



# INTRODUCTION TO THE STANDING SENATE COMMITTEE ON LEGAL AND CONSTITUTIONAL AFFAIRS

## MANDATE

The Standing Senate Committee on Legal and Constitutional Affairs has the mandate to examine legislation and to study matters relating to legal and constitutional matters generally, including the criminal justice system and the *Criminal Code*, constitutional issues, electoral matters, linguistic and legal duality, federal-provincial relations, law reform, the judiciary and most private bills.

The committee has historically been, and continues to be, one of the Senate's busiest committees. The vast majority of the committee's work entails the consideration of legislation, although from time to time the committee has undertaken more in-depth special studies on areas related to its mandate. Over the past few years, the committee has conducted statutory reviews, studied pilot projects, reviewed statutory regulations and has made recommendations relating to user fee increases.

## HISTORY

The Standing Senate Committee on Legal and Constitutional Affairs first met on February 13, 1969. It was, in some ways, the successor to the Standing Committee on Divorce which had dealt with an increasing number of private applications for divorce before the *Divorce Act* of 1968 established a divorce procedure by public law. The Divorce Committee remained in existence for the 1<sup>st</sup> and 2<sup>nd</sup> sessions of the 28<sup>th</sup> Parliament, but by the prorogation of the 3<sup>rd</sup> session of the 28<sup>th</sup> Parliament, on February 16, 1972, the Legal and Constitutional Affairs Committee was the sole Senate committee with a mandate to examine juridical matters.

## SELECTED LEGISLATIVE WORK

The making of the criminal law is an area of exclusive federal jurisdiction, and amendments to the *Criminal Code* form a large part of the committee's ongoing work. Criminal law involves matters of public safety, health, and security, as well as crimes against individuals and the administration of justice. For this reason, a number of controversial social issues such as abortion, prostitution, pornography and assisted suicide are normally examined by this committee.

To this end, the committee finds itself most often dealing with government bills which seek to make specific amendments to the *Criminal Code* and other related *Acts* that deal with criminal justice more generally. In recent years, the committee has examined criminal justice bills relating to pardons, mega-trials, sex offenders, firearms, parole, illegal drugs, sentencing, child pornography, white collar crime, prostitution, victims' rights, the faint-hope clause and the military justice system.



In the past, the committee has received several bills that sought to ensure that Canada's linguistic duality is reflected in federal legislation. Highly technical bills, for example legislation that seeks to harmonize federal and provincial laws in both official languages, continue to be referred to this committee, due to the complexity and specific legal expertise that the study of these bills may often require. This committee also normally receives all legislation relating to the electoral process and electoral districts in Canada. Although the committee clearly has a mandate to study constitutional or federal-provincial matters, major studies of this nature have more recently been referred to either a special committee or to a joint committee of the Senate and the House of Commons. However, constitutional issues remain within the general scope of study of the committee and the committee has more recently been tasked with studying some Senate reform initiatives.

### **SELECTED STUDIES**

Because of the volume of legislation that is referred to this committee, it tends to conduct short and precise investigative studies that are directly tied to its mandate. Most often this entails the statutorily mandated review of legislation. In 2009, the committee conducted a comprehensive review of the *DNA Identification Act*, making 22 recommendations to the government. The report has provided valuable guidance to the courts and to the government in the on-going application of the Act, having been cited directly in court decisions and has led to the introduction of new legislation. In 2013 the committee undertook a review of specific provisions in the *Criminal Code* that relate to the production of records in sex offence proceedings, a subject that had received no parliamentary scrutiny since their enactment in 1997, despite a number of judicial rulings.

Over the past several years, the committee has also studied issues such as non-derogation clauses as they pertain to aboriginal treaty rights, user fees for pardon applications, the constitutionality of Canada's military court martial system, approved the pilot project on the use of assistive voting devices for people with disabilities, and the constitutionality of language rights in the North.

### **CURRENT WORK**

For information on the current work of the committee, you may wish to review the orders of reference the committee has received from the Senate, or review the committee proceedings. Detailed information on current work of the committee can be found on the parliamentary website at <http://senate-senat.ca/lcjc.asp>.