

## APPENDIX

## PARLIAMENT HILL AND THE BUILDINGS THEREON

Notes on civil law respecting their ownership, management and control and the rights and interests therein of Federal and provincial Crown Parliamentary and Judicial authorities.

## Legal Title

With the exception of the years 1802-1823, Parliament Hill has been owned by the Crown—successively the Crown Imperial, the Crown Provincial and the Crown Federal. Since 1823, the Crown has always held these lands for public purposes—either of defence or generally. In 1802, the British Crown granted the area to Jacob Carman who deeded it in 1812 to Thomas Fraser by whose son Hugh it was inherited. In 1823 the Earl of Dalhousie, the Governor, purchased the Hill from Hugh Fraser on behalf of the British Crown and, by letter, entrusted its control and management to Colonel John By with instructions that the Hill, together with Major Hill and Nepean Point, be reserved for military purposes. About 1857 the British Crown transferred the Ordnance (or military) lands—these including the Hill, together with the Rideau Canal lands—to the Government of Upper Canada. With Confederation the Hill and the buildings then thereon were included in those public lands and works transferred from Upper Canada to Canada by section 108 of the B.N.A. Act and clause 9 of the 3rd Schedule thereto. Thereafter the Hill has continued in the ownership of Canada. The statutory phrase is that the Parliament Hill lands are absolutely vested in Her Majesty in right of Canada for the purposes of Canada. See: Public Lands Grants Act, R.S. 1952 Can., ch. 224 and Ordnance and Admiralty Lands Act, R.S. 1927 Can., ch. 115.

## Disposition, Control and Management

Primarily the powers of disposition, control and management of the lands and works of Parliament Hill are presently in the Governor in Council. This, of course, is by authority of Parliament which has the ultimate sovereignty. At the present time, the Governor in Council holds the power of disposition of title and the power of appointment over the control and management.

By virtue of the Public Lands Grants Act, R.S. ch. 224, the Governor in Council may classify public lands as those necessary for

defence of Canada and those not so necessary: thereafter the Governor in Council may authorize the sale, lease or other disposition of any public lands not required for public purposes. Parliament, under the Public Works Act, R.S. ch. 228, has entrusted the control management and administration of the Hill and buildings to the Minister of Public Works: but, under section 35 of the Act, has given a power of appointment to the Governor in Council so that that authority may transfer the management, charge and direction of any public work (defined as including "property"), or any power, duty or function with respect thereto, to any other Minister or department. Section 28 authorizes the Governor in Council to make such regulations as he deems necessary for the management, maintenance, proper use and protection of the property. Again, the Governor in Council, under the Public Service Re-arrangement and Transfer of Duties Act, R.S., ch. 227, may transfer the duties of one Minister to another. Historically, Parliament first entrusted Parliament Hill and buildings to the Secretary of State. Chapter 42 of the 1868 Acts provided that the Secretary of State should be substituted for the Commissioner of Crown Lands as regards the Ordnance and Admiralty lands transferred to the late Province of Canada.

Parliament has also given the National Capital Commission certain interests under the National Capital Act, Acts 1958, ch. 37. The Minister in charge of any property may ask the Commission to maintain and improve it. More important from the control standpoint, any proposals for the location, erection, alteration or extension of a building or other work on public lands by a department in the National Capital Region (which is described in the Schedule as including "the whole of the City of Ottawa, in the County of Carleton, Province of Ontario") must be referred to the Commission: the site, location and plans must be approved by the Commission. However, non-approval by the Commission may be overruled by the Governor in Council; alternatively, if approval is given by the Commission, the Governor in Council may attach terms and conditions. Presently, the Minister answerable to the Governor in Council and Parliament for the actions of the Commission is the Minister of Public Works: the votes of the Commission for