

By the By: Where Does the Pesky Hyphen in "By-laws" Come from and When Will It Go Away?

By Michael Malamut, PRP

One of the first things a parliamentarian-in-training learns when studying bylaws is that there is no hyphen in the word "bylaw." All parliamentarians who have commenced the serious study of parliamentary procedure after the publication of the seventh edition (1970) of *Robert's Rules of Order Newly Revised* have seen the terms "by-law" and "bylaws" without the hyphen repeated numerous times in the text. (See *RONR 70*, pp 10–12.) Nevertheless, despite the fact that the authoritative substantive work has taken this position on an issue of style, parliamentarians time and again come across the word spelled with a hyphen, to wit: "by-law" or "by-laws."

The hyphen is a matter of style and is a sign of older stylistic preferences. The consensus of stylistic authorities is that the use of the hyphen to mark separation between prefixes (such as "by") and roots (such as "law") has been decreasing during most of the past century in English. However, the use of the hyphen remains somewhat more common in British English than American English. (See Greenbaum, p. 551; Skillin, p. 223; Strunk & White, pp. 34–35.) Fowler's quotation in the *Dictionary of Modern English* (1965, 2nd ed.) on the use of hyphenation is illustrative:

No attempt will be made here to describe modern English usage in the matter of hyphens; its infinite variety defies description. . . . There is, however, one principle that seems to command at least lip service from all authorities. This is that the hyphen is not an ornament but an aid to being understood, and should be employed only when it is needed for that purpose. . . . "I am in revolt about your hyphens" wrote Sir Winston Churchill to Sir Edward Marsh. "One must regard the hyphen as a blemish to be avoided wherever possible."

At the beginning of the century, it was much more common (in fact, almost inevitable) for "bylaw" to be spelled with a hyphen. For example, an older American law dictionary (Rapelje Lawrence, 1888, p. 161) uses the hyphen, giving "by-laws," with "bye-laws" as an alternative. *Bouvier's Law Dictionary* (1934, p. 144) also uses the term "by-laws." On the other hand, the current edition of *Black's Law Dictionary* (1990, p. 201), the standard contemporary lawyer's reference, is a bit confusing in its coverage, spelling the entry without the hyphen, but using the term both with and without a hyphen in the text of the definition. The previous edition (5th ed. 1979, p. 182), spells the entry "by-law," with a hyphen. Certainly, the direction is away from hyphenation of "bylaw."

Because lawyers are by nature conservative, "by-law" is likely to stick around for a while. It is easy for a lawyer to update the substance of older bylaws that are fifty or eighty years old as a model for a new organization or a basis for revising the bylaws of an existing group. Often this habit of lawyers is encouraged by the fact that a certain phraseology has been interpreted in a court opinion, so it becomes fossilized with a particular legal meaning as a "term of art." While this doesn't explain the continuing use by lawyers of "by-law" instead of "bylaw," it does set the atmosphere for continuing, but decreasing, use of the hyphen, particularly by lawyers.

The evolution away from hyphenizing "bylaw" in the legal dictionaries parallels the word's treatment in other texts. For example, *Brewer's Dictionary of Phrase and Fable* through the 14th edition (1989, p. 174) uses the hyphen and contains an interesting definition for "byrlaw," a Scottish local customary law that may be the etymological ancestor of "bylaw," as discussed below. In the 15th edition (1995, p. 166), on the other hand, the preferred spelling is "bylaw," with "bye-law" given as an alternate spelling. This latest edition also omits the entry on "byrlaw."

Among parliamentary manuals, *Robert's* used the hyphen through the 6th (1951) edition (see pp. 264–67). The 7th edition (1970), the first *Robert's Rules of Order Newly Revised* (pp. 10–12), did away with the hyphen. From its first edition (1950) *Sturgis's Code* (pp. 90–95) in line with Sturgis's modernizing tendencies, dispensed with the hyphen. The 1969 edition of *Demeter* also dispensed with the hyphen (pp. 177–202). In *Sturgis and Hall's 1923 Textbook*, on the other hand, Sturgis used the hyphen (pp. 88–97).

W.H. Fowler (1965, p. 70) discusses

the etymology of "bylaw," saying: "By(e)-law is probably a corruption of the obsolete *byrlaw*, the local custom of a township; it is often given an *e*, though the OED puts *by-law* first. . . . As to the hyphenating of *by* as a prefix, the authorities, as is usual with hyphens, are not agreed. . . . If, as suggested in the article *HYPHENS*, unnecessary hyphens ought to be avoided, [*by-law*] might surely be treated as eligible for promotion" to the class of hyphenless words. The newest edition of Fowler (1996, p. 123) indicates that there is some variety in hyphenation and spelling practices, and relates that the Oxford University Press continues to use "by-law." In fact, in view of this etymological background, the hyphen in "bylaw" may cause confusion to people who might derive incorrect connotations for the word from association with the preposition "by," which is the root of the prefix "by" in all "by"-prefixed words except "bylaw."

Fowler (1965, p. 70) brings up a related point, more common in British than American usage—the inclusion of an "e" in "bylaw—or "bye-law," as some British authors would have it. Bryan Garner, in his interesting and authoritative book *Dictionary of Modern Legal Usage* (2nd ed., 1995, p. 125) explains this usage. He titles his article "bylaw; byelaw," (indicating a preference for the former) and states:

Not only the spelling but also the sense differs in [American English] from that in [British English]. In [Great Britain], byelaws are regulations made by a local authority or corporation, such as a town or railway. In the [United States], bylaws are most commonly the administrative provisions of a corporation that are either attached to the articles of incorporation or kept privately.

The spelling without the -e- is preferred in [American English]. Though etymologically inferior, *byelaw* (sometimes *hy-*

phenated) is standard in British legal texts.... For British publication, the house style of the Oxford University Press, however, is *by-law*.

As Garner indicates, even in Britain, the spelling without the "e" is frequently found. For example, *Jowitt's Dictionary of English Law* (pp. 268-69) spells the term "By-laws, Bye-laws," indicating that the hyphen is preferred in English legal usage, and "by" may now be preferable even in legal contexts to "bye." Walker's *Oxford Companion to Law* (p. 163) on the other hand, prefers "Bye-law" but gives "By-law" as an alternative. In Canadian parliamentary procedure, which tends to be somewhat more conservative and British-oriented than American procedure, the main texts use "by-law" with a hyphen, but with the American meaning—"the rules or directives that govern the internal affairs of an organization" (Bourinot, p. 14. See also Kerr and King, pp. 17-19.)

Thus, it appears that the historic trend, in both North America and Britain, is on the side of "bylaw"—without the "e" and without the hyphen. The modern American parliamentary authorities use the hyphenless spelling, and it is only a question of time before the older usage fades into insignificance, particularly if parliamentarians keep promoting the modern spelling. Until then, if an organization is still operating under its old constitution and separate "by-laws," a parliamentarian advising the organization should first worry about the substantive issue of combining the two documents (see *RONR 90* pp. 12-13) before urging the updating of the spelling convention.

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The Dual Role of the Parliamentarian

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This parliamentarian is compelled to present another viewpoint of a professional parliamentarian after reading "RONR Is Not the Only Way" in *National Parliamentarian*, Volume 61, First Quarter 2000.

The role of parliamentarian is vastly different when one is serving as a professional registered or registered parliamentarian for a client and when one is presiding for a client or presenting a workshop.

Professional registered or registered parliamentarians do not attempt to teach parliamentary procedure during the course of the client's meeting. It is unfortunate that many clients do not realize that the bulk of the parliamentarian's job is done before the meeting and not during the meeting.

Professional parliamentarians only bring attention to a breach that is of sufficient importance and usually ignore a presiding officer's use of incorrect terminology. However, it is an entirely different situation when one is serving as a professional presider or presenting a workshop, because it is mandatory that the material presented be correct according to the parliamentary authority.

Judges have dismissed speeding tick-

ets because the officer did not put the exact date that the speeding violation occurred; suspects have been released from jail because a form was not precisely filled out in a timely manner. Lawyers prepare their cases based on the precise letter of the law! Doctors, lawyers, chemists, architects, and engineers must all be precise in the knowledge of their professions.

The National Association of Parliamentarians confers the title of "registered parliamentarian" on individuals who have successfully passed the registration examination, which covers the rules of procedure to be mastered. The title of "professional" is conferred on registered parliamentarians who further demonstrate their capability to interpret, write, and use accurate terminology as set forth in *Robert's Rules of Order Newly Revised*.

Knowing the rules and expressing the rules in the terminology set forth by the author is the mark of a true professional registered parliamentarian.

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