
Is the Decline of Parliament Irreversible?

by Louis Balthazar

This article looks at some factors that have contributed to the decline of Parliament including the gradual loss of relevance of politics generally and the tendency of the executive branch to function as if Parliament did not exist. The author puts forth a few suggestions that might lead to a reversal of the decline.

Audiences are always taken aback when I remind them that Aristotle located politics at the very tip of the moral pyramid. Why have we come to consider the political order as amoral, if not immoral, or quite simply, as a necessary evil? Of course we can always blame politicians themselves, as their behaviour is far from always exemplary. However, that is a facile reflex which will not take us very far. First of all, we have elected those politicians and we must acknowledge that they have never tried harder to please us than in our time. That may even be a part of the problem. They are trying too hard to please us, to meet our most superficial, materialistic and least noble requirements. In the purest market economy style, they give us, or rather they try to give us, that which meets our least well thought-out appetites for well-being.

In fact, our representatives are basically responding to pressure resulting from special interests, interests that are very often, it must be said, self-centred ones. Even though they may in their eloquent speeches talk to us about the greater interest, the common good, they do not really believe in it. However, should politics not be the ideal forum in which to pursue social justice, to seek to

further the equality of all citizens, to redistribute riches to some extent, and thus guarantee basic security for all? We have for the most part lost our sense of social solidarity, which is the essential reason for the existence of a political order. We have at the same time lost our sense of social duty that is our sense of social responsibility.

The popular neo-liberal movements largely contributed to making us forget this sense of community which is at the basis of the political order. Fortunately, liberalism triumphed over the communist menace which never managed to accommodate a modicum of democracy. At the same time, it gave free reign to a market economy system based on individualism and the freedom to sell and buy everything at the best possible price. It greatly reinforced our individualistic behaviours and led many to believe that true democracy resides in the market. Our real representatives may well be those who managed to sell us their shoddy wares, because, as some have said, we vote for them. We elect them by buying their products. It has been said of politics that it is the art of selling to people that which they do not want to buy, of making things work which would not work in the market economy.

We know of course that the truth lies elsewhere. We know that our simple consumer's behaviour would never suffice to provide us with social services, a cultural policy, a truly democratic education system. We are currently witnessing a growing awareness, one which is to be found in an increasingly large proportion of the population, of the contradictions of the global capitalist system based on the unbridled freedom of businesses to

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invest and develop wherever they like, however they wish, by eliminating all of the restrictions that might be placed on them by the political order. Unfortunately, this dawning awareness is accompanied by a generalized disillusionment as to the means our representatives may implement to counter the perverse effects of globalization. People prefer to invoke the concept of civil society. But tell me, what is civil society without its political framework. Is it the sum of a host of corporate interests? Moreover, whence do the representatives of said civil society derive their democratic legitimacy?

Nevertheless, we must recognize that although, the political order has not disappeared the system of parliamentary representation, however, has lost some of its currency, at least here in Canada.

The Decline of Parliamentarism in Canada

Canada has inherited from its colonial past a power structure that is fairly centralized in the hands of a single person, the prime minister. Indeed, the leader of the Canadian government, like the ancient metropolis vis-à-vis its colonies, can at his leisure take an impressive number of decisions without even having to consult the very bodies put in place precisely to limit the exercise of power. He himself appoints the people who will represent the Queen in this country, the Governor General and all of the provincial Lieutenant-Governors. He names all members of the Upper Chamber, all the judges of the Supreme Court, whose powers of legislative review have considerably increased these past few years, all of the judges of appeal courts and other federal courts in each of the provinces and territories, without any participation nor even consultation of Parliament nor of the various provincial legislatures. Other appointments made according to the same arbitrary process can be added to that list: all of the executives of the public service, ambassadors, and several other representatives of the public order. Of course, the prime minister will himself have decided on the make-up of his ministerial Cabinet and most often, he controls almost all votes in Parliament because of his parliamentary majority and party discipline.

As though that were not enough, certain current conditions which prevail in the country make the situation even more alarming. There is no possibility of constitutional amendment for the foreseeable future. The population wishes at all costs to avoid reopening the Pandora's box of constitutional negotiations. In addition, not only are the members of Parliament who belong to the governing party effectively muzzled for the purposes of the government in power, but the official opposition is profoundly divided: a right-wing party that only represents the population of the western provinces, a national-

ist party that represents only Quebec, and two formerly vibrant and dynamic parties that cannot manage to redefine themselves, the Progressive Conservative Party, which was in power less than 10 years ago, and a left-wing party that refuses to move closer to the centre, as opposed to the European tendency. Finally, those poor, powerless parliamentarians have very few permanent services at their disposal to do their jobs as critics of the party in power and have all kinds of trouble obtaining information from a public service deeply devoted to the party which has governed the country during 70 of the past 100 years.

Yet Canada has come out of the colonial era. Aside from the purely symbolic role played by the Queen, London has no involvement whatsoever in Canadian affairs. The country's Constitution was patriated and Canadianized in 1982. Unfortunately, however, that operation took place in an atmosphere that left something to be desired from the point of view of parliamentary legitimacy. Indeed, this new Constitution, to which a new *Charter of Rights and Freedoms* was appended, was the result of a hastily concluded agreement among nine of the provinces, excluding Quebec, at the beginning of November 1981. It was proclaimed less than six months later, on April 17, 1982. This did not leave sufficient time for the necessary debates to take place in Parliament and the various provincial legislatures. In fact, all of the legislatures which ratified the agreement did so hastily, and the representatives of the population did not get an opportunity to express themselves, as would have been desirable according to proper British parliamentary tradition.

In Quebec in particular, the vast majority of the members of the National Assembly spoke out against the Constitution which seriously truncated the powers granted to it by the *British North America Act*. My colleague Guy Laforest refers to the "reduction of the fields of jurisdiction of this Assembly against its will and without popular consultation"¹. He refers to the eminent British political philosopher John Locke to remind us that "this legislative power is supreme... and ...sacred"² and that those who amend it "take away that decisive power, which nobody can have, but by the appointment and consent of the people"³. To the extent that the Quebec National Assembly has not changed its position since 1982, whatever the party in power, one may really question the legitimacy of a Constitution whose legal standing continues to depend very heavily on Quebec society. One can surely refer to a loss of legitimacy of parliamentarism in Quebec.

Even though the Quebec National Assembly is still responsible for important files pursuant to the constitutional jurisdiction of the provincial government, its

responsibilities are constantly encroached upon by the federal government, which frequently usurps the jurisdiction of the provinces. When the latter attempt to have their prerogatives respected, they often find themselves pitted against a central government that is both judge and defendant, in a situation reminiscent of London's former position with regard to its colonies. In the field of education, for instance, Ottawa takes credit for awarding bursaries to students, funding university chairs and presenting itself as the only representative of Canadian universities at the international level. In the health field, Ottawa claims to be the architect and executive of a system that is nevertheless funded for the most part by the provinces and managed by them.

Again, recently, the Quebec National Assembly saw itself deprived for all practical purposes of the power of framing a question in view of a referendum. Indeed, Bill C-20, passed in 1999 by the Canadian Parliament, authorizes it to exercise a kind of veto over a referendum question concerning Quebec's political future by giving itself the power to judge, at its earliest convenience, the so-called "clarity" of the question.

Finally, the powers of the Quebec National Assembly and of each Canadian legislature are morally diminished by a new spirit which emanates from the *Canadian Charter of Rights and Freedoms*. It trivializes belonging to a particular province in favour of a new Canadian nationalism, to the benefit of federal government institutions, now most frequently referred to as *national*. For the vast majority of Canadians, there is a national government which overrides all of the others. The provinces, federated political entities, are sometimes even considered to be akin to regional, local or municipal governments. Even an international entity such as the Organization for Economic Cooperation and Development (OECD) recently took it upon itself to refer to Canadian provinces as "intermediary powers" between the central government and the municipalities. And yet, under the Canadian Constitution, there are two and only two levels of government in the country, each one sovereign in its fields of jurisdiction, neither being subordinate to the other.¹

The Quebec population continues to respect its government and its National Assembly as *national* institutions. It is, however, constantly subjected to the influence of the other provinces and to that of a federal government whose presence is felt everywhere on its territory. This does not confer any particular lustre to this "gathering of the clan", whose members are behaving in an increasingly undignified manner.

These facts do shed some light on the decline of parliamentarism, at least in this corner of the world. Which raises the question: is this decline irreversible?

An Irreversible Decline?

I will first reply in a rather unscientific manner. This decline is not irreversible because it must not be. We need it not to be irreversible. Our democracy cannot thrive without parliamentarism. As you can see, I am moving slowly from the normative to the empirical. Because one day, all of the possible substitutes for parliamentary democracy will have been tried and found wanting after we have experienced their futility. In other words, parliamentarism will triumph because we will need it as we need the very air we breathe.

Parliamentarism is the oxygen of democracy and we will never be able to get along without it for very long.

In more concrete terms, let us see what reforms are put forward by parliament detractors. Aside from suggestions borrowed from the laws of the market, whose tragic limits we are already beginning to discern, people often refer to direct democracy or frequent consultations of the population. Referendums no doubt have a role to play in democracy but they will never replace representation and parliamentary debate, if we are not to fall into demagoguery. People have also referred to direct appeal to the population through the Internet. In the United States, they refer to this as an "electronic town hall". This is worse than a referendum to the extent that only the most superficial, instinctive and often the most petty of our needs would get a hearing. We are going to have to realize that legislative decisions are complex and can only be entrusted to competent people who deserve public confidence and are given the means to develop those skills.

These means involve research, access to information, support from staff, and the consequent possibility for parliamentarians to develop an in-depth knowledge of their files. The American system provides a good example of the effective operation of a relevant and powerful parliamentary system. American parliamentarians have a numerous staff at their disposal and the possibility of accessing information and expertise that is sometimes just as considerable as that of the executive branch. Moreover, party discipline is sufficiently lenient to allow each parliamentarian a fair measure of authority and freedom. That responsibility is no doubt vastly diminished by the enormous power of money and special interest groups. That is another story. In any event we cannot necessarily emulate our neighbour to the south.

Would it not be possible to moderate the necessary party discipline in a parliamentary system such the Canadian one, just enough to grant more freedom and more

responsibility to our members by allowing more free votes?

We might also consider certain elements of proportional representation that would make our system more representative of the heterogeneous nature of our population. Here again, this would have to be done in moderation so as to avoid foundering on the reef of parliamentary anarchy, which would be the result of the imposition of perfect representation. Proportional representation is usually favoured by the opposition, but there is marked reluctance when the opposition becomes the governing party thanks to the old system.

But these methods will not by themselves overcome the formidable obstacles which I raised earlier. I will not today put forward a miracle solution to halt the deterioration of social solidarity and the respect of the political order. Nor will I provide the remedies to the Canadian situation, although it would be easier for me to do so, but other Canadians might not share my perspective. All I can hope and wish for is that we may eventually eliminate sterile individualism and gradually rediscover the relevancy of political institutions. This change seems to have begun in certain environments, in academic circles. We must also hope and expect that the rigid party ideol-

ogy which prevails in Ottawa will eventually pass. A growing number of experts and commentators are speaking out against the smothering of Parliament by the office of the Prime Minister. One must also expect that Quebec will eventually find ways of being distinct within the Canadian union and that its National Assembly will be the better for it.

What a long list of optimistic wishes and predictions. Unfortunately, I must acknowledge that I feel much more convincing when I talk about the factors that contribute to the decline. In spite of all that, I remain steadfast. We cannot allow ourselves to become resigned in the face of parliament's decline.

Notes

1. Guy Laforest, *Trudeau et la fin d'un rêve canadien*, Quebec, Septentrion, 1992, p. 68.
2. *Ibid.*, p. 69.
3. John Locke, *Treatise of Civil Government*, Paris Flammarion, 1984, par. 227, p. 364. Quoted by Laforest, *op.cit.*
4. See the Supreme Court of Canada Quebec Secession Reference, August 21, 1998, article 58 in particular.