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# Changing the Line of Succession to the Crown

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Hon. Rob Nicholson, MP

*On October 28, 2011, representatives of the Commonwealth countries for which Her Majesty the Queen is the sovereign head of state, including Canada, agreed to support changes to the rules on royal succession. Prime Minister Stephen Harper signalled Canada's support to end the practice of placing younger brothers before their elder sisters in the line of succession. Second, he signalled support to end the prohibition against heirs marrying Roman Catholics. In December 2012, the government of the United Kingdom introduced legislation to amend the laws governing succession along these lines. The bill has been passed by the United Kingdom House of Commons and the House of Lords. This article outlines the provisions of Canadian Bill C-53 intended to indicate Canada's agreement with the principles in the United Kingdom legislation.*



The purpose of Bill C-53 is to provide the Parliament of Canada's assent to the changes to the law governing the succession to the throne that are proposed in the United Kingdom bill. The laws governing succession are United Kingdom laws. It is wholly within the legislative authority of the Parliament of the United Kingdom to alter the body

of United Kingdom laws relating to royal succession, including the *English Bill of Rights of 1688* and the *Act of Settlement of 1700*.

Canada is a constitutional monarchy, and it is a fundamental rule of our constitutional law that the Queen of Canada is the Queen of the United Kingdom, or, to put it another way, whoever, at any given period is the Queen or King of the United Kingdom is, at the same time, the Queen or King of Canada. That rule is embodied in the preamble to the *Constitution Act of 1867* and in the provisions of that act. The preamble states that Canada will be "united into one dominion under the Crown of the United Kingdom, with a constitution similar in principle to that of the United Kingdom."

Section 9 of the *Constitution Act of 1867* vests executive government and authority of and over Canada in the Queen. However, as the sovereign of the United Kingdom is also the sovereign of Canada, it is recognized as a matter of constitutional convention that the Parliament of Canada should assent to any changes to the laws of Succession to the Throne or the Royal Style and Titles of Her Majesty. This convention is set out in the preamble to the Statute of Westminster, 1931, which is a part of the Constitution of Canada, and it is repeated in the preamble to Bill C-53.

In this regard, our Canadian bill follows the precedent set by the Parliament of Canada in 1937, when, by the first *Succession to the Throne Act*, our Parliament assented to the alteration in the law of succession to the throne brought about by *His Majesty's Declaration of Abdication Act*, a statute of the United Kingdom Parliament, which gave legal effect to King Edward VIII's intention to abdicate the throne. It also follows the precedents of 1947, when the Parliament of Canada assented to an alteration in the Royal Style and Titles of King George VI, deleting the words "Emperor of India," and of 1953, when, by the *Royal Style and Titles Act*, the Parliament of Canada assented to the issuance of a proclamation declaring the official *Titles of Her Majesty Queen Elizabeth II*.

In moving second reading of that bill, Prime Minister Louis St. Laurent stated:

"Her Majesty is now the Queen of Canada, but she is the Queen of Canada because she is the

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*Hon. Rob Nicholson, is Minister of Justice and Attorney General of Canada. This is an edited version of his testimony to the Standing Senate Committee on Justice and Legal Affairs on March 21, 2013.*

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Queen of the United Kingdom and because the people of Canada are happy to recognize as their sovereign the sovereign of the United Kingdom.”

It is important to note that Bill C-53 does not amend the Constitution of Canada in relation to the Office of the Queen. The constitutional status of the Queen as the sovereign of Canada and her powers, rights and prerogatives under the Constitution are not affected, in any way, by this bill. Her Majesty continues to be our sovereign and head of state and to exercise the same authorities.

There are some who have tried to argue that, since the enactment of the *Canada Act 1982*, no law of the United Kingdom Parliament can extend to Canada as part of its law and that, therefore, the United Kingdom Succession to the Throne Bill cannot apply to Canada and our Canadian bill has no effect. This is inaccurate.

The United Kingdom Parliament is not making law for Canada, and there is nothing in the United Kingdom bill that purports to extend to Canada. The

British bill is amending the United Kingdom laws that define who may become the sovereign of the United Kingdom in the future. It is our Canadian Constitution that provides that the sovereign of the United Kingdom is the sovereign of Canada.

Bill C-53 will simply declare the Parliament of Canada’s assent to change ancient rules of succession that favoured male heirs over females, and that disqualified heirs if they married Roman Catholics. Those incremental and progressive changes are consistent with Canada’s fundamental values.

The bill is a straightforward approach to signifying this Parliament’s assent to changes to the law of royal succession that our House of Commons and fellow Canadians endorse. It is consistent with the precedents established by previous parliaments and with a sound appreciation of constitutional law, principle and convention. We are pleased to be doing our part in this important international endeavour.