

OPINION: PARLIAMENT

The caretaker convention: what happens to federal government in an election

The caretaker convention exists because when Parliament is not in session, the people's representatives cannot hold the government to account for its expenditures.

By JAMES W.J. BOWDEN AND
NICHOLAS A. MACDONALD

Now that Prime Minister Harper has advised Governor General David Johnston to dissolve Parliament, the caretaker convention applies to his government. On March 24, *The Toronto Star* ran a column entitled "Harper's powers to shrink" on the caretaker convention, but did not provide some important details. CTV News published an article the next day that also failed to address some key points.

The column highlights that during a conference earlier this year in Toronto on Canadian government, the existence of a "top secret" document produced by the Privy Council Office that codifies the caretaker convention came to light. In Westminster Parliamentary systems, this convention applies during the writ period after the prime minister advises dissolution and until the prime minister resigns or forms a new government following the election.

The caretaker convention stipulates that during an election campaign, the government does not take on major new spending that Parliament did not already approve, and limits the Crown prerogative on major appointments. The caretaker convention exists because when Parliament is not in session, the people's representatives cannot hold the government to account for its expenditures. During this time, the government carries out only routine spending and appointments necessary for the legal functioning of the country.

An Access to Information request to the Privy Council Office released the document, entitled *Guidelines on the Conduct of Ministers, Secretaries of State, Exempt Staff and Public Servants During An Election* from 2008. The document's provisions apply to the prime minister and all Cabinet ministers, who retain their positions until the prime minister resigns and advises the governor general to appoint a new government. Members of Parliament, however, cease to hold office upon dissolution. The *Guidelines* limit the govern-



Photograph by Jake Wright, *The Hill Times*

Not in: While MPs are on the hustings, the federal government a caretaker.

ment's power during an election, declaring that the "government should restrict itself—in matters of policy, expenditure and appointments—to activity that is: (a) routine, or (b) non-controversial, or (c) urgent and in the public interest, or (d) reversible by a new government without undue cost or disruption, or (e) agreed to by the opposition in those cases where consultation is appropriate."

The *Guidelines* and the *Manual of Official Procedure of the Government of Canada* that the *Star* story has mentioned are in fact two separate documents. The Privy Council Office published the *Manual* in 1968 at the direction of prime minister Lester B. Pearson, who then expressed his hope that it would "be of valuable assistance to my successors in the office of the Prime Minister and to all those directly responsible for the process of government in Canada." The *Manual* codified most of the constitutional conventions that underpin the Westminster system of government in terms of the Crown, Parliament, Cabinet, the public service, and the judiciary. It does not discuss the caretaker convention, which may have been less well-formulated in the 1960s. Unfortunately, over 40 years later, prime minister Pearson's wish has not been fulfilled.

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