
A "Call to Arms" for the Canadian Parliament

by Bruce M. Hicks

Canada is one of the few developed democratic countries that uses the same symbol for its executive, legislative and judicial branches of government. The symbol is the Royal Arms of H.M. Queen Elizabeth II, as Queen of Canada. This article argues that Parliament should have its own symbol.

It may surprise many, including members of the Canadian Parliament, to learn that the symbol which appears on the top of every piece of letterhead and on the spine of every binder on Parliament Hill is not a symbol of Parliament. It is the Coat of Arms of Her Majesty Queen Elizabeth II.

It is not wrong that these arms are used everywhere in Parliament. It is, after all, under the authority of the British monarch that Parliament was first assembled. However, it is at the very least confusing and, given Canada's written Constitution, I would argue, somewhat inappropriate that this is the only symbol for Parliament.

When Parliament was created centuries ago, the representatives were sent there to represent the "people" to the King - first the nobility and then the common folk (through an ever-increasing franchise). Members of a parliament were brought together and asked to consider legislation and taxation proposed by the King. They had the right to refuse or amend anything put before them - and they won that right over centuries of challenge and confrontation, and even civil war against the King.

Therefore, to use the arms of the King to represent every aspect of Parliament - the House of Commons, the Senate, the precincts, the members, the agencies, and

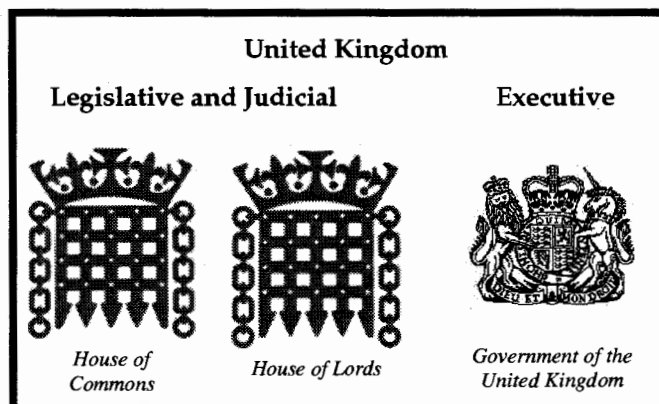
even the staff - seems at odds with Parliament's history and role.

Even in England, where the monarchy is part of every day life, they long ago ceased using the King's arms on all but 'Acts of Parliament assembled'. After all, to conduct all parliamentary business under the King's arms was to deny the independence and equality of each of the three distinct parts.

Unfortunately for England, English heraldic law did not permit Parliament to obtain its own grant of arms. Parliament is not a body corporate (not even the 'Supreme Court', as constituted by the Judicature Acts of 1873-75 and consisting of the High Court and the Court of Appeal, is a corporate entity).

The solution in England was to adopt a Royal badge for day-to-day use. While arms and crests were personal to their bearers, others could use their badges (this is still true today). The badge Parliament chose, the portcullis,

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was one of the most cherished badges of the House of Tudor. (Henry VII adopted it to honour his mother, Lady Margaret Beaufort, to whose family it belonged.)

Today, legislation passed by Parliament still has at its head the Queen's Arms. After all, as in Canada, it is passed under the authority of the Crown, and begins with the words:

"BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: -..."

However, during consideration of that legislation, all documents relating to the work of each of the Houses of Parliament, and to the work of its members, use the portcullis badge.

Nowhere are the branches of government more distinct than in the United States. After all, jurisdictional overlap was one of the flaws the American founders saw in the British system of government. And nowhere are the symbols of government more recognisable than south of the border.

The founders of the United States were concerned that the executive branch (i.e. the Crown) had too much control or influence over the legislative branch (i.e. Parliament). That is why the legislature is mentioned first in their Constitution (the executive branch is mentioned first in ours) and why members of Cabinet, including the President, do not serve in their legislature.

Much thought went into the symbols of office for the branches of the U.S. government. All are rooted in the Great Seal of the United States, but each has specific differences. Most notably, each uses the 13 stars of the original flag or the 50 stars of the current flag in a unique format.

Because of these differences, which reflect the different roles of each institution, they are easily recognisable by the American people. Even outside the United States,

thanks to Hollywood, there are many people who can immediately recognise these symbols.

These symbols permit Americans to instantly recognise the public office a person holds, even if they do not recognise the person. And from the public office holder's perspective, those same symbols of office give his or her message instant impact.

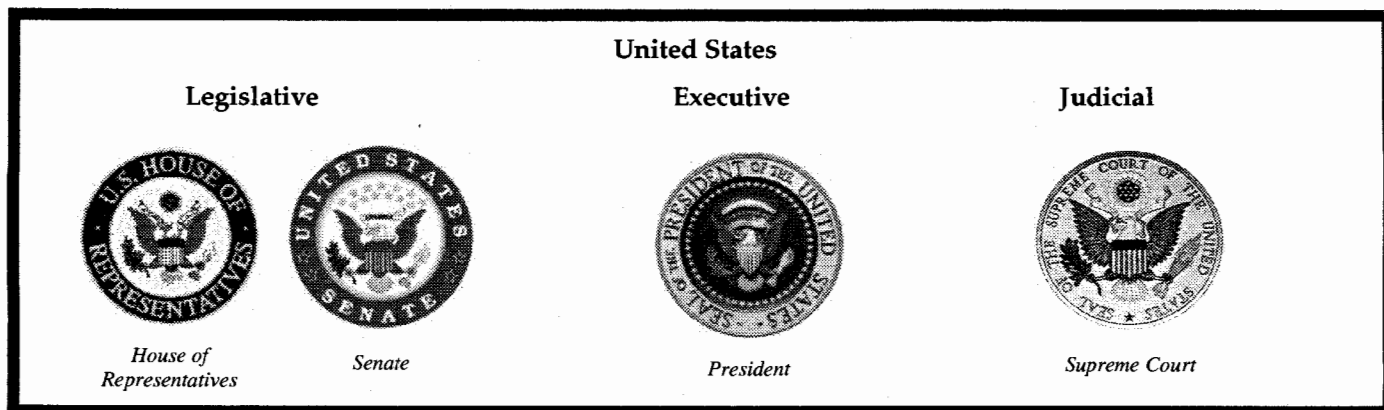
For example, when a U.S. Senator calls a press conference to criticise or commend something a department of the government has done, there is no confusion that he or she is speaking as a legislator. The press room for the Senate (and the second press room for the House of Representatives) has a seal of office on the podium and on a flag behind the podium.

While few Americans will be able to name that Senator, when they see the clip of that press conference on the six o'clock news, they instantly recognise by the podium and flag that he or she is a senator. What is more, they understand that he or she is representing his or her constituents' interests and expressing partisan political opinion, not speaking on behalf of the government (since the government uses different and equally recognisable symbols).

In a modern media-based democracy, communications is everything. If a public office holder cannot get his or her message out, then he or she will not be able to influence public policy and, perhaps more importantly (at least to the office holder), will not get re-elected.

France takes a similar approach though it may be a better parallel for Canada. France began as a monarchy and while it broke with that past through revolution, the roots of its symbols can be seen in its history.

The French use a common symbol throughout the executive, legislative and judiciary to represent government as a whole. They use "Marianne" much in the same way as we use the Royal Arms. And Marianne is the personification of the republic, in a similar way as the Queen represents Canadian sovereignty.



France

Legislative



Chamber of Deputies



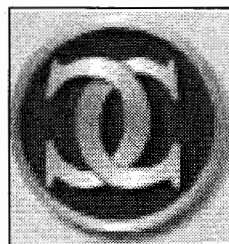
Senate

Executive

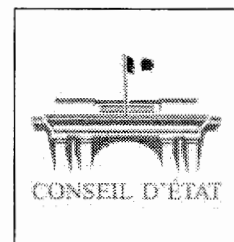


President of the Republic

Judicial



Cour de Cassation



Council of State

At the same time, each institution in France has also adopted its own symbol. Because the current republic is only 40 years old, the symbols used by its institutions are very modern. They have their roots in the Tri-colour Flag, which in the 1958 Constitution became the national emblem of France.

Whether the country is a constitutional monarchy, like England, or a republic, like the United States and France, most countries have recognised the need to identify their national institutions. That need is no less true for Canada.

Nevertheless, in Canada, the Supreme Court, the Federal Court, the Prime Minister, Cabinet ministers, the Auditor General, the information and privacy commissioners, the Commissioner of Official Languages, the Tax Court, MPs, Senators and every Royal commission and public inquiry all use the same symbol.

How often do we hear that the Canadian people feel there are no checks and balances in our system? Or how the public is questioning the independence of its institutions, in general, and of its legislators, in particular?

It would be naïve to suggest that symbols alone would restore public confidence in the political system for everyone. Some of the doubts the Canadian people have are well founded. But there is no reason to exacerbate those doubts by blurring the visual lines between the few checks and balances that exist in the Canadian parliamentary system.

There does seem to be an acknowledgement of the need for symbols to identify national institutions here in Canada. Both Parliament and the Treasury Board (a Committee of Cabinet) have established elaborate rules concerning how the Royal Arms may be displayed. For example, the Royal Arms of Canada are to be printed in silver or gold on ministerial letterhead and in green on MPs' letterhead. (A few Ministers have had to resign af-

ter choosing the wrong colour letterhead when writing on behalf of a constituent!)

While this is an acknowledgement of the need to identify the separate branches of government and to keep them separate, it does not go far enough. People can hardly be expected to understand the subtle difference in colour.

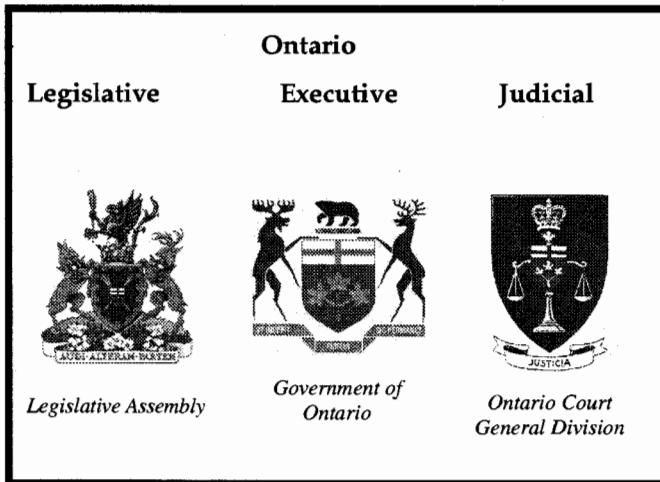
One simple solution would be to follow the British example and have Parliament use the portcullis. The House of Commons and Senate were given, in the *Constitution Act, 1867*, the right to all the "privileges, immunities and powers" "held, enjoyed and exercised by the Commons House of Parliament of the United Kingdom and Great Britain and Ireland, and by the members thereof". A case can easily be made for the use of the portcullis here in Canada, and since a coronet forms part of the Royal portcullis badge, the Canadian version would be different from the British version. Another solution would be to adopt a corporate "logo". Several provincial legislatures have followed this route. However, a more logical and appropriate step would be for Parliament to have its own full achievement of arms, complete with badges and flags for MPs and Senators.

Unlike Britain, where Parliament evolved out of the Royal prerogative and historic practice, in Canada, Parliament was specifically created by the *Constitution Act, 1867*. It is defined as the "Queen, and Upper House styled the Senate, and the House of Commons" and both the House of Commons and Senate exist as bodies corporate (the House of Commons and Senate are specifically listed as departments in Section 2 of the *Financial Administration Act*). The two houses have the full right to bear arms.

So why has it not been done? One reason was process. Historically, British heralds (in either England or Scotland) were the only persons who could grant arms. No

country, especially the bilingual multi-cultural country of Canada, would want to go 'cap in hand' to a foreign government and ask it to design a symbol for its elected legislature.

Another reason was political will. It is said that a camel



is a horse built by a committee. For Parliament to create its own symbol would require committee, if not all-party approval.

Both these impediments were removed on June 4, 1988, when Queen Elizabeth, by Royal Letters Patent, turned over her Royal prerogative over heraldry to the Canadian Governor General. There now exists within Rideau Hall a group of officers who have the expertise and the author-

ity to create symbols for Canadian persons and institutions.

The Speaker of the House of Commons (and the Speaker of the Senate, for the upper chamber) simply has to write to the Governor General informing her of the House of Commons' (or the Senate's) desire to have a grant of arms.

While input and consultation with elected members of the House of Commons would probably be solicited by the heraldic officers during their deliberations, it is up to the Governor General and her heralds (and solely within their authority and purview) to create and grant arms.

Parliament would not be the first legislature in Canada to have its own grant of arms. On September 15, 1992, the Speaker of the Ontario Legislature, David Warner, applied for a grant of arms on behalf of that institution. Earlier, in 1990, the Ontario Court of Justice had also applied to have arms.

Both the House of Commons and the Senate could, by a simple letter from their respective Speakers, follow Ontario's lead. These would be 'made in Canada' coats of arms, granted by Canadian heraldic officers using symbolism rich in Canadian history. At the end of the day our national institutions, like those in Ontario, would be clearly identified by their distinct and separate symbols.