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# A Question of Trust: Parliamentary Democracy and Canadian Society

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by David E. Smith

*This article looks at seven trends in Canadian politics over the last forty years and how these have affected Parliament and our understanding of the role of Parliament.*

Since the 1970s there have been several major changes that shape our understanding of Canadian politics. The first has to do with Quebec; whatever one's view of what has happened in that province since the late 1960s, no one, I think, would any longer maintain that the Quiet Revolution was confined to catching-up with the rest of the country. As incomplete, inconclusive and controversial as it may be, Quebec has forced Canada to seek to redefine itself: either as two founding peoples or *deux nations*, distinct society, even multiculturalism and bilingualism. Compared to the certainties or, at least, unquestioned assumptions of the early 1960s, we are, at best and for the time being, a virtual people.

The second change relates to Canada's Aboriginal and First Nations peoples. If the earlier understanding of the place of the Quebecois in Canada has proven to be misconstrued, the same cannot be said of the Aboriginal and First Nations peoples. For in the early 1960s, there was no conception that they had any place at all. Forty years ago they did not exist as a force in Canadian politics or as a subject of study in political science. Granted the federal franchise in 1960, the assumption – articulated at the end of the decade in the Trudeau government's White Paper – was that Aboriginal peoples would be assimilated into Canadian society. The pluralism and diversity, now heralded as cardinal features of Canada's constitution

and to which the Aboriginal peoples have been major contributors, remained unrecognized.

A third change is in the area of rights. In 1964, the Diefenbaker *Bill of Rights* was four years old and judged a failure by those who looked for an enhanced affirmation of rights. The judiciary was deemed too passive, too restrained. The rights revolution, and its principal Canadian manifestation in the form of the *Charter of Rights and Freedoms*, had yet to materialize. Necessarily, the Charter-skeptics, who now regularly attack the judiciary for being too active and thus constituting a challenge to Parliament, had yet to appear. After the Bill but before the *Charter*, language rights – at the national level in the form of the *Official Languages Act (1969)* and at the provincial level, as in Quebec's language laws – introduced new grounds for political organization and action, even when that activity was directed toward court challenges.

The media is a fourth area of change. The forty years that this lecture discusses were also the years of the electronic 'revolution'. Norman Ward wrote an article once about the founding of the Canadian Press (with government patronage) and CP's maintenance of the Commons Press Gallery. Print medium has transformed itself over the last four decades, in no small part in response to the spread of television coverage of politics. The press is less centered on the House and more devoted to investigative reporting. The compression of time and space, which the electronic media foster, and their success at instantaneous coverage have contributed to making the print medium more partisan in a non-party political sense – that is, more critical of government of whatever partisan complexion. Twenty-four hour news channels, which are just a decade old, subject politicians and the

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viewing public to both a concentration and breadth of coverage once unimaginable. Much more could be said—about the contrasting roles of public and private broadcasters, the adaptability of radio and the rigidity of television when it comes to reporting local news especially in a national context, as for example, in the coverage of general election returns. If there is a broadening out of politics as a result of the modern concern for rights, then television is the ideal medium to ‘nationalize’ or ‘internationalize’ that coverage.

Fifth is the concept of representation which is all the rage today although the themes advanced are essentially passive: white, male, middle-class legislators do not reflect the demographic diversity of the electorate; and the partisan composition of the legislature does not mirror the distribution of partisan sentiment among the voters. For these reasons, a recent study published by the Law Commission of Canada asserts that voters have “essentially wasted their votes.”<sup>1</sup> This is one source of the lament about the public’s lack of trust in politicians, the reputed decline in the political system’s legitimacy, and the heightened calls for accountability on the part of government. For Norman Ward and a previous generation of scholars, Parliament’s effectiveness lay not in passive appearance but active result. Parliament did not make policy—that was the job of government; Parliament’s task was to debate policy, to set out its strengths and weaknesses for the electorate ultimately to judge at the polls. Responsible government, that is, the cabinet-in-Parliament was the actor. To take recent examples: people want government to act on SARS, Iraq, BSE, softwood lumber and a multitude of other questions. The traditional view (that of forty years ago) was that the electoral system could not carry the weight of what people want. At best it could assure fairness of the process. (It is worth asking whether a government drawn from a legislature based on proportional representation would have acted faster or more effectively in the emergencies of the last couple of years). In any case, according to the traditional view, only government and the people’s representatives were in a position to meet that challenge.

That understanding of parliamentary government gives meaning to the belief in what used to be called “the morality of the ballot box.” Today this belief is under attack either in the media or, from organizations whose *raison d’être* is to challenge the existing operation of parliamentary government in Canada. I am thinking of Fair Vote Canada, which describes itself as a citizens’ group advocating electoral reform, and who the day following the Nova Scotia election last August, which produced a minority Conservative government, said the results were ‘proof the current system does not work’.

The plurality system, says Fair Vote Canada, “never gives voters true political representation because a number of votes are considered wasted.”<sup>2</sup>

A sixth change I call the development of the audit society.<sup>3</sup> One of these new organizations is called Democracy Watch. It is a revealing name, for in its attack on the administration of government, particularly on lapses in integrity and in its proposals to prevent their repetition, Democracy Watch signals that Parliamentary government lacks democracy. And yet its remedies often possess questionable democratic credentials themselves. Democracy Watch is a firm believer in the existing Officers of Parliament (the office of Auditor General, for example) and champions greater surveillance of elected members and especially ministers. Officers of Parliament are not a new phenomenon; Norman Ward wrote extensively about two of them, the Auditor General and the Chief Electoral Officer. The difference between then and now is that where once seen as servants of Parliament, they are evolving into its masters. This is a claim, I realize, with potential for controversy. Nonetheless, what is clear is that the officers are in the process of becoming the integrity branch of government, what Bruce Ackerman of Yale University has labeled its fourth branch.<sup>4</sup>

The seventh and last change relates to federalism. I place it last not because it is less important to Canadian politics than the preceding subjects. Clearly the conduct of federal-provincial relations is crucial to the future prosperity of the country. I place it last because I do not think it clearly falls into a discussion of Parliamentary Democracy in Canada today. In itself, that is a large claim. Still, the architecture of federalism—the diplomacy of federal-provincial relations, as Richard Simeon christened it in the 1970s—exists largely outside of the institutions of Canada’s parliamentary democracy (and no longer, as traditionally was the case, within the political parties).<sup>5</sup> Indeed, it is one of the familiar refrains of critics that these relations should be brought into parliamentary democracy. Here is the rationale for transforming Canada’s Senate into a domestic equivalent of Germany’s, upper house (the Bundesrat) or into a Triple E Senate. While I could discuss this matter at eye-glazing length and intensity, I do not see changes in federalism as constituting a transformative political influence on the operation of parliamentary democracy to the same degree as our altered perceptions of Quebec, First Nations peoples, human rights, the role of the media, representation or the rise of the audit society.

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## Challenges to Parliamentary Government

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Let me take the first three subjects – Quebec, First Nations peoples, and rights as a collective or package. Some of the implications for politics from this constellation of forces are obvious: identity politics, the growth of courts as a route to resolve grievances, the decline in voter turnout, the shift in public and media attention to claims arising from social diversity or pluralism. All of this, and more, indicate that one main feature of this development is accelerated mobility in and out of the traditional political arena. How is government, how are members of Parliament to retain or recapture that set of interests? Again, how are the conditions of majority rule as once understood to prevail in such a kaleidoscopic system?

And there is more. Where once the judiciary was tangential in the study of Canadian politics; this is no longer true. Even if one does not share the criticism that the courts are now trespassing on the Commons and usurping Parliament's prerogative, there is no question that the judiciary are elaborating and articulating the lineaments of the Canadian constitution. In the Quebec Secession reference, for example, the Supreme Court spoke of the internal architecture of the constitution and enunciated four of its fundamental features: constitutionalism and the rule of law, federalism, democracy, and the protection of minorities.<sup>6</sup> The courts have found inherent Aboriginal rights in regard to fishing and hunting. Again, regardless of one's view of the correctness of these decisions, the challenge to Parliament here and in other judgments rests in the limitation they place on governmental action and freedom of manoeuvre and, equally important, on the informative function of parliamentary debate for public education.

Changing conceptions of representation and the belief that government needs to be checked – partly because the scrutiny function of debate in the House has lost favour as members demand a role in policy-making – has fostered an approach to parliamentary government that can only be described as republican. Preston Manning advocates transforming Parliament into a 'political marketplace' in which support is mobilized 'to force [ideas] higher and higher on the political agenda,' and where it is 'necessary to build and maintain coalitions across regional and party lines.'<sup>7</sup> Some might call the premise of this proposal – that is, party as enemy and the accompanying plea for the liberation of MPs – naive. Certainly, it constitutes a rejection of party government and thus parliamentary democracy as it has operated in Canada for more than a century. Reformers not only want a separation of powers but they think in separation-of-powers terms. There is the executive (by which they mean cabi-

net) and there is the House. The former dominates the latter because of party discipline. Party discipline suffocates popular opinion as expressed through the members. By contrast, they say, direct democracy in the form of initiative and referendum will circumvent concentrated, centralized power. But, historically, the referendum has been viewed as alien to parliamentary democracy as well as incompatible with representative government.

Direct democracy is fed by two beliefs that have recently gained currency. The first has to do with listening. It is often said that governments and members of Parliament do not hear what citizens are saying, and that is because the parliamentary process offers no opportunity to incorporate citizens' views. The attraction of the reformers lies exactly in this – that it offers citizens what critics say is crucially absent in the Canadian model of politics, the promise of 'actually exercis[ing] power and pass[ing] judgment, either directly or through their individual MPs.'<sup>8</sup> Listening is linked to concerns about inclusion, consultation and the interposition of opinion into policy-making instruments. Here is the justification for belief in direct democracy and for disdain of representative government as its poor substitute.

Listening can occur outside the legislature as well, through extra-parliamentary organizations like the National Citizens' Coalition. The NCC must be the most successful extra-parliamentary organization in Canadian history. Aggregating and articulating public opinion against Parliament, first with regard to MPs' pensions, and then the election finance law, the G.S.T. Significantly, the NCC campaigns used the newspapers to communicate their message to the Canadian reading public and to provide a channel, via prepared statements to be sent to MPs postage free, to relay that message to Ottawa. Thus the NCC helped reduce the sense of difference between governors and governed that has been a feature of parliamentary government for hundreds of years.

*The new order of politics – with its insistent demands for participation – is flawed, for much of what people dislike about Parliament is endemic to what a modern Parliament is – party discipline and executive pre-eminence.*

The role of media has been crucial to the success of the NCC and others who speak in what I call Canada's second political vocabulary. But the media have been more

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than facilitators in this regard. “The “reality” they construct for the public’ is important not only for how citizens view politics—the launching of the *National Post* and the confrontational tone it adopted in its editorials and coverage of the Chrétien Government helped feed the cynicism citizens increasingly expressed—but also for how parliamentarians view citizens.<sup>9</sup> Abandon fixed ideas of rank and order and replace them with mechanisms by which ordinary Canadians might overcome everything that politically hampers them.

If listening is one modern belief that is transforming parliamentary politics then resistance to discipline within opposition and government ranks is a second. Here the emphasis is not on incorporation from below but on autonomy from above. Consider the series of intra-caucus conflicts of recent months in the Liberal party. There is nothing in those controversies that speaks to citizens, or groups of citizens, or other political parties. Nor is there mention of negotiations or coalition-building. And the reason is that the discipline ‘question’ is a concern of those within the citadel who speak the insider’s tongue, the first political vocabulary. Traditionally, government has viewed the people as a rival and the expression of opinion outside of political parties as less than legitimate. The public could not be admitted because they were not accountable. That gap has widened with the arrival of the *Charter of Rights and Freedoms*. Whether it need be this way is open to debate. Paul Martin’s remarks on the ‘democratic deficit’ suggest that the House must become more like the people—pluralist.<sup>10</sup> Whether that is possible in practice or in parliamentary theory is open to debate. That is what is missing in these controversies.

In my view, the Liberal dissidents are also theoretically at sea. On what grounds is party discipline to be impugned; how far is it to be challenged? The House cannot return to some golden age of independence where members debated issues and weighed. Did such a time ever exist in Canada’s parliamentary history? Wherein lies the authority for the actions Liberal dissidents have taken? It is intriguing to speculate whether the greater importance MPs now attach to their constituency role and, indeed, the extra work they do to bridge the distance between member and constituent are factors leading to a greater sense of independence. In the debate over Canada’s role in military action against Iraq, it was common to hear: “MPs must be given the chance to express their constituents’ views on Canadian military participation.”<sup>11</sup> But then again, it was not unique to hear another rationale for dissent: “to send the Prime Minister a very strong message that attacking Iraq without UN authorization is not an option.” At the end of the Chrétien era,

some Liberal MPs, either as a representative of someone else or as a representative of no one but themselves, have taken an interest in guided independence in so far as procedures are concerned. When in February 2003, twenty-two Liberal backbenchers voted against the wishes of the prime minister and for an amendment to an ethics bill (C-15, the Lobbyist Registration Bill), one of their number explained the rationale: ‘On some of these issues, you have to represent both your own view and the view of your constituents ... It’s not a problem. These aren’t questions of confidence in the government.’ Thus, on several matters in recent months, discontent with the prime minister’s treatment of the Liberal caucus has led to criticism but no defection by Liberal MPs.

Long-time, former NDP Member of Parliament Ian Deans has said each prime minister sets the tone of the House. He or she sets the standard of behaviour. If the prime minister does not care about the House, neither will the Prime Minister’s Office, and that disdain will spread to cabinet ministers and to the members themselves. But there is a leadership contest underway and cabinet is experiencing much tension as a consequence. Following the selection of a new leader, will the unrest among the renegades abate? In all likelihood, yes, because there is no coherent theory of parliamentary politics or leadership to sustain it. At best, it is a half-theory: emancipate rank and file members but pay no attention to the effect change will have on the conduct of government. This closed circle approach to parliamentary improvement omits what is essential and, by contrast, what the Blair Government’s Memorandum on ‘Modernization of the House of Commons’ at Westminster has remembered: “The objectives of any programme, must be to enhance [the executive’s] authority to lead national debate on important political issues and to improve the capacity of the Chamber and its Committees to scrutinize Government, both in its executive actions and in its legislation.” Notwithstanding the Manning-Canadian Alliance interpretation of a separation of institutions in parliamentary government, the executive and the legislature are one. It is salutary to bear this truth in mind if the constructive power of reform is to be realized.

Yes, the prime minister has too much power. Yes, the PMO sometimes treats ministers and caucus members with disdain. Yes, members have opinions and, in some instances, specialized knowledge, and yes, the public believes its demands for participation go unacknowledged. What conclusion is to be drawn from these affirmations, and how are they to be incorporated into Canada’s system of responsible, partisan government?

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## Conclusion

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It is not possible to imitate the American political system in some piecemeal way, if only because it is a 'system,' whose institutions and procedures are locked in reciprocating and dependent relationships; and if only because Americans voice the same concerns about politics in Washington as Canadian critics raise about the operation of Parliament.<sup>12</sup> Moreover, if Canadians cannot confidently follow Mr. Manning's lead and selectively adopt some American political practices to cure the perceived ills of their own system, they equally cannot substitute presidential and congressional government for parliamentary government. For a start, the rigid amending formula found in Canada's Constitution Act provides an effective barrier to any significant institutional change.

***What Canadians appear to want is to know that they can participate in, even though at the same time and contradictorily they are disengaging from the political process.***

Pollsters argue that Canadians, particularly young Canadians, see government as 'irrelevant.' My own observation is that people come to the political process already polarized and that the young more than the old, see political matters increasingly in terms of values. This should come as no surprise, for I think a content analysis of policy debate in Canada would reveal that issues are discussed largely in such terms as tolerance, compassion, fairness, equity, justice, respect, and trust. Look at debate that surrounds the Charter, medicare and Aboriginal rights, for instance. Today Canadians see values as the modern equivalent of the bands of steel John A. Macdonald used to unite the country in the nineteenth century. These values, it is said, define Canada—usually in contradistinction to the United States.

Societal change of this order is not unique to Canada: it is happening in Britain and Australia, the United States and probably most free societies. What is unique is how Canada, with its distinctive system of parliamentary federalism, responds. I say distinctive because Canada unlike the United States is doubly federal—of cultures (French and English defined by law, religion and language) and of provinces. Indeed, one could argue that a new, third federal dimension, in the form of Aboriginal (and Northern) self-government, is emerging. The challenge is how the traditional institutions of parliamentary

government can accommodate both jurisdictional and societal diversity.

As regards the first, on balance cabinet-parliamentary government has proven itself adaptable to meeting the diversity of Canada's jurisdictions and sections. At this point, I expect to hear muttered dissent along the lines of 'what about Newfoundland,' 'what about Alberta?' To which I would respond: 'what about them?' If the poorest and the wealthiest provinces are united in unhappiness with the status quo, what institutional reform will mollify both? Inter-governmental problems are always with us. I do not wish to sound dismissive, but tension is a normal (even healthy) ingredient of legislative, democratic and federal politics.

It is with regard to the second, societal, diversity where parliamentary government falls short. No longer is politics played out almost entirely within the forum of Parliament and the political parties. Race, sex, gender were but blips on the political screen when I began teaching in the mid-1960s, and they found no place in the Canadian politics textbooks of the day. Nor did controversies over reproductive technology or genetically modified crops, which have spawned their own aggregations of advocates and opponents outside of Parliament. What these and other subjects share in common is, first, the decisions they require are irreversible—which is antipathetic to the view that Parliament is a sovereign body that never alienates its power; and, second, the knowledge required to reach a decision is specialized, that is to say it is not the kind of knowledge most members of Parliament usually possess. Thus Parliament and the public find themselves subject to the authority of experts in the public service, academia, and corporations

Today all constitutions—be they republics, monarchies or, as in the case of Canada, a crown republic—are attributed to the people. It is this dispersion of popular legitimacy that Parliament has been unable to reconcile with its centripetal authority. Attempts at modernization, which usually take the form of advocating more free votes, less party discipline, grander and more powerful committees have done nothing to counter the phenomenon of the disappearing Canadian voter. It remains too soon to know but not unreasonable to doubt whether fixed election dates, as now statutorily required in British Columbia, or the introduction of proportional representation (if it happens) will be any more effective at achieving that object. If so, how then can the unity of parliamentary government coexist with the diversity of Canadian society?

I would like to conclude in the confident tones of a telemarketer, that I have the answer to this perplexing

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problem, and it can be yours for \$34.95, with increased voter turnout as a bonus. Alas I cannot.

I will end with this quintessential academic thought. Articulate the problem and you will have taken the first step to a solution of what ails parliamentary government in Canada today. Why is voter turnout a concern? Would higher turnout give better representation, or public policies, or self-worth? Perhaps in an era when people are given many non-electoral opportunities to promote single-issues, turning their backs on traditional partisan politics is to be expected. Perhaps the standard set today for parliamentary politics is so conceived that it is impossible to attain (or to know if it has been attained). When Bill Cross, a respected Canadian political scientist, talks about 'the perennial question of how to make the House of Commons more responsive to the concerns of the voter,' what does this mean? For more than a century, the House of Commons has not been able to respond except through the actions of the government. The perception of Parliamentary failure, which is the one many academics, journalists, politicians and the public indiscriminately promote, takes root because the goals these Jeremiahs preach are unachievable. Responsiveness is another of those value words whose meaning lies in the mind of the observer. At the risk of sounding like Parliament's poster boy, I believe that the critics must re-examine the expectations they hold for Parliament. These expectations have to be realistic; more than that, they have to be specific. Not what should but what can Parliament do? Even when that hurdle is cleared, expect to be disappointed. Parliament is at best an approximation of the good.

In the National Portrait Gallery in London is a lithograph of Samuel Beckett (by Tom Phillips). It will come as no surprise to those familiar with the enigmatic writer's work that the artist has chosen to present the viewer with the back of Beckett's head, nor that the tones he used were unrelievably sombre. What really impressed me about that work was the inscription that accompanied it: 'No Matter. Try Again/Fail Again. Fail

Better.' When it comes to Parliament, let me end with an idea that can be encapsulated in an even shorter form: 'lower expectations, raise trust.'

## Notes

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1. Law Commission of Canada, *Renewing Democracy: Debating Electoral Reform* (Discussion Paper, Ottawa: Law Commission of Canada, 2002), p. 16.
2. *Globe and Mail*, 7 August 2003, p. A4.
3. For a rigorous examination of this topic, see Michael Power *The Audit Society: Rituals of Verification* (Oxford: Oxford University Press, 1997).
4. Bruce Ackerman, 'The New Separation of Powers,' *Harvard Law Review*, vol. 113 (January 2000), pp. 633-96.
5. Richard Simeon, *Federal-Provincial Diplomacy: The making of recent policy in Canada* (Toronto: University of Toronto Press, 1972).
6. *Reference re Secession of Quebec*, [1998] 2 S.C.R. 217, paras. 50 and 55-82.
7. Preston Manning, "How to Remake the National Agenda," *National Post*, 13 February 2003, p. A10.
8. Jonathan Malloy, "The Responsible Government Government Approach and Its Effects on Canadian Legislative Studies," *Canadian Study of Parliament Group, Parliamentary Perspectives*, No. 5 (November 2002), p. 9.
9. The phrase belongs to Bob Franklin, 'Keeping it "Bright, Light and Trite": Changing Newspaper Reporting of Parliament,' *Parliamentary Affairs*, vol. 49 (April 1996), p. 303.
10. Paul Martin, 'The Democratic Deficit,' *Policy Options*, December 2002-January 2003, 11. (Extract from a speech on parliamentary reform and public ethics delivered at Osgoode Hall, York University, Toronto, 21 October 2002).
11. For citations to quotations in this and the following paragraph, and for more on this subject, see David E. Smith, "The Affair of the Chairs," *Constitutional Forum*, 13, no. 2 (2003), pp. 48-49.
12. See John R. Hibbing and Elizabeth Theiss-Morse, *Congress as Public Enemy: Public Attitudes toward American Political Institutions* (Cambridge: Cambridge University Press, 1995), p. 97.