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# Measuring the Effectiveness of a Minority Parliament

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by Paul E.J. Thomas

*Canada's plurality electoral system often allows parties earning less than half of the popular vote to receive a majority of Parliamentary seats. Several analysts have suggested that this problem should be corrected by changing the electoral system to increase the proportionality between a party's share of the vote and its share of legislative seats. However, while this type of reform would increase proportionality, it would also greatly increase the frequency of minority governments. This paper uses the minority government that took place in the 38th Parliament as a test case to see how Canada's political system might be affected if the country adopts a new electoral system that produces minority governments more frequently. The paper sets out the procedural context of the 38th Parliament and develops six criteria for evaluating its behaviour. It then explores each criteria using a qualitative and quantitative comparison of the actions of the 36th, 37th, and 38th Parliaments. This evaluation shows that the 38th Parliament was no less efficient than its predecessors, featured greater legislative deliberation, and was better able to hold the executive accountable for its actions. As a result the paper concludes that while minority governments are by no means perfect, the example of 38th Parliament suggests that an electoral system which produced more minority governments could increase the quality of democracy in Canada.*

The procedural changes that took place in the House of Commons over the past twenty-five years make it very difficult to directly compare the 38th Parliament and previous minority parliaments in Canada. These changes, which were introduced in an effort to make the Commons more efficient and democratic, provided the members of the 38th Parliament with many opportunities that were not available to their predecessors.

Perhaps the largest changes that have taken place relate to the independence of the standing committees.<sup>1</sup> Prior to the mid 1980s, standing committees required a reference from the House in order to conduct a study or

even to meet.<sup>2</sup> Under the new rules, committees may initiate their own studies on issues within their purview and can make recommendations on government action. The independence of standing committees has also been reinforced by the introduction of a secret-ballot vote for the selection of committee chairs. This innovation, introduced in 2004 following the passage of an opposition motion that demanded the change, ended the previous practice under which committee chairs were selected by the government.<sup>3</sup> However, since there was a majority Parliament at the time of the change, the 38th Parliament was the first in Canadian history during which the opposition parties could elect a committee chair against the wishes of members of the governing party.

A second significant change in House procedure has been the simplification of the rules governing private members business, which has allowed more private members' bills to be debated, voted upon, and passed by

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*Paul E.J. Thomas was a Parliamentary Intern in 2005-2006. This is a revised version of his essay which was awarded the Alf Hale prize as the best essay by an intern in 2005-2006.*

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the House of Commons. However, the success rate is still quite low.

The procedural context of the 38<sup>th</sup> Parliament was also strongly influenced by the *Action Plan for Democratic Reform* introduced by Prime Minister Paul Martin at the start of the 3<sup>rd</sup> session of the 37<sup>th</sup> Parliament in early 2004. Since that session lasted for only 55 sitting days, the *Action Plan's* full impact was not known at the start of the 38<sup>th</sup> Parliament. Of the reforms introduced in the *Action Plan*, the four with greatest potential to affect the 38<sup>th</sup> Parliament were: 1) the implementation of a three-line whip voting system; 2) increasing the number of government bills going to committee stage before second reading; 3) increasing the ability of standing committees to review budget estimates; and 4) having standing committees review the nominees for senior government appointments.<sup>4</sup> A three-line whip voting system refers to the extent to which the government sees a bill as a matter of confidence. Under the system, bills with a one-line whip are considered to be "free votes" for all members, meaning that the government takes no position on the issue and the outcome of the vote will not affect the Parliament's confidence in the government. On two-line votes the cabinet takes a position, but government backbenchers are not obliged to follow it and the outcome again does not affect the government's survival. Lastly, the three-line whip is saved for key parts of the government's legislative agenda that are matters of confidence on which the government can fall. As such, all MPs from the governing party are expected to toe the party line. Proponents of the three-line system argue that it allows for a greater range of compromise and debate on less important bills while still allowing the government to demonstrate that it has the confidence of the House on important issues.

Like the three-line whip, sending bills to committee prior to second reading is seen to raise the level of democracy in the House. Under the standing orders the ability of committees to amend the substance of a bill is severely limited once second reading has taken place.<sup>5</sup> Moreover, committee members have less freedom to compromise on the issue after second reading since parties are forced to take positions on the topic during the debate and vote that second reading involves. Sending bills to a committee earlier in the legislative process is therefore seen to increase Parliament's deliberative role by allowing it to conduct a meaningful debate on a bill before its content is finalized. Notably, the government has been able to send bills to committee before second reading since the amendment of the Standing Orders in 1994.<sup>6</sup> However, the provision was infrequently used, leading to complaints from analysts and opposition members.

In contrast to the new development of the three-line whip, standing committees have been tasked with reviewing the budgetary estimates for their counterpart departments since the 1960s. However, committees often lack the information they need to have an informed debate on the estimates, thereby preventing them from exercising executive accountability. Consequently, Prime Minister Martin's proposal focused on providing committees with the resources they needed to review the estimates in a meaningful way.

Like the ability to send bills to committee stage before second reading, the executive has long had the option of asking Standing committees to review nominees for government positions, but has done so very infrequently. This concentration of the appointment process within the executive has often led to accusations of patronage against the government and has undermined the public's confidence in government institutions.<sup>7</sup> To improve this situation, the *Action Plan* allowed committees to review nominees' qualifications and report back to Parliament with their findings. However, given fears that the review would become overly politicised, the plan left the final approval of appointments in the hands of the Prime Minister.<sup>8</sup>

Given this procedural context, a number of criteria for evaluating the democratic performance of the 38<sup>th</sup> Parliament can be determined. The democratic benefits of minority parliaments can be seen in the extent to which the 38<sup>th</sup> Parliament featured *increased*: 1) legislative compromise and deliberation; 2) executive accountability to the legislature; and 3) opportunities for private members. On the other hand, criteria relating to the potentially harmful effects of minority parliaments include the extent to which the 38<sup>th</sup> Parliament featured *reduced*: 1) legislative efficiency; 2) government stability; and 3) accountability to citizens at election.

### **Legislative Compromise and Deliberation in the 38th Parliament**

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There are two main indicators that will be used to determine whether the 38<sup>th</sup> Parliament featured greater compromise and deliberation around legislation than its predecessors: the number of government bills referred to committee stage before second reading and the total number of bills amended by committees. Proponents of electoral reform argue that minority governments must compromise with opposition parties and accept changes to their legislative proposals. Moreover, in the minority situation, the opposition can defeat the government on any vote. Consequently, one would expect that more bills would be passed with amendments in a minority situation than would be the case in a majority parliament. It

would also seem likely that the amendments passed in a minority parliament would have greater substance, than those in a majority since the opposition parties can join together to pass any changes they desire. However, attempts to quantify the substance of an amendment are inherently subjective, with those that seem trivial to the average observer often being of great importance to a particular segment of the population. As a result this article will focus only on whether the number of bills amended increased during the minority situation.

According to the Standing Orders, all bills must be referred to a committee after either first or second reading. The committees then conduct detailed studies of the bills, often calling witnesses to testify on the legislation and then performing a thorough clause-by-clause review of its provisions. As a result, the committee stage is where the bulk of amendments are likely to take place. Table 1 compares the number of bills that were amended at committee stage in the 36<sup>th</sup>, 37<sup>th</sup> and the 38<sup>th</sup> Parliaments. In an effort to control for outside influences and isolate the impact of the change from a majority to a minority parliament, the Table only includes data from the sixteen thematic standing committees that existed in all three Parliaments.<sup>9</sup> For ease of comparison, the data for each session has been standardized to a session length of 150 sitting days.<sup>10</sup>

Table 1 produces some rather interesting results. If one looks only at Bills referred to committees *after* second reading, the 38<sup>th</sup> Parliament was the only period in the study during which more bills were reported without amendments than were reported with amendment(s). However, the situation becomes very different once bills referred to committee *before* second reading are included. A full 80% of this latter group were reported with amend-

ment(s), raising the overall percentage of bills amended at committee stage in the 38<sup>th</sup> Parliament to 56%. This outcome suggests that the majority of the bills sent to committee *after* second reading were relatively uncontroversial and did not need amendments while most of the bills sent to committee *before* second reading required adjustment before they could receive committee support. Since bills sent to committee before second reading are those on which the government has yet to take a definite position, the high rate of amendments would suggest that committees actually took the opportunity to conduct a meaningful debate on these bills. Therefore, while there was no large change in the proportion of bills amended by standing committees in the 38<sup>th</sup> Parliament, the committees concentrated on amending those bills on which they could have the greatest influence.

While it can be significant in and of itself, the amendment of a bill by a committee has little meaning if the altered bill is not subsequently passed by Parliament. This is particularly true of bills amended before second reading since the amendments made are likely to be of a more substantial nature. In order to explore whether committees had an impact on the final content of bills, Table 2 examines the fate of the bills that were sent to committee stage before second reading in the 36<sup>th</sup>, 37<sup>th</sup> and 38<sup>th</sup> Parliaments. To facilitate comparison the results presented have been standardized to a session length of 150 sitting days.

Table 2 demonstrates that very few bills were sent to committee before second reading prior to the introduction of the *Action Plan for Democratic Reform*. Notably, the vast majority of the bills sent to committee before second reading were successful, with only a handful failing to receive Royal Assent. However, the 38<sup>th</sup> Parliament saw

**Table 1:**  
Comparison of government bills reported to the House of Commons by selected standing committees during the sessions of the 36<sup>th</sup>, 37<sup>th</sup> and 38<sup>th</sup> Parliaments, standardized to a session of 150 sitting days

	36.1	36.2	37.1	37.2	37.3	38
<b>Bills referred after 2nd reading</b>						
Reported with amendment(s)	21	15	18	15	8	12
Not amended	14	10	13	8	3	15
<b>Bills referred before 2nd reading</b>						
Reported with amendment(s)	2	–	1	1	–	10
Not amended	1	–	0	2	8	2
<b>Total bills reported</b>	37	25	32	26	19	39
<b>Total % reported with amendment(s)</b>	59%	60%	59%	61%	45%	56%

Note: The specific number of bills reported by each of the sixteen committees in each Parliament can be found in Appendices to the original version of this study.

<b>Outcome</b>	<b>36.1</b>	<b>36.2</b>	<b>37.1</b>	<b>37.2</b>	<b>37.3</b>	<b>38</b>
<b>Amended by committee</b>						
Royal Assent	2	–	1	–	–	8
Not passed	–	–	–	1	–	2
<b>Not amended by committee</b>						
Royal Assent	1	–	–	1	8	2
Not passed	–	–	–	1	–	–
Total percentage receiving Royal Assent	100%	–	100%	33%	100%	83%

a large increase in the absolute number of bills amended by committee prior to second reading that went on to receive Royal Assent. As such the 38<sup>th</sup> Parliament was more likely both to amend bills referred to committee before second reading and to pass them as well.

### **Legislative Efficiency in the 38th Parliament**

Critics of electoral reform often argue that minority legislatures are less efficient at passing legislation than their majority counterparts because of the need for compromise. Table 3 tests this hypothesis by comparing the outcome of government bills introduced in the 36<sup>th</sup>, 37<sup>th</sup> and 38<sup>th</sup> Parliaments. For easier comparison, the results in the table are standardized to a session of 150 sitting days.

As can be seen in Table 3, when standardized to a session length of 150 sitting days, the 38<sup>th</sup> Parliament passed a higher absolute number of bills than either session of the 36<sup>th</sup> Parliament or the first two sessions of the 37<sup>th</sup>. This level of productivity means that the 38<sup>th</sup> Parliament used its time more effectively than many of its recent predecessors, which would seem to invalidate claims that minority parliaments are inherently inefficient. Furthermore, while the proportion of government bills that passed was lower in the 38<sup>th</sup> Parliament than that during the 36<sup>th</sup>, it was still equal to or greater than the success rate found in the last two sessions of the 37<sup>th</sup> Parliament.

Therefore, it would appear that while the 38<sup>th</sup> Parliament was not significantly less efficient than the majority government that it followed.

### **Role of Private Members in the 38th Parliament**

Analysts predict that recent procedural changes should allow private members to play a larger role in minority parliaments, thereby increasing their capacity to represent the interests of their constituents. Regrettably, it is difficult to directly measure the role of private members in the House since some of the criteria, such as a member's ability to make meaningful contributions to Parliamentary debate, are not easily quantified. However, it is relatively straightforward to see if the number of private members' passed by Parliament changed with the advent of minority government.

Table 4 presents the outcome of the private members bills that reached second reading in the 37<sup>th</sup> and 38<sup>th</sup> Parliaments. The information is standardized to a session length of 150 sitting days.

As Table 4 shows, there was no significant change in the number of private members bills passed by the House during the 38<sup>th</sup> Parliament. Instead, the success rate was consistent with that found in the last two sessions of the 37<sup>th</sup> Parliament, and was much higher than in the first session of the 37<sup>th</sup> Parliament. Consequently, the presence of a minority parliament still did not appear to

	<b>36.1</b>	<b>36.2</b>	<b>37.1</b>	<b>37.2</b>	<b>37.3</b>	<b>38</b>
Government bills introduced	52	56	53	59	98	86
Government bills passed	43	34	42	28	57	50
Government bills negatived	–	–	–	–	–	2
<b>Success rate of bills introduced</b>	82%	60%	79%	47%	58%	58%

**Table 4:**  
**Outcome of private members bills that reached seconding reading debate in the**  
**37th and 38th Parliaments, standardized to a session of 150 sitting days**

House of Commons	37.1	37.2	37.3	38
Private members bills to reach second reading	46	44	87	44
Private members bills passed	0	4	8	4
Success rate of bills reaching second reading	0	9%	9%	9%

have any significant impact on the success of private members bills.

### **Executive Accountability Exercised by Standing Committees**

The accountability of the executive to parliament is one of the cornerstones of the Westminster parliamentary system. As McMenemy writes, accountability is:

The requirement that an individual or group explain and accept responsibility before another individual or group for actions taken by them and by those under their supervision. In the Canadian parliamentary system, the principle of responsible government requires the political executive... to respond to criticism in the legislature and to retain the "confidence" of the House of Commons or provincial legislature, in order to remain in office.<sup>11</sup>

The tools of executive accountability at Parliament's disposal generally fall into two broad groups: those that are exercised by standing committees and those exercised by the House of Commons as a whole. As described above, standing committees are required to review the annual estimates for the government departments and agencies falling under their mandate. Committees may also initiate studies into the functioning of government departments and have the authority to review "the relevant statute law; departmental or agency objectives; immediate, medium-and long-term expenditure plans; evaluations of activity against stated objectives; and any other matter relating to departmental or agency mandates or operations."<sup>12</sup> While these studies are non-binding, they give MPs an opportunity to voice their views on the executive and offer citizens the chance to express their concerns by testifying at committee hearings.<sup>13</sup> Committees also have the power to demand that the government respond to a study within 150 days of its being reported to the House, thereby forcing the executive to address the committees' findings and recommendations. Consequently, committee studies can be effective tools for drawing public attention to the failures of the executive, particularly where all parties agree on the findings of the study.

In addition to studies, standing committees may also pass motions calling for the government to adopt certain

policies or to investigate a particular issue. These motions may come after the committee has deliberated on an issue or can be voted on without prior discussion. As described above, standing committees may also be asked to review nominees for Order-in-Council appointments. While a committee cannot reject a nomination, it can investigate the nominee and report its opinion as to whether the person is qualified for the position.

Table 5 summarizes the actions of the sixteen thematic standing committees that existed continuously from the 36<sup>th</sup> to the 38<sup>th</sup> Parliaments. As with previous tables the results are standardized to a session of 150 sitting days to allow for easier comparison.

The data shows that while the number of studies and regulations reviewed by committees was relatively constant in all of the sessions observed, the 38<sup>th</sup> Parliament experienced a large increase in the number of appointments reviewed, the number of estimates altered, and the number of motions for government action. Specific examples of these three activities will now be presented so as to provide a more holistic view of how these tools were employed during the 38<sup>th</sup> Parliament.

In terms of the review of appointments, the vast majority of nominees studied ultimately received the committee's endorsement for the position. This high success rate suggests either that the committees did not take the time to properly review the nominations before them or that the government carefully selected its nominees so as to avoid any embarrassments during the review process. Notably, the government's respect for the review process was cast into doubt when the Standing Committee on the Environment and Sustainable Development was asked to review the appointment of former Winnipeg Mayor Glen Murray to the position of Chair of the National Roundtable on the Environment and the Economy. The Committee ultimately recommended that Mr. Murray should not be appointed due to his close ties to the Liberal party. However, the Prime Minister chose to disregard the committee's finding and made the appointment anyway, causing the Committee's opposition members to take revenge during the estimates process, as is described below. Nevertheless, the rejection of Mr. Murray's appointment demonstrated that standing

**Table 5:**  
**Comparison of executive oversight exercised by selected standing committees in the  
 36th, 37th and 38th Parliaments, standardized to a session of 150 sitting days**

	36.1	36.2	37.1	37.2	37.3	38
Appointments reviewed and accepted	1	–	–	2	3	8
Appointments reviewed and rejected	–	–	–	–	–	1
Estimates altered	–	–	–	2	–	6
Motions for government action	3	9	5	10	8	30
Studies	45	41	44	60	25	46

committees were willing to reject candidates they felt were unqualified.

Turning to the review of estimates, Table 5 shows there were only two occasions when the estimates were altered by standing committees prior to the 38<sup>th</sup> Parliament, both of which occurred in the second session of the 37<sup>th</sup> Parliament. One of these incidents occurred when the Standing Committee Government Operations reduced the budget of Privacy Commissioner George Radwanski by \$1,000 in order to express its concerns about the inflated size of his budget and its disapproval over his failure to appear to justify his expenses. The second incident involved a 2.9% reduction in the budget for VIA Rail, the exact reasons for which are unknown as the committee was meeting *in camera* during the vote.

In the 38<sup>th</sup> Parliament, opposition parties used the estimate review process as a tool for holding the government to account for actions that were considered to be inappropriate. In November 2005, opposition members on the Government Operations and Estimates committee decided that the Privy Council Office (PCO) should not have conducted polls to determine how to defuse the public impact of the Auditor General's 2005 report. To express this displeasure, the committee voted to reduce the PCO's budget by \$127,233, which was the reported cost of the poll. At the same meeting, the opposition members also cut the budget for the Office of the Governor General by 10% or \$417,000 on the grounds that it had not taken sufficient action to reduce costs. In March 2005, opposition members on the Standing Committee on Foreign Affairs also reduced the supplementary estimates for the Department of Foreign Affairs by \$1. The move was a symbolic action to express dissatisfaction with the government's underfunding of the Department (the standing orders only permit committees to reduce the estimates for a department, not to increase them).

The estimates process was also used to teach the government that it would pay a price for failing to give standing committees the respect they deserve. Opposition MPs on the Standing Committee on the Environ-

ment took their revenge on the Prime Minister over Glenn Murray's appointment by cutting the budget for the National Roundtable on the Environment and the Economy by \$40,000, which they considered to be the salary Mr. Murray would receive in his capacity as Chair. Likewise, after the Minister for Public Works twice failed to appear before the Committee on Government Operations and Estimates, opposition members decided to punish him by cutting his salary and travel expenses out of the Department's budget. Opposition MPs on the Committee for Citizenship and Immigration also voted down all supplementary estimates for Citizenship and Immigration Canada on the grounds that the Minister had not adequately explained the need for the funds. However, the Committee gave the Minister a second chance to explain and were eventually convinced to approve the estimates. Clearly, opposition parties in the 38<sup>th</sup> Parliament were quite effective at using the estimates review process to hold the government accountable for its actions.

With regard to motions for government action, the 38<sup>th</sup> Parliament saw a massive increase in the number of motions passed and the diversity of their content. Prior to the 38<sup>th</sup> Parliament, almost half of all committee motions consisted of those passed by the Standing Committee on Foreign Affairs and International Trade in response to breaking international issues. Those that remained generally dealt with technical matters related a committee's area of focus. Examples of this latter category include the Health Committee motion that called on the government to create a conflict of interest policy for the Canadian Institutes of Health Research and the motion by the Standing Committee on National Defence and Veteran's Affairs that called on the government to extend the expansion of benefits for surviving spouses to include the surviving spouses of veterans who had already passed away. By and large these motions were not confrontational and did not draw attention to the failure of the government.

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In contrast, the motions passed during the 38<sup>th</sup> Parliament covered a broader range of topics and were often much more confrontational. Many committees passed motions seeking to address shortcomings in existing government policies, such as the Health Committee's motion urging compensation for all victims of Hepatitis C, the Immigration Committee's motion for the creation of a new system for temporary resident visas, the Heritage Committee's motion to increase the funding available to the CBC, and the Justice Committee's repeated motions to stop the closure of RCMP detachments in Québec. Examples of other motions included calls for the government to: defend Canada's agricultural supply management at the WTO; create a national breast-implant registry; ban internet pharmacy sales to the US; allow the immigration of 2,000 Vietnamese families living in the Philippines; establish a commission to review the mandate of the CBC; and to improve the system for increased transparency in the appointment of judges. While there were a number of non-confrontational motions as well (e.g. the Citizenship and Immigration motion for Canada Post to issue a series of stamps in honour of the 50<sup>th</sup> anniversary of the first significant refugee movement to Canada), standing committees in the 38<sup>th</sup> Parliament were much better able to use motions as a tool for holding the executive to account than were their predecessors in the two previous Parliaments.

### **Executive Accountability Exercised by the House of Commons**

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The House of Commons's strongest tool for holding the executive accountable is its ability to withdraw confidence in the government and thereby trigger an election. However, this is a very strong power and must be used sparingly as the public can be very unkind to parties that are seen to force an election without sufficient cause.<sup>14</sup> As a result, threats of non confidence are usually made carefully, with the government accepting most of the opposition demands so long as they are reasonable. The House of Commons can also hold the government to account during the passage of the Throne Speech and the budget implementation act, both of which lay out the government's priorities and how it plans to achieve them. In addition, the House can block legislation that the government needs to implement its agenda and can disrupt the functioning of Parliament until the government agrees to make needed changes.

The 38<sup>th</sup> Parliament started with a fairly cooperative atmosphere in the House of Commons. While the Conservatives and the BQ originally threatened to vote against the government's Throne Speech, it was ultimately passed with unanimous support after all parties agreed

to amend the speech to include plans for a vote on Canadian participation in the US missile-defence program and tax cuts for low and middle income families.

However, this spirit of cooperation proved to be relatively short-lived, and by early 2005 there was open disagreement between the government and the opposition parties. The first major demonstration of executive accountability came in February 2005 when the opposition parties joined together to negative two bills that would have divided the Department of Foreign Affairs and International Trade into two separate entities. The opposition parties vetoed the bills in order to express their disapproval with the split, which had already begun despite the lack of formal legislative approval.

Tensions between the executive and the opposition parties then surfaced again during the debate on the 2005 federal budget. The Conservative party initially supported the budget because of its tax cuts for business and increased military spending. In contrast, the NDP criticized it for lacking support for education and environmental programs while the BQ opposed it for failing to expand eligibility for employment insurance and increase transfer payments to Québec. However, the situation changed after some particularly scandalous testimony given at the Gomery Inquiry led the Conservatives to conclude that the Liberal government was corrupt and needed to be brought down quickly, while the NDP saw an opportunity to force changes that it desired in the budget. Ultimately, the Liberal government decided to amend the budget to secure NDP support, agreeing to delay corporate tax cuts in order to provide \$4.6 billion in new spending on post-secondary education, affordable housing, foreign aid, and public transit. However, fearing that it would lose even with NDP assistance, the government then began to postpone the budget vote at second reading. In response, the BQ and the Conservatives joined together to disrupt the functioning of Parliament in order to highlight the government's lack of control and the need for an early election. Eventually the Liberals relented and agreed to hold the budget vote, which passed with the tie breaking vote of the Speaker. The Liberals then managed to ensure that the budget passed at third reading by making a deal with the BQ under which that party would support a motion for the closure of debate on the budget in return for the passage of same sex marriage legislation before the summer recess. The Conservatives were unprepared for the snap vote and were unable to muster the numbers needed to defeat the budget.

Nevertheless, the fallout from the sponsorship scandal did catch up with the Liberals. Following the release of the first installment of the Gomery Report the BQ and

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Conservatives again stated that the Liberal government had lost the moral authority to govern and should face an immediate election. The NDP then entered into negotiations with the Liberals, seeking further concessions in return for continued support. After the Liberals failed to provide a satisfactory response, the NDP joined with the other opposition parties to pass a non-binding motion that called on the government to dissolve Parliament in January for a vote on February 13, 2006. However, the Liberals stated that they would ignore the opposition motion, leading the opposition parties to pass a motion of non-confidence against the government on November 29, 2005.

The House of Commons in the 38<sup>th</sup> Parliament clearly had significant power to hold the government to account for its actions. MPs were able to amend the throne speech and the budget, negative government legislation and force compromise on controversial bills, none of which occurred during the preceding majority governments. The opposition parties were also able to withdraw their confidence when the government refused to call an election that the opposition parties felt was needed.

However, despite this enhanced accountability, there were still many ways in which the government was able to advance its agenda without having to answer to the House of Commons. Examples of government action that took place without Parliamentary debate or consent include the deployment of the military to Afghanistan; the launch of the “New Deal for Cities and Communities”; the signing of child care agreements with each province and territory; the creation of labour market agreements with Ontario and Manitoba; the development of the “Kelowna Accord” with Canada’s First Nations; and the negotiation of accords for the sharing of offshore oil revenues with the Maritime provinces. While these initiatives required budgetary appropriations to be implemented, their development by the government raised expectations among partners and committed the government to a particular policy direction that was hard to alter. The government also maintained its traditional executive prerogatives including the appointment the Governor General and Senators. Therefore, while the 38<sup>th</sup> Parliament was able to hold the government to greater account than many of its predecessors, the government still had considerable freedom to act thanks to its ability to enter into agreements and make certain appointments without Parliament’s consent.

As a final note, there were also some signs that the opposition parties used the threat of holding the government to account in order to pursue their own agendas. The use of accountability provisions to obtain partisan gains appears to have been conducted by the NDP, who

threatened to withdraw their support if the government did not amend the 2005 budget, and by the BQ, who helped the government to pass the budget at third reading on the condition that same sex marriage legislation was brought to a vote before the 2005 summer recess. These agreements allowed the government to delay an election for several months even though both the BQ and the NDP repeatedly claimed that the sponsorship scandal had deprived the Liberals of the moral authority to govern. Moreover, the agreements allowed both opposition parties (and particularly the NDP) to have an impact on government policy that was disproportionate to their share of the seats in the House of Commons.

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### **Government Stability**

Critics of minority government claim that they are much less stable than their majority cousins, which causes them to last for a shorter period of time. To test this hypothesis, Table 6 compares the length of the 36<sup>th</sup>, 37<sup>th</sup> and 38<sup>th</sup> Parliaments in both terms of both the number of sitting days and time between elections.

Table 6 demonstrates that the 38<sup>th</sup> Parliament was less than half as long as its two immediate predecessors, both in terms of the number of months between elections and the number of sitting days. The previous discussion of executive accountability makes it clear that this shorter duration was due to increased competition between the parties, as critics of minority parliaments would predict. In fact, while the 38<sup>th</sup> Parliament ultimately lasted until November 2005, there were several times at which the government nearly fell on a confidence vote whose outcome was uncertain, the second reading vote on the budget in May 2005 being perhaps the most dramatic example. As a result, it can be easily stated that the 38<sup>th</sup> Parliament was less stable than the majority governments that it followed.

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### **Citizens’ Ability to Hold the Government and Parliament to Account in Elections**

As of yet there is no detailed evidence available to indicate if the various compromises that took place between the government and the opposition parties during the 38<sup>th</sup> Parliament caused confusion amongst voters when they attempted to decide whom to hold accountable for the government’s strengths and failures. However, a brief examination of the parties’ election platforms indicates that there was the possibility for confusion since both the Liberals and the NDP took credit for the same provisions in the 2005 Budget.

As discussed above, the NDP supported the Liberals in exchange for concessions on the budget in the form of

	<b>36<sup>th</sup> Parliament</b>	<b>37<sup>th</sup> Parliament</b>	<b>38<sup>th</sup> Parliament</b>
Months between elections	42	43	19
Sitting days	381	422	160

higher spending on social, environmental, and international development programs. When it was introduced into the House of Commons, the NDP referred to the amendment as the “NDP Budget” and continued to use this term throughout the 2005-2006 election campaign. The NDP also took credit for the fact that the budget was balanced, paid down the debt, contained tax relief for small businesses, and did not contain any new tax provisions. However, the Liberal platform also took credit for the amendment’s social spending as well as the budget’s fiscal balance, debt repayments, and tax provisions.

In reality, neither party can completely take credit for all elements of the budget. The NDP is right to point out that the Liberal party would not have increased social spending were it not forced to (the Liberals would have included such provisions in the original budget had it been their true intention). However, since the budget amendment dealt only with the reallocation of \$4.6 billion in planned tax cuts towards new spending, the overall balance of the budget, its provisions for debt repayments and its tax breaks for small business can most directly be attributed to the original budget document tabled by the Liberals. Therefore, both parties are taking responsibility for elements of the budget that they are not directly responsible for, which could potentially mislead the electorate. Furthermore, neither the Liberals nor the NDP can take complete credit for the budget since it was the Bloc Quebecois who supported the motion for closure that allowed the budget to pass third reading while the Conservatives were unprepared. In addition, the budget would not have passed second reading without the support of a number of independent members, including Carolyn Parish and Chuck Cadman, as well former Conservative MP Belinda Stronach, who crossed to the Liberal party shortly before the vote. Clearly voters likely had a difficult time deciding whom to hold accountable for the 2005 budget.

## **Conclusion**

It was impossible to serve as a Parliamentary Intern in the closing months of the 38<sup>th</sup> Parliament and not be struck by how the presence of a minority government altered the typical functioning of Parliament. Gone were

the days when Parliament served as a rubber stamp for the government’s legislative program. Instead, each vote became a miniature crisis, with the house leaders attempting to secure support from other parties while the whip frantically tried to ensure that sufficient members would be present to prevent (or ensure) the defeat of the matter in question. This tension existed not only in the usually boisterous setting of the House of Commons, but also in the typically more sedate location of standing committees, which became battle grounds over the passage of legislation, budget estimates and motions for government action.

While the majority of MPs found this situation to be most disagreeable, it did mark the first time in over two decades that all parties and all MPs had a genuine ability to influence the outcome of Parliamentary proceedings. Since Canada’s democracy rests on the premise that MPs are elected to represent their constituents in the political process, the 38<sup>th</sup> Parliament may therefore have been the most democratic assembly that Canada has seen since the demise of the Clark administration.

This paper has attempted to reduce the uncertainties around electoral reform by using the 38<sup>th</sup> Parliament as a test case for exploring whether electoral changes that increase the frequency of minority governments would improve or harm the quality of democracy in Canada. Several of the arguments in favour of electoral reform are validated by the events of the 38<sup>th</sup> Parliament. In comparison with its two immediate predecessors, the 38<sup>th</sup> Parliament featured greater legislative compromise between parties, with far more government bills going to committee stage prior to second reading. The Parliament’s ability to hold the executive accountable was also much improved, with standing committees able to amend budgetary estimates, review candidates for appointment and pass many motions calling for government action. Likewise, the House of Commons was able to exercise accountability by negating legislation, amending the budget and the throne speech and by withdrawing its confidence from the government. Curiously, predictions about private members having a greater role in minority parliaments did not stand up to testing, with no change being observed in the number of private members bills that were passed.

In addition to verifying several presumed benefits of minority parliaments, the relatively high legislative output of the 38<sup>th</sup> Parliament suggests that minority governments are not inherently inefficient, countering one of the main arguments against electoral reform. However, claims that minority governments are more instable and shorter lived were supported by the events of the 38<sup>th</sup> Parliament. Furthermore, there were also some signs

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that the inter-party compromises that took place in the 38<sup>th</sup> Parliament may have hurt the public's ability to hold the government to account in the following election since several parties took credit for the same government programs. Moreover, the NDP's ability to force amendments to the 2005 budget suggests that minority parties in the 38<sup>th</sup> Parliament had more influence on government policy than their share of the vote would predict, possibly validating concerns about the "tyranny of the minority" expressed by those opposed to electoral reform.<sup>15</sup>

While more study is required to measure the impact of the minority parliament on citizens' ability to hold the government to account at election, the overall results of this study would suggest that the potential democratic benefits of minority parliaments may outweigh the costs. The 38<sup>th</sup> Parliament certainly featured greater legislative compromise and executive accountability than has been seen in House of Commons in many years and the problems that it experienced do not appear to be insurmountable. For example, while the Parliament was certainly less stable and shorter lived, it was still able to deal with difficult issues like same sex marriage. Likewise, while the issues of voter confusion and the tyranny of the minority are certainly of concern, the media will hopefully be able to debunk any party's attempts to claim more than its share of the credit for the government's successes or avoid its share of the blame for the government's failures.

While the events of the 38<sup>th</sup> Parliament would suggest that Canada's democracy could be improved through the adoption of an electoral system that increased the frequency of minority governments, more research needs to be done before it can be said conclusively that Canada should conduct electoral reform. The context of the 38<sup>th</sup> was quite unique, as there has seldom been a time in Canadian history when the past conduct of the governing party was under such close scrutiny and criticism. In addition, the Martin Government was also committed to empowering Parliamentarians to take a more active role in scrutinizing the actions of the government. Consequently, the 39<sup>th</sup> Parliament should be studied to see if these findings about the 38<sup>th</sup> Parliament are replicated when another party is in government. In addition, prior to any electoral reform there also should be study into: 1) whether the instability of minority governments could prevent the government and parliament from addressing longer term problems or from taking needed but unpopular action on controversial issues; 2) whether voters' ability to cast an informed ballot is significantly hindered by the compromise in minority parliaments; 3) whether more frequent elections would increase voter fatigue; and 4) whether parties can raise sufficient funds

to participate meaningfully in election campaigns should elections become more frequent. The answers to these questions will help Canadians make an informed decision about the pros and cons of reforming their electoral system.

## Notes

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10. Number of sitting days: 36<sup>th</sup> Parliament, 1<sup>st</sup> session – 248; 36<sup>th</sup> Parliament, 2<sup>nd</sup> session – 133; 37<sup>th</sup> Parliament, 1<sup>st</sup> session – 214; 37<sup>th</sup> Parliament, 2<sup>nd</sup> session – 153; 37<sup>th</sup> Parliament, 3<sup>rd</sup> session – 55; 38<sup>th</sup> Parliament – 160.
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