

Ontario

Politics and Government

A Brief Overview



David Pond, Research Officer

Susanne Hynes, Research Librarian

Revised in November 2003 by Larry Johnston, Research Officer and Susanne Hynes.

The Legislative Library of the Legislative Assembly of Ontario

The Research and Information Services Branch of the Legislative Library provides confidential non-partisan research analysis to Members of all parties of the Legislative Assembly and legislative committees. We also produce a range of general distribution research reports geared to MPPs' interests and designed to support their legislative functions. These papers may be of interest to a broader audience as well.

We hope that non-Assembly readers will find this paper useful, but we will not be able to do any follow-up questions for you. You may wish to contact your corporate, university or local library for further assistance.

Contents

Ontario: An Introduction	1
Ontario and the Canadian Confederation	3
The Crown	5
Parliamentary Government	6
The Executive	7
The Accountability of the Cabinet	8
A Non-Partisan Civil Service	9
The Legislature	10
Political Parties and the Legislature	11
The Role of the Opposition in the Legislature	13
The Necessity of Co-operation Between the Parties	14
Elections	16
The Charter of Rights and Freedoms	17

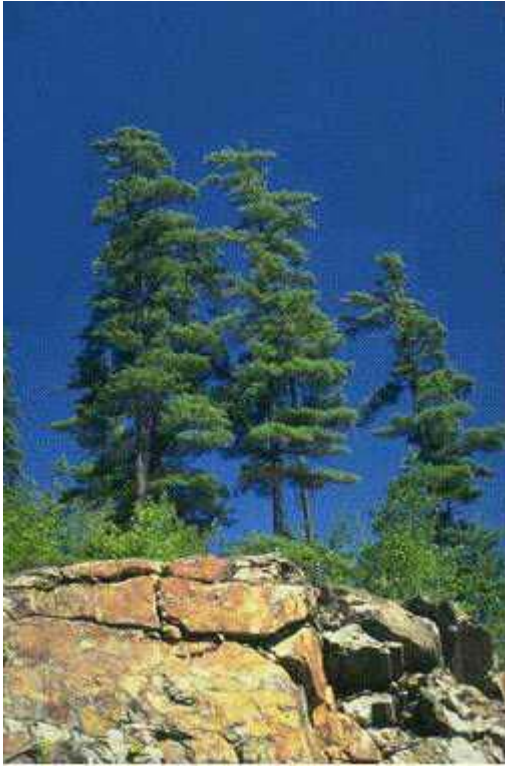
Symbols shown on the cover

The Flag of Ontario, the Shield of Arms, the Coat of Arms, the Great Seal of the Province of Ontario, the Franco-Ontarian Flag.



Architectural details. Ontario Legislative Building. Queen's Park, Toronto.

Ontario: An Introduction



Eastern white pine, official tree of Ontario
Photo courtesy of the Ministry of Natural Resources,
Communications Services Branch

Ontario is Canada's most populous province, with over 12 million people – constituting 38.4% of Canada's entire population – and Canada's second largest province – covering 413,000 square miles, an area larger than France and Spain combined.

Over 9 million Ontarians speak English as their first language, while another 509,000 claim French as their mother tongue. This makes Ontario's Francophone community the largest in Canada outside of Quebec. Ontario is also home to over 188,000 Aboriginal people. In addition, over 60 different cultures are represented among the provincial population. The major language groups include Chinese, Italian, German, Portuguese, Indo-Iranian, Greek, Polish, Spanish, Dutch and Ukrainian.

Some 80% of Ontarians live in urban centres, with more than 5 million in the “Golden Horseshoe” area that extends from Niagara Falls to Oshawa. Canada's capital city, Ottawa, located in eastern Ontario, is the nation's fourth-largest city, and Ontario's second-largest, after Toronto.

Ontario is Canada's most industrialized province and its financial centre. The provincial economy generates roughly 40% of the country's gross domestic product. It produces 60% of Canada's manufactured exports and 25% of all forest-related products. The province is among the world's top ten producers of nickel, platinum group metals, gold and cobalt. Its 67,000 farms account for almost one-quarter of Canada's farm revenue.

Ontario accounts for more than half of Canada's total exports. The province is the third largest trading partner of the U.S., which is the market for over 90% of Ontario's international exports.



Ontario and the Canadian Confederation

After the American Revolution, thousands of Loyalists fled north to the St. Lawrence Valley. To accommodate them, the British government passed the *Constitutional Act* (1791), creating Upper Canada, which covered present day southern Ontario. In 1840, Upper Canada was joined together with Lower Canada (Quebec), to form the Province of Canada.



Quebec Conference, 1864.

Front Row: (left to right) E. Whalen, A.T. Galt, George Brown, J.A. Macdonald, Col. J.H. Gray, C. Tupper, É.-P. Taché, S.L. Tilley, George-É. Cartier, J. McCully, E.B. Chandler, W.H. Steeves, Lt. Col. J.H. Gray
Back Row: G. Coles, H.L. Langevin, E. Palmer, O. Mowat, J.M. Johnson, A.G. Archibald, C. Fisher, J. Cockburn, J.C. Chapais, W.A. Henry, R.B. Dickey, A.A. Macdonald, W.H. Pope, J.A. Shea, F.B.T. Carter, H. Bernard, J.H. Haviland

Source: Notman Photographic Archives

The Dominion of Canada officially came into being on July 1, 1867, under the terms of the *British North America Act*, a law passed by the British Parliament. However, the substance of the BNA Act (now known as the *Constitution Act, 1867*), was drafted by the Fathers of Confederation, who were the leading figures in the colonial legislatures of British North America.

The new Dominion consisted of four provinces: the existing colonies of New Brunswick and Nova Scotia, and the provinces of Ontario and Quebec, newly re-created by the division of the colony of Canada into the two separate entities that had been joined in 1840. Toronto was named Ontario's capital.



Source: SchoolNet Digital Collections Program, Industry Canada

The other provinces and territories would enter Confederation later.

The BNA Act established a federal state, whereby the federal government was vested with the powers the Fathers of Confederation deemed necessary to manage the new nation, including control over the currency and banking system, interprovincial and international trade, transportation and communications, defence, the criminal law, and the power to raise revenue by any means of taxation. The BNA Act also granted the federal government a broad general power to legislate for "peace, order and good government," although the courts would subsequently narrow the scope of this clause.

The provinces were granted control over local matters such as intraprovincial trade, local works and undertakings, property and civil rights, the administration of justice, municipalities, public lands (natural resources was added more recently), education, health, welfare, agriculture (the latter shared with the federal government), and the power to raise revenue by means of direct taxation.

In the century since Confederation, popular conceptions of the legitimate role of government have changed significantly, to the provinces' advantage. In the nineteenth century, government played a minimal role in the delivery of social services such as health, welfare, and post-secondary education. Today, these are major provincial responsibilities. As a result, it might be argued that provincial governments have a greater impact on the daily lives of Canadians than does the federal government.

The Crown

Under the *Constitution Act, 1867*, the Queen is Canada's head of state, with the Governor General serving as her representative in her absence. The Lieutenant Governors are the Queen's representatives at the provincial level of government, serving as each province's head of state. Although named by the Prime Minister, the Lieutenant Governors play the same role in relation to the provincial government, that the Governor General fulfills in relation to the federal.

As the head of state in Ontario, the Lieutenant Governor formally opens, "prorogues" (the technical word for formally closing a session), and "dissolves" (to allow an election to occur) the provincial Legislature. The Lieutenant Governor, like the Governor General, is non-partisan, and represents all Ontarians. Occupants of this office strive to maintain the profile of the Crown in the community by entertaining and supporting community groups, holding the New Year's Day levee at Queen's Park and elsewhere, acting as a patron to charitable and social service organizations, and hosting social events at the opening and closing of the Legislature or for visiting dignitaries.

Recent Lieutenant Governors have adopted the practice of choosing one cause in particular to champion, in order to draw the attention of Ontarians to a deserving group of citizens in their midst. For example, Lieutenant Governor Hilary Weston (1997-2002) was a children's advocate. The current Lieutenant Governor, Hon. James Karl Bartleman, a member of the Mnjikaning First Nation, has identified three areas: to encourage aboriginal communities, especially young people; to speak out to reduce the stigma associated with mental illness; and to support initiatives that fight racism and discrimination. These activities serve to elevate the image of the Crown in the eyes of the public as a symbol of the whole community, with which all Ontarians can identify.



Hon. James Karl Bartleman, the 27th Lieutenant Governor of Ontario, is the province's 41st vice-regal representative since John Graves Simcoe's arrival in Upper Canada in 1792.



Standard of the Lieutenant Governor of Ontario

Parliamentary Government

A literal reading of Canada's formal constitutional documents offers a very misleading impression of how parliamentary government works in this country and its provinces. In addition to the formal legal rules, the operation of parliamentary government rests upon conventions. Conventions are patterns of political behaviour that have solidified over time into universally accepted rules. In Ontario, as in many other Commonwealth jurisdictions, the basic conventions of parliamentary government have not been codified by the Legislature and set down in a formal document.

The most important constitutional convention informing the letter of the constitution is the principle of responsible government, which is not explained in the *Constitution Act, 1867*. Under the norms of responsible (or cabinet) government, the head of state (the Lieutenant Governors in the provinces) must act under the advice of Ministers who are Members of the legislative branch and who enjoy the support (or confidence) of a majority of the Members. The effect of responsible government therefore is to transfer effective political power from the Crown to elected officials. The government is conducted by the Premier (or the Prime Minister federally), supported by a Cabinet. All legislative Acts require the formal approval of the Crown, though they are initiated either by the cabinet or backbench Members of the Legislature.

As long as the Cabinet can command the support or confidence of a majority in the Legislature, the Lieutenant Governor is obliged to follow the advice tendered to him or her by the Cabinet. The Lieutenant Governor cannot refuse the advice of or dismiss a Cabinet because he or she believes its policies are unwise, or because the elected government is unpopular with the electorate. Nor can the Lieutenant Governor dismiss a government because he or she believes it has acted illegally, since the Crown has neither the competence nor the authority to adjudicate a legal question and thereby usurp the role of the courts.

The occasions when the Crown can legitimately intervene in parliamentary politics are very rare. In Canada, no Prime Minister has ever been dismissed by the Queen or Governor General, and no Premier by a Lieutenant Governor since 1903, when Premier Prior of British Columbia was dismissed after it was revealed he was president of a company that had received a government contract. In Britain no Prime Minister has been dismissed since 1783.



The Assembly Mace

Nevertheless, the Crown does retain certain prerogative or reserve powers. There are some occasions when the Lieutenant Governor might conceivably be required to act on his or her own discretion without the advice or even contrary to the advice of the Cabinet. However, if these occasions ever did arise, the Crown's course of action would still be dictated by the principles of responsible government. In the contemporary context, such occasions might arise only when it was unclear which party commanded the support of a majority of the Members, or when a government continued in office after it had lost the confidence of the Legislature.

For example, if an election gave no party a clear majority, and it was unclear which party could attract the support of other parties representing a majority of the Members, the Lieutenant Governor might have to exercise his or her discretion and select one of the party leaders to form a government. However, even in these circumstances, the party leaders usually agree on an outcome, thereby relieving the Crown of the burden of intervening. In the 1985 election in Ontario, the ruling Conservatives were reduced to 52 seats, the Liberals won 48, and the New Democratic Party (NDP), 25. The Liberals and the NDP voted together on a motion of non-confidence to defeat the Conservatives, and Liberal leader David Peterson formed a government with the support of the NDP, even though his party did not have the most seats in the legislature. Because the NDP had privately agreed to support the Liberals and join with them to defeat the Conservatives, it was not necessary for the Lieutenant Governor to exercise any discretion in selecting the new Premier.

The Executive

Under responsible government there is no formal separation of powers between the executive and legislative branches of government. The cabinet, which constitutes a collective executive, draws its personnel and its power to govern from the legislative branch. Government is not conducted by the Legislature, but the cabinet must direct the government through the Legislature and under its continual oversight. The administrative authority exercised by the cabinet is drawn from legislation passed by the Legislature. Without the consent of the Legislature no revenue can be drawn from the Consolidated Revenue Fund by the executive for expenditure on any purpose, nor can taxes be imposed. Members of the Legislature daily examine and scrutinize the performance of the cabinet through such means as Question Period, debates on the floor of the Assembly, and in Committee.

The Premier appoints every member of Cabinet. Most Ministers will head a ministry or government department, and represent it in the Legislature. Other Ministers may be appointed with responsibility for specific policy fields or sectors of Ontario society. Premier Dalton McGuinty, Ontario's 24th Premier, leads the current provincial government. His cabinet includes 23 Ministers with the Premier serving also as Minister of Intergovernmental Affairs.

Ministers may be aided by Parliamentary Assistants, appointed by the Premier. These are Members of the Legislature belonging to the government party. Ministers have considerable discretion as to how they allocate responsibilities among their Parliamentary Assistants (PAs). Typically, a Parliamentary Assistant will assist his or her Minister by meeting groups seeking assistance from the government, and by filling in for the Minister at speaking engagements. The Minister will introduce any bills relating to that ministry into the Legislature; PAs can move second or third reading.



Dalton McGuinty,
Ontario's Premier

The Accountability of the Cabinet

The successful operation of responsible government depends on another constitutional convention, the doctrine of ministerial responsibility. Ministers are *collectively* responsible to the Legislature for the conduct of government, and *individually* responsible for the management of their respective departments.

Collective responsibility rests on the principle of cabinet solidarity: all members of the Cabinet must publicly endorse and defend the government's policies, regardless of the views they may have previously expressed in the privacy of the cabinet room. Cabinet solidarity is crucial to the operation of responsible government. If Ministers were free to dissent publicly from those government policies with which they personally disagreed, it would become impossible for the Legislature to hold the Cabinet accountable for its actions. It follows that a Minister who refuses to endorse government policy must resign from the Cabinet.

Individual responsibility means that every Cabinet Minister is the representative and spokesperson for his or her department in the Legislature. The Minister is responsible for articulating his or her ministry or department's policies and defending the department's actions. If the opposition parties or the media uncover some instance of bureaucratic malfeasance committed by the department's civil servants, it is the Minister who must answer to the Legislature.

A Non-Partisan Public Service

Government ministries are organized into divisions, branches, units and offices; and are administered by public servants operating on the basis of the principle of political neutrality. Among its most important tenets are the following: that public servants be appointed and promoted on the basis of merit, not their partisan political views; that public servants do not comment politically on the policies they administer; and that in return for confidential advice from public servants, Ministers take public responsibility for government decisions.



The Trillium
Ontario's Provincial Flower



Amethyst Award for exceptional or
outstanding contributions on the job by
Ontario Public Servants



Ontario's official tartan, pursuant to the *Tartan Act*, a private Members' public bill introduced by Bill Murdoch, MPP, and passed by the Legislature in June 2000

The Legislature

In parliamentary legislatures, a distinction must be drawn between the *control* of government by the legislature, and the *accountability* of the government to the legislature. The Ontario Legislature does not purport to control the day-to-day actions of the government. Under the conventions of responsible government, the Cabinet exercises control over the executive branch, and as long as it is supported by the votes of its backbench MPPs, can reasonably anticipate the passage of its legislation by the Legislature, after debate. (“Backbenchers” are Members who on the government side, are not Ministers, and on the opposition side, are not party leaders).



Coat of Arms. Legislative Assembly of Ontario

While the opportunity does exist for ordinary Members of the Legislature not in the Cabinet to introduce legislation, few private Members’ public bills ever become law. For example, in the 1999-2003 Legislature, 78.7% of all government bills were eventually passed into law, while only 4.4% of the public bills introduced by private Members made it to the statute book. These figures are typical of parliamentary legislatures based on the British model. Under responsible government it is accepted political practice for the elected government of the day to claim the right, and the responsibility, to be the principal author of public legislation.

Though the Legislature cannot expect to exercise any decisive influence over the decision-making process in the executive branch of government, it is the principal forum in which the government of the day is held accountable for its control of the executive. The parliamentary business on the floor of the House is organized around this principle. Ministers must continually defend the government’s record. While the House has no constitutional authority to remove a Minister who performs poorly in office, a Minister who cannot adequately respond to the opposition’s attack during Question Period, or provide credible explanations for the conduct of his or her officials at times of controversy, likely compromises his or her long-term political prospects. From time to time, Ministers have been compelled to resign after failing to account satisfactorily for their actions in the House.

Political Parties and the Legislature

One of the most important aspects of parliamentary politics in contemporary democracies is the influence of political parties. Members of British style legislatures such as the Ontario Legislature are almost invariably elected on the party label. In Ontario, the three principal parties – the Progressive Conservatives, the Liberals, and the NDP – have won all but one seat in elections to the Ontario Legislature since 1977.



The Ontario Legislative Chamber

The parties which do not form the government are known collectively as the opposition. It is a convention of responsible government that the political party with the right to be called the "Official Opposition" is the largest minority group that is prepared, in the event of the resignation of the Government, to assume office. Opposition parties that are not recognized as the Official Opposition are informally known as the "third" or "fourth" parties, etc.

The participation by Members in parliamentary proceedings is largely a function of their party membership. Changes to the Standing Orders (i.e. the rules of the House) made in 1999 explicitly defined a "recognized party" as one with "a party caucus of 8 or more Members." Participation in House business is divided among the recognized parties as indicated in the Standing Orders, or as the Speaker determines. (The Speaker of the House is a Member elected by his or her peers in a secret ballot to preside over the Legislature's proceedings in a non-partisan manner). Where the Standing Orders are silent about the allocation of time between the recognized parties, the Speaker will often consent to follow agreements reached between the parties' House Leaders. For example,

during Question Period, the Speaker recognizes Members wishing to ask questions of Ministers in rotation among the parties as agreed to by the party House Leaders in December 2003. The share of time among Members during other stages in the sitting day, such as Members' Statements and Responses to Ministerial Statements is allotted, and membership on legislative committees is distributed in proportion to the parties' parliamentary representation. Want of confidence motions in the government are moved by Members in their capacity as representatives of opposition parties. Participation by Members in debates on government legislation or motions is organized along party lines.



Opening ceremonies of the Ontario Legislature [Queen's Park]. 1949
Series consists of photographs created or used by Premier Leslie M. Frost during his time in office to document various events in which the Premier participated.
Source: Archives of Ontario. RG 3-38-2-5.

In the parliamentary universe, few candidates for office elect to run as Independents. Most aspiring politicians readily accept that membership in a political party is a precondition of electoral success. Few can afford to mount an effective campaign with their own resources. Moreover, as the 18th century parliamentarian Edmund Burke once pointed out, it is a natural human instinct for those who wish to enter public life in the pursuit of some object to band together with others who share the same ideas and aspirations.

The fundamental principles of responsible government assume the presence of cohesive parties. As we have already seen, under responsible government, following an election, the Lieutenant Governor invites a Member of the Legislature who can command the allegiance of a majority of his or her colleagues to form a government, that is, to be

Premier. Once a government loses the confidence of the Legislature, it must resign and give way to another government or to the call of an election. In this setting, an Independent Member who owes no loyalty to any party tends to be regarded by the media (and other Members) as an anomaly.

Most Independent Members in Canada are in fact elected on a party label, but subsequently leave or are expelled from the parliamentary caucus, and opt to sit as an Independent instead of joining another party. In the 1995 general election, Peter North became the first Independent elected to the Ontario Legislature since 1934.

Independent Members in the Ontario Legislature have a limited right to participate in Question Period under the Legislature's formal rules, or Standing Orders. However, in exercising his or her discretion to recognize Independent Members during Members' Statements or Question Period, the Speaker is required to "have regard to the opportunities" available to Members of the recognized parties.

The Role of the Opposition in the Legislature

In a democratic legislature, it is particularly crucial that the parliamentary opposition be able to discharge its historic function effectively.

An oft-cited dictum (commonly attributed to Randolph Churchill, a leading British Tory MP in the late 19th century) is that "the duty of Her Majesty's official Opposition is to oppose Her Majesty's Government." This simplifies a basic principle: according to the ideal of parliamentary democracy, the opposition has the responsibility to scrutinize government policies, explore their likely impact on the community, expose their weaknesses, and in turn, offer its own alternatives. The opposition parties – regardless of their particular ideology – will endeavour to present themselves as responsible critics of the government, and will do so for two reasons: to lend legitimacy to the partisan attacks they do make on the government, and to persuade the electorate that they offer a credible alternative to the party in power. This allows them to emphasize the government's refusals to heed their reasonable and well-meaning proposals and suggestions, even when they are offered in a spirit of non-partisanship.

For its part, the government of the day – again, regardless of party complexion – will respond to this strategy by attempting to identify inconsistencies in the positions taken by its opponents. It will be quick to argue that the opposition parties engage in wholesale attacks on the government and its works with the sole objective of blackening the government's reputation, while failing to offer any constructive alternatives to the voting public.

It has been argued that the genius of the parliamentary system is to marry the public interest with the political self-interest of the opposition. It is in the public interest for the party in power to be subjected to thorough public criticism; it is in the interests of the

opposition to expose the real or alleged failings of the governing party, in order to demonstrate to the electorate that it is an attractive electoral alternative.

The Necessity of Co-operation Between the Parties

Notwithstanding the natural conflict between the government and opposition, the smooth functioning of the Legislature requires a considerable degree of co-operation between the government and the opposition parties. If the opposition were to obstruct the government at every opportunity and at every stage of the parliamentary day, the business of the Legislature would quickly grind to a halt. Thus, the public partisan battle in the Legislature is conducted against a background of quiet co-operation among the parties. This co-operation is founded on acceptance of the basic principle of parliamentary procedure: while the government majority has the right to see its legislation debated and passed in due course, the opposition minority has the right to sufficient parliamentary time to criticize that legislation and propose alternatives.

Each party in the House appoints a House Leader from among its members to conduct discussions about the legislative schedule. Meeting regularly while the House is in session, the House Leaders endeavour to negotiate the Legislature's agenda a week in advance, thereby giving all Members notice of what business will be conducted, so that they can prepare for debate. Under the Legislature's rules, each Thursday when the House is in session the government House Leader is required to announce in the Legislature the business for the following week

Occasionally the parties will fail to agree on what constitutes adequate time for debate. On these occasions, the government will argue that the opposition has had sufficient time to debate the legislation and offer alternatives; the opposition will respond that its Members need more time for discussion and to alert the public to the alleged failures of the bill in question. However, eventually the rights of the majority will override the rights of the minority. Under the Legislature's Standing Orders, once debate on a government bill or motion has reached a certain stage, the government may move to allocate time for the remaining stages of debate. Once the time allotted for each stage has been consumed, the vote on the item must be held. A blunter, less frequently employed device at the government's disposal for terminating debate is the closure rule. This enables the government to introduce without prior notice a non-debatable motion which, if passed, immediately terminates the debate on the item in question. Invariably, a government invoking closure is accused by the opposition parties of engaging in undemocratic behaviour.



The Legislative Building has been the centre of thousands of events over the years.

Ontario residents have welcomed, paraded, picnicked, mourned, demonstrated and celebrated inside and outside its walls as it continues to be a focal point in the province.

Those visiting the Legislative Building will hear the term "Queen's Park" used widely. Specifically, it refers to the grounds upon which the Building stands.

Elections

The Members of Canadian legislatures are elected by means of the plurality or “first past the post” system inherited from Britain. Under this system, the candidate who receives the most votes in a local constituency (or riding) is elected, regardless of whether this amounts to a majority of the votes cast. It is quite common in parliamentary democracies using this system for candidates to be elected with less than 50% of the vote, and for parties to win a majority of the seats in the legislature with less than 50% of the aggregate vote. In Ontario, the winning party has not captured 50% of the vote since 1937.



Ontario Ballot Box
Source: Elections Ontario

Under parliamentary government, parties dominate elections. For example, in the most recent general election held in Ontario, in October 2003, a total of 522 candidates ran in the 103 constituencies represented in the Legislature. Of this total, 309 ran for the three principal parties, 189 ran for six other parties, and 24 ran as Independents.

Competition between the parties (and in particular, between the party leaders) is the focus of voter and media attention during the campaign. Innumerable studies have demonstrated that the single biggest factor influencing the voters' choice on election day is party identification. The voters understand that in making their choice among the candidates in their local constituencies, they are determining which party leader will form a government.

The Charter of Rights and Freedoms

Canada's founding constitutional document, the *British North America Act, 1867*, contained neither a bill of rights on the U.S. model, nor a formula for its own amendment. Since the *BNA Act* was a law passed by the British Parliament, the legal authority to amend the Canadian constitution remained with Westminster. (However, the understanding developed that the British Parliament would not amend the Canadian constitution except at Canada's request.) Through the years, the stumbling block to transferring the constitution to Canada was finding an amending formula that Ottawa and the provinces could agree upon.

As Canada matured as an independent nation in the decades following World War Two, this anomaly became a pressing political issue. Finally, after decades of federal-provincial conferences and negotiations, the two houses of the Canadian Parliament, the Senate and the House of Commons, passed a joint address in 1981 drafted by the federal government led by Prime Minister Pierre Trudeau, for submission to the British government. This joint address provided for the patriation of the Canadian constitution. Under the terms of the *Canada Act*, which was the law passed by the British Parliament implementing the joint address, the *Constitution Act, 1982* was proclaimed in Canada, effecting the country's constitutional independence.



Source: Heritage Canada

The *Constitution Act, 1982* is not a complete legal blueprint, but instead an addition to the existing body of constitutional documents which together constitute the Canadian constitution. Among other matters, the *Constitution Act, 1982* contains amending formulae by means of which the various parts of the constitution can be changed, and a *Charter of Rights and Freedoms*.

The *Charter's* guarantees include fundamental freedoms, democratic rights, mobility rights, legal rights, equality rights, official language rights, and minority language education rights.

When the *Charter* was being debated in the Canadian Parliament, many Canadians expressed concern that adoption of a bill of rights on the U.S. model posed the danger of a dramatic transfer of political power to the courts, at the expense of the elected House of Commons and provincial legislatures. Addressing this concern, two clauses were inserted to preserve some policy-making latitude for legislators. The initial section of the *Charter* declares that the *Charter's* guarantees are "subject only to such reasonable limits prescribed by law as can be demonstrably justified in a free and democratic society." The courts have ruled that in *Charter* cases, the burden of proof is on the government to demonstrate that its infringement of citizen's rights is reasonable and justifiable, rather than on the citizen who is claiming that his or her rights have been infringed to show the opposite.

Secondly, there is a "notwithstanding" or legislative override clause (Section 33), which permits the Parliament of Canada or a provincial legislature to exempt laws from designated sections of the Charter. A law passed using the notwithstanding clause has effect for no more than five years, after which it must be re-enacted. Section 33 has never been invoked by the Ontario legislature or the Parliament of Canada, and only infrequently elsewhere in the provinces.