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TRANSITION TO THE 45TH PARLIAMENT: KEY ROLES, GOVERNMENT FORMATION AND OTHER ISSUES

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Transition to the 45th Parliament: Key Roles, Government Formation and Other Issues (HillStudies)

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EXECUTIVE SUMMARY

Canada's founding document, the *Constitution Act, 1867*, established the country as a parliamentary democracy and constitutional monarchy. Executive authority resides with the Sovereign or that person's representative (i.e., the Governor General of Canada). The Constitution assigns the Governor General a wide range of powers. However, as a constitutional monarchy, these powers are generally only exercised on the advice of Canada's prime minister and the federal Cabinet.

Taken together, the Sovereign, the Senate and the House of Commons form Canada's legislative branch. In order for this branch to function, following a federal general election, the Governor General has a role to play in ensuring that there is a prime minister and federal Cabinet that can command the support of the majority of the membership of the House of Commons.

The country is divided into 343 federal ridings, each represented by one member of Canada's lower chamber, the House of Commons. Under the constitutional convention of responsible government that Canada adopted in 1867, the federal Cabinet is responsible to the elected House of Commons, and the House is responsible to Canadian citizens through regularly held elections.

The upper chamber, or Senate, has a membership of 105 senators who are appointed by the Governor General, on the advice of the prime minister, from five senatorial regions.

The operation of Canada's system of government and the interaction between its various actors (e.g., the Governor General, the prime minister, the federal Cabinet, the Official Opposition and opposition parties) can be complex and intricate at times. While Canada's Constitution is composed of a body of written documents, it also consists of unwritten customs, traditions and precedents.

This HillStudy provides questions and answers to matters related to forming a government, the types of government (majority or minority), the roles performed by various parliamentary actors and how these parliamentary actors relate to one another.

TRANSITION TO THE 45TH PARLIAMENT: KEY ROLES, GOVERNMENT FORMATION AND OTHER ISSUES

1 INTRODUCTION

This HillStudy consists of a series of questions and answers about issues concerning the transition from one Parliament to the next and, in particular, the transition from the 44th to the 45th Parliament. It explains how parliamentary and government activities are affected during an election period and describes the situation of various key political players – the Governor General, the prime minister, ministers and members of the House of Commons – between the dissolution of one Parliament and the beginning of the next.

A general election determines the composition of the House of Commons and results in one of a number of possible government configurations – usually, a majority or a minority government. This paper considers the constitutional, conventional and practical implications of these possibilities.

2 ELECTION RESULTS

2.1 WHEN ARE THE RESULTS OF A FEDERAL ELECTION KNOWN?

The unofficial and official election results are not available at the same time. They become available as follows:

- *Unofficial results* – Unofficial results are usually available on election day. Votes are counted as soon as the polls close, and the election officer for each poll reports the unofficial results to the returning officer for the riding, who then makes them public immediately.
- *Official results* – The process of declaring a candidate officially elected has several steps. The returning officer for each riding validates the results for that riding within seven days of election day (subject to adjournments of no more than two weeks if not all of the ballot boxes have been received); the winner is declared on the seventh day after validation, when the returning officer fills in the information on the back of the writ. This is called "completing the return of the writ." All of the materials are then sent to the Chief Electoral Officer (CEO).

The election of a member of the House of Commons becomes official once the CEO publishes a notice to that effect in the *Canada Gazette* and sends a letter of confirmation to the Clerk of the House of Commons.

If there is a tie, or if the leading candidates in a riding are separated by a margin of less than one one-thousandth (0.1%) of the total votes cast, a judicial recount is mandatory. In addition, any voter may ask a judge to conduct a judicial recount; the voter must post a deposit of $250 and swear an affidavit that there were improprieties in some aspect of the procedures.

If there is a tie vote after a judicial recount, a by-election is required.

2.2 WHAT IS THE RELEVANCE OF THE DATE SET FOR THE RETURN OF THE WRITS?

The date of the return of the writs is the date on which all materials from all returning officers must be received by the CEO. In practice, the date of receipt varies, and so early returns are deemed to be received on the date set. Where a judicial recount has been delayed, a substitute return can be made after that date if the recount changes the result.

Canada's Constitution provides that the House of Commons may not sit beyond five years after the return of the writs of a general election except in the case of real or apprehended war, invasion or insurrection.[1] Moreover, the fixed-date provision of the *Canada Elections Act*[2] requires that an election be held on the third Monday of October in the fourth calendar year after polling day for the last general election. The power of the Governor General to dissolve Parliament, thereby triggering an election, is unaffected by this provision.
(See also section 4.1.2.)

3 KEY PEOPLE

3.1 THE GOVERNOR GENERAL

3.1.1 What Are the Powers and Functions of the Governor General?

The Governor General represents the Sovereign, who is Canada's head of state, while the prime minister is the head of government. The Governor General is appointed by the Sovereign on the personal recommendation of the Canadian prime minister. Since the early 1950s, only Canadians have been appointed to the office. The manner of appointment of the Governor General is not mentioned in the Constitution and is made through a commission granted under the Great Seal of Canada. The 1947 letters patent of King George VI allow the Governor General to exercise most of the royal prerogatives in right of Canada.[3]

Under the Canadian Constitution, the Governor General possesses extensive powers, ranging from summoning the House of Commons to assenting to bills; however, by convention these powers are exercised only on the advice of the prime minister and

Cabinet. Except in rare cases – usually associated with election results, the dissolution of Parliament and the formation of a government – the Governor General has no independent discretion and must follow the advice tendered.

In the event of an emergency or catastrophe in which the prime minister, together with significant numbers of their Cabinet and Parliament, is incapacitated, the Governor General would be significantly freed of the constraints on the exercise of their discretion and could probably appoint an emergency interim government.

3.1.2 Who Is the Current Governor General and When Was She Appointed? When Does Her Term End? Can Her Term Be Extended?

The current Governor General is Her Excellency the Right Honourable Mary Simon. Her appointment was approved by Queen Elizabeth II on 6 July 2021, and Ms. Simon was installed on 26 July 2021.

The usual term of a Governor General is five years; however, there have been instances in which a Governor General's term has been extended by one or two years.

3.1.3 What Is the Power of the Governor General Regarding a Dissolution of Parliament and Calling an Election?

If a prime minister who enjoys the confidence of the House of Commons asks the Governor General for a dissolution of Parliament and a proclamation initiating an election, the request is almost always granted.

If a prime minister who has lost a confidence vote asks for a dissolution, the Governor General probably has the discretion to decide whether anyone else is capable of forming a government. (See also section 3.1.9.)

3.1.4 When Must an Election Be Held?

Amendments were made to the *Canada Elections Act* during the 39th Parliament to provide for fixed-term general elections to be held every four years. However, the amendments to the Act do not affect the power of the Governor General to dissolve Parliament and call for a general election, nor do they affect the prerogative of the prime minister to tender advice to the Governor General on these matters. Thus, on four occasions under the amended *Canada Elections Act*, Parliament has been dissolved prior to the fixed election date. The first election held in accordance with the amended Act was on 19 October 2015.

3.1.5 What Power Does the Governor General Possess to Ask a Party Leader to Form a Government?

Unless the government already in office continues in office, the Governor General asks the person most likely to enjoy the confidence of the House of Commons to form a government. Traditionally, the leader of the party with the most seats in the House is most likely to enjoy the confidence of the House, but this need not always be true. As political scientist Andrew Heard has pointed out:

> All constitutional authorities are agreed that a government has the right to remain in office to meet the legislature when an election results in no majority position for any party.[4]

3.1.6 What Are the Rights or Powers of the Governor General to Dismiss or to Replace a Prime Minister/Government?

The Governor General has the power to appoint a government or to dismiss it. However, this power is constrained by certain constitutional conventions.

Constitutional authorities generally agree that a Governor General may dismiss a government if it has been defeated on a clear vote of confidence and refuses to resign and call an election, or if another party has won a majority in an election and the existing government refuses to resign.

3.1.7 How Much Discretion Does the Governor General Have to Ask a Leader to Form a Government and to Interpret Election Results?

The Governor General clearly cannot appoint a new government until the existing government has resigned or been dismissed (subject to the answer to the preceding question).

If no party has achieved a clear majority following a general election, the current prime minister would probably visit the Governor General to indicate whether they intend to try to win a vote of confidence when Parliament returns or to resign.

It is not clear how long the prime minister could wait before being required to notify the Governor General of their intentions. Neither is it clear at what point the Governor General could require the prime minister to make a decision. According to the written Constitution, a sitting of Parliament is required at least once per year.

If the proper role for the Governor General were unclear, they would likely consult with their own advisers and with other constitutional experts. It is the responsibility of the Governor General, on behalf of the Crown,

> to ensure there is a new first minister and a government in office. The choice is often obvious, but not always. It falls to the Crown's representative to make sure that the interests of the people and the democratic system of government are respected and protected at all times.[5]

3.1.8 Must the Governor General Accept the Advice Tendered by the Duly Appointed Prime Minister (Regarding Dissolution, Forming a Government, etc.)?

From the time the Governor General appoints a prime minister until the time that prime minister resigns (see section 3.2.1), the Governor General must generally follow the prime minister's advice. It has also been argued that the Governor General has the right and duty to use their reserve powers to protect fundamental principles of the Constitution, but this is much more contentious.[6]

3.1.9 What Options Are Available to the Governor General in the Event That a Second Dissolution is Requested Before the House of Commons Meets?

According to constitutional authority Peter Hogg,

> [t]here have been occasional suggestions in Canada that after an inconclusive election the Prime Minister would be justified in requesting a dissolution and therefore a second election without even waiting for the Parliament to meet. This view is almost certainly wrong. The House of Commons has been elected, and it should surely be allowed to meet and see if it can transact public business. If it turned out that the House could not even elect a speaker, or if it turned out that neither the Prime Minister nor the leader of any other party could command the support of a majority of members, then there would be no alternative to dissolution; but to dissolve the House before it had even met would be an abuse of the electoral system, and one which the Governor General would surely be entitled to refuse.[7]

Andrew Heard gives two examples of new elections being called before provincial assemblies formally met after an election: Prince Edward Island in 1859 and Newfoundland in 1909. In each case, the legislature was unable even to choose a speaker.[8]

3.1.10 What Is the King–Byng Affair? Is It Relevant Today?

After the October 1925 general election, the incumbent Liberals (led by William Lyon Mackenzie King) had 101 members of Parliament, while the Conservatives (led by Arthur Meighen) had 116 members. However, the Liberals had the support of the 24-Progressive Party members and the four Labour and Independent members, and Prime Minister King governed successfully for almost one year.

In June 1926, Prime Minister King lost the support of some members of the smaller parties. Facing the almost certain loss of a motion of censure, since the government had already been defeated on motions to amend and adjourn, he asked the Governor General, Lord Byng, for a dissolution and a new election.

Lord Byng refused the dissolution on a number of grounds: there appeared to be an alternative government capable of governing Canada, as he was assured by the Progressives that they would support a Meighen government through the next confidence matter; it had been less than one year since the previous election; and there was a pending vote of censure, which the government was almost certain to lose. In the face of Lord Byng's refusal, King's government resigned and the Governor General asked Meighen to form a government.

At the time, it was mandatory that newly appointed ministers vacate their seats and run in a by-election (this requirement was repealed in 1931). Since Prime Minister Meighen could not afford even the temporary loss of so many members, he employed technicalities, such as a "temporary ministry" and "acting ministers," to avoid the required by-elections. A motion was brought in the House condemning such devices, and the government lost by one vote. Lord Byng then granted a dissolution to Prime Minister Meighen.

King made the issue a significant factor in the ensuing elections, claiming that it interfered with Canadian independence from the British Empire, and the Liberals won a majority of the seats.

The matter is still relevant because, even now, senior constitutional authorities cannot agree on whether Lord Byng acted properly or prudently. His best-known defender was the former senator and constitutional expert Eugene Forsey. In the opinion of Peter Hogg, the refusal to dissolve Parliament was "at least unwise," given the requirement that ministers vacate their seats.[9]

3.1.11 What Relevance Does the Ontario Provincial Election in 1985 Have to the Powers of the Governor General? What Did the Lieutenant Governor Do in That Case?

In the Ontario election of May 1985, the incumbent Progressive Conservatives (led by Frank Miller) won 52 seats, the Liberals (under David Peterson) won 48 seats, and the New Democrats (led by Bob Rae) took 25 seats. The Progressive Conservative leader appointed a Cabinet, which was sworn in. The other two parties then entered into a written agreement that, should the Liberals form a government, the New Democratic Party (NDP) would not try to defeat them for two years, and the Liberals would not call an election for the same period.

The Miller government was defeated on 18 June 1985 after the debate on the Throne Speech. Although Miller threatened to ask for a dissolution, his letter of resignation suggested that Peterson would be able to gain the confidence of the House and that he should be asked to form a government. The Lieutenant Governor followed this advice, and the Peterson government took over on 26 June 1985. However, the Lieutenant Governor made clear in his official statement that the written agreement had no legal force or effect and did not affect the powers of the Lieutenant Governor or of the members of the Legislative Assembly.

3.2 THE PRIME MINISTER

3.2.1 When Does a Prime Minister Cease to Hold Office?

A prime minister ceases to hold office when the Governor General accepts their resignation or when the prime minister is dismissed by the Governor General. After an electoral defeat, a prime minister resigns when their successor is ready to form a government.[10]

3.2.2 Must a Prime Minister Resign? Can They Be Replaced (i.e., Dismissed) Without Having Submitted a Resignation?

Although no prime minister since Confederation has been dismissed, this is not to say that it could not happen.[11] It would presumably be required if a prime minister became incapacitated and could not tender a resignation.

3.2.3 What Happens if a Prime Minister Dies or Is Incapacitated While in Office?

There are few procedural implications if the prime minister dies while in office. If it happens while the House of Commons is sitting, the House may adjourn for an extended period. Only two prime ministers have died in office: Sir John A. Macdonald on 6 June 1891 (during a session) and Sir John Sparrow David Thompson on 12 December 1894 (while Parliament was prorogued). Macdonald was succeeded by John Abbott, a senator, and Thompson was replaced by Mackenzie Bowell.

The incapacity of a prime minister would be more problematic; no precedents exist for this situation.

When a new ministry is being formed after the death, resignation or dismissal of a prime minister, it is appropriate for the House to adjourn from day to day and to transact only routine business on the days when it meets.[12]

3.2.4 Must the Governor General Accept a Resignation from a Prime Minister?

The Governor General must generally follow the advice of the prime minister, including when it involves their resignation.

3.2.5 Who Were Canada's Shortest-Serving Prime Ministers?

Table 1 shows the eight shortest prime ministerial terms of office since Confederation.

Table 1 – The Shortest Terms Served by Prime Ministers Since Confederation

Prime Minister	Party	Length of Term (Number of Days)
Charles Tupper 1 May 1896 to 8 July 1896	Conservative	2 months, 7 days (69 days)
John Napier Turner 30 June 1984 to 16 September 1984	Liberal	2 months, 17 days (79 days)
Arthur Meighen 29 June 1926 to 24 September 1926	Conservative	2 months, 28 days (88 days)
A. Kim Campbell 25 June 1993 to 3 November 1993	Progressive Conservative	4 months, 9 days (132 days)
Charles Joseph (Joe) Clark 4 June 1979 to 2 March 1980	Progressive Conservative	8 months, 28 days (273 days)
Mackenzie Bowell 21 December 1894 to 27 April 1896	Conservative	1 year, 4 months, 6 days (494 days)
John Joseph Caldwell Abbott 16 June 1891 to 24 November 1892	Liberal-Conservative	1 year, 5 months, 9 days (528 days)
Arthur Meighen 10 July 1920 to 28 December 1921	Unionist, Conservative	1 year, 5 months, 18 days (537 days)

Sources: Table prepared by the Library of Parliament using information obtained from Library of Parliament, "Parliaments," Parlinfo, Database, accessed 24 March 2025; and Library of Parliament, "Prime Ministers of Canada," Parlinfo, Database, accessed 24 March 2025.

3.3 MINISTERS

3.3.1 When Do Existing Ministers Cease to Hold Office? When Do New Ministers Assume Office?

Ministers are chosen by the prime minister and can be removed by the prime minister, although they are formally sworn in by the Governor General.

In the event that a government does not win a majority of seats in a general election, the government may still remain in office to face the new House of Commons. Only when the prime minister – and not any individual or group of ministers – submits their resignation to the Governor General does the government cease to exist. At that point, the existing ministers cease to hold office.

New ministers assume office after they are sworn in as privy councillors by the Clerk of the Privy Council at a ceremony presided over by the Governor General. In this ceremony, ministers swear the oath of allegiance, the privy councillor's oath, and the oath of office for their respective portfolio.

3.3.2 What Happens if an Existing Minister Is Defeated?

The practice is to replace defeated ministers when the new Cabinet is sworn in, which happens soon after the election.

3.3.3 Do Ministers Need to be Members of the House of Commons or the Senate?

No. The prime minister can choose individuals from outside Parliament to become ministers, but it is customary for those individuals to seek election to the House of Commons or be appointed to the Senate as soon as possible afterwards.

3.3.4 Can Senators Be Appointed to Sit in Cabinet?

Yes. This has been the case since Confederation; the first Cabinet under Sir John A. Macdonald had 13 ministers, five of whom were senators. More recently, during the 39th Parliament, two senators were members of the Cabinet.

3.3.5 Must the Leader of the Government or the Government Representative in the Senate Be a Minister?

In the past, the Leader of the Government in the Senate has often been a minister, but there is no constitutional or legal requirement that the two offices be combined. The most recent Leader of the Government in the Senate to be a minister was Marjory LeBreton, who served in this role from 2008 to 2013 and held the title of Minister of State (Seniors) from 2008 to 2010.

Since 2016, the prime minister has chosen to name a "Government Representative" in the Senate rather than a "Leader of the Government." The Government Representative is a member of the Privy Council but is not appointed to Cabinet. However, the Government Representative can attend Cabinet meetings, as appropriate.[13]

3.3.6 What Happens if a Government Has Few or No Members of the House of Commons from a Particular Region or Province?

In the past, some prime ministers have turned to the Senate to make up for a lack of regional or provincial representation in their caucuses. This was done, for example, in 2006 and 2008 by Prime Minister Stephen Harper, and in 1979 by Prime Minister Joe Clark, to make up for a lack of Quebec representation on the Conservative benches in the House of Commons, and by the Liberal government of Pierre Elliott Trudeau between 1980 and 1984 to compensate for a lack of seats in the West. In 1997, Prime Minister Jean Chrétien appointed Alasdair Graham as Government Leader in the Senate to make up for a lack of Liberal representation for Nova Scotia in the House of Commons.

3.4 MEMBERS OF THE HOUSE OF COMMONS

3.4.1 When Do Members of the House of Commons Cease Being Members?

Legally speaking, there are no members of the House of Commons once dissolution occurs. (See section 5.1.1.) By contrast, the tenure of senators is unaffected by a dissolution.

3.4.2 When Does an Elected Candidate Officially Become a Member of the House of Commons?

It is not entirely clear at what precise moment a successful candidate in a general election becomes a member of the House of Commons. One possible date is the date on which a returning officer declares elected the candidate who obtained the largest number of votes in their constituency. Another possibility is the date on which the CEO sends to the Clerk of the House of Commons the certified list of members elected to serve in the House of Commons.

In any case, section 128 of the *Constitution Act, 1867* requires members of the House of Commons to swear or affirm allegiance to the Sovereign before taking their seats in the House. The swearing-in is normally done by the Clerk of the House of Commons before the opening of Parliament. It occurs on an individual basis at the convenience of the member.

All members of the House of Commons (not just the newly elected) must be sworn in.

3.4.3 When Do Members of the House of Commons Begin Receiving Allowances and Services?

Newly elected members receive a sessional allowance – or salary – starting on the date of their election as certified in the appropriate writ issued by the CEO. In the case of members who are re-elected, most of their personal entitlements and privileges are unaffected and most services are reinstated.

All members of the House of Commons receive a prorated member's office budget that is based on the number of days from the date of the election to the end of the fiscal year (31 March).

4 GOVERNMENT

4.1 PUBLIC FINANCES

4.1.1 How Does the Federal Government Finance Itself During and After an Election Period?

Sufficient funding can be allocated in several ways to enable the federal government to function during an election period. The means used may depend upon when the election takes place.

If an election occurs after the main estimates and subsequent appropriations bills have been adopted, then funding has already been approved by Parliament and is available for use.

If, on the other hand, an election has been called before adoption of the main estimates and appropriations bills, two avenues are open to ensure that funding is available when needed. The first involves the use of interim supply, a mechanism commonly used to provide continued funding while the House of Commons considers the main estimates, which are not adopted until several months after the beginning of a new fiscal year. Interim supply has been described as follows:

> Since the fiscal year begins on April 1 and the normal supply cycle provides for the House to decide on main estimates only in June, the government would appear to be without funds for the interim three months. For this reason, the House authorizes an advance on the funds requested in the main estimates to cover the needs of the public service from the start of the new fiscal year to the date on which the appropriation act based on the main estimates of that year is passed. This is known as interim supply, a spending authority made available to the government pending approval of the main estimates.
>
> The government must give 48 hours' notice of a motion setting out in detail the sums of money it will require, expressed in twelfths of the amounts to be voted in the main estimates. Most are three-twelfths of the total amount, corresponding to the three-month hiatus between the beginning of the new fiscal year and the final passage of the main estimates, but the government may request more. The motion for interim supply is considered by the House on the last allotted day of the period ending March 26. Concurrence in the motion is followed by the consideration and passage at all stages of an appropriation bill based on interim supply and authorizing the prescribed withdrawals from the Consolidated Revenue Fund. The granting of interim supply does not

> necessarily constitute immediate House approval for the programs to which it applies in the main estimates. However, during the examination of the main estimates, neither the House nor its committees can reduce a vote to an amount less than the amount already granted in interim supply.[14]

The use of Governor General's Special Warrants offers another alternative. (See section 4.1.2.)

4.1.2 What Are Governor General's Special Warrants? Are There any Restrictions or Limitations on Their Use?

House of Commons Procedure and Practice describes these Special Warrants as follows:

> In specific circumstances, the *Financial Administration Act* allows the Governor in Council to ask the Governor General to issue a Special Warrant permitting the government to make charges on the Consolidated Revenue Fund not otherwise authorized by Parliament, provided that the following conditions are met:
>
> - Parliament is dissolved;
> - a Minister has reported that an expenditure is urgently required for the public good; and
> - the President of the Treasury Board has reported that there is no appropriation for the payment.[15]

Special Warrants may be used only from the date of dissolution until 60 days after the date fixed for the return of the writs after the election. They may not be used during that period if Parliament is brought back and then prorogued. *House of Commons Procedure and Practice* further specifies that:

> The *Financial Administration Act* requires that every Special Warrant be published in the *Canada Gazette* within 30 days of its issue. A list of the amount authorized under such a warrant must also be tabled in the House within 15 days of the opening of the next session of Parliament. Because a Special Warrant is deemed to be an appropriation for the fiscal year in which it is issued, authorization must be included retroactively in the first appropriation act passed in that session.[16]

4.1.3 What Happens if Parliament Is Dissolved When Supplementary Estimates Are Before the House of Commons and Have Not Been Adopted?

Under such circumstances, departments and agencies are first expected to reallocate resources from within their own budgets to cover their needs. If they require additional funds, they may then draw upon the Treasury Board's Contingencies Vote 5. Once these appropriations have been exhausted, Governor General's Special Warrants can be used to pay for the balance of requirements.

Prior to the dissolution of the 44th Parliament, the last time Special Warrants had to be used was on 26 March 2011, when Parliament was dissolved for a general election without adopting the *Supplementary Estimates (C), 2010–2011* or interim supply for the 2012 fiscal year. In this case, the government used Governor General's Special Warrants to authorize its expenditures during the election period.

Special Warrants authorize government spending during an election without the normal procedures of parliamentary scrutiny. Shortly after Parliament's return in 2011, the government tabled a statement regarding the use of Special Warrants that was referred to a committee for scrutiny.[17]

4.2 FORMING A GOVERNMENT

4.2.1 If a Government in Office Is Re-elected by Obtaining a Majority of Seats in the Election, Does It Remain in Office or Does the Leader of the Winning Party Have to Be Invited to Form a Government?

The government stays in office until the prime minister resigns or is dismissed by the Governor General.

4.2.2 If There Is No Clear Majority, Which Party Is Entitled to Be Asked to Form a Government First: The Party with the Most Seats in the House of Commons or the Incumbent Party?

If there is no clear majority, the incumbent prime minister is given the choice of resigning or meeting the House of Commons to see if their party has the confidence of the House.[18]

4.2.3 If There Is No Clear Majority and the Government Resigns, How Is the Prime Minister Determined?

Should the incumbent prime minister and Cabinet resign in the event there is no clear majority, the Governor General would probably ask the leader of the opposition party most likely to enjoy the confidence of the House to form a government. The confidence of the House might be evidenced through an informal agreement or a coalition between parties.

In almost every case, the Governor General has chosen as the prime minister the leader of the party that has received the largest number of seats in the House of Commons, even if it is not the majority.[19]

4.2.4 What Happens if Two Parties Have an Equal Number of Seats in the House of Commons and Each Wants to Form a Government?

If two parties were tied after an election, the prime minister would have to make a decision. The prime minister could try to gain the support of other parties – either formally or informally (via a coalition government or an agreement; see section 4.2.5).

If this proved impossible, the prime minister could still try to form a government and seek the support of the House of Commons. An incumbent prime minister appears to be entitled to try to form a government first. If it were clear that no other parties were willing to support the prime minister, a difficult constitutional question could arise for the Governor General, although they would probably let the prime minister attempt to form a government.

If the prime minister did try to form a government, they would need to have new ministers sworn in. The prime minister would then advise the Governor General to recall Parliament and would present a Speech from the Throne. Inevitably, a vote of confidence would arise.

If the prime minister were defeated in that vote, they would have to tender their resignation to the Governor General. The prime minister could advise dissolution and a general election, or suggest that the leader of the other party be asked to try to form a government. (The former advice would raise many of the same issues as the King–Byng Affair; see section 3.1.10.) Many factors would be relevant to the decision of the Governor General, for example, the number of seats of the two parties (and other parties) and whether there were formal or informal offers of support to the other party. It is likely that if such a situation occurred shortly after an election and there were a reasonable chance that the other party could form a government and obtain the confidence of the House, the Governor General would invite the leader of that party to form the government.

4.2.5 In a Case Where No Party Has a Majority, What Options Are There for Parties to Govern?

Two (or more) parties can form a coalition. In a coalition government, members of different political parties are brought into Cabinet and together contribute to policies that become part of the government's legislative program. There has been only one coalition government at the federal level in Canada's history, and it was not formed as a result of a minority situation. In 1917, as a way of broadening support for conscription during the First World War, Conservative Prime Minister Sir Robert Borden invited individual Liberals and independents to join a coalition known as the Union Government, which lasted until Borden's retirement in 1920. Coalition governments are more common in countries with proportional representation electoral systems. Political scientist C.E.S. Franks argued that "a minority government is more likely to make concessions over policy and legislation with a third party than to enter into a coalition."[20] Franks's observation is borne out by the events of the 38th Parliament when the Liberal government reached an accommodation with the opposition NDP; changes were made to the 2005 budget in exchange for NDP support.

Two (or more) parties may choose to have a formal pact whereby, despite not being represented in Cabinet, a smaller party publicly agrees in writing to support another party in government for a limited period in exchange for specific policy concessions from the government. In the 44th Parliament, an agreement of this type between the Liberal minority government and the NDP, entitled *Delivering for Canadians Now: A Supply and Confidence Agreement*, lasted just over two years.[21] At the provincial level, there are several examples of this type of arrangement, including the minority governments in Ontario (1985–1987) and British Columbia (2017–2020 and 2024–present).[22]

Another option is to form an informal alliance or reach an agreement with another party, without any written commitment. This is not as formal as a coalition and does not result in members of another party joining Cabinet. According to Peter Dobell, Founder of the Parliamentary Centre, the 1972 informal alliance between the federal Liberals and the NDP meant that "[e]very policy proposal, all legislation, was discussed between representatives of the two parties. … Only when agreement had been reached did the government proceed to introduce a bill."[23]

Minority governments can also deal with the situation by governing on a case-by-case basis, "where the government makes a separate accommodation with the opposition parties on each bill."[24]

4.2.6 Does a Government (Cabinet) Have Full and Complete Authority During an Election Before a New Government Is Sworn In?

If a government held a majority and went to an election at a time of its own choosing (subject to constitutional requirements that a general election be held, at a minimum, every five years and the fixed-date election provision of the *Canada Elections Act*), then it and its ministers continue to hold full and complete authority until a new government is sworn in.

However, such a government might wish to exercise caution during an electoral campaign and the period leading up to the swearing-in of a new government. Guidelines have been published in this regard.[25] Unless prompted by urgency, controversial decisions, appointments to important positions or policy decisions that might unreasonably bind future governments should be postponed until a new government is sworn in. If a government were to disregard these restrictions, there is no penalty in law that could be exercised against it. However, the possibility of political sanction in the form of a defeat at the polls would have to be taken into account.

If a government were to be defeated in a clear vote of confidence in the House of Commons, then restrictions on its ability to act before the swearing-in of a new government would be more rigorous, even though no legal proscription would

apply. Similarly, if a government had lost the confidence of the House yet acted in the areas mentioned above during an election campaign (and thus when the House is not sitting), the chances of it being punished at the polls would be heightened.

The case of a government that has been defeated at the polls and is waiting for a new government to be sworn in is much clearer. As the political scientist J.R. Mallory pointed out, there is "a sound body of constitutional precedent that a government which has been defeated at the polls should refrain from consequential policy decisions and major appointments."[26] Mallory summarized the variety of circumstances above in the following way:

> When a government has been defeated at the polls or in the House of Commons, it becomes an obligation of all party leaders to assist in the formation of a new government. Until a new government can be formed, it is the duty of the old one to remain in office. While in office it still has the duty and the authority to govern, though a government that has lost the confidence of the people or of the House can only make routine decisions until a government which has the support of the House can be formed.[27]

4.2.7 How Soon After an Election Does a New Government Take Office?

Since 1957, in the case of elections that result in a new government, that government has been sworn in between 10 and 16 days after the election. Since 1920, it has been the tradition that the new ministry is sworn in when it is ready to form a government.[28]

The following table shows the elections since 1957 in which the governing party lost the election, the date the new government was sworn in, and the number of days that elapsed before it was sworn in.

Table 2 – Time Elapsed Between the Election and Swearing-In of New Government Ministries in Canada Since 1957

Election Date	Date Government Ministry Sworn In	Time Elapsed
19 October 2015	4 November 2015	16 days
23 January 2006	6 February 2006	14 days
25 October 1993	4 November 1993	10 days
4 September 1984	17 September 1984	13 days
18 February 1980	3 March 1980	14 days
22 May 1979	4 June 1979	13 days
8 April 1963	22 April 1963	14 days
10 June 1957	21 June 1957	11 days

Source: Table prepared by the Library of Parliament using information obtained from Library of Parliament, "Parliaments," Parlinfo, Database, accessed 24 March 2025.

It should be recalled that the swearing-in of a government ministry occurs only when the party forming the government changes as a result of the election. When the party that formed the government before an election remains in power, the ministry continues, and new Cabinet appointments or a Cabinet shuffle may occur at any time. This is the case even if the party's leader (the prime minister) changed between the last election and the current election or if they did not personally return to the House.

4.3 MAJORITY GOVERNMENT

4.3.1 What Constitutes a Majority Government?

The general election of 28 April 2025 will result in a House of Commons with 343 members. To form a majority government, a party must have 172 seats, in other words, more than 50% of the seats in the House of Commons. (See section 4.3.2.)

4.3.2 If the Speaker Is from the Government Side, Are They Included in the Majority? Can They Vote?

The Speaker is included in the majority but does not vote except to break a tie. This is called a "casting vote" and is not partisan. That is, the Speaker traditionally votes so as to maintain the status quo or to allow further debate on a matter such that a majority decision might be reached. Therefore, if a government had a bare majority – 172 seats – it could be in difficulty if the Speaker were elected from its ranks. Of note, the election of the Speaker is the first order of business for the House of Commons once it reconvenes (see section 5.4.1).

4.4 MINORITY GOVERNMENT

4.4.1 What Is a Minority Government?

A minority government is simply one that does not have a majority of the members of the House of Commons.

As explained in the answer to the previous question, a bare majority of 172 would not be effective if the Speaker were elected from the government side because the Speaker does not vote except to break a tie. The Speaker could, however, be chosen from among the members of the opposition parties. For example, Peter Milliken, a member of the Liberal caucus who was Speaker during the 37th and 38th Parliaments – both under Liberal governments – was again chosen for this position at the beginning of the 39th and 40th Parliaments, when the government was formed by the Conservative Party.

4.4.2 What Types of Arrangements Are Possible for Political Parties to Work Together? What Are the Differences Between Them? What Precedents Exist?

Political scientist Linda Geller-Schwartz has identified several modes of cooperation for minority governments. They can take the form of a coalition, a formal pact, an informal understanding, ad hoc majorities on each issue and opposition party restraint while the government acts as though it had a majority.[29]

At the federal level in Canada, there have been no formal coalition governments, apart from the unique situation of the Union government under Prime Minister Borden. However, as mentioned earlier, a formal cooperation agreement between the Liberal Party and the NDP was in place between 2022 and 2024 but without the NDP being represented in Cabinet.

In addition, between 1972 and 1974, there was an informal understanding between the Liberal Party and the NDP.

The looser form of cooperation that Geller-Schwartz refers to as "*ad hoc* majorities" was evident during the minority governments of King during the 1920s, as well as during parts of the Pearson minority governments of the 1960s.

The mode in which parties cooperate the least sees opposition parties acting with restraint for fear of precipitating an election in which they expect to lose seats and the government acting as though it had a majority. This mode was evident during the Diefenbaker governments of the 1950s and 1960s, during the early days of the Pearson governments, and during the Clark government of 1979. (See also section 4.2.5.)

4.4.3 What Is Canada's Experience with Minority Governments?

Table 3 – Federal Minority Governments in Canada Since Confederation

Prime Minister	General Election	Term of Parliament	House of Commons Sitting Days	Minority at General Election
Mark Carney (based on results on 27 May 2025)	28 April 2025	–	–	Government – 169 Opposition – 174 Minority – 5
Justin Trudeau (20 September 2021 to 13 March 2025) Mark Carney (from 14 March 2025)	20 September 2021	22 November 2021 to 23 March 2025	392 (Entirely under Trudeau)	Government – 160 Opposition – 178 Minority – 18
Justin Trudeau	21 October 2019	5 December 2019 to 15 August 2021	169	Government – 157 Opposition – 181 Minority – 24

Prime Minister	General Election	Term of Parliament	House of Commons Sitting Days	Minority at General Election
Stephen Harper	14 October 2008	18 November 2008 to 26 March 2011	290	Government – 143 Opposition – 165 Minority – 22
Stephen Harper	23 January 2006	3 April 2006 to 7 September 2008	292	Government – 124 Opposition – 184 Minority – 60
Paul Martin	28 June 2004	4 October 2004 to 29 November 2005	159	Government – 135 Opposition – 173 Minority – 38
Charles Joseph (Joe) Clark	22 May 1979	9 October 1979 to 14 December 1979	49	Government – 136 Opposition – 146 Minority – 10
Pierre Elliott Trudeau	30 October 1972	4 January 1973 to 9 May 1974	256	Government – 109 Opposition – 155 Minority – 46
Lester Bowles Pearson	8 November 1965	18 January 1966 to 23 April 1968	405	Government – 131 Opposition – 134 Minority – 3
Lester Bowles Pearson	8 April 1963	16 May 1963 to 8 September 1965	418	Government – 129 Opposition – 136 Minority – 7
John George Diefenbaker	18 June 1962	27 September 1962 to 6 February 1963	72	Government – 116 Opposition – 149 Minority – 33
John George Diefenbaker	10 June 1957	14 October 1957 to 1 February 1958	78	Government – 112 Opposition – 153 Minority – 41
William Lyon Mackenzie King (7 January 1926 to 28 June 1926) Arthur Meighen (29 June 1926 to 24 September 1926)	29 October 1925	7 January 1926 to 24 September 1926	111 (Meighen met with the House for 3 of those days)	Government – 101 Opposition – 144 Minority – 43
William Lyon Mackenzie King	6 December 1921	8 March 1922 to 5 September 1925	366	Government – 116 Opposition – 119 Minority – 3

Sources: Table prepared by the Library of Parliament using information obtained from Library of Parliament, "Parliaments," Parlinfo, Database, accessed 24 March 2025; Library of Parliament, "Parliaments and Sessions," Parlinfo, Database, accessed 24 March 2025; and Elections Canada, *April 28, 2025 General Election – Election Results*.

4.4.4 How Long Can a Minority Government Stay in Office?

A minority government can stay in office for the same length of time as a majority government – which is to say, five years, or four years under the fixed-date election provision of the *Canada Elections Act* – as long as it is not defeated in the House of Commons on a matter of confidence. Such a long tenure, however, would be highly unusual. Minority governments do not generally last as long as majority governments, either because they are defeated on a major policy issue or because the governing or opposition parties believe that they have a good chance of winning an election and therefore precipitate one.

Although the fixed-date election provision of the *Canada Elections Act* provides that an election be held on the third Monday of October in the fourth calendar year after the election day for the last general election, the power of the Governor General to dissolve Parliament (and thereby trigger an election) is unaffected.

4.4.5 When Can a Minority Government Request a Dissolution of Parliament to Seek a New Mandate?

The prime minister of a minority government can request a dissolution at any time. (See also section 3.1.9.)

4.4.6 Is It Necessary for a Minority Government to Have the Formal Support of Smaller Parties in Order to Govern?

No. A minority government can survive without the explicit support of smaller parties. To do so, it hopes that individual members or the smaller parties will support it, or at least avoid defeating the government.

4.4.7 Are There any Special Rules Regarding a Minority Government?

No.

4.5 THE CONFIDENCE CONVENTION

4.5.1 What is the Confidence Convention?

The confidence convention is a matter of parliamentary practice and tradition that is not written into any statute or in the *Standing Orders of the House of Commons*. The convention provides that if the government is defeated in the House of Commons on a question of confidence, the government is expected to resign or seek the dissolution of Parliament so that a general election may be held.

4.5.2 What is a Vote of Confidence?

According to *House of Commons Procedure and Practice*:

> What constitutes a question of confidence in the government varies with the circumstances. Confidence is not a matter of parliamentary procedure, nor is it something on which the Speaker can be asked to rule. It is generally acknowledged, however, that confidence motions may be:
>
> - explicitly worded motions which state that the House has, or has not, confidence in the government;

- motions declared by the government to be questions of confidence; and
- implicit motions of confidence, that is, motions traditionally deemed to be questions of confidence, such as motions for the granting of supply (although the government may not necessarily lose confidence over an individual item of supply), motions concerning the budgetary policy of the government and motions respecting the Address in Reply to the Speech from the Throne.[30]

4.5.3 Who Decides Whether a Particular Vote is One of Confidence?

The government decides. It could announce, before a vote, that it does not consider that the vote involves confidence, or it could call for a specific vote of confidence after the loss of a vote on an issue traditionally deemed to be a question of confidence.

4.5.4 Can a Government Be Defeated in the House of Commons Without Losing the Confidence of the House?

Yes, see above. During the minority Liberal government of Pierre Elliott Trudeau between 1972 and 1974, the government lost 8 of 81 recorded votes and asked for a dissolution only when it had been defeated on an important issue relating to the budget. Prime Minister Pearson's minority Liberal government lost three votes without resigning or asking for an election. One of these losses involved a budget matter, but the government then asked for – and won – an explicit vote of confidence.

4.5.5 What Happens if the Government Loses a Vote in the Senate?

The measure is defeated, but the status of the government is not affected; the Senate is not a confidence chamber. The government is responsible only to the elected chamber.

4.5.6 When Can Canadians Expect to See the First Confidence Vote in a New Parliament?

The first confidence vote is likely to occur during the debate on the Address in Reply to the Speech from the Throne, which occurs when the new Parliament is convened.

5 PARLIAMENT

5.1 DISSOLUTION

5.1.1 What Is the Status of Members of the House of Commons After Dissolution?

After dissolution, and the issue of writs for a general election, there are legally no members of the House of Commons.

There is no clear authority for the preceding statement; however, section 69 of the *Parliament of Canada Act* makes the following provision:

> For the purposes of the allowances payable under sections 55.1 and 63, a person who, immediately before a dissolution of the House of Commons, was a member thereof shall be deemed to continue to be a member of the House until the date of the next following general election.[31]

The above "deeming provision" in the *Parliament of Canada Act* is solely for the purposes of salaries, some additional allowances and benefits and certain other services.[32] It does not imply that a former member retains that status until the date of the next general election.

The conclusion that dissolution terminates the office of member of the House of Commons is supported by Joseph Maingot. He describes the circumstances in which a person ceases to be a member of the House of Commons and states that these include a warrant for the issue of a writ for the election of a new member.[33]

The implications of a person legally ceasing to be a member of the House of Commons can be seen outside of Parliament. One significant implication involves the *Privacy Act*, which provides the following exemption from the provisions of the Act:

> 8(2) Subject to any other Act of Parliament, personal information under the control of a government institution may be disclosed …
>
> > (g) to a member of Parliament for the purpose of assisting the individual to whom the information relates in resolving a problem.[34]

In other words, personal information may be disclosed to a member of the House of Commons under certain conditions. This exemption makes sense in terms of the constituency work that is an inherent part of a member's job. The Treasury Board Secretariat has addressed the question of what happens after dissolution. Its information notice, "Scope of Paragraph 8(2)(g) of the *Privacy Act* upon Dissolution of Parliament," states:

> Upon dissolution of Parliament, members of the House of Commons lose their status and title. Consequently, personal information under the control of a government institution can no longer be provided to them pursuant to paragraph 8(2)(*g*) of the Act. Furthermore, this paragraph cannot be invoked following the election until the new members of the House of Commons have been sworn in.

> Former Members of Parliament may obtain information about an individual who has requested their assistance with the consent of the individual. In special circumstances, institutions may consider disclosing personal information to former Members pursuant to sub-paragraph 8(2)(*m*)(ii) of the *Privacy Act* which permits disclosure "where in the opinion of the head of the institution … disclosure would clearly benefit the individual to whom the information relates." Note that subsection 8(5) requires that institutions notify the Privacy Commissioner of the disclosures made under paragraph 8(2)(*m*).[35]

The information notice goes on to state that "Senators continue to hold office after the dissolution of Parliament. Therefore, paragraph 8(2)(g) may still be applied following dissolution to provide personal information to a Senator."

5.1.2 What Salaries, Allowances and Services Are Members of the House of Commons Entitled to During a Dissolution?

During dissolution, members of the House of Commons have the right to the following salaries, allowances and services:

- *Salaries and allowances* – During a dissolution of Parliament, members of the House of Commons continue to receive their sessional allowances (salary) and to make pension contributions, and they are entitled to certain other benefits. Members who receive additional salaries for the positions of Speaker, Deputy Speaker, leaders of opposition parties, house leaders of the opposition parties, and chief whips of all parties continue to be eligible for these allowances.
- *Insurance benefits*– Health and dental care coverage for members continue during dissolution.
- *Budgets* – Members may continue to use their member's office budget and petty cash account during dissolution, subject to some limitations. Resources provided to members to support their parliamentary functions may not be used for election purposes.

To ensure continuity in the administration of the House of Commons during dissolution, the budgets of the Speaker and the Deputy Speaker continue until a new Speaker and Deputy Speaker are elected.

The budgets of party research offices, offices of the leaders of opposition parties, house leaders of opposition parties and chief whips of all parties may be used during dissolution, but these offices and house officers should not spend more than one-twelfth of their annual budgets for each full month between the date of dissolution and election day. The budgets of national caucus chairs and of the deputy chair and assistant deputy chair of the Committees of the Whole are suspended upon dissolution.

If any of the resources provided to House members or officers to support their parliamentary functions are used for election purposes, the House of Commons must be reimbursed the equivalent dollar value, as follows:

- *Travel* – As of the date of dissolution, members may no longer claim expenses for travel within their constituencies or the province or territory in which their constituency is located. However, during dissolution members are entitled to the equivalent of one return trip per week between Ottawa and their constituency.
- *Mailing privileges* – Members are provided with limited free mailing privileges and a special bulk mailing rate during the life of a Parliament. These privileges end 10 calendar days after Parliament is dissolved.
- *Library of Parliament* – Members, including those who have decided not to run again, continue to have access to the services of the Library of Parliament and may request information and documentation. During dissolution, however, research and analysis services for members of the House of Commons are limited to completing research requested before the election call; assisting members with technical questions for the benefit of constituents; providing copies of previously prepared research papers; and providing copies of Library publications. The Library's research and analysis services for senators on non-partisan matters related to parliamentary duties continue.
- *Members' offices* – Members' Ottawa offices remain open to provide services to constituents, and constituency offices may do so as well. It should be noted that employees of members of the House of Commons are hired to support their parliamentary functions; therefore, during dissolution, any election-related work performed by these employees must be undertaken outside of normal working hours and not in the Ottawa or constituency offices.[36]

5.2 BRINGING PARLIAMENT BACK

5.2.1 Who Decides When a New Parliament Begins?

The Governor General, on the advice of the prime minister, sets the date on which a new Parliament begins.[37]

5.2.2 When Is Parliament Due to Come Back After the April 2025 Election?

A proclamation issued on 23 March 2025, at the same time as the proclamation dissolving Parliament, summoned Parliament to meet on 26 May 2025.[38]

5.2.3 Could a Government (Especially a Minority Government) Delay Bringing Parliament Back and Meeting the House of Commons?

Yes. The proclamation setting the date for which Parliament is summoned can be changed.

5.2.4 What Constitutional Limits Are There on When Parliament Must Meet?

Section 5 of the *Canadian Charter of Rights and Freedoms* (replacing a provision in the *Constitution Act, 1867*) specifies that Parliament must sit at least once every 12 months.

5.2.5 What Practical Limits Are There on When Parliament Must Meet?

Parliament must vote to provide money for the operation of the government (see section 4.1).

5.2.6 Would a Delay in the Return of the House of Commons Affect Members' Salaries, Allowances or Benefits?

No.

5.3 THE NEW HOUSE OF COMMONS

5.3.1 What Parliament and Session Will Be Starting After the April 2025 Election?

The 45th Parliament, 1st Session.

5.3.2 When and How Do Committees of the House of Commons and the Senate Get Started?

At the beginning of the first session of a new Parliament, the House of Commons appoints the membership of its Standing Committee on Procedure and House Affairs (the membership of which continues from session to session within a Parliament). Within 10 sitting days of its appointment, this committee must prepare and report to the House the proposed membership of each House of Commons committee. Within 10 days after the adoption of the report on committee memberships, the Clerk of the House convenes meetings of all the standing committees for the purpose of electing a chair of each committee. After a chair and two vice-chairs have been elected, each committee will adopt routine motions to organize its work, such as the creation of a "steering committee."

In the Senate, at the beginning of each session, a committee of selection, consisting of nine senators, is appointed. This committee nominates a senator to preside as Speaker *pro tempore* and senators to serve on various committees.[39] Once the membership of committees has been established, each committee holds a meeting at which it elects the chair and deputy chair and adopts certain procedural motions that allow it to function.

5.3.3 How Is the Official Opposition Chosen? What Happens if Two Opposition Parties End Up with the Same Number of Seats?

By convention, the party that holds the second-highest number of seats in the House of Commons is designated the Official Opposition, although this practice is not set out in any Canadian rule or statute. The only exception to this convention occurred in 1922, when the Progressive Party declined to assume the role of the Official Opposition because it was supporting the government.

Should two opposition parties end up with the same number of seats, the Speaker may be called upon to decide which party should be designated the Official Opposition. During the course of the 35th Parliament, changes in party strengths after a by-election and resignation resulted in the Bloc Québécois and the Reform Party having the same number of seats and both having a claim to being named the Official Opposition. In his ruling of 27 February 1996, Speaker Gilbert Parent found that "in the case of a tie during the course of a Parliament incumbency should be the determining factor" for which party forms the Official Opposition. Thus, the status quo was maintained and the Bloc Québécois remained the Official Opposition.

Although no federal precedent exists with regard to determining the Official Opposition in the event of a tie after an election, precedent does exist at the provincial/territorial level. When two opposition parties each had an equal number of seats after the 1996 Yukon election, the Speaker determined that the principle of incumbency dictated "selecting an opposition party caucus which formed the government prior to an election to be the Official Opposition over an opposition party caucus that was a third party in the House prior to the election."[40]

Where no incumbency exits, other factors could be taken into consideration by the Speaker in determining the Official Opposition. After a provincial general election in 1983 in Alberta, the opposition was composed of two New Democrats and two independent members. The Speaker of the Legislative Assembly based his decision to grant Official Opposition status to the New Democratic Party, in part on the basis of the popular vote received by the party.

5.4 THE SPEAKER OF THE HOUSE OF COMMONS

5.4.1 When Is the Speaker of the House of Commons Elected?

Section 44 of the *Constitution Act, 1867* requires that the election of the Speaker be the first order of business at the first sitting of the House of Commons after an election.

5.4.2 Must the Speaker Come from the Government Side?

No. For example, Speaker Lucien Lamoureux was a Liberal member when he became Speaker in 1966, but in the 1968 and 1972 elections, he ran as an independent. He won both times and became Speaker again after each of these elections. His (Liberal) successor, James Jerome, remained Speaker through the Progressive Conservative government led by Joe Clark (1979–1980).[41] More recently, Peter Milliken, a Liberal member who served as Speaker after the 2000 and 2004 elections, became Speaker again after the 2006 and 2008 elections that led to the Conservative governments of Stephen Harper.

5.4.3 What Happens if the Speaker Is Not Re-elected to the House of Commons?

There is an election for Speaker of the House of Commons whether or not the former Speaker is re-elected to the House. The election of the Speaker at the opening of a Parliament is presided over by the member who has the longest period of unbroken service and who is not a member of the Cabinet and holds no office within the House.[42]

5.5 THE SENATE

5.5.1 How Does a Minority Government Affect the Operation of the Senate?

A minority government does not affect the operation of the Senate.

5.5.2 How Are the Leader of the Government or Government Representative in the Senate, and the Leader of the Opposition in the Senate Selected?

Senate Procedure in Practice explains that the "method of selection of the leaders is a matter for the relevant political group."[43] The 1968 *Manual of Official Procedure of the Government of Canada* explains that, "[t]he Prime Minister selects the Leader of the Government in the Senate. … No formalities whatever are required to effect or make known the Prime Minister's selection of a Leader of the Government in the Senate."[44]

Since 2016, the prime minister has chosen to name a "Government Representative" rather than a "Leader of the Government" in the Senate. The Government Representative in the Senate is a non-affiliated senator who does not belong to a party or parliamentary group recognized under the *Rules of the Senate of Canada*.

Appendix I to the *Rules of the Senate of Canada* provides that the Leader of the Opposition in the Senate is the "Senator recognized as the head of the party, other than the Government party, with the most Senators."[45]

5.5.3 Must the Political Composition of the Senate Necessarily Reflect That in the House of Commons?

No. As the Speaker of the Senate ruled on 21 February 2001:

> [P]recedents prove that there need not be a corresponding relationship in the political composition of the House of Commons and the Senate. Our parliamentary system continued to function even though the Senate had an Opposition that did not match the Official Opposition in the House of Commons when it was the Bloc or the Reform Party. Parliament is flexible enough to accommodate this possibility. This is because, in large measure, the Senate and the House of Commons are, and remain, independent, autonomous bodies performing roles that are complementary to each other.[46]

Further, it is the opposition party with the largest number of senators that constitutes the Official Opposition in the Senate. The Senate and the House of Commons may be made up of different parties, and their relative weight in each House may be different.

5.5.4 What Is the Role of the Leader of the Government or Government Representative in the Senate?

According to Appendix I of the *Rules of the Senate of Canada*, the Leader of the Government or Government Representative in the Senate is "(t)he Senator who acts as the head of the Senators belonging to the Government party, or who is appointed by the Government to represent the Government in the Senate without affiliation to a Government party."

The *Rules of the Senate of Canada* also provide that the Leader of the Government or Government Representative in the Senate is an ex officio member of all committees except the Standing Committee on Ethics and Conflict of Interest for Senators, the Standing Committee on Audit and Oversight, and the joint committees (Rule 12-3(3)). The Leader or Government Representative may also change the government members of any committee, except for the ex officio members and members of the Standing Committee on Ethics and Conflict of Interest for Senators and the Standing Committee on Audit and Oversight (Rule 12-5(a)).

In addition, the Rules provide that, during Question Period, senators may ask questions of the Leader of the Government or Government Representative in the Senate on matters relating to public affairs (Rule 4-8(1)(a)). During the 42nd Parliament, with the introduction of a Government Representative as a non-affiliated senator, Cabinet ministers regularly appeared during the Senate's Question Period in order to answer questions traditionally reserved for the Leader of the Government in the Senate. This practice regarding Question Period was not renewed during subsequent Parliaments, although Cabinet ministers were regularly invited to Committees of the Whole to speak to the subject matter of bills.

As well, when the Senate orders that government accounts and papers be tabled, the Leader of the Government or Government Representative in the Senate "shall cause these papers to be tabled" (Rule 14-1(2)). The Rules also provide that government business (a bill, motion, report or inquiry initiated by the government) "shall be called in such sequence as the Leader or Representative of the Government, or the Deputy Leader or Legislative Deputy of the Government shall determine" (Rule 4-12(3)).

5.5.5 Must the Leader of the Government or Government Representative in the Senate Be a Cabinet Minister?

No. As noted in *Senate Procedure in Practice*, "The Leader of the Government has often been a Cabinet minister, sometimes without portfolio."[47] There have been at least seven instances since Confederation when the Leader of the Government or Government Representative in the Senate was not a member of Cabinet: William Benjamin Ross, in 1926; Wellington Bartley Willoughby, from 1930 to 1932; Walter Morley Aseltine, from 1958 to 1962; Alfred Johnson Brooks, from 1962 to 1963; Claude Carignan, from 2013 to 2015; Peter Harder, from 2016 to 2020; and Marc Gold, from 2020 to the present.[48]

5.5.6 Must a Political Party or Group Have a Minimum Number of Senators to Be a Recognized Party or Group in the Senate?

Yes. A recognized party or parliamentary group is defined in Appendix I of the *Rules of the Senate of Canada* as follows:

> A recognized party in the Senate is composed of at least nine senators who are members of the same political party, which is registered under the *Canada Elections Act*, or has been registered under the Act within the past 15 years. A recognized parliamentary group in the Senate is one to which at least nine senators belong and which is formed for parliamentary purposes. A senator may belong to either one recognized party or one recognized parliamentary group. Each recognized party or recognized group has a leader or facilitator in the Senate.

5.6 THE SPEAKER OF THE SENATE

5.6.1 When Is the Speaker of the Senate Appointed?

The Governor General appoints the Speaker of the Senate on the recommendation of the prime minister. There is no specific rule or law governing the timing of appointments. A Speaker may serve for more than one Parliament.

5.6.2 Must the Speaker Come from the Government Side?

There is no law requiring that the Speaker come from the government side, but traditionally, the prime minister appoints Senate speakers from the government party. From the 42nd to 44th Parliaments, the Speaker of the Senate was a non-affiliated senator.

NOTES

1. *Constitution Act, 1982*, being Schedule B to the *Canada Act 1982*, 1982, c. 11 (U.K.).
2. *Canada Elections Act*, S.C. 2000, c. 9, s. 56.1(2).
3. Andrew Heard, *Canadian Constitutional Conventions: The Marriage of Law and Politics*, 1991, p. 16.
4. Ibid., p. 23.
5. Canadian Heritage, *A Crown of Maples: Constitutional Monarchy in Canada*, 2015, p. 27.
6. Andrew Heard, *Canadian Constitutional Conventions: The Marriage of Law and Politics*, 1991, p. 47.
7. Peter W. Hogg, *Constitutional Law of Canada*, 5th ed., 2007, 9.7(*d*), referring to Eugene Forsey, *Freedom and Order*, 1974, p. 40.
8. Andrew Heard, *Canadian Constitutional Conventions: The Marriage of Law and Politics*, 1991, p. 23.
9. Peter W. Hogg, *Constitutional Law of Canada*, 5th ed., 2007.
10. Government of Canada, *Guide to Canadian Ministries since Confederation*.
11. Marc Bosc and André Gagnon, eds., "Chapter 2: Parliaments and Ministries – Duration of Ministries," *House of Commons Procedure and Practice*, 3rd ed., 2017.
12. Ibid.
13. Senate Government Representative Office, *About the Government Representative Office*.
14. Marc Bosc and André Gagnon, eds., "Chapter 18: Financial Procedures – Interim Supply," *House of Commons Procedure and Practice*, 3rd ed., 2017 [FOOTNOTES OMITTED].
15. Marc Bosc and André Gagnon, eds., "Chapter 18: Financial Procedures – Governor General's Special Warrants," *House of Commons Procedure and Practice*, 3rd ed., 2017 [FOOTNOTES OMITTED].
16. Ibid.
17. See House of Commons, *Journals*, 7 June 2011.
18. Eugene A. Forsey, *How Canadians Govern Themselves*, 10th ed., 2020, pp. 3–4.
19. Robert Jackson and Doreen Jackson, *Politics in Canada: Culture, Institutions, Behaviour and Public Policy*, 6th ed., 2006, p. 258.
20. C.E.S. Franks, *The Parliament of Canada*, 1987, p. 49. See also Peter Dobell, "What Could Canadians Expect from a Minority Government?," *Policy Matters*, Vol. 1, No. 6, November 2000, p. 9.

21. New Democratic Party (NDP), *Singh ends Supply and Confidence Agreement with governing Liberals*, News release, 4 September 2024.

22. Stewart Hyson, "Nova Scotia and the 'Problem' of Minority Government," *Canadian Parliamentary Review*, Vol. 21, No. 4, 1998–1999.

23. Peter Dobell, "What Could Canadians Expect from a Minority Government?," *Policy Matters*, Vol. 1, No. 6, November 2000, p. 5.

24. Stewart Hyson, "Nova Scotia and the 'Problem' of Minority Government," *Canadian Parliamentary Review*, Vol. 21, No. 4, 1998–1999, p. 13.

25. Government of Canada, *Guidelines on the conduct of Ministers, Ministers of State, exempt staff and public servants during an election*, 2025.

26. J.R. Mallory, Letter to the editor of the *Ottawa Journal*, 3 July 1953, quoted in Senate, Special Committee on the Pearson Airport Agreements, *Evidence*, 25 September 1995.

27. J.R. Mallory, *The Structure of Canadian Government*, rev. ed., 1984, p. 82.

28. Government of Canada, *Guide to Canadian Ministries since Confederation*.

29. Linda Geller-Schwartz, "Minority Government Reconsidered," *Journal of Canadian Studies*, Vol. 14, No. 2, 1979, p. 68.

30. Marc Bosc and André Gagnon, eds., "Chapter 2: Parliaments and Ministries – The Confidence Convention," *House of Commons Procedure and Practice*, 3rd ed., 2017 [FOOTNOTES OMITTED].

31. *Parliament of Canada Act*, R.S.C. 1985, c. P-1, s. 69.

32. The salaries of members used to be paid on a sessional basis (hence, they are still known as "sessional allowances"). In practice, these allowances are now paid annually, and section 69 of the *Parliament of Canada Act* was required to prevent the immediate halt of such payments on dissolution.

33. Joseph Maingot, *Parliamentary Privilege in Canada*, 2nd ed., 1997, pp. 22–23.

34. *Privacy Act*, R.S.C. 1985, c. P-21, s. 8(2).

35. Treasury Board Secretariat, *Scope of Paragraph 8(2)(g) of the* Privacy Act *upon Dissolution of Parliament*, 25 May 2004.

36. For complete details, see House of Commons, *Members' Allowances and Services Manual*, 1 April 2025.

37. The *Constitution Act, 1867* states: "The Governor General shall from Time to Time, in the Queen's Name, by Instrument under the Great Seal of Canada, summon and call together the House of Commons." See *Constitution Act, 1867*, 30 & 31 Victoria, c. 3 (U.K.), s. 38.

38. *Proclamation Summoning the House of Commons to Meet on May 26, 2025*, SI/2025-59, 24 March 2025, in *Canada Gazette*, Part II, 24 March 2025.

39. There is a separate procedure for the Standing Committee on Ethics and Conflict of Interest for Senators. See Senate, *Rules of the Senate of Canada*, September 2024, Rule 12-26.

40. Robert Bruce, "Speaker's Ruling," *Canadian Parliamentary Review*, Vol. 20, No. 1, 1997.

41. John Fraser, *The House of Commons at Work*, 1993.

42. Marc Bosc and André Gagnon, eds., "Chapter 7: The Speaker and Other Presiding Officers of the House – Election of the Speaker as Presiding Officer," *House of Commons Procedure and Practice*, 3rd ed., 2017.

43. Senate, "Chapter 2: Senators and the Organization of the Senate – The Leadership," *Senate Procedure in Practice*, June 2015, p. 27.

44. Privy Council Office, *Manual of Official Procedure of the Government of Canada*, 1968.

45. Senate, "Appendix I: Terminology," *Rules of the Senate of Canada*, September 2024.

46. Senate, *Journals of the Senate*, 21 February 2001.

47. Senate, "Chapter 2: Senators and the Organization of the Senate – Ministers in the Senate," *Senate Procedure in Practice*, June 2015, p. 28.

48. See Library of Parliament, "Senate – Political Officers," Parlinfo, Database, accessed 24 March 2025.