

# *RAMPing up Parliament – An Alternative to Electoral Reform*

Electoral reform is a complicated proposition, yet the current first-past-the-post (or single member plurality) system has been criticised for leading to “wasted votes” and “strategic voting,” as well as often creating “false majorities.” In this article, the author proposes a novel “Revised Additional Majority Parliamentary” (RAMP) system which could address some of these criticisms without fundamentally altering the way we elect our parliamentarians. He concludes by noting that RAMP is a democratic, inexpensive, and simple way to experiment and innovate if either the status quo or a completely new way of electing parliamentarians are deemed undesirable.

## Ross Lambertson

Canadian electoral reform involves a befuddling menu of alternatives – first-past-the-post (FPTP), different versions of proportional representation (PR), the alternative vote (AV), the single transferable vote (STV), some combination of different approaches (such as mixed member proportional representation, or MMP), as well as deciding whether the final decision should be determined by a national referendum (which, according to the Chief Electoral Officer, would cost about \$300 million). To make things even more complicated, some pundits allege that certain choices will cause political indigestion for certain political parties, while others claim that many options would be unhealthy for the Canadian public. Finally, there has been debate about timing; whatever our choice, will we get served on time? In other words, will the government present Canadians, as promised, with a new voting system for the next election?

Maybe it is time to reject the menu altogether, or “think outside the box,” and discuss an alternative to the alternatives – parliamentary reform rather than electoral reform. Let’s consider making a party’s percentage of *power* in the House of Commons equal to its percentage of the *national vote*. We could do this by

ensuring that a bill can pass the House only if, first, it has the support of a majority of MPs (as is the case today), and second, these same MPs were elected by a majority of the voting public in the most recent election.

This could be called a “double majority system,” but this is a generic term for any approach employing two different criteria for what constitutes a majority. Also, the term has been used in pre-Confederation Canadian political history to describe the convention necessitating a majority vote from representatives in both Canada East and Canada West. My proposal could perhaps be called a “concurrent majority system,” but that phrase has a particular meaning in the pre-Civil War politics of the American South. It could also be called a “supermajority,” except this means something else today in the United States, and the term “qualified majority” is associated with voting in the EU Council. I am therefore calling the proposal the “Revised Additional Majority Parliamentary” (RAMP) system, since it would be a revision of the status quo, adding a second majority requirement to voting in the House of Commons.

To explain this, let’s begin by looking at the results of the 2015 election:

- In 2015 the Liberals won just a bit less than 40 per cent of the national vote but just over 54 per cent of the seats (184 seats out of 338), a majority government.
- The Conservatives received almost 32 per cent of the national vote, and almost 30 per cent of the seats (99 seats).

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- The NDP won close to 20 per cent of the national vote, but only 13 per cent of the seats (44 seats).
- The Bloc came in with a bit less than 5 per cent of the national vote, and about 3 per cent of the seats (10 seats).
- The Greens won almost 3.5 per cent of the national vote, but only about 0.3 per cent of the seats (1 seat).

Under the present system the Liberals have a majority government because the voters elected enough of their candidates to constitute what we can call Majority 1 – MPs representing more than half of the 338 seats in the House of Commons. Yet if RAMP were in effect, the Liberals would not achieve what we can call Majority 2 because they won less than half (only 40 per cent) of the national vote in the 2015 election. With RAMP, the government could not pass legislation without either support from the NDP (40 per cent plus 20 per cent equals 60 per cent), or support from the Conservative Party (40 per cent plus 32 per cent equals 72 per cent). As with minority governments in the past, the government could, if necessary, rely on different parties for different votes.

The Liberals would not, of course, be able to achieve Majority 2 with support from either the Greens or the Bloc. Nor would it be able to reach Majority 2 with support of both parties (40 per cent plus 5 per cent plus 3.5 per cent is not quite 50 per cent). But if these parties had done just a bit better, then the Liberals might have been able to rely upon their combined support. (And it is quite likely, as I shall explain, that these minor parties would have done better had the RAMP system been in effect.)

Under RAMP, as with the present system, party discipline would discourage MP defections. Nevertheless, a RAMP system might encourage some MPs either to move permanently to another party, or to support it on an ad hoc basis. Which way they defected, to the party with the most seats, or away from it, would depend on a wide variety of strategic considerations. In any case, a “defector” from the governing party would lower that party’s support for Majority 1, but how would this affect the party’s ability to achieve Majority 2? I propose that “defectors” could be considered to “own” their respective constituencies’ percentages of the national vote in the recent election, so each defection from, say, the government’s party would weaken the government’s ability to achieve both Majority 1 and Majority 2. In any case, whichever of these two options was adopted for “defectors” should also apply to any MP expelled from his/her party and sitting as an Independent.

When, under a RAMP system, there were free votes, a bill would have to achieve its double majority through support from a diverse collection of MPs. Determining whether a group of MPs from one or more parties reached Majority 1 on a bill would be simple, but it could be a bit trickier to determine whether they together achieved Majority 2. Yet it would be easy to create a list that tells us what percentage of the national vote each MP had garnered in the previous election and then determine whether or not a particular group of Majority 1 MPs had also been elected by over half the nation’s voters in the latest election.

How would RAMP square with Ottawa’s official position on electoral reform? It would certainly satisfy the five “guiding principles” established for the All-Party Parliamentary Committee on Electoral Reform, which are also supposed to “act as a framework for the Government’s eventual policy decisions.”<sup>1</sup> These are:

**1. “Restore the effectiveness and legitimacy of the voting system by reducing distortions and strengthening the link between voter intention and the electoral result.”**

A) With RAMP, there would no longer be “false” majority governments elected with less than 50 per cent of the national vote but operating as if they had received support from a majority of the voters. After all, any government party unable to achieve Majority 2 by itself would have to cooperate with one or more of the other parties. There are, of course, many ways in which a Prime Minister can rule as a “friendly dictator,” but making it necessary to obtain a RAMP-style double majority in the House of Commons in order to pass legislation would certainly help to curb dictatorial tendencies in Ottawa. In short, RAMP would provide more democratic legitimacy than the status quo.

B) With RAMP, there would no longer be any completely “wasted” votes, for even if a voter’s preferred candidate did not win a seat, and his/her vote was irrelevant when the House achieved Majority 1, the vote would still “count” when it came to the creation of Majority 2. This would be particularly important in constituencies and regions where one party is overwhelmingly dominant.

C) Because no vote would be completely wasted, there would also be less incentive to engage in “strategic voting” with RAMP. People would be encouraged to vote for their “real” choice.

D) With RAMP, therefore, new parties or small parties would have a somewhat better chance of being represented in the House of Commons, although (as I point out briefly later in this paper) it is unlikely that the RAMP system would lead to an unwieldy proliferation of small groups.

**2. “Encourage greater engagement and participation in the democratic process, including by fostering civility and consensus building in politics and social cohesion.”**

A) With RAMP providing a more democratic outcome, with fewer wasted votes, there would probably be a higher voting turnout.

B) Because every vote would “count,” RAMP would encourage parties to broaden their bases by reaching out beyond their diehard partisans. At a time of excessive polarization, superficial partisan posturing, and lack of civility, there is something to be said for an innovation that would force different political parties to become more moderate.

**3. “Support accessibility and inclusiveness for all eligible voters, including by avoiding undue complexity in the voting process.”**

A) A RAMP system of representation that is more democratic, that did not have “wasted” votes, that was fairer to smaller parties, and that encouraged parties to broaden their bases, should be attractive to all Canadians, especially younger ones.<sup>2</sup>

B) Because RAMP would give small parties a better chance to be represented in the House of Commons, there would be a higher probability of representational inclusiveness.

C) RAMP might make voting in the House of Commons a little more complex, but it would not change the voting process for the public.

**4. “Safeguard the integrity of our voting system.”**

Obviously, with RAMP the traditional integrity would be unchanged.

**5. Take into consideration the accountability of local representation.**

Obviously, with RAMP, local MPs would remain as accountable as before.

But, would RAMP be better than the proposed alternatives to our present voting system? Consider the following:

A) RAMP would avoid several of the drawbacks to proportional representation (PR). According to a recent poll of voters, what the respondents wanted was, among other things, simple ballots and the ability to directly elect the MPs who represent their constituencies.<sup>3</sup> In PR the ballots are quite different than the ones with which most Canadians are familiar, and there is no such thing as a single MP representing his or her constituency. Instead, there are fairly large constituencies represented by several elected representatives. (This is also true of STV systems.) As noted above, with a RAMP system balloting would remain the same and so would the traditional single member representation.

B) There is a variation of PR that tries to have it both ways. This, called the mixed member proportional system (MMP), has some legislators chosen through the current first-past-the-post (FPTP) system and others representing large multi-member constituencies. However, creating an extra set of parliamentary seats would be costly for tax payers. RAMP would not add any more MPs to the present system; it would be an inexpensive innovation.

C) RAMP would also avoid the worst drawbacks of alternative voting (AV) systems. With AV the person who is the most popular candidate according to first ballot preferences is not always elected. If a candidate receives less than 50 per cent of the votes on the first ballot count, that person may be outvoted by a compromise candidate on the next count. Moreover, AV does not ensure that a governing party always represents a majority of the voters.

D) Some voting systems encourage the formation of many small parties; this can help facilitate political extremism. RAMP would not. Even in the unlikely event that 2 per cent of Canadians voted for, say, a national neo-fascist party, it would probably not elect even a single

MP and would have no direct influence on the passage of bills.

E) Adopting RAMP should obviate claims that there should be no electoral reform without a referendum. If it nevertheless seemed desirable to submit the proposal to a referendum, it would be a simple choice. Otherwise, since there are all sorts of alternative voting systems, and the pros and cons are complex, a referendum might well end up with the majority of voters clinging to the status quo.

There are, of course, some possible arguments against the adoption of RAMP:

*RAMP is a completely untried innovation.* Canada, being a sort of belt-and-suspenders kind of country, might indeed be hesitant about moving into uncharted waters. But fear of change is hardly a good reason for staying with a problematic status quo.

*RAMP would make governing more difficult.* It would not make things more difficult if a party had a majority in the House that was based on a majority of the national vote. However, this is not very likely these days, so RAMP would likely lead to something somewhat like a series of minority governments. Yet this is not necessarily a bad thing. After all, Lester Pearson's Liberals never achieved majority government status in the 1960s, but produced many important pieces of legislation. RAMP would be a democratic midway point between the extremes of legislative autocracy and legislative gridlock.

*No government would want to adopt a system that might curtail its ability to pass legislation.* But these are unusual times. If the Liberal government is seriously willing to consider a different electoral system that might someday help a different party come to power, it should be willing to look at a change in the way the House of Commons votes. Moreover, unlike many of the proposed electoral system alternatives, it is hard to argue that RAMP would benefit one of the major parties in particular.

*Small parties would probably still be under-represented under RAMP.* True, but not as much as with the current system. Moreover, RAMP could be tweaked slightly. Any minor party that reached a threshold of perhaps 5 per cent of the

national vote could be given one MP "at large," probably the leader of the party. We could call this, "RAMP plus." Five per cent of 338 (the present number of MPs) is 16.9 members; giving a party only one MP at large if it passed the 5 per cent threshold would still under-represent that party, but it would be better than the status quo and it would not lead to an unwieldy multiplicity of small parties in the House. Consider it a form of "reasonable accommodation" for minority groups.

*RAMP could lead to a parliamentary deadlock if there were only two main parties and one of them won a majority of seats with a minority of votes.* True, but such a situation seems highly unlikely. Canada at one time had a two-party system, but now seems to have settled into something more than that – several parties of which two or three at least are real contenders. There are, of course, no absolute guarantees, but given Canada's generally positive experience with minority governments, there is no reason to believe that we would suffer from an American-style legislative deadlock. And, of course, we have something that the Americans do not – a Governor General with the power to intervene and call a new election in certain circumstances.

*RAMP would have to be achieved through a constitutional amendment, something that for most citizens sounds excessively complex.* Yet it would be a constitutional amendment that required only a simple act of Parliament. Section 49 of the 1867 *Constitution Act* says: "Questions arising in the House of Commons shall be decided by a Majority of Voices other than that of the Speaker, and when the Voices are equal, but not otherwise, the Speaker shall have a Vote."<sup>4</sup> To change this section it would be necessary for Parliament to use section 44 of the 1982 *Constitution Act*, which says that "Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons."<sup>5</sup> (This is subject to sections 41 and 42, but these do not seem to apply in this case.)<sup>6</sup> In short, a simple majority vote in both Houses would constitute a constitutional amendment changing the way the House makes future decisions.<sup>7</sup>

It is true that, according to the constitutional principle of parliamentary supremacy, one parliament cannot bind a later parliament when

it comes to a matter of substantive law. When it is a matter of changing parliamentary procedure, however, it is generally agreed that a parliament can bind itself, and future parliaments, by passing something called a “manner and form” law. If a parliament were to adopt the RAMP concept by passing a constitutional amendment that all future statutes must be supported by a majority of MPs who also represent a majority of the voters at the most recent federal election, then that law would bind it and future parliaments. However, if for some reason it proved necessary to change or even reject the new status quo, a later parliament could return the country to the traditional system, as long as it did so by passing a second constitutional amendment according to the “manner and form” established by the amendment that introduced RAMP in the first place (i.e. by way of a double majority).<sup>8</sup> This would be fully consistent with our democratic principles.

So RAMP is democratic, cheap, and simple to achieve. There are lots of problems in Canada that it would not solve, but “RAMPing up Parliament” would certainly be better than keeping the status quo electoral system or adopting one of the electoral voting alternatives.

## Notes

1 Government of Canada Backgrounder, “Motion to Propose All-Party Parliamentary Committee on Electoral Reform,” accessed August 16, 2006, at: <http://news.gc.ca/web/article-en.do?nid=1063799>. My points are also based on the criticisms of the present system made by five hundred prominent academics on September 15, 2015, leading up to the national election: “*Canada is facing a significant democratic deficit, illustrated by low voter turnout, unresponsive majority governments elected with far less than 50% of the vote, half of all votes electing no-one, superficial partisan posturing, and most disturbing, a growing majority of younger Canadians who see little value in voting or engaging in electoral politics.*” Their short letter can be found on the website of Fair Vote Canada, at <http://www.fairvote.ca/over-500-canadian-academics-call-on-parties-to-work-together-towards-a-fair-and-democratic-voting-system/>.

- 2 It is, however, possible that proportional representation might ensure better representation than RAMP in the House of Commons for women and some visible minorities. It has certainly been argued that proportional representation would ensure better minority representation than the present electoral system. However, not all experts believe that PR would necessarily lead to such an improvement. See, for example, the discussion in Jane Taber, “Women’s groups urge Ottawa to adopt proportional representation,” *Globe and Mail*, 24 May, 2016.
- 3 David Coletto, Maciej Czop, “Canadian Electoral Reform: Public Option on Possible Alternatives.” Conducted for the Broadbent Institute, December 2015; available at: [https://d3n8a8pro7vhm.cloudfront.net/broadbent/pages/4770/attachments/original/1448994262/Canadian\\_Electoral\\_Reform\\_-\\_Report.pdf?1448994262](https://d3n8a8pro7vhm.cloudfront.net/broadbent/pages/4770/attachments/original/1448994262/Canadian_Electoral_Reform_-_Report.pdf?1448994262) [Accessed December 20, 2015.]
- 4 *Constitution Act, 1867*, 30 & 31, Victoria c. 3 (U.K.), Part IV, “Legislative Powers,” at <http://laws-lois.justice.gc.ca/eng/Const/page-2.html#h-4>.
- 5 *Constitution Act, 1982*, Schedule B to the *Canada Act 1982*, c. 11 (U.K.), Part V, “Procedure for Amending Constitution of Canada,” at <http://laws-lois.justice.gc.ca/eng/Const/page-16.html#docCont>.
- 6 Section 41 lists amendments that require unanimous consent on the part of Ottawa and the provinces. Section 42 lists amendments that are subject to the general procedure under subsection 38 (1), which is the consent of Ottawa and two-thirds of the provinces making up at least fifty percent of the population of Canada.
- 7 It is true that in its 2014 judgment, *Reference re Senate Reform*, the Supreme Court of Canada limited Parliament’s ability to use Section 44 to change the Constitution; the court ruled that any change to the “constitutional architecture” must have provincial consent. It is not clear, however, that RAMP would create a change to our “constitutional architecture.”
- 8 See, for example, Peter Hogg, *Constitutional Law of Canada*, student edition (Toronto: Carswell, 2015). In his chapter on parliamentary supremacy, Hogg deals with “Self-imposed restraints on legislative power” in section 12.3. He argues that “While a legislative body is not bound by self-imposed restraints as to the content, substance or policy of its enactments, it is reasonably clear that a legislative body may be bound by self-imposed procedural (or manner and form) restraints on its enactments.” A constitutional amendment demanding a parliamentary “double majority” for all future statutes would be, in Hogg’s terminology, “self-referencing or doubly entrenched,” in that it could only be repealed by following the terms of the original manner and form legislation.