

PARLIAMENTARY DEMOCRACY IN CANADA

By Hon. David Kilgour, Former Member of Parliament, Canada

September 2012

Representative democracy in one form or another is an aspiration shared by most peoples across the world. For example, the unexpected democratization in a number of countries in the Arab world, a phenomenon which has shattered many stereotypes about the Middle East and North Africa, reinforced the view that people everywhere want to determine who governs them and how, and suggested to some that yet another wave of democratization could be underway. What was termed the 'Authoritarian International' has now taken major blows among 340 million Arabs, much assisted by Internet news, Al-Jazeera, Facebook, and other social media. Democrats everywhere should be encouraged despite the new problems arising.

Democracy, human dignity, free and fair elections, universal values, and the rule of law all seem ultimately indivisible in today's world. The current economic challenges in many countries are to a major extent the result of failures on oversight, financial regulation and accountability contravening widely recognized good governance principles.

Westminster Governance

Recently, a friend, who happens to be a judge, observed, "Only the executive and judicial branches of our national government are functioning well today in Canada". We both agreed that executive dominance of the House of Commons is a long standing and growing governance problem.

Canada's Westminster model of parliamentary government contains a serious structural flaw in terms of modern good democratic practices. With the fused executive and legislative branches, 'Executive Democracy' encourages legislators to defer excessively to party leaders, whether prime ministers or premiers, and their party whips. In turn, public servants in both our national and provincial capitals answer to deputy ministers, not to the general public good or taxpayers.

Democracy is intended to provide a means for a consensus of voters' views to prevail. Elected representatives can only maintain legitimacy by acting in accordance with the wishes of their electorates most, if not all, of the time. In the current practices of Canada's parliamentary system, however, the ability of an M.P. in a majority government to represent constituents is seriously impaired by the high degree of party discipline, which developed in the Canadian practice after 1900. Some degree of party discipline is necessary in order to maintain the coherence of political parties as viable institutions; this should not preclude an M.P. from representing constituents effectively.

The representative role of an M.P. today is seriously weakened by the reality that real political power is held by prime ministers alone, acting through party whips. He/she has the power ultimately to dismiss a member of caucus; to make all cabinet appointments, all appointments to the senate, to the Supreme Court; all ambassadors to name but a few. The combination of the first minister's explicit power to discipline through censure or expulsion; and the implicit power to discipline through denial of cabinet appointments, or other appointments creates an environment in which it is severely disadvantageous for caucus members to deviate from any policy agenda of a prime minister.

In the case of House of Commons votes on which the ruling party decrees that all its MP's must vote together, a member can be expelled for following the contrary wishes of a consensus of constituents. This creates a major dilemma for all whose working goal is to be loyal to their electorate. An expelled MP is forced to sit as an independent and is virtually excommunicated from the political process. He/she must try and conduct their work with severely diminished resources and an extremely limited procedural ability to ask a question or raise an issue in the Commons. Such members have little means of influencing government policy to the benefit of their constituents in any way because they can no longer count on the support of their former party. While true that any non-cabinet member has the right to put forward a private member's bill, this ability is of little practical value.

Trumping Public Opinion

The reality of our present parliamentary practices is that the will of the constituents is regularly "trumped" by party discipline. Ironically, members of the governing party, who should be in a good position to serve the interests of their constituents, are in practice the least empowered. Another important consequence of the current system is that it often effectively closes the door to any sort of cooperative efforts in the policy-making realm among parties. Where parties dominate the process as they do now, there is no real forum for substantive policy dialogue among members of different parties when one has a majority.

In the U.S., with their constitutional separation of powers between the executive and the legislative branches of government, laws are passed with far less party discipline. The separation of powers and the weakness of party discipline in voting on Capitol Hill greatly facilitate effective regional representation in Washington. Unlike Canada, where a government falls if it loses the support of a majority in the House on a confidence vote, U.S. presidents and congress are elected for fixed terms. Neither resigns if a measure of any kind is voted down in either the Senate or the House of Representatives.

Regional Block Voting

Another feature of the American legislative system that fosters effective regional input in national policymaking is territorial bloc voting – something quite unknown in Canada's House of Commons. Representatives from both political parties from the Mountain, Sun Belt, New England and others regions vote en bloc or work together in committees to advance common regional interests.

A good example of how effective regional representatives can influence the geographic location of federal government procurement, which affects the geographic distribution of the manufacturing sector, is the Southern influence in Congress. It played a major role in the post-war concentration of federal military and space expenditures in the South and in the general economic revival and growth of the Sun Belt. During 1981-82, for example, the height of the "boll-weevil era", the long-time legislative coalition of Southern Democrats and Republicans was successful more than 85 per cent of the time, due to mutual areas of agreement and interest.

The point of this comparison is to emphasize that, unlike the American Congress, Canadian bloc voting makes bi- or tri-partisan agreement on anything in our legislatures except in minority government situations, exceedingly rare. In our current political culture, if a government or

opposition MP's loyalty to his/her province clashes with the instruction of the party whip, placing constituent or regional considerations first in voting implies considerable risk to one's prospects for party advancement.

Private MPs in Canada are thus far less able to represent regional interests effectively than are their counterparts in Washington, where there is freedom allowing effective regional representation when an issue has clear regional implications. This is not to suggest that Canada should duplicate the American style of government. It is to point out that the best solution to ongoing problems of representative democracy in Canada might be to adapt attractive features from various systems, including the American one.

Another model useful to examine is that of Germany. In the Bundestag, a vote of non-confidence requires that the opposition on the same motion also propose a candidate of their own whom they wish to be appointed Chancellor by the Federal President. The concept behind this requirement was to prevent political crises by always maintaining a Chancellor in office. Unlike Canada, the Chancellor does not resign upon the passage of a non-confidence motion and must instead be dismissed by the Federal President. To put this in a Canadian context, in the case of the Clark government the defeat of the government in December 1979 would not have ousted Clark from office unless a majority of the opposition MPs had agreed simultaneously on a new prime minister who could hold the confidence of a majority of MPs. The adoption of a similar measure in our own practices would weaken party discipline and facilitate greater independence for MP's to vote on the merits of issues without fear of toppling a government.

Revitalizing Canadian Democracy

The democratic deficit in Canada is clearly in need of some work on the basis of long-term trends in participation rates. Voter turnout has been steadily trending downward from an average of 75% between 1945 and 1988. Turnout reached an all time low of 60.5% in the hotly-contested 2004 election. As Carty, Cross and Young noted in *Rebuilding Canadian Party Politics*:

Public opinion and survey data confirm that at the outset of the new century large numbers of Canadians continue to believe their politicians and political institutions are out of touch and unresponsive, and are increasingly dissatisfied with the performance of parliament and political parties.

It seems clear that the relaxation of party discipline and the facilitation of greater opportunities for free votes would go a long way toward increasing the degree of engagement those Canadian citizens with the political process.

If party discipline is relaxed, representation for all areas of Canada would be improved. Coalitions composed of members of all parties could exist for the purpose of working together on issues of common regional or other concern. The present adversarial attitudes and structures of Parliament or legislatures might change in the direction of all parties working together for the national good.

At present, few government and opposition MPs have any real opportunity to put constituents first in votes in the House of Commons. Real power is concentrated in the hands of the three

party leaderships. Canadian democracy itself would benefit if we put our present mind-numbing party discipline where it belongs - in the history books.

Representing Constituents Effectively

Permit me to offer some suggestions as to how the members of Canada's House of Commons can represent more effectively the approximately one hundred thousand constituents each of them represents.

Principle #1 – Represent Constituents without fear or favour. Adopting the traditional RCMP standard of facing each case and citizen "without fear or favour" is an important goal and a valuable service standard in the reputation of any MP.

Principle #2 – Never Give In If You Believe a Cause is Just.

Principle #3 – Remember that MPs are the advocates of last resort for constituents and their offices are not branches of any government department. This might seem obvious, but I found this difficult to communicate to some assistants over the years. It is somehow easier for some conscientious people to accept the version of events held by officials rather than that of a constituent. In many cases my office has worked on, the official view was just plain wrong – factually or by interpretation of regulations or policy. Many officials simply can't believe that their view – possibly second or third hand ones – might be mistaken.

Principle #4 – Keep Your Sense of Humour Close at Hand.

Principle #5 – Never Rest On Your Record. I used to tell people – only half jokingly – that if an MP did a good job for a constituent, for example, on an immigration matter, he/she would tell perhaps ten friends. On the other hand, if an MP did what was deemed defective work, the constituent would pass the word to everyone they knew - perhaps 300 constituents. This was always a good incentive for quality control.

Principle #6 (*which should be upgraded to Principle #1*) - Find and Support Good Staff. Building an office team with a combination of backgrounds, knowledge and skills can be the key to success. It is not easy for constituency and Parliament Hill staff to understand each other's environment and needs so they can successfully balance the load, which shifts depending on various priorities. In addition to very dedicated permanent staff, I was fortunate to have excellent interns from various university and specialized programs and also dedicated volunteers, often local university students seeking experience.

Two further points:

1. Party whips are rarely the best judges of opinion in your riding. It is often said that in Canada if a prime minister in a majority government favours an idea, it can become a statute within weeks or months even though it is really bad public policy. Among those deployed to persuade recalcitrant government MPs and Senators to turn a prime minister's idea into legislation are:

- the prime minister's office (PMO) and the Whip,
- caucus colleagues,
- other party faithful, and
- ambitious MPs or senators hoping to rise in the party.

This is a too-little-studied phenomenon, but I've seen it practised under both Liberal and Conservative prime ministers. It is also, in my view, a major reason why so many Canadians nowadays tell pollsters that MPs quickly forget who elected them.

Many Canadians think that our model of parliamentary democracy is superior to the American congressional system. There are certainly flaws in the U.S. system, including the cost to be elected--but that should not blind us to closing the democratic deficit in our own governance. Weakening party discipline, for example, as was done in the UK House of Commons decades ago, would improve our system of government. The late Eugene Forsey reminded us that before 1900 our government ministers could vote against bills without losing their seat at the cabinet table or their self-respect. It might even help to rebuild confidence in the institution from a skeptical electorate.

2. Never forget who has elected you. This is really a restatement of the first point.

Introducing Hon. David Kilgour

The Hon. David Kilgour is a former parliamentarian from Alberta. He served continuously as a Member of Parliament for a total of almost 27 years, never losing an election since first elected. He ran both as a Conservative and as Liberal, winning four times for each party. He also sat as an independent when he could not support the government.

In addition to being a Member of Parliament, he was Deputy Speaker and Chair of the Committees of the Whole House. He later served as Minister of State for Africa and Latin America and subsequently as Minister of State for Asia. He is an accomplished writer and is known for his passion in defending just causes. This article represents not only his personal views, but also a rich parliamentary experience. His website is www.david-kilgour.com.