CPA Activities: The Canadian Scene

Second Commonwealth Conference on Delegated Legislation

F rom April 11 to 14, 1983, the Second Commonwealth Conference on Delegated Legislation was held in Ottawa under the joint auspices of the Canadian Region of the Commonwealth Parliamentary Association and the Standing Joint Committee on Regulations and Other Statutory Instruments. Following the inaugural meeting held at Canberra, Australia in 1980, the Second Conference was intended to permit further discussion of topics of common interest among parliamentarians involved in the scrutiny of delegated legislation. Conference sessions were held in the Senate Chamber and were attended by delegates from fourteen Commonwealth states and dependencies representing some twenty-six jurisdictions. A number of distinguished official and academic observers were also in attendance.

Following the official opening by Governor General **Edward Schreyer** on Monday morning, Senator **Alan Missen**, Chairman of the Australian Senate Standing Committee for the Scrutiny of Bills, reported on the first conference, after which delegates proceeded to elect **Perrin Beatty**, co-chairman of the Canadian Standing Joint Committee on Regulations and Other Statutory Instruments, as Chairman of the Conference. Delegates also heard short reports from those jurisdictions not present at the first conference. After a luncheon hosted by the Speaker of the House of Commons, **Jeanne Sauvé**, the conference resumed to hear Professor **J.R. Mallory** of McGill University present a paper entitled "Can Parliament Control the Regulatory Process?". After noting the difficulties which stand in the way of proper parliamentary scrutiny of delegated legislation, Professor Mallory concluded that "in the unending antagonistic relations between governments aiming to realize their own goals and scrutiny committees seek-

Delegates and observers, 2nd Commonwealth Conference on Delegated Legislation.
(Patterson Photographic)

ing a more open and responsive regulatory process, the balance will remain tilted towards governments". The full text of this paper will be published in the autumn issue of the *Canadian Parliamentary Review*. The conference adjourned in late afternoon and that evening delegates were received at dinner by their Excellencies the Governor General and Mrs. Schreyer.

The following day three subjects were on the agenda: The Problems of Quasi-law: directives, guidelines and departmental circulars; Government Responses to Committee Reports and Notice and Comment Procedures for Proposed Delegated Legislation and the Regulatory Agenda.

In the first of the panel discussions, Professor **René Dussault** of the Quebec *École nationale d'administration publique*, presented a paper surveying the present Canadian judicial approach to the recent proliferation of administrative directives and, while supportive of this new development in public administration, he warned the conference it should not be used "to take away from Parliament by the back door what it has recently won by the front door in the area of control over delegated legislation." In the course of the panel dis-

cussion on notice and comment procedures **Herb Gray**, President of the Treasury Board, gave delegates an overview of the Canadian efforts in this area and made particular mention of the Socio-Economic Impact Analysis policy with regard to regulation in the areas of health, safety and fairness and of the recently announced decision to request major regulatory departments and agencies to publish Regulatory Agenda on a regular basis. Following the adjournment, delegates were received at a dinner given by **Jean Marchand**, Speaker of the Senate.

On Wednesday, the morning session dealt with the "Ponsonby rule" and the difficulties that committees encounter when scrutinizing instruments made to implement international agreements. They also discussed the desirability of undertaking a Commonwealth study of prevailing practices and precedents in the drafting of enabling powers and delegated legislation. In the afternoon, the conference discussed the extent to which changes in the law of administrative review suggests a changed role for parliamentary scrutiny committees as well as the problem of scrutinizing regulations on the basis that they amount to an unusual or unexpected use of the enabling powers. This last criterion is one that is used in many jurisdictions and it was of some interest to compare the extent to which committees with different traditions of scrutiny are prepared to invoke this criterion in their scrutiny of delegated legislation.
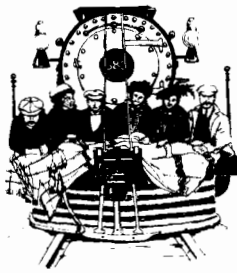
On the last day of the conference, delegates heard Professor **David Mullan**, of the Faculty of Law at Queen's University, who addressed the question of parliamentary scrutiny of delegated legislation on its merits. Professor Mullan disclosed no great enthusiasm for involving parliaments or legislatures in a discussion of the merits of regulations. He did not discount altogether the possibility that other methods be adopted but he make known his preference for the adoption of notice and comment procedures as the best way of ensuring that regulations made by the government are acceptable to citizens and government alike. After discussion of Professor Mullan's paper, Senator **Michael Tate**, Deputy Chairman of the Australian Senate Standing Committee for the Scrutiny of Bills and Professor **Dennis Pearce**, Dean of the Faculty of Law at the Australian National University and Counsel to the Senate Committee, explained the role and functions of that committee in Australia. The last session was devoted to matters of housekeeping, such as the election of members of the Commonwealth Delegated Legislation Committee — to which Mr. Beatty was elected — and adoption of the final conference report. On their last night in Ottawa, delegates were invited to a dinner hosted by **Mark McGuigan**, Minister of Justice and Attorney-General.

For readers with a special interest in the subject of parliamentary scrutiny of delegated legislation, a complete transcript of the conference proceedings is expected to be published in the near future. Further inquiries as to date of publication and price should be sent to the Clerk of the Standing Joint Committee on Regulations and Other Statutory Instruments, c/o the Senate, Ottawa, Ontario K1A 0A4.

Regional Conference, Winnipeg

The 23rd Canadian Regional Conference of the Commonwealth Parliamentary Association will be held in Winnipeg from August 7-12, 1983. A Speaker's Advisory Committee, chaired by Mr. Speaker and consisting of representation from the government and opposition caucuses is overseeing the development of the program. The detailed planning and administration of the conference is under the direction of **Binx Remnant**, newly-appointed Clerk of the Legislative Assembly. Mr. Remnant has the dubious honour of being responsible for the organization of two successive regional conferences. The conference has been timed to coincide with "Folkorama", an annual celebration of the city's many cultures. Delegates can expect the usual western hospitality will be augmented by opportunities to attend this unique festival.
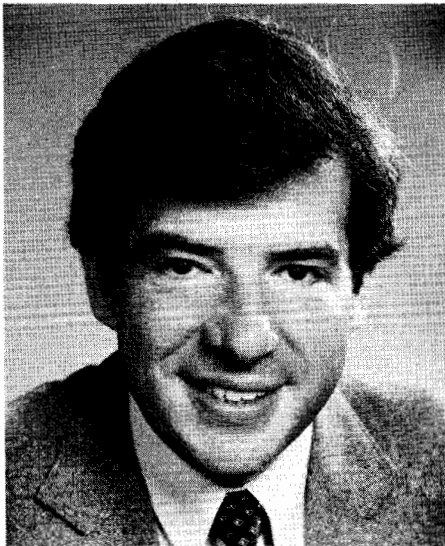
People

New Speakers Elected

The community of Speakers has two new members as a result of a resignation in Quebec and an election in Prince Edward Island.

In Quebec the new Speaker is **Richard Guay,** the member for Taschereau, who was elected to the chair at the opening of the 4th session of the 32nd legislature, on March 23, 1983.

Richard Guay

Mr. Guay holds an arts degree from Jean-de-Brébeuf college and a law degree from the University of Montreal. He worked as a journalist with the Canadian Broadcasting Corporation from 1965-1971 including four years as United Nations correspondent. He taught journalism at Dakar University in Sénégal from 1971-1973. He spent the next three years in the Quebec public service where he worked for the Ministry of Communications and later Cultural Affairs.

First elected to the Quebec National Assembly on November 15, 1976, Mr. Guay was previously parliamentary secretary to three different ministries, Communications, Municipal Affairs and Housing and Consumer Protection. He was named Deputy House Leader on November 30, 1982.

In Prince Edward Island the new Speaker is Mrs. **Marion Reid,** who represents the First District of Queen's in the legislature. Mrs. Reid was educated at North Rustico, Stella Maris School and Prince of Wales College where she graduated with her First Class Teacher's License at age seventeen. She has taught for some twenty years on the North Shore of Prince Edward Island. During her tenure she was awarded a sabbatical to return to university (1972-73) where she earned her Teacher's Certificate 5.
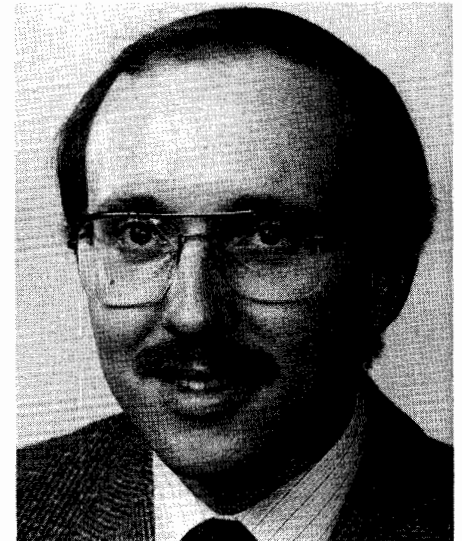

Marion Reid

She has been active in the Teachers Federation, the Progressive Conservative Party and a number of community and farm organizations. She was first nominated in First Queen's in 1978 but defeated in the general election. In a by-election the following year she won the seat by 250 votes and was re-elected in 1982. Mrs. Reid served as Deputy Speaker from 1979-1982. She was elected Speaker at the opening of the fifty-sixth legislature on March 8, 1983.

By-election

By-elections were held for seats in the provincial legislatures of Nova Scotia and Saskatchewan in February.

In Saskatchewan **Sid Dutchak** of the Conservatives defeated Jerry Hammersmith of the New Democratic Party by almost 900 votes in a two way race in Prince Albert-Duck Lake. Mr. Hammersmith had won the seat by 9 votes in the April 26, 1982 general election but the results had been overturned due to irregularities in the voter's list. The by-election left the NDP with 8 seats compared to fifty-six for the Conservatives.
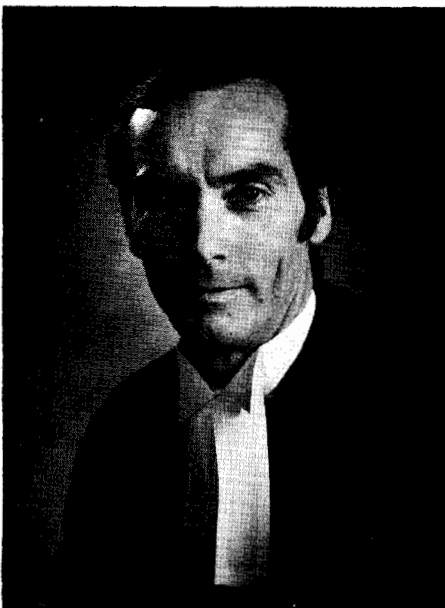

Sid Dutchak

In Nova Scotia, **John Newell** of the Progressive Conservative Party took the seat of Cape Breton-The Lakes from the Liberals in a close race. Mr. Newell, 47, defeated **John Coady** by a mere 31 votes out of more than 6000 ballots cast. The results left the Liberals with 12 seats compared to 38 for the Conservatives. The New Democratic Party and the Cape Breton Labour Party have one seat each.

Appointments

On April 20, **Jacques Hébert** was appointed to the Senate and will sit as a Liberal from the Province of Quebec. Born in 1923, he obtained a Masters degree in commerce from l'*École des Hautes Études Commerciales* in Montréal. A world traveller and author of more than fifteen books, Senator Hébert has served as a Commissioner of the Canadian Radio-television and Telecommunications Commission and more recently, as Co-Chairman of the Federal Cultural Policy Review Committee. The Committee's report, known as the Applebaum-Hébert report, was released in November 1982.
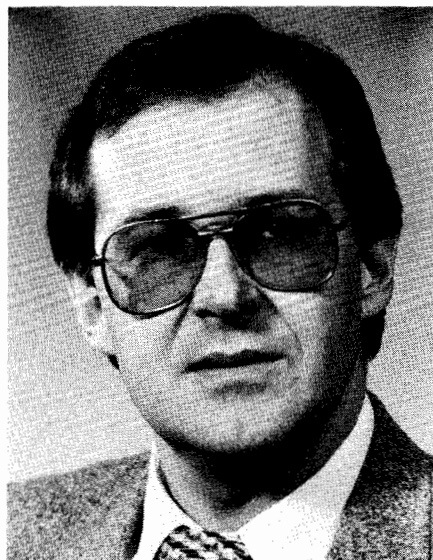

Marcel Pelletier

Several new appointments among senior officials of the House of Commons were announced by Speaker **Jeanne Sauvé** on March 4, 1983. **Marcel Pelletier**, formerly Clerk Assistant, was named Parliamentary Counsel and Law Clerk replacing **Joe Maingot** who resigned several months ago. Two new Clerk Assistants were named: **Robert Marleau**, former head of Committees and Private Legislation and **Philip Laundy**, former Clerk at the Table. In other changes, two new principal Clerks were announced on April 13. **Mary Anne Griffith** is now head of the Table Research Branch and **Nora Lever** was named head of the Committees and Private Legislation Branch. **Michael Kirby**, former head of Table Research replaces **Claude DesRosiers** as Principal Clerk of Journals Branch, while Mr. DesRosiers becomes Clerk-at-the-Table.

In Saskatchewan **Joseph Melia** has been appointed Director of Hansard and **Gary Ward** is the new Director of Television services for the Legislative Assembly. Mr. Melia who holds a Bachelor of Education degree, a Bachelor of Arts degree and a diploma in Educational Administration,

Joseph Melia

has many years of experience in the field of education in Saskatchewan. Mr. Ward has wide experience in photography, film production, and as a television director and producer. As Director of Television Services he has responsibility for Saskatchewan's new fully automated legislative TV broadcasts.

Gary Ward

David M. Hamilton was named Clerk of the Legislative Assembly of the Northwest Territories during the Tenth Session of the Assembly. Mr. Hamilton had been acting Clerk since the resignation of W.H. Remnant late last year. Mr. Hamilton, 34, had served as Clerk Assistant to the Assembly since May, 1980. Previously, he had served as Secretary-Manager of the Village of Fort Simpson for two years and as Area Supervisor for the Department of Local Government in the Central Arctic for three years. He was the first Secretary-Manager of the Hamlet of Aklavik.

David Hamilton

Resignations and Retirements

On February 11, **Edgar Fournier** resigned from the Senate. A Progressive Conservative, Mr. Fournier served in both the New Brunswick legislature and the House of Commons before being summoned to the Senate in 1962. He worked closely with Senator **David Croll** and was his Vice-Chairman on the Special Committee on Poverty and on the Special Committee on Retirement Age Policies. In paying tribute to Mr. Fournier, Senator Croll said that "we did not abolish poverty, but we did alleviate it. What we did, in fact, was drag poverty out of the closet and place it on the dinner table, and there it has remained for attention." On behalf of the Senate, Senator Croll thanked "this gentle and understanding Canadian who made such a great contribution to Canada."

On April 20 the New Democratic party Member of Parliament for Mission-Port Moody, **Mark Rose** resigned his seat in the House of Commons to run in the British Columbia election. On May 5 he won a seat in the provincial legislature representing the riding of Coquitlam-Moody.