staff for their leadership dedication and service to the Assembly. Fifty-five nominations from across all Assembly departments were received in five award categories. All nominees and the winners, as well as eight employees celebrating 25 and 35 years of service, were recognized on June 6.

**Nicki Simpson**  
Committee Researcher



## Prince Edward Island

### Third Session, Sixty-fifth General Assembly

Having adjourned to the call of the Speaker on June 12, 2018, the Third Session of the Sixty-fifth General Assembly shall resume on November 13, 2018, in the Honourable George Coles Building.

#### House Business

In terms of business carried over from the last sitting, there remain two Government Bills, nine Private Members' Bills, 11 Government Motions, and 44 Motions Other Than Government available for debate.

#### Leader of the Opposition

On September 17, 2018, Leader of the Official Opposition **James Aylward** announced his intention to resign as leader of the Progressive Conservative Party of PEI. He will remain leader of his party until a new leader is chosen and intends to run again in the next provincial election in the district of Stratford-Keppoch. The other members of the Official Opposition caucus have indicated that they do not intend to seek the party leadership.

#### Joint CCPAC-CCOLA Conference

From September 23-25, 2018, the Legislative Assembly hosted the annual joint conference of the Canadian Council of Public Accounts Committees and Canadian Council of Legislative Auditors. Delegations of parliamentarians, auditors general, parliamentary staff and audit staff met to discuss topics such as communications in the current digital landscape, qualified audit opinions, information technology audit and accountability, and a recent survey of Canadian Public Accounts Committees. The CCPAC group held additional sessions on matters such as new developments in Canadian Public Accounts Committees and orientation to the role of Public Accounts Committee Member.

### Clerk of the Legislative Assembly

In August, 2018, Clerk of the Legislative Assembly **Charles MacKay** announced his intention to retire effective March 30, 2019. Mr. MacKay has served the Legislative Assembly for 33 years, and has held the position of Clerk since May 18, 2000. The Standing Committee on Legislative Management began its search for a new Clerk in fall 2018.

**Ryan Reddin**

Clerk Assistant – Research and Committees



## Senate

### In the Chamber

In September 2018, Bill S-228, *An Act to amend the Food and Drugs Act (prohibiting food and beverage marketing directed at children)*, was read a third time in the House of Commons and returned to the Senate with amendments.

In addition, three government bills were introduced and read a first time: C-64, *An Act respecting wrecks, abandoned, dilapidated or hazardous vessels and salvage operations*; C-68, *An Act to amend the Fisheries Act and other Acts in consequence*; and C-71, *An Act to amend certain Acts and Regulations in relation to firearms*.

The second reading debate began on two government bills, C-21, *An Act to Amend the Customs Act*, and C-62, *An Act to amend the Federal Public Sector Labour Relations Act and other Acts*.

### Committees

On September 20, 2018, the nineteenth report of the Standing Senate Committee on National Security and Defence, entitled *From Soldier to Civilian: Professionalizing the Transition*, was adopted and a government response was requested.



On September 25, 2018, the twenty-seventh report of the Standing Senate Committee on Social Affairs, Science and Technology, entitled *The Shame is Ours: Study on the Forced Adoptions of the Babies of Unmarried Mothers in Post-war Canada*, as well as the thirty-second report of the Standing Senate Committee on National Finance report, entitled *The Phoenix Pay Problem: Working Toward a Solution*, were adopted and government responses were requested.

On September 27, 2018, the twenty-fourth and twenty-sixth reports of the Standing Senate Committee on Social Affairs, Science and Technology, entitled *The Federal Role in a Social Finance Fund*, and *Breaking Down Barriers: A critical analysis of the Disability Tax Credit and Registered Disability Savings Plan*, respectively, were adopted and government responses were requested. On the same day, the twenty-fourth report of the Standing Senate Committee on National Finance, entitled *Fair, Simple and Competitive Taxation: The Way Forward for Canada*, was also adopted and a government response was requested.

The Standing Senate Committee on Transport and Communications tabled its thirteenth report of the committee, entitled, *The Tax Deductibility of Foreign Internet Advertising in Canada*, with the Clerk of the Senate during the summer adjournment.

Between August 7 and 11, 2018, the Standing Senate Committee on Human Rights travelled to Edmonton, Alberta, and Abbotsford, British Columbia, for public hearings to continue its study on the human rights of prisoners in the federal correctional system. Senators met with stakeholders, including correctional officers, prisoners, government officials and members of advocacy groups.

The Special Senate Committee on the Arctic began a week of fact-finding in the Arctic as part of its investigation into the issues facing the region. Between September 5 and 12, 2018, members of the committee conducted their fact-finding mission in Kuujuaq, Québec; Nain, Newfoundland and Labrador; Iqaluit, Nunavut; Baker Lake, Nunavut; Cambridge Bay, Nunavut; Yellowknife, Northwest Territories; Inuvik, Northwest Territories; and Whitehorse, Yukon. The committee is working to produce a report intended to complement the government's work in developing a long-term vision for the Canadian Arctic.

### Senators

During this period, three senators appointed on the advice of Prime Minister **Justin Trudeau** were introduced and sworn in. Senator **Julie Miville-Dechéne** (Québec– Inkerman), had been summoned

to the Senate in June, and was introduced and sworn in on September 18, 2018, the first sitting day following the summer adjournment. She is an award winning journalist who can also count amongst her accomplishments becoming the first woman ombudsman of Radio-Canada, being named Chair of the Québec government's Conseil du statut de la femme and representing Québec at the Permanent Delegation of Canada to UNESCO as the Québec government envoy for human rights and freedoms.

Senator **Beverly Ann Busson** (British Columbia) and Senator **Martin Klyne** (Saskatchewan) were introduced and sworn in on September 25, 2018. Senator Busson held a career as a law enforcement officer of many firsts. She was the first woman commissioned officer, the first woman criminal operations officer, the first woman commanding officer, the first woman deputy commissioner of a region and in 2006 she was named the first Commissioner of the RCMP. Senator Busson was invested as a Commander of the Order of Merit of Police Forces, awarded the Canadian Forces Vice Chief of Defence Staff Commendation and the Order of British Columbia, and appointed as a Member of the Order of Canada.

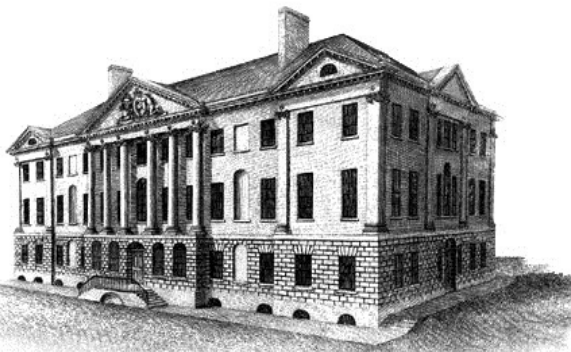
Senator Klyne is a proud Cree Métis who has spent much of his time advancing Aboriginal economic development and speaking up for Aboriginal interests to promote their participation in the economy. He is a member of the FHQ Developments Ltd. Board of Directors and has held senior positions such as Chief Executive Officer of the RCMP Heritage Centre and Chief Operating Officer of the Queen City Sports and Entertainment Group (operating as the Regina Pats Hockey Club). Senator Klyne has received the Alumni Award for Distinguished Professional Achievement from the University of Regina, the Queen Elizabeth II Diamond Jubilee Medal, the Saskatchewan Centennial Medal, and a First Nations Blanket from the Assembly of First Nations' National Chief, **Perry Bellegarde**.

In terms of departures from the Upper House, Senator **Anne C. Cools** (Toronto-Centre – York) retired on August 11, 2018. Senator Cools was appointed to the Red Chamber on the advice of Prime Minister **Pierre Trudeau** in 1984. She was the first black person to be appointed to the Senate of Canada. Senator Cools was a social worker and she ran as a candidate in the 1979 and 1980 federal elections. Senator Cools served as deputy chair on the Standing Senate Committee on National Finance and the Subcommittee on Veterans Affairs. She has served as a member on numerous Senate standing committees, including: Foreign Affairs and International Trade; Rules, Procedures

and the Rights of Parliament; Legal and Constitutional Affairs; and the special Senate committees on Senate Modernization; and on Aging; and the Special Joint Committee on Child Custody and Access.

Senator **Art Eggleton**, (Ontario – Toronto) retired on September 29, 2018. He was appointed on the advice of Prime Minister **Paul Martin** in 2005. Senator Eggleton, P.C., is a former Mayor of Toronto and cabinet member. Senator Eggleton served as a member on many Senate standing committees, including Transport and Communications, National Finance, Human Rights, and Social Affairs, Science and Technology, the latter of which he chaired from 2006 to 2011 and again from 2017 until his retirement. He also served on the Special Senate Committee on Senate Modernization and the Subcommittee on Cities.

**Ferda Simpson**  
Procedural Clerk



## Nova Scotia

The Fall 2018 sitting of the House of Assembly commenced with the Speech from the Throne read by Lieutenant Governor **Arthur J. LeBlanc** on September 6, 2018.

The sitting continued until October 11, 2018 when Royal Assent was given to 22 government bills, one private Members' bill and one private bill and one Local bill.

### Rules and Forms of Procedure of the House of Assembly

The House of Assembly amended Rule 60 relating to the House of Assembly standing committees. Two former committees, the Economic Development and the Resources Committees, were combined. The newly created committee was named the Natural Resources and Economic Development. A new committee, the

Health Committee, was also created with the mandate of considering matters relative to access to and delivery of health care services.

### Deputy Speaker

On September 13, 2018, **Brendan Maguire**, Liberal MLA for Halifax Atlantic was elected as Deputy Speaker by the House of Assembly. On July 5, 2018 one of the former Deputy Speakers, **Chuck Porter**, resigned his position and was appointed to the Executive Council.

### Speaker's Ruling

On October 2, 2018 the Speaker delivered a ruling on a point of privilege raised on September 26, 2018. The issue related to the government majority on the Public Accounts Committee passing a motion purported to result in fundamentally changing the mandate of that committee. The committee's mandate can only be changed by amending the Rules and Forms of Procedure of the House of Assembly thus requiring a two-thirds majority vote in the House. The Speaker found that there had been no point of privilege and stated the following regarding the purported change in mandate of the committee: "I want to add a further comment because the objection was framed as a change to the House Rules having been made by a committee rather than by a two-thirds vote of the House itself; that is, the mandate of the Public Accounts Committee set out in Rule 60 had been changed. This was not the case. The motion that was passed by the committee reads: *All agenda items for PAC be set through the Auditor General reports beginning with the May 29, 2018 performance report and future agenda sequences for scheduling to follow the order of chapters for each subsequent report tabled by the Auditor General with appropriate department witnesses.* This was simply a motion to establish the agenda items for the committee, within the mandate of the committee. It does remain open to the committee to adopt other agenda items in the future, and nothing precludes any member of that committee from proposing motions for other agenda items. I have only addressed this because I wanted to bring clarity to the point that the Rules and Forms of Procedure have not been changed and that the Public Accounts Committee's mandate remains the same."

### 200<sup>th</sup> Anniversary Province House

The Legislature met for the first time in the current Province House on February 11, 1819. It is the oldest legislative building in Canada and preparations are underway to celebrate this 200<sup>th</sup> anniversary in 2019. Great effort has been made in recent years to protect and maintain Province House as a symbolic home of all Nova Scotians. The anniversary will emphasize its

role in the constitutional evolution of Canada, its rich history, unique architecture, and continuity as the seat of government and an important cultural asset to our province.

Of note will be a ceremony in the Assembly Chamber on February 11, 2019 as well as several citizenship ceremonies and a concert series in the Red Chamber. In partnership with Symphony Nova Scotia a new fanfare composition will premiere at the February 7 concert. In July, the House of Assembly will host the 57<sup>th</sup> Annual Canadian Regional Conference for the Commonwealth Parliamentary Association.

A new logo was unveiled to mark the anniversary and represents the building and its wealth of architecture and unique details. The logo draws its inspiration from a circular window from the pediment on the west side of the building. It presents a pattern and shape seen throughout the House. The circular shape implies movement, openness, and unity. It is a symbol of eternity and celebrates the longevity of Province House. The window represents a place for looking inward and outward and it is a place to look and see a province that is moving in a positive direction and an opportunity to look in and see our impressive past. The Caslon font was used in Joseph Howe's newspaper, the *Novascotian*, in the 1840s and the blue is based on an historic colour from that period.



**Annette M. Boucher**  
Assistant Clerk



## Manitoba

### 3<sup>rd</sup> Session of the 41<sup>st</sup> Legislature – Fall Sitting

The Third Session of the 41<sup>st</sup> Legislature resumed on October 3, 2018 with the Session scheduled to end on November 8, 2018. During the Fall sittings, the House is required to complete consideration of the following five Designated Bills selected by the Official Opposition in the Spring for further consideration this Fall:

- *Bill 8 – The Government Notices Modernization Act (Various Acts Amended)*, which amends The Queen's Printer Act to establish the deputy minister of the department that administers the Act as the Queen's Printer and to require the Queen's Printer to make The Manitoba Gazette, an official government publication, available to the public online at no cost. The Bill also amends provisions in 24 statutes that relate to the government's publication of official notices so that they may be published online;
- *Bill 12 – The Red Tape Reduction and Government Efficiency Act, 2018*, which amends several Acts and repeals four Acts to reduce or eliminate regulatory requirements or prohibitions and to streamline government operations;
- *Bill 16 – The Climate and Green Plan Implementation Act*, enacting a new Act requiring the government to develop a plan with a comprehensive set of policies, programs and measures designed to reduce greenhouse gas emissions, address the effects of climate change, promote sustainable development and protect Manitoba's water resources and natural areas;
- *Bill 24 – The Social Services Appeal Board Amendment Act*, adding a provision to The Social Services Appeal Board Act stating that the appeal board has no jurisdiction to consider constitutional challenges to legislation or to grant remedies under the Canadian Charter of Rights and Freedoms;
- *Bill 27 – The Fiscal Responsibility and Taxpayer Protection Amendment Act*, amending the act in parts relating to penalizations for ministers by reducing their salaries if the deficit is not reduced by at least \$100 million each year.



In accordance with the Manitoba Rules, the House completed Second Reading of Designated Bills on October 4, 2018. At the time of this submission, Committee consideration must be completed by October 30, while Concurrence and Third Reading must be then completed by November 8, 2018, with the five Designated Bills receiving Royal Assent before the House rises that day.

### New Member for St. Boniface

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On July 17, 2018, citizens of the constituency of St. Boniface elected Manitoba Liberal Leader **Dougald Lamont** as their MLA, filling a seat left vacant when former premier **Greg Selinger** resigned in March. Prior to entering into politics, Mr. Lamont worked as a writer, editor and policy analyst. He was elected Manitoba Liberal leader at the October 21, 2017 Liberal leadership convention.

### Second Opposition Party

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Following the by-election in St. Boniface, the Manitoba Liberal Party obtained a fourth seat in the Legislative Assembly, hence achieving the status of an officially Recognized Party. The last time the Legislative Assembly of Manitoba had three recognized parties was March 21, 1995, during the 35<sup>th</sup> Legislature.

As a Recognized Opposition Party, the Liberal Leader will now become Leader of the Second Opposition and will have unlimited speaking time on government motions. The caucus also obtained a permanent seat on every Standing Committee (membership was previously assigned to the Independent Members), they are no longer required unanimous consent to reply to Ministerial Statements and a new rotation of speakers in Oral Questions and Members' Statements is now in place.

### Standing Committees

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During the summer, the Standing Committees on Legislative Affairs met twice to start the hiring process of a new Ombudsman and to reappoint the Conflict of Interest Commissioner and Information and Privacy Adjudicator.

### Amendments to the Rules, Orders and Forms of Proceedings

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On October 3, the Standing Committee on the Rules of the House met to consider amendments to the Rule Book. The following amendments were agreed to by the Committee at that meeting and if concurred in by the House by November 8, 2018 will become permanent rules effective November 20, 2018:

- Specifying enforcement procedures for concluding the "Business of Supply" to take place in the Fall sitting;
- Changing the timing of the Second Reading question period on deadline days to follow the same process as a regular sitting day, with the Question Period after the sponsor's speech;
- Allowing House Leaders to call bills for debate on Tuesdays and Thursdays in the first hour of Private Members' Business and to allocate blocks of time for consideration of each bill if they wish to call more than one bill for debate;
- Codifying existing practice that challenges to Speaker's Rulings on Matters of Privilege require the support of at least four Members;
- Deleting the model where a Committee of Seven met to determine the membership composition of Standing Committees and assigns determination to the House Leaders, in cooperation with the Speaker.

### Current Party Standings

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The current party standings in the Manitoba Legislature are: Progressive Conservatives 39, New Democratic Party 12, Liberals four, with two Independent Members.

**Andrea Signorelli**

Clerk Assistant/Clerk of Committees



## House of Commons

The First Session of the Forty-Second Parliament continued as the House reconvened on September 17, 2018, having adjourned for the summer on June 20, 2018. The report below covers the period from June 22, 2018 to October 1, 2018.

## Procedure and Privilege

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### *Points of Order*

On October 1, 2018, the Parliamentary Secretary to the Leader of the Government in the House of Commons, **Kevin Lamoureux** (Winnipeg North) rose on a point of order regarding a picture published on social media by **Pierre Nantel** (Longueuil—Saint-Hubert). The Speaker immediately reminded Members that photography is not permitted in the House while it is in session. Although the picture was removed from social media, Mr. Nantel made no apologies for his actions. On October 3, 2018, the Assistant Deputy Speaker, **Anthony Rota** (Nipissing—Timiskaming), reminded Mr. Nantel that by disobeying the rules of the House, he would not be recognized to speak for a few days.

### Other Matters

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#### *Members*

Effective September 14, 2018, **Maxime Bernier** (Beauce) began sitting as a member of the People's Party of Canada.

On September 17, 2018, the Speaker informed the House of the resignation of **Thomas Mulcair** (Outremont) and **Kennedy Stewart** (Burnaby South) effective August 3 and September 14, 2018, respectfully.

On September 17, 2018, **Leona Alleslev** (Aurora—Oak Ridges—Richmond Hill) rose on a point of personal privilege to announce her departure from the Liberal caucus and began sitting as a member of the Conservative caucus. Immediately following her announcement in the House, Ms. Alleslev crossed the floor to join the Official Opposition.

Effective September 17, 2018, **Rhéal Fortin** (Rivière-du-Nord), **Monique Pauzé** (Repentigny), **Louis Plamondon** (Bécancour—Nicolet—Saurel), **Gabriel Ste-Marie** (Joliette) and **Luc Thériault** (Montcalm) are no longer members of Québec debout and now sit as members of the Bloc Québécois.

On September 17, 2018, the Speaker informed the House that the Clerk had received from the Chief Electoral Officer a certificate of election of **Richard Martel** (Chicoutimi—Le Fjord). Mr. Martel, having taken and subscribed to the oath required by law, was introduced in the Chamber by the Leader of the Opposition, **Andrew Scheer** (Regina—Qu'Appelle), and **Alain Rayes** (Richmond—Arthabaska).

On September 24, 2018, **Peter Van Loan** (York—Simcoe) made a statement on the occasion of his imminent resignation as Member of Parliament

during Government Orders and second reading of Bill C-81, *An Act to ensure a barrier-free Canada*. During the period of debate, the Speaker and the Assistant Deputy Speaker, Mr. Rota, as well as **Rodger Cuzner** (Cape Breton—Canso), **Diane Finley** (Haldimand—Norfolk), **Kyle Peterson** (Newmarket—Aurora) and **Randall Garrison** (Esquimalt—Saanich—Sooke) made comments in tribute to Mr. Van Loan. On October 1, 2018, the Speaker informed the House of the resignation of Mr. Van Loan, effective September 30, 2018.

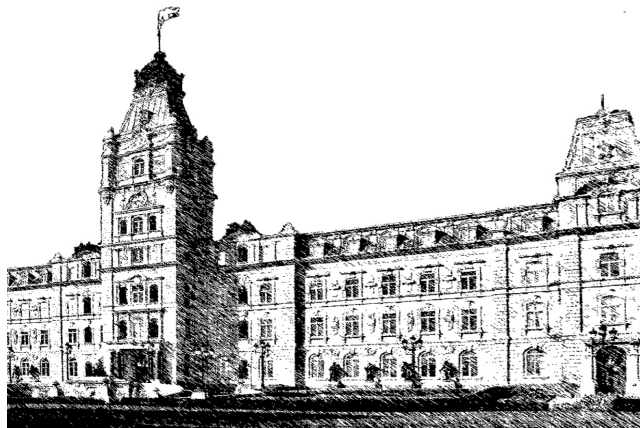
On September 26, 2018, the Speaker informed the House that **Mark Holland** (Ajax) had been appointed to the Board of Internal Economy in replacement of **Pablo Rodriguez** (Honoré-Mercier) who is now Minister of Canadian Heritage and Multiculturalism. Mr. Holland assumed the duties of Chief Government Whip.

#### *Resolutions*

On September 20, 2018, the House adopted by unanimous consent a resolution that endorsed the findings of the United Nations fact-finding mission that crimes committed by the Myanmar military against the Rohingya and other ethnic minorities constitutes genocide.

**Danielle Widmer**

Table Research Branch



## Québec

### National Assembly Proceedings

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#### *Composition*

On August 15, 2018, the Member for Brome-Missisquoi, **Pierre Paradis**, rejoined the caucus of the parliament group forming the Government. Mr.

Paradis had been sitting as an independent Member since January 26, 2017.

#### *Dissolution of the National Assembly*

On August 23, 2018, the Lieutenant-Governor dissolved the National Assembly. Consequently, voters of Québec's 125 electoral divisions will go to the polls for a general election on October 1, 2018. It should be recalled that on February 23, 2017, the Commission de la représentation électorale du Québec established a new electoral map changing the boundaries of 28 electoral divisions. This new map came into effect on 23 August 2018.

At the dissolution of the 41<sup>st</sup> Legislature, the composition of the Assembly was as follows: Québec Liberal Party, 68 Members; Parti Québécois, 28 Members; Coalition Avenir Québec, 21 Members; independent Members, 8 including 3 sitting under the Québec Solidaire banner. On September 15, 2018, at the close of nominations, 32 Members were not running for re-election.

#### *Special events*

Under the chairmanship of **Jacques Chagnon**, President of the National Assembly and President of the Assemblée parlementaire de la Francophonie (APF), the 44<sup>th</sup> Annual Session of the APF was held in Québec City, from July 5 to 10, 2018. With its focus on good practices for parliaments in a digital world, this meeting was attended by nearly 300 parliamentarians hailing from 58 branches composed of parliaments and interparliamentary organizations.

For the first time since its creation, a president's plan promoting the digital theme had been presented by the Québec Branch at the 2017 session in Luxembourg. The plan was implemented during the past year and led to the publishing of a compendium of good practices on this topic and the adoption of the Québec declaration on challenges of the digital era.

During this 44<sup>th</sup> Session, Mr. Chagnon unveiled a monument inspired by **Alfred Laliberté's** original bronze *Le député arrivant à Québec* housed in the Musée national des beaux-arts du Québec. Located on the Parliament Building's esplanade, this statue, erected as part of the 225<sup>th</sup> anniversary of Québec's parliamentary institutions celebrated in 2017, depicts one of the first Members of Parliament arriving in Québec City after the first election, held in 1792.

#### **Committee proceedings**

##### *Tabling of the first 2018 Pre-election report*

Since 2015, the Québec Minister of Finance must table

a pre-election report on the state of Québec's public finances and economic forecasts. The Auditor General of Québec (VGQ), who is an officer of the Québec National Assembly, must examine, in a separate report, the plausibility of forecasts and assumptions contained in the pre-election report.

In preparation for the Québec general election of October 1, 2018, both of these reports were sent for the first time to the President of the Québec National Assembly on August 20, 2018. The Québec Auditor's findings were also presented to the members of the Committee on Public Administration (CPA) and the Committee on Public Finance (CPF) during an informal briefing.

See both reports at the following addresses:

- Rapport préélectoral sur l'état des finances publiques du Québec - 2018 (in French only) <http://www.rapportpreelectoral.gouv.qc.ca/RPE/2018/en/index.asp>;
- Rapport du VGQ sur le Rapport préélectoral - 2018 [http://www.rapportpreelectoral.gouv.qc.ca/RPE/2018/en/documents/RapportPreelectoralENG\\_2018.pdf](http://www.rapportpreelectoral.gouv.qc.ca/RPE/2018/en/documents/RapportPreelectoralENG_2018.pdf).

#### **Assessment of the 41<sup>st</sup> Legislature**

The months of July to September 2018 coincided with the summer break and the calling of a general election. This ended the 41<sup>st</sup> Legislature (May 20, 2014 to August, 23 2018). Here is an overview of the main mandates carried out by the committees during this period:

*Clause-by-clause consideration of public bills: a type of mandate that mobilizes committees*

This type of mandate represented more than half of committee sittings. The committees gave clause-by-clause consideration to 124 public bills. Among these, the clause-by-clause consideration of Bill 157, *An Act to constitute the Société québécoise du cannabis, to enact the Cannabis Regulation Act and to amend various highway safety-related provisions*, required the most sittings – a total of 32 – and over 137 hours of work.

Furthermore, we noted a large number of amendments. More precisely, 5,518 amendments and subamendments were introduced during the clause-by-clause consideration of bills and close to 74 per cent of them were adopted.

*More special consultations and less general consultations: a growing trend*

Indeed, there has been a definite decline in general consultations since 2009. The 41<sup>st</sup> Legislature confirmed this trend since there were 127 special consultations



and three general consultations, including two held in the Committee on Institutions (CI).

Over 60 per cent of public bills examined during this legislature were the subject of special consultations. This too has been a trend for several years now. Over the course of these 127 special consultations, committee members heard more than 2,000 witnesses, during a total of 418 sittings, and received 2,774 briefs.

*Orders of initiative: mandates carried out over several years*

The parliamentary committees carried out 15 orders of initiative. We note that certain more complex mandates took place over a period of two years or more. This is particularly the case of the order adopted by the Committee on Citizen Relations (CCR) on Aboriginal women's living conditions as affected by sexual assault and domestic violence, which lasted over three years. The CPF's order of initiative concerning the tax havens phenomenon lasted two years and required 16 public meetings.

*Other mandates: petitions and statutory orders*

During this legislature, 702 petitions were tabled. The committees chose to examine six petitions. Once a mandate has been adopted, members hear the petitioner's originator or his or her representatives, as well as any other person or organization according to the committee's terms and conditions (length of hearings, choice of witnesses, etc.) Among these six petitions, four were examined by the Committee on Culture and Education (CCE). Three of these four petitions concerned the same subject, namely opposition to weighing students in physical education classes. In such cases, petitions on the same subject are grouped together within the same mandate. The Committee on Health and Social Services (CHSS) examined two petitions on introducing and implementing a Lyme disease action plan. Committee members heard four individuals and organizations, including a European expert.

Thirteen statutory orders were also carried out by the committees, including five by the Committee on Institutions (CI). These mandates generally consist in the examination of annual management reports, the hearing of chief executive officers of public bodies or the examination of reports on the implementation of acts.

In conclusion, each year the National Assembly publishes a statistical report on committee proceedings. This document provides an annual snapshot of the number of mandates, sittings and hours carried out by the committees overall and each committee

individually. It is also interesting to note in this document how committee activities have evolved over the past 10 years.

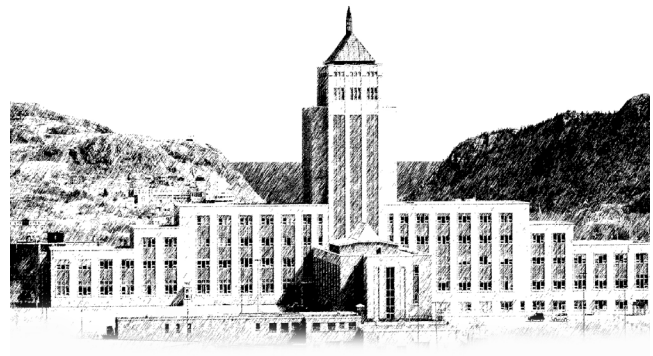
The statistical reports are available at the following address (in French only): <http://www.assnat.qc.ca/en/travaux-parlementaires/commissions/index.html>.

**Nicole Bolduc**

General Directorate for Parliamentary Affairs  
Sittings Service

**Sabine Mekki**

General Directorate for Parliamentary Affairs  
Committees Service



## Newfoundland and Labrador

### Resignations

On August 21, **Cathy Bennett**, MHA for the District of Windsor Lake resigned her seat. Ms. Bennett first elected in a by-election in April 2014 was re-elected in the 2015 general election and served as Minister of Finance from December 4, 2016 to July 31, 2017.

On October 18, **Paul Davis**, MHA for the District of Topsail – Paradise and former Premier, announced his intention to resign his seat on November 2. Mr. Davis was first elected in a by-election in 2010, and was re-elected in 2011 and 2015. He served as Premier from September 2014 to December 2015.

**Ches Crosbie**, Leader of the Official Opposition was elected the Member for the District of Windsor Lake on September 20, 2018 and sworn in on October 12 by Lieutenant Governor **Judy Foote**. The other candidates in the by-election were **Paul Antle** and **Kerri Claire Neil**.

## Other Developments

The Privileges and Elections Committee have been meeting regularly during the summer adjournment in accordance with a Resolution passed on May 2 ordering the House to undertake the development of a legislature-specific harassment-free workplace policy. The Committee has been consulting with groups and individuals experienced in handling harassment complaints. It expects to present an interim report during the fall sitting.

During the fall sitting the Commissioner for Legislative Standards is expected to report to the House the results of his investigations into allegations of breaches by Members of the House of certain provisions of the Code of Conduct made pursuant to provisions of the *House of Assembly Accountability, Integrity and Administration Act*.

**Kim Hawley George**, who had been Acting Law Clerk since October 2017 was confirmed in the position on November 15, 2018.

In accordance with the parliamentary calendar the House will convene on November 5, for the continuation of the Third Sitting of the 48<sup>th</sup> General Assembly.

**Elizabeth Murphy**  
Clerk Assistant



## Saskatchewan

### Cabinet Shuffle

Premier **Scott Moe** announced a small cabinet shuffle on August 15, 2018. **Lyle Stewart**, the Minister of Agriculture, resigned from cabinet due to health-related issues. Replacing Mr. Stewart as the Minister of Agriculture is **David Marit**. Mr. Marit was the Minister of Highways and Infrastructure and the Minister

responsible for SaskBuilds. **Lori Carr**, who entered cabinet for the first time, took over the Ministry of Highways and Infrastructure. **Gordon Wyant**, who is the Deputy Premier and Minister of Education, also returned as the Minister responsible for SaskBuilds.

### By-Election

A by-election in the constituency of Regina Northeast was held on September 12, 2018. NDP candidate **Yens Pedersen** won the by-election. He was sworn in on October 17, 2018 and took his seat in the Legislative Assembly on October 24, 2018.

The composition of the Assembly is now 48 Saskatchewan Party members and 13 NDP members.

### Prorogation and the Opening of a New Session

At the request of the government and pursuant to the order adopted by the Assembly on May 31, 2018, the second session of the twenty-eighth legislature was prorogued on the morning of October 24, 2018. The third session of the twenty-eighth legislature was opened in the afternoon by **W. Thomas Molloy**, Lieutenant Governor of Saskatchewan, who delivered his first Speech from the Throne.

### Saskatchewan Teachers' Institute on Parliamentary Democracy

From November 17 to 21, 2018, Speaker **Mark Docherty**, on behalf of the Legislative Assembly, will host a group of teachers for the 20<sup>th</sup> Saskatchewan Teachers' Institute on Parliamentary Democracy. Since the program's launch in 1999, over 300 teachers from across Saskatchewan have participated. This year, the alumni of the program have been invited to participate in special events to celebrate the milestone anniversary.

The Saskatchewan Teachers' Institute on Parliamentary Democracy gives Saskatchewan teachers the opportunity to gain a better understanding of our system of parliamentary democracy by observing, first-hand, our political system in operation. They meet with the Lieutenant Governor, Speaker, ministers, House and caucus leaders, committee chairs, as well as with private members, media, the Clerk, Legislative Assembly Service, and the members of the judiciary. On the final day of the program, the teachers participate in a mock parliament in the Legislative Chamber. They also have the opportunity to explore the Ministry of Education's websites and suggested curriculum links.

**Stacey Ursulescu**  
Procedural Clerk



## Ontario

### New Parliament

Ontario's June 7 election returned 76 Progressive Conservatives, 40 New Democrats, seven Liberals and one Green Party member. The Legislature reconvened on Wednesday, July 11, 2018 to begin the First Session of the 42<sup>nd</sup> Parliament with the election of a Speaker. **Ted Arnott**, MPP for Wellington – Halton Hills and a 27-year veteran MPP at Queen's Park, was elected as Speaker of the Legislature on the first ballot. The House returned the following day, when the Lieutenant Governor **Elizabeth Dowdeswell** delivered the new Government's speech from the throne.

### Bills

Bill 2, *Urgent Priorities Act, 2018*, was introduced on July 16, 2018 and was subsequently time allocated, receiving Royal Assent on July 25, 2018. The Bill altered the structure of the board of directors for Hydro One, Canada's largest electricity transmission distribution service provider. The Bill also addressed a labour dispute at York University and set terms by which the White Pines Wind Project would be retroactively terminated.

Bill 5, *Better Local Government Act, 2018*, was introduced on July 30, 2018 and was subsequently time allocated, receiving Royal Assent on August 14, 2018. The Bill altered the *City of Toronto Act, 2006* to cause the ward boundaries in the City of Toronto to align with federal and provincial electoral districts for the region, reducing the total number of wards in the October election from 47 to 25.

Following a legal challenge and court ruling that found Bill 5 to be unconstitutional, the Government introduced Bill 31, *Efficient Local Government Act, 2018*, on September 12, 2018. This Bill substantially recreated the contents of Bill 5, but added a provision declaring that the amendments made would operate notwithstanding sections 2 and 7 to 15 of the *Canadian Charter of Rights and Freedoms*. The use of the notwithstanding clause in legislation is a first in Ontario's history.

The Official Opposition House Leader rose on a point of order on September 15, 2018, claiming that Bill 31 should not be allowed to proceed for two reasons. First, the subject matter of the bill falls under the *sub judice* convention, as it was still being reviewed by the courts. Second, the Bill attempted to make a decision on a question that has already been decided on by the House in the same session of Parliament. The Speaker



delivered his ruling two days later, explaining that the *sub judice* convention does not “operate to limit the superior and pre-eminent right of the Legislature to legislate....” The Speaker went on to state the following: “Since the first reading of Bill 31, I think it would be hard for anyone to credibly sustain the argument that the debate has not substantially changed from the appropriate size of the city of Toronto council, and is now focused on the legitimacy and advisability of the government’s willingness to invoke the Constitution’s ‘notwithstanding’ clause in response to the court’s ruling.”

The Ontario Government’s request for a stay of proceedings on the court’s ruling associated with Bill 5 was granted on September 19, two days after the Speaker delivered his ruling. This allowed the City of Toronto to move forward with a 25-ward election without the need for the Provincial Government to proceed any further with Bill 31.

### **Committee Activities**

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Since the election, each of the Legislature’s nine Standing Committees has met to elect a Chair and Vice-Chair, appoint a Sub-committee on Committee Business, and receive an in-camera orientation.

#### *Standing Committee on General Government*

Bill 4, *Cap and Trade Cancellation Act, 2018*, was referred to the Standing Committee on General Government on October 3, 2018. The Bill seeks to repeal the *Climate Change Mitigation and Low-carbon Economy Act, 2016*, and provides for various matters related to the wind down of the Cap and Trade Program. The

Bill was time allocated on October 3, 2018, to allow for two days of public hearings and two days of clause-by-clause consideration. The Bill is expected to be reported back to the House no later than October 25, 2018.

#### *Standing Committee on Social Policy*

Bill 36, *Cannabis Statute Law Amendment Act, 2018*, was referred to the Standing Committee on Social Policy on October 4, 2018. The Bill seeks to establish safety rules in Ontario related to cannabis prior to its legalization on October 17, 2018, by making amendments to the *Cannabis Act, 2017*; *Ontario Cannabis Retail Corporation Act, 2017*; *Liquor Control Act*; *Smoke-Free Ontario Act, 2017* and the *Highway Traffic Act*. The Bill was time allocated on October 3, 2018, to allow for two days of public hearings and one day of clause-by-clause consideration. The Bill is expected to be reported back to the House for Third Reading no later than October 16, 2018.

#### *Select Committee on Financial Transparency*

On October 2, 2018, the House passed a motion that a Select Committee on Financial Transparency be appointed to consider and report to the House its observations with respect to the report submitted by the Independent Financial Commission of Inquiry. The committee has until November 1, 2018 to table an interim report and shall present its final report on December 13, 2018 or on a date to be determined by the Committee.

**Christopher Tyrell**

Committee Clerk

# *Purrlliament Hill: The Capital Cat Colony*

There are certain “must see” attractions on Parliament Hill: the Peace Tower, the Parliamentary Library, statues of prime ministers and other famous people in Canadian History... and the cats. For decades the Parliament Hill Cat Colony drew hundreds of curious onlookers and devoted fans of felines every day. Initially brought to the Hill for pest control, the cats eventually enjoyed a life of relative leisure. These well-fed and well-cared kitties spent their time sunning themselves and capturing the hearts of parliamentarians, staff, and visitors and tourists. In this article, we celebrate the Cat Colony (and Sanctuary) of Parliament Hill. Although no longer in existence, memories of these friendly, furry felines will not soon fade away..

## **Will Stos**

**D**uring a vigorous debate on the floor of the House of Commons or Senate, parliamentarians might verbally fight like cats and dogs. But for almost a hundred years (or more), actual cats enjoyed a peaceful existence just a short distance away from these chambers.

Although there is speculation the cats first arrived on the Hill during the construction of the Rideau Canal, historians have confidently traced the origins of the cat colony to at least 1924 when there was a large infestation of rats and mice after Centre block's construction.

Workers brought in cats to keep the rodent population under control. Although they did their job admirably, they also reproduced quickly. Soon, there were complaints from others working at the Hill about all the cats roaming the halls. By 1955, the use of cats as rodent deterrence ended when workers began using chemicals instead.

Nevertheless, there were still plenty of cats about – and a growing number of people who cared about their well being. Cleaners (char women) fed the cats as they visited the grounds to work in the 1930s; groundskeepers and other staff or visitors who befriended members of the colony also fed them in different locations until 1970 when Irene Desormeaux assumed the role of principal caretaker. By the 1980s, with the help of friend and neighbour, René Chartrand,

she created wooden structures west of Centre Block, near the Sir Alexander Mackenzie statue, to give the animals some shelter from the elements. Larger structures, resembling the early houses of European settlers along the St. Lawrence River, were built in 1997.

After Desormeaux's death in 1987, Chartrand took over until his retirement in 2008. He passed away in 2014. In media stories noting his death it was noted that Chartrand's job was so important, he was one of very few civilians allowed onto the Hill after the September 11 attacks.

Other volunteers helped these caretakers over the years, and the family of felines also benefitted from sponsorship from a pet food company, and complimentary veterinary care and vaccinations from the Alta Vista Animal Hospital.

By 2000, the colony numbered as many as 30. Some animals still traced their lineage back to the mid-century mousers, but the vast majority appeared to have been left by people unable or unwilling to care for them. A “trap, neuter, release” program was instituted around the turn of the century to try to limit the population, and “drop-offs” were now turned into a local animal shelter.

–Slowly, the size of the colony decreased to just four felines who were finally all adopted out in 2012. The Cat Sanctuary was decommissioned and the structures were demolished to make way for the massive construction and renovation project on the Hill. The Public Works department discussed moving the colony near a parking lot at the foot of the Hill, it was deemed too traffic-heavy to be a safe and suitable generations of cats.

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Pierre Trudeau, who enjoyed his walks, used to wander by [and] Brian Mulroney always waved from his limousine window,"<sup>1</sup> and MPs and staffers were known to stop by, the cats were perhaps most beloved by other visitors.

Alan MacEachern, a Professor in the Department of History at the University of Western Ontario in London, Ontario, noted that while living in Ottawa, he and his wife regularly strolled up Parliament Hill to visit the cat sanctuary.

"The cats were a source of great delight to tourists and locals alike, and I think there were three reasons for that delight," he explained. "First, they were cats. Second, there was the sense of how the scene played into the Canadian stereotype: of a people so tolerant, or so passive, that they permitted squatting squatters to take up residence next to the seat of government. And third, there was a sense of how it played against the stereotype: how it was domesticates, rather than conventional wildlife, which were living in the wild, year-round, in one of the coldest national capitals in the world. You couldn't visit the cats without thinking about the wild and the tame, and the thin line between the two."<sup>2</sup>

Although the cats may no longer reside on the Hill, they will live long in their admirers' collective memories. A Facebook group run by former volunteers keeps the tradition alive by sharing photos and stories of a time when dozens of furry felines (and the squirrels, groundhogs, chipmunks, racoons and birds who were often interlopers) kept court on Purliament Hill.

#### Notes:

1. "The Cats of Parliament Hill", in Pierre Burton, *Cats I Have Known and Loved* (2002), Doubleday Canada, ISBN 0385659385, pp. 107-111.
2. <http://niche-canada.org/2014/10/25/a-parliament-of-cats/>





