

HOW WRITTEN LAWS ARE MADE

Laws help maintain order in our society. Because of this, it should come as no surprise that an orderly process is necessary to create laws. Unlike a dictatorship where leaders can rule by decree, Saskatchewan has a defined process to guide the creation of laws, from their first idea to becoming rules we are expected to obey.

When a law is first proposed, it is called a bill. Bills are most often brought forward by a minister of the government. Backbench and opposition MLAs can also propose bills, provided that they do not contain financial provisions.

Bills are not created on a whim. They usually are developed through a larger planning process.

In a democracy the will of the people sets the course for government. Generally, the governing party's election platform and ideology sets the stage for what kinds of laws the government will attempt to pass.

Winning an election gives the government a mandate from the people to implement their agenda. The first legislative step to develop their agenda of laws is the Speech from the Throne. The Speech from the Throne does not contain any specific bills. Instead, it outlines the government's coming priorities.

The legislature will vote on the speech. If they approve, the government may go forward with their lawmaking plans. If the legislature rejects the speech, the government falls. This means a new government must be put in place: The Lieutenant Governor will either ask an opposition party to form government, or allow for a new provincial election.

Ideas introduced in the Speech from the Throne are worked into specific bills by a policy and planning division of the government. They create a legislative proposal. It outlines in more detail what the law is meant to accomplish. Once the legislative proposal is completed, a lawyer who specialises in writing legislation drafts the actual proposed law, or bill. At this point it is ready for consideration by the legislature.

A bill is considered in three stages, called readings. It is worth pointing out that there is no actual "reading" of the bill in the legislature: copies of it are distributed so that MLAs and the public may consider the proposed law.

FIRST READING

After a law is developed and drafted, the bill is introduced in the legislature. This is called first reading. There is no debate or vote at this point. The bill is simply introduced so that MLAs may begin examining it.

SECOND READING

The next stage is called second reading. The minister or MLA proposing the bill explains what it is supposed to achieve. At this stage the principle and objective of the bill are debated. There usually will be no debate of the bill's finer points.

If a bill passes a vote at second reading, it is referred to committee. In committee, a group of MLAs examines it in more detail. Some reasons why the committee stage is crucial for creating good laws include:

- committees can examine and consider a bill in greater detail
- committees are able to call in experts to discuss a bill so that they may learn more about its purpose and implications
- committees are able to propose and debate amendments to a bill



While the public pays little attention to committees, they are vital for creating good laws. Thorough and properly-functioning committee work prevents society from being saddled with poorly-thought-out laws.

THIRD READING

After the committee stage, the bill in its final shape is again presented to the legislature. This is its third reading. At third reading, MLAs vote on the bill. If the bill is passed, it is ready to become law.

To actually become a law, bills must receive royal assent. This is the signing of the bill by the Lieutenant Governor on behalf of the Crown.

Most bills become law when they receive royal assent. However, this is not always the case. Sometimes, provisions are written into a bill specifying the date it will become law. Other times, bills will not become law until the Lieutenant Governor is instructed by cabinet to put the law into force.

If the Lieutenant Governor has concerns about a bill passed by the legislature, they have two options to stall or stop the bill.

The Lieutenant Governor's first option is to refuse royal assent. This means the bill must be reintroduced in the legislature and be reconsidered.

Refusal of royal assent is virtually unprecedented in the modern history of the British Monarchy. The last time it was used in the United Kingdom was by Queen Anne in 1707. In Canada, the only time it was used was in Prince Edward Island in 1945.

The Lieutenant Governor's other option is the reservation of royal assent. If a bill is "reserved," it will be reviewed by the Governor General, who will rely upon the advice of the federal cabinet to determine whether or not it should become law.

Reservation of royal assent was originally intended so that the federal government could intervene in legislation that threatened the interests of the country as a whole. It has been used 79 times in Canada, mostly in the early nation-building days before 1900.

Only once has Saskatchewan's Lieutenant Governor practised the right of reservation. In 1961, the Woodrow Lloyd government passed Bill 56, *The Alteration of Certain Minerals Contracts*. Lieutenant Governor Frank Bastedo had doubts about the validity of the bill. He also wondered if the bill was in the public interest. Bastedo's advisors told him that the bill was constitutionally valid. Nevertheless, he reserved Bill 56 and sent it to the Governor General.

Following protocol, the Governor General turned to the federal cabinet for advice. The Diefenbaker government's cabinet passed an order in council (a motion created by cabinet and carried out by the Governor General) to give Bill 56 royal assent. This was the last time reservation of royal assent has been used anywhere in Canada.



CLOSURE

There are normally no limitations on the length of time that a bill can be debated in the Saskatchewan legislature. The purpose of debate is to critically analyse and bring about public awareness of bills. This is why debate is normally allowed to go on for as long as is required to understand legislation. However, a procedure called closure can be enacted to limit the amount of time for debating a measure. Closure can be enacted if the majority of MLAs agree.

Closure had never been used in Saskatchewan until August 7th, 1989. The government was attempting to pass legislation to privatise the Potash Corporation of Saskatchewan. The opposition had planned to carry on the debate for as long as possible to stop the privatisation, a strategy that is called a “filibuster.” It became the longest debate over a piece of legislation in the history of the province. To stop the filibuster, the government passed a motion to limit all stages of the debate on the privatisation of the Potash Corporation to three days.

Discuss

1. Should the Lieutenant Governor have the right to withhold royal assent on bills passed by the democratically-elected legislature? Why or why not?
2. There is usually little chance of a private member’s bill becoming law. Why would a member propose legislation?
3. Even if it is a foregone conclusion that a majority of MLAs will support a bill, why must that bill be thoroughly and openly debated before it becomes law?

