

# The ABCs of Legislation

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National Chairperson of Legislation [2008-10]

## ***Suggested materials***

- Paper, pens and pencils for members to create an exercise for their parish
- Photocopies of the workshop being presented
- Photocopies of *Personal Letter Writing Guide*
- Photocopies of the home page for LEGISINFO

## ***Overview***

This workshop can be given in one session or several sessions depending on the time allowed to present the workshop. Time how long it takes to present each section of the workshop, allowing time for questions and comments.

## ***Sessions***

1. Read **A Brief History of Canadian Parliament** and follow with members completing a true or false quiz (Note: at the provincial or diocesan level members could create a quiz for the parish level.) Allow 15-20 minutes to present the information, 30 minutes to create small groups to work on the exercise and 15 minutes for sharing after the exercise.
2. Read **How a Bill is Created in Parliament**. Allow 5 minutes for presentation followed by creating or completing a short quiz (30 minutes to create a quiz, 10 minutes to complete a quiz).
3. Demonstrate **How to Monitor Bills before Parliament**. Provide photocopies of exact directions on finding LEGISINFO on the Internet. This should be followed with photocopies of the *Personal Letter Writing Guide*. Allow 15-30 minutes, depending on the availability of access to the Internet for a demonstration.

## ***Greeting***

**Good morning. Let's begin with a prayer for legislation.**

### **A Prayer for Social Justice**

God, we pray that Your Spirit may rule over all things.

May Your Spirit rule over kings and presidents,

Over prime ministers and generals,

Over CEOs and party bosses,

Over the legislature and over the bureaucrats,

Over all citizens.

May Your Spirit guide us on the way of peace,

On the way of honest dialogue,

On the way of reconciliation between peoples,  
On the way of disarmament and justice,  
On the way of freedom and life for all.

May Your Spirit lead us on the journey of blessings shared with all,  
On the journey of educational opportunity for all our children,  
On the adventure of research and study that helps all men and women,  
On the road to meaningful work for all people,  
On the path of solidarity and love between all our brothers and sisters.

May Your Spirit help us  
To speak up with courage,  
To share what we have and what we are,  
To challenge the powers that be,  
To offer a message of liberation and life.

We make this prayer through Christ, our Lord.  
Amen

**Today I would like to discuss three items:**

- 1. A brief history of Canadian parliament**
- 2. How a bill is created in parliament**
- 3. How to monitor bills before parliament**

### ***Session One: A Brief History of Canadian Parliament***

PARLIAMENTARY DEMOCRACY 101 by Doreen Barrie, Ph.D.

Department of Political Science, University of Calgary, December 3, 2008

Canada was a British colony until confederation and therefore inherited the Westminster-style parliamentary system from Britain. In fact, the constitution states that Canada would have “a constitution similar in principle, to that of the United Kingdom”. The major difference is that Canada combines a parliamentary system with a federal system, unlike the United Kingdom which is a unitary state with a single government.

One striking feature of the parliamentary system is that its rules are not fully written down. Britain doesn't have a written constitution. But in a federal system where powers are divided between the national government and the provinces, they have to be set out in a written constitution.

The vast majority of the operation of the Canadian parliamentary system rests on conventions, i.e. practices that have evolved over centuries. Many traditions/conventions replicate those in Britain. The pomp and circumstance surrounding the governor general is a good example. S/he travels to parliament in a horse-drawn carriage just as the Queen of England does. Another convention: the distance between government and opposition benches is the

length of two swords to ensure the safety of members of parliament (MP) on both sides of the House of Commons (House).

### **How Things Work**

There are two pillars on which the Canadian parliamentary system rests. These are responsible government and parliamentary supremacy.

Responsible government means that the government (basically the prime minister and cabinet) is responsible to the House and must command majority support there at all times. If the government loses an important vote or a formal vote of confidence in the House, it must resign.

Parliamentary supremacy means that each parliament is supreme in its own right, that it can pass any legislation it chooses (unless it violates the *Canadian Charter of Rights and Freedoms* or intrudes into areas of provincial jurisdiction). It is not bound by previous parliaments and cannot bind future parliaments. Thus in theory, the government of the day can repeal all legislation and start afresh - but of course, they wouldn't do that!

### **Duties**

The parliamentary system gets no respect! Because Canadians are exposed to the American presidential system, they compare Canada unfavourably with the United States (US). Canadians don't vote directly for a prime minister (PM); whoever is leader of the party that wins the election becomes the PM.

Members of parties in the US don't have to vote along party lines because the government won't fall if it doesn't command majority support in the House of Representatives.

The Canadian system is designed to be adversarial rather than bipartisan. The role of opposition parties in Canada is an important one: they are supposed to monitor the government, scrutinize what it is proposing and challenge it. This usually takes place during Question Period but also in parliamentary committees.

We use the word "parliament" loosely to refer to the House of Commons but it actually has three components, each of which has a role in passing legislation. These are the lower house (House of Commons), the upper house (the Senate), and the governor general (GG).

Bills usually originate in the House (but could begin their journey in the Senate), where they go through three readings. In the process, they're debated and perhaps amended and then sent to the Senate where the process is repeated. The final hurdle is royal assent which is the stage at which the GG plays a role.

In a majority situation the government of the day has no difficulty getting legislation through all the steps. However, in a minority situation, where opposition parties have more votes, it is always possible that the government will

fall short of a majority and be defeated. As mentioned previously, if the defeated bill is an important one or there is a vote of confidence, the convention is that the PM will ask the GG to dissolve parliament. The GG usually accepts the advice of the PM and Canadians go to the polls.

It's important to note that this is the convention in a Westminster-style parliamentary democracy, but it is one of those rules that are not written down. The GG does have the power to ask another party in the House if it can form a government. In fact, if you read the GG's job description it would seem that all powers, authorities and functions under any act are vested in her.

The GG appoints the PM, senators, the judiciary and numerous officials. S/he opens parliament, dissolves parliament, prorogues parliament, etc. but always on the advice of the PM. The GG seldom goes against the advice of the PM.

The individual who holds the position of GG is supposed to be neutral, above politics and a unifying figure in the country. There is however, one area in which the GG has a vital role to play. S/he must ensure that the constitution is upheld and may, if necessary, step in and dismiss government if it is acting unconstitutionally. These reserve powers or prerogative powers are those that the British monarchy never surrendered. These powers are ambiguous and controversial and are rarely used. Their function is rather like nuclear deterrence - knowing they exist is a sufficient check on the government in power.

In Canada, the GG refused to dissolve parliament only once, and that was in 1926. Referred to as the King-Byng dispute, it involved then Prime Minister Mackenzie King asking Governor General Lord Byng for a dissolution of parliament after a defeat in the House. Byng refused and instead asked the conservative leader, Arthur Meighen, to form a government. He did, but this government fell within days. At this point, a dissolution was granted and an election was held. King made the GG's actions a central plank in his election platform and won the election handily.

The GG may also grant the PM's request to "prorogue" parliament which in effect ends a parliamentary session. A government's term can run up to five years, and it is broken up into sessions which end when the government has worked through its goals for that session. A new session begins with a speech from the throne and a brand-new agenda. There has never been a request to end a session when it has barely begun.

### **Role of Prime Minister and Cabinet**

The PM and cabinet are the most powerful components in parliament. In theory the PM is merely *primus inter pares* (first among equals) but in reality her/his powers are awesome. S/he appoints cabinet, senators and judges, members of boards and commissions, and scores of other individuals. The PM provides overall direction for the government.

Some scholars have become concerned that the PM has become too powerful in the last few decades – like a president but without any checks and balances. In Canada's parliamentary system there is no separation of powers as there is in the US where the executive (president and cabinet), legislative and judicial branches of government are separate entities. In Canada the executive (PM and cabinet) and legislative branches are fused. The judicial branch is separate and independent in both countries.

Cabinet members head up departments and shepherd legislation through the House. Cabinet members are usually individuals who have a high profile prior to entering politics or who have distinguished themselves in parliament.

The parliamentary system is flexible enough to cope either with a strong PM who likes to call the shots or with someone more collegial who is a team player depending on his bench strength.

### **Role of Opposition Parties**

Opposition parties are at a disadvantage in a majority government, but they aren't completely powerless. Their job is basically to "keep the government honest" by monitoring and scrutinizing legislation and alerting the general public to anything that might be a concern.

They raise questions during question period when the media is on high alert and the public galleries are full. This is one of the biggest strengths of the Canadian parliamentary system, in that for 45 minutes every day while parliament is sitting, the PM and cabinet are grilled by opposition members. This is accountability in action.

Because of the fusion of powers, the PM and cabinet cannot pass the buck to another branch of government. In the mother of parliaments in Britain, the prime minister only deigns to answer questions for half an hour every Wednesday.

Unfortunately, question period is regarded by most Canadians as an unseemly display of childish behaviour. Yet it is during this part of the parliamentary day that the government is held directly accountable for its actions. During a majority government it is one of the few weapons that opposition parties possess.

Many Canadians aren't aware that the system is an adversarial one in which it is the job of opposition MPs to try and trip up the government. The system rewards those who are witty and can think on their feet, but it is mainly the shouting and screaming that Canadians are often subjected to that seems to attract the attention of the media.

The speaker of the House is supposed to ensure decorum, but this isn't always easy. Certain words are deemed to be unparliamentarily language, and as such are not permitted; however, a clever MP can get around this by standing up and saying: "Mr. Speaker, can I call the honourable member a ... (liar, rat ...etc.)" to

which the speaker answers in the negative but the message is received! (In the Quebec legislature calling someone a “weather vane” is banned from the lexicon.)

The bell-ringing episode during constitutional debates in 1981 shows how parliamentary procedures can be used to stall a majority government. When a vote is called on a bill, MPs are summoned by the ringing of a bell and they troop into the House. In 1981, the conservatives did not return to House for the vote. Now, according to the rules, the bells continue to ring until the MPs are assembled. So what if they don't show up? The bell had to continue ringing for days. This delayed government business and bought time for opposition to build outside the House.

The Canadian Alliance once tied up the House by suggesting 400 amendments on a bill and requiring vote on each one. The opposition's job is to stall or frustrate the government's objectives by slowing down the process.

Filibustering, a delaying tactic, is one device that is used to tie up the business of House, and whenever such tactics are adopted, it is in the hope that it will raise awareness outside the House and perhaps generate loud public opposition. When the House isn't in session the opposition's voice is muted.

### **Summary**

The Westminster-style parliamentary system is subtle, clever and flexible. It has much to recommend it, but its intricacies are not well-known to most Canadians. There is a representative democracy in Canada which means MPs are elected to represent constituents' interests between elections.

Edmund Burke, a British MP and philosopher in the 18<sup>th</sup> century put it best when he stated: “Your representative owes you, not his industry only, but his judgement; and he betrays, instead of serving you, if he sacrifices it to your opinion.”

### ***Session Two: How A Bill is Created in Parliament***

*How a Government Bill becomes Law - Canada* by Inba Kehoe

Government Documents, Stauffer Library, Queen's University

**NOTE:** To become law, a bill must first be introduced in either the Senate or the House of Commons. It then must pass through various stages in each House: first, second and third reading. Then it must receive royal assent.

#### **A. Definitions**

- **Public bills.** These are proposals for laws that will affect the public in general. Most public bills are introduced by government ministers. Bills sponsored by the government are numbered from C-1 to C-200 in order of

presentation. If they are introduced first in the Senate, they are numbered starting S-1.

- **Private bills.** These are limited in scope: they concern an individual or group of individuals only. They confer a right on some person or group, or relieve them of a responsibility.

#### B. Policy Proposal

Most legislation originates with the government. Policy proposal requiring legislation is submitted to the cabinet by minister(s).

#### C. Cabinet

- Policy proposal is considered by the appropriate cabinet committee and recommendations are made to the cabinet.
- If the cabinet approves, the responsible ministry issues drafting instructions to the Legislation Section of the Department of Justice.
- Draft bill is prepared in two official languages and approved by the responsible minister.
- Draft bill is presented to cabinet for approval.
- If approved it is introduced in parliament.

#### D. Parliament

- **First reading** in either the Senate or the House. Bill is printed.
- **Second reading** in the same house of parliament. Members debate and vote on the principle of the bill. The house may decide to refer the bill to a legislative, standing or special committee, or to a committee of the whole.
  - **Consideration in Committee.** Consideration by the appropriate parliamentary committee (clause-by-clause study of the bill). Committee can summon witnesses and experts to provide it with information and help in improving the bill.
  - **Report stage.** Committee reports the bill to the house clearly indicating any amendments proposed. House considers amendments and votes for or against them.
- **Third reading.** Debate and vote on bill as amended. **NOTE:** Once a bill has been read three times in the House, it is sent to the Senate for its consideration.

#### E. Royal Assent

- Bill is presented to the governor general for assent.
- Governor general may assent to bill in the queen's name, withhold assent or reserve assent.
- When a bill is given royal assent it becomes law.

#### F. In Force

- **Statute is in force:**
  - upon royal assent, *or*
  - when it is proclaimed by the governor general, *or*
  - on a day specified in the act
- **Different sections may come into force at different times**

## ***Session Three: How to Monitor Bills before Parliament***

### **Facilitator's Notes**

If a computer with Internet access is available. give a demonstration on the computer. If there is no access, have photocopies of the home page of LEGISinfo available for members.

### **Presentation**

1. Type in <http://www2.parl.gc.ca/Sites/LOP/LEGISINFO/index.asp>.
2. Choose from the left of the screen which bill or bills you want to monitor. These are broken down by House of Commons vs. Senate and government vs. private members.
3. At what stage is the bill at before parliament? Let's begin with what we want to monitor.
4. Click on House of Commons Private Members' Public Bills in the 40<sup>th</sup> Parliament, 3<sup>rd</sup> Session.
5. Take as an example:  
C-384 *An Act to amend the Criminal Code (right to die with dignity)*
6. Click on C-384 for information on what stage the bill is before parliament.
7. Next click on Test of the Bill. The text, as it was introduced in the First Reading Version, is available.
8. Click on each of the three items separately – the cover, summary and Bill C-384. NOTE: IT IS VERY IMPORTANT TO READ THE COMPLETE BILL TO OBTAIN ALL YOUR INFORMATION.
9. Go back to the summary page and click on Status of the Bill to determine the status of its passage through the parliament.

Do you support the suggested action?

Each member of parliament needs to be contacted by individuals personally to show support or opposition to a bill. It is very important to state the bill you are referring to and to ask for a response to your letter.

An excellent guide for writing letters can be obtained from the *Personal Letter Writing Guide - Easy steps to WRITING LETTERS THAT COUNT*. This can be downloaded for free from <http://www.cwl.ca>, go to Resources and choose Resource List. Click on Personal Letter Writing Guide and print it.

I have concentrated on monitoring the federal government. It is important to monitor the municipal and provincial levels also.

### ***Conclusion***

Why get involved with legislation?

- To become informed and prepared to defend our Christian values
- To affect change to better Canada