



## **Report**

**Visit of the Honourable Pierre Claude Nolin,  
Speaker of the Senate,  
and a Parliamentary Delegation,  
United Kingdom**

**March 19-21, 2015**



The Honourable Pierre Claude Nolin, Speaker of the Senate, led a parliamentary delegation on a visit to the United Kingdom (U.K.) from March 19 to 21, 2015.

The delegation has the honour of tabling its

## **Report**

The official delegation led by Speaker Pierre Claude Nolin, comprised the following members:

The Honourable Pierre Claude Nolin, Speaker of the Senate;

Ms. Camille Desjardins Nolin;

The Honourable David P. Smith, P.C, Q.C., Senator;

The Honourable Elaine McCoy, Senator;

The Honourable Diane Bellemare, Senator; and

Mr. Charles Robert, Clerk of the Senate and Clerk of the Parliaments.

### **Context – United Kingdom**

The deep and abiding links between Canada and the United Kingdom find expression in many forms, including through the declaration in Canada's constitution that it is "similar in Principle to that of the United Kingdom." Though this constitutional commonality, Canada and the United Kingdom share, among other things, longstanding parliamentary practices that include parliamentary privilege.

The concept and protection of parliamentary privilege has received much discussion in the United Kingdom. Specifically, privilege was the subject of a 1999 Joint Committee of the House of Commons and the House of Lords report, a 2012 U.K. Government Green Paper, and a 2013 report of the U.K. Joint Committee on Parliamentary Privilege. Senators in Canada considered these works with great attention in the preparation of "*A Matter of Privilege: A Discussion Paper on Canadian Parliamentary Privilege in the 21<sup>st</sup> Century*," a report then under consideration by the Senate Committee on Rules, Procedures and the Rights of Parliament.

The concept of parliamentary privilege includes questions of the security of the parliamentary precinct. For example, privilege ensures the right of members to access parliament and places limitations on any interference with their parliamentary work. To this end, services that protect the parliamentary precinct must be familiar with privilege and protect it. At the same time, this must be balanced with the realities of police forces and the need for external access to certain offices in specific cases, such as when carrying out a criminal investigation.

The visit of the Canadian delegation was the first to occur after the October 2014 attacks on Parliament Hill and took place while discussions were occurring with regard to the creation of a unified Parliamentary Protective Service. In this regard, the delegation also

engaged in discussions related to the specifics of parliamentary policing policies adopted in the United Kingdom.

Finally, building upon the shared history of Canada's Senate and the House of Lords, the delegation discussed reforms that have occurred within the U.K. system, such as ending certain practices with respect to life peerages.

### **Objectives**

The main objectives of this visit were to:

- discuss parliamentary privilege developments in the United Kingdom, particularly as a committee of the Senate of Canada considered the same subject;
- strengthen relations between the Parliament of Canada and the Palace of Westminster;
- further Canadian understanding of the U.K. House of Lords and its practices;
- understand reforms that have occurred with respect to the composition of the House of Lords; and
- review practices related to the security of the parliament and parliamentarians.

### **Meetings**

During the visit to the United Kingdom, the delegation met with:

The Right Honourable the Baroness D'Souza, CMG, Lord Speaker;

- Lord Bew, Member of the House of Lords;
- Lord Brabazon of Tara, Member of the House of Lords;
- Lord Lisvane, Member of the House of Lords;
- Mr. David Beamish, Clerk of the Parliaments, House of Lords;
- Dr. Christopher Johnson, Principal Clerk of Select Committees, House of Lords;
- Mr. Brendan Keith, Registrar of Lords' Interests, House of Lords;
- Ms. Chloe Mawson, Clerk of the Privileges and Conduct Committee, House of Lords;
- Mr. Simon Burton, Reading Clerk and Clerk of the Overseas Office, House of Lords;
- Dr. Meg Russell, Reader in British and Comparative Politics and Deputy Director of the Constitution Unit, University College London;
- Dr. Andrew Blick, Lecturer in Politics and Contemporary History, King's College London;
- Mr. Adrian Compton, Director of Assembly Business, National Assembly of Wales;
- Mr. Richard Gordon, Q.C., Barrister and Coauthor of Parliamentary Privilege: Evolution or Codification; and
- Dr. Chris Balingier, Academic Dean and Official Fellow of Exeter College.

### **Meeting with House of Lords Senior Officials on parliamentary privilege**

The delegation met with Dr. Christopher Johnson, Principal Clerk of Select Committees, Mr. Brendan Keith, Registrar of Lords' Interests, and Ms. Chloe Mawson, Clerk of the Privileges and Conduct Committee. The discussions addressed the various U.K. reports regarding parliamentary privilege as well as related developments in Canada.

Of particular interest to the delegation was the question of codifying parliamentary privilege. Arguments have been made in favour and in opposition, mostly revolving around whether codification might in some way limit privilege and whether the courts are well-suited to act in privilege cases. Concerns such as "judicial activism" were raised, as well as potential issues with the use of "proceedings in Parliament" by the courts. In addition, the role of the United Kingdom's recently-established Supreme Court was contemplated in relation to privilege matters that may come before it.

### **Meeting with Members of the House of Lords on parliamentary privilege**

The delegation met with Lord Bew, Lord Brabazon of Tara, Lord Lisvane, Dr. Christopher Johnson, Mr. Brendan Keith and Mr. Simon Burton. The discussions elaborated further on the 2013 report from the Joint Committee on Parliamentary Privilege and the merits of the argument against codification which invites the risk of less flexibility and the possibility of an enlarged role for the courts in interpreting the scope of privilege.

In particular, their Lordships expressed concerns regarding the phrase "proceedings of Parliament" as it might be interpreted by Courts and whether adopting statutes on parliamentary privilege might constrain its ongoing development. The Peers commended the decision of the United Kingdom Supreme Court in *R v Chaytor* wherein parliamentary privilege claims in relation to an expense scandal were rejected.<sup>1</sup>

In particular, the delegation learned about the expanded role of courts as a result of judicial developments in interpreting the U.K.'s *Human Rights Act*.

Delegates also benefited from the discussion on the subject of security and the challenge both Parliaments share on how to provide effective security while remaining accessible to the public. In particular, delegates discussed the relationship between Westminster and London's Metropolitan Police and best practices that have developed in this regard. The Metropolitan Police's Palace of Westminster Division employs 500 persons, provides security throughout the Parliamentary estate and possesses its own Investigation and Intelligence unit.

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<sup>1</sup> [\*R. v. Chaytor\*](#), [2010] UKSC 52. The case concerned the trials of three former Members of Parliament for false accounting in relation to a parliamentary expenses scandal that took place in 2009. The three MPs unsuccessfully argued that their expenses claims were covered by parliamentary privilege and could not be the basis of criminal charges. Courts at all three levels (trial, appeal, Supreme Court) rejected their arguments regarding parliamentary privilege.

### **Meeting with Mr. David Beamish, Clerk of the Parliaments**

This meeting elaborated on the previous discussion about how to provide effective security for both Parliaments while at the same time remaining open to the public. The Clerk of the Parliaments explained the protocol that had been developed at Westminster for the proper coordination of the Metropolitan Police forces and the parliamentary authorities of the Lords and the Commons.

Mr. Beamish discussed the evolution of parliamentary security and its physical manifestation, including barriers now erected outside the parliamentary estate. He also discussed the role of the Parliamentary Security Director, the individual who has executive responsibility for the security of Parliament, subject to the political direction of, and accountable to, the Speakers of the House of Lords and the House of Commons. The Parliamentary Security Director is employed by the Houses of Parliament and makes recommendations to the Joint Committee on Security. He or she works closely with the Metropolitan Police's Palace of Westminster Division.

### **Meeting with Her Excellency the Right Honourable the Baroness D'Souza, Lord Speaker**

Speaker D'Souza hosted a lunch for the delegation in the former residence of the Lord Chancellor. The informal conversation covered a number of topics including security and parliamentary privilege. Delegates particularly appreciated the knowledge and insight Speaker D'Souza provided with respect to the House of Lords and practices at Westminster.

### **Meeting with Dr. Meg Russell, Reader in British and Comparative Politics and Deputy Director of the Constitution Unit of University College London**

This meeting revolved around the topic of calls for reform of upper houses and the research publication of Dr. Russell titled *Enough is Enough: Regulating Prime Ministerial Appointments To The Lords*. Delegates were particularly interested to learn of the evolution in the U.K.'s appointments process as well as the review role of second chambers in the legislative process as it exists in the U.K.

### **Meeting with Dr. Andrew Blick, Lecturer in Politics and Contemporary History of King's College London**

This discussion was useful in helping the delegation understand the current situation in the United Kingdom with respect to constitutional developments. The prospect of further devolution, the recent establishment of the Supreme Court, and the introduction of human rights law are all impacting the relationship between different government actors, including parliament. In particular, discussion ensued regarding the concept of parliamentary supremacy and the role of parliament with respect to other branches of government.

Delegates queried whether Britain might eventually opt for a federal state with a written constitution. This discussion was quite timely given Dr. Blick's recent work on the 800<sup>th</sup>

Anniversary of the *Magna Carta*, considered the most significant written rights-protecting instrument in British history.

### **Meeting with Mr. Adrian Compton, Director of Assembly Business, National Assembly of Wales**

Mr. Compton shared with the delegation the experiences of the National Assembly of Wales and its status as a devolved parliament within the United Kingdom. Mr. Compton explained the Assembly's approach with respect to privilege, noting in particular its narrow application of freedom of speech protections. Though universally regarded as the most important facet of parliamentary privilege, Mr. Compton asserted that the restrictive interpretation in Wales has had no negative consequences.

### **Meeting with Mr. Richard Gordon, Q.C., Barrister and Coauthor of *Parliamentary Privilege: Evolution or codification***

This meeting further elaborated on the topic of parliamentary privilege and how the difficult relationship between Parliament and the courts is preventing reform and the possible codification of privilege. Mr. Gordon explained that the current tension between Parliament and the courts developed through the expansion of the courts' reach based on its role in interpreting the *Human Rights Act*. As such, he argued in favour of codification, and presented his recent work on privilege co-authored with a former Clerk of the House of Commons of the United Kingdom.

### **Meeting with Dr. Chris Balingier, Academic Dean and Official Fellow of Exeter College**

Mr. Balingier provided the delegates with a better understanding of the history and scope of House of Lords reforms, focusing in particular on changes in composition and appointment. Delegates were interested to learn that changes to the appointments process afford more credibility to the U.K. House of Lords. Mr. Balingier also discussed his recent book entitled *The House of Lords 1911-2011: A Century of Non-Reform*.

### **Activities**

The visit to the United Kingdom was also an opportunity for the Speaker to participate in the NATO Parliamentary Association Spring Standing Committee Meeting and to attend a reception hosted by the Right Honourable Sir Menzies Campbell, CH CBE QC MP, Head of the United Kingdom delegation to the NATO Parliamentary Association.

### **Acknowledgements**

The delegation expresses its appreciation to the staff of the High Commission of Canada in London for their assistance in preparing the visit. Special thanks to Mrs. Gillian Licari, Head of VIP Visits Unit and Political Officer, for facilitating access for the delegation and for escorting the group from one meeting to another.

Respectfully submitted,

The Honourable George J. Furey,  
Speaker of the Senate

## **Travel Costs**

Visit of the Honourable Pierre Claude Nolin, Speaker of the Senate, and a Parliamentary Delegation, United Kingdom

<b>TRAVEL</b>	<b>\$47,073.11</b>
<b>ACCOMMODATION</b>	<b>\$8,969.31</b>
<b>PER DIEMS</b>	<b>\$3,175.55</b>
<b>PROTOCOL</b>	<b>\$717.02</b>
<b>MISCELLANEOUS</b>	<b>\$0</b>
<b>TOTAL</b>	<b>\$59,934.99</b>