



Canadian  
Study  
of Parliament  
Group

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Accommodating  
Mechanisms of Direct  
Democracy in the  
Parliamentary System

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## Canadian Study of Parliament Group

The Canadian Study of Parliament Group (CSPG) was created with the object of bringing together all those with an interest in parliamentary institutions and their operation.

The Canadian Group differs from its British counterpart in that it seeks to attract a wider membership. Anyone with an active interest in parliamentary affairs is eligible to join the Canadian Group, which counts among its members federal and provincial legislators, academics, parliamentary staff, journalists, public servants and others. In Great Britain, Members of Parliament are not eligible for membership, and the British Group consists essentially of academics and the professional staff of Parliament.

The constitution of the Canadian Study of Parliament Group makes provision for various activities, including the organization of seminars, the preparation of articles and various publications, the submission of briefs to parliamentary committees and other bodies concerned with parliamentary procedure, the establishment of workshops, the promotion and organization of public discussions on parliamentary affairs, participation in public affairs programs on radio and television, and the sponsorship of other educational activities.

Membership is open to academics, Members of the Senate, the House of Commons, and provincial and territorial legislative assemblies, officers of Parliament and legislative assemblies, and other interested persons.

Applications for membership should be addressed to the Secretary, Canadian Study of Parliament Group, Box 660, West Block, Ottawa, Ontario, K1A 0A6.

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Democracy in the Parliamentary System  
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*Learned Societies Panel*

Accommodating Mechanisms  
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Parliamentary System

*Chair:*

Professor Lynda Erikson  
Department of Political Science  
Simon Fraser University

*Panellists:*

Professor Thomas Flanagan  
Department of Political Science  
University of Calgary

Mrs. Daphne Jennings  
Member of Parliament  
Reform Party - British Columbia (Mission-  
Coquitlam)

Mr. David Kilgour  
Member of Parliament  
Deputy Speaker and Chairperson of Committees of  
the Whole  
House of Commons  
Liberal Party-Alberta (Edmonton Southeast)

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Professor Thomas Flanagan began the day's session by providing the audience with theoretical background to the study of democracy and representation.

Philosophers of politics are in agreement that government should be conducted in the interests of those who are governed. However, democracy goes an important step further. Theorists of democracy argue that government should actually do as the people want. This is the great divide between democratic and non-democratic governments. Democratic governments should not only reflect the interests of those who are governed but also their

will. The problem emerges in defining the "will", as there is no such thing. There are millions of people with different wants and needs. There has to be a process for sifting through those wants and aggregating them into a coherent program. One possible means to achieve a "will" or end product is through representation. Consequently, most democracies practice some form of representative democracy.

*Role of the Representative*

The trustee model of representation was perhaps best articulated by Edmund Burke, during his speech to the electors at Bristol. Burke argued that the elected Members of Parliament were to use their best judgement on behalf of their constituents. In other words, the representatives were not to do necessarily as the constituents wanted, but what they thought was best.

The mandate or party member theory of representation holds that representatives are not individuals but members of teams who run as groups representing a certain set of policies which have been adopted by the party at large. If they are elected they receive a mandate from the people to go to Parliament to enact the policies under which they have run. This type of representation demands a high degree of party discipline.

Legally the House of Commons is set up on a trustee model. Constitutionally and legally the Member of Parliament is construed as being an individual using private judgement. However, in practical terms the mandate theory is dominant. The two appear quite different, but there are many similarities between them. The most important similarity is that they are both retrospective in character, as the voice of the voters is heard in an authoritative way every few years to judge the performance of elected officials.

The delegate model is quite different from the first two. It suggests that the representative should directly convey the wishes of the voters. The stronger form of the model occurs when the representative is elected with instructions to vote in a specific way. The Canadian Election Act makes this illegal. In its

weaker form it calls upon the representative to be in close consultation with voters. If the opinions of the voters and representative differ then the views of the voters are given priority. This representative model is quite different. It is prospective. The representative disaggregates issues and asks the voter, "How should I vote?" The advantage is that people are governed as they wish to be governed. The disadvantage, in practical terms, is that it is very expensive, monetarily and timewise.

In brief, prof. Flanagan reviewed the three approaches to the role of the representative in the literature of political science. His analysis provided the conceptual considerations for further discussion of the issue.

Daphne Jennings is a Reform Party Member of Parliament for Mission-Coquitlam and was elected in October, 1993. Her interest in politics began with the constitutional referendum of October, 1992. Although new to government and Ottawa, Mrs. Jennings has strongly held views and feelings concerning parliamentary reform. In her presentation, Mrs. Jennings reviewed the reform initiatives advocated by her party. She stated that the Standing Committee of the House of Commons on Procedure and House of Affairs is currently studying a number of Reform Party suggestions. Mrs. Jennings believes that there is a strong feeling of alienation from the people toward the government. In her presentation, she therefore commented on mechanisms advocated by the Reform Party to address these feelings of alienation.

### *Freer Votes*

According to Mrs. Jennings, freer votes would allow party discipline to relax, so that there could be occasional dissent. She would occasionally like to see backbench members of the government side vote against the government without the fear of it affecting their parliamentary lives. She contends that her party is not advocating chaos but that matters in the House that are not included in the party platform be open to free votes. She argues that when an issue is not included in the party platform members should be free to use their own discretion or the discretion of

their voters. In 1984 and 1985 the McGraw Committee concluded that, "if members are to exert influence over the policy making committees or the House itself they will have to be able to demonstrate independent thought." In Mrs. Jennings opinion, the realization of freer votes involves merely a change of attitude. No legislative alterations are required. Mrs. Jennings believes that in her backing for freer votes she will not be fighting the will of the people. She states, "I honestly think the feeling is there."

### *Committee Reform*

In her discussion of committee reform, Mrs. Jennings reports the major recommendations of the 1993 Liaison committee. The report recommends that the number of committees be reduced, that legislative committees be virtually eliminated, and that committees be composed of fewer members, so that not all members of the House of Commons are tied up with committees. In addition, Mrs. Jennings advocates that committee chairs be elected by secret ballot. Finally, she holds that committees be provided greater opportunity to look at and review the expenditures of all parts of government and carry back strong recommendations for changes if necessary.

### *Referendum and Recall*

These are instruments of direct democracy which the Reform Party has consistently advocated. It is argued that they will involve people directly in the process. Critics of these measure contend that they are contrary to our notions of representative democracy. Mrs. Jennings does not agree. She believes that there is a place for representation but there is also a place when possible to bring the process directly to the people. She argues that there is nothing wrong with the people expressing their opinion on important moral issues of the day which have not been the subject of discussion in the previous election. Moral issues are not normal run of the mill legislation. They are issues that candidates do not run under, such as capital punishment, euthanasia, abortion. The process need not be

expensive. She suggests that referendums on these issues be held during a general election, when the ballots are already there.

Recall would also ensure that the representative would look after his/her constituents' wishes. Mrs. Jennings believes that four or five years is too long a period for a representative to remain unchecked. In her words, "too much has happened."

### *Fixed Election Dates*

A fixed election date would allow government and opposition to work towards a known date, so that time can be spent actually dealing with the details of their policies. It is also something that the public can look forward to.

### *Electronic Voting*

The 1985 Special Committee on the Reform of the House of Commons recommended the adoption of electronic voting. Mrs. Jennings argues that presently voting is very labour intensive and that this can be changed so that it is more cost and time efficient.

In the end, Mrs. Jennings suggests that these reforms would make the House of Commons a more relevant place for all Canadians.

David Kilgour examines mechanisms of direct democracy through a comparison of the experiences of Switzerland and California. In his presentation, he focuses on the attractions as well as the pitfalls of tools of direct democracy. Direct democracy permits voters to have checks on legislative bodies that may be seen as unrepresentative and unresponsive. In other words, direct mechanisms for democracy may combat feelings of powerlessness, frustration and alienation among the electorate. The opponents of direct democracy argue that people are not competent to govern themselves. They contend that, "bringing an issue down to a choice between two so-called solutions is more likely to over simplify a problem than enlighten the electorate. They also argue that the age of broadcast democracy can "distort the information received by the public." Supporters, however, believe that these problems can be overcome.

Switzerland is truly an unique country when it comes to the use of instruments of direct democracy. Prior to the end of 1992, the country had held 398 national referenda. Mr. Kilgour holds that an examination of the Swiss experience is extremely useful for any country considering the use of instruments of direct democracy.

The three most common tools of direct democracy are: the recall, initiative and referendum.

### *Recall*

To remove an elected representative from office, recall may be used. The process is initiated by a petition. An election is held if there is enough support and if the elected representative does not resign. Approximately 75% of Canadians support the recall of parliamentarians, according to a 1994 Gallup poll.

### *Initiative*

"This allows citizens to propose legislation or constitutional amendments, which are put to a popular vote and must be implemented by the government if passed." The decision to hold a referenda begins with the people, not the government. Proposition 13 in California is perhaps the most famous initiative. The 1978 initiative sought to slash property taxes by half and to reduce public services. "The initiative pushes the process of self-government even further, by giving citizens the right to put issues on the table as well as to decide on them."

### *Referenda*

Referenda encourage direct involvement of people in political decision-making. In California, the referendum is used to deal with issues of state and local importance rather than with policy areas such as foreign and military affairs. At the national level, in the U.S., there has never been a referendum.

In Switzerland, the Parliament and government are not allowed to call optional referenda. The process must be initiated by a petition of citizens.

## *Representative Democracy and Referenda*

The current Canadian electoral system can elect substantial parliamentary majorities with less than 45% support by the voting electorate. Referenda are viewed by advocates as a solution to this distortion. Opponents, however, claim that referenda fail to reflect the intensity of belief. In addition, some critics contend that "with low participation levels it is possible that highly motivated minorities gain disproportionate influence on particular referenda questions."

The referendum, it is argued, may also have a negative impact on responsible government. The Swiss example, however, does not substantiate this claim. In only 3 of 121 times the people rejected the government side in a referendum or initiative vote did the relevant Federal Councillor resign.

Swiss democracy is characterized by consensus building. To accommodate divergent interests, the referendum is the most often used device. "Direct democracy makes it imperative that all interests be accommodated because any loser in the legislative process can seek redress by campaigning to defeat the offending law in a referendum."

## *Political Parties and Direct Democracy*

In Switzerland there is an evident lack of cohesion among political parties, which is often attributed to the pressure of direct democracy. "Referenda have a tendency to remove or undercut some of the primary reasons for the existence of parties." Direct democracy has also been found to undermine party solidarity. The Swiss experience also illustrates that referenda and other tools of direct democracy are most often utilized by smaller parties outside the governing coalition. "The popular initiative provides an alternative means by which minor parties can rally public support for their position and force the government to address an issue."

## Question and comments

The first speaker from the audience directs questions and comments to the panellists that centre on the issue of legislating morality. Should legislating morality be a role of government (taking into consideration the changes that have occurred in our political culture with the implementation of the charter of rights and freedoms)? Why should a referendum be held on moral issues that could be found to be in violation of the Charter? If you hold a referendum then can't that be negated if the court found it to be in violation of the Charter? Where would you draw the line on moral issues? Would you allow referendum on all moral issues or would there be some drawn in recognition of Charter values?

To her knowledge, Mrs. Jennings responds that the Charter does not specifically mention anything definitive about moral issues. Moral issues, she believes, are issues that are fundamental to all Canadians. The only means to get the views of the people is to go directly to them. There are three or four moral issues that come right to her mind, such as capital punishment, abortion and euthanasia. The referendum is a good thing as long as the people are informed. It is the responsibility of Parliamentarians to inform the electorate.

The second commentator is concerned about the biases of referendum. He holds that Proposition 13 in California was controversial for a number of reasons. One of those reasons being the participation of biases, in terms of who voted and who didn't. In most initiatives in California it is overwhelmingly the educated and wealthy who participate. How does one ensure that the town hall meetings that are held or the polls and questionnaires that are sent to constituents are representative? The second comment focuses on the idea that we will never have direct democracy. In the commentator's words, "there will always be a greater number of issues that are off the map, that are not decided by popular participation." It is likely that direct democracy initiatives will involve mostly moral issues and also issues related to some of our nastier emotions, such as immigration. He asks the panelists how and why they are willing to accept direct democracy only on moral issues, on so-called

emotional issues? If they believe in direct democracy and the will of the people, are they willing to accept that people can rescind the free trade agreement or decide on the money supply and interest rates? The moral issues do not really get to the heart of the problem which is the lack of responsive government.

In response to the second commentator, Mrs. Jennings says that we need to be realistic. She states that, "the people who come to vote are the people who want to come out. All we can do is provide the opportunity for people." If we trust the people to have the wisdom and the judgement to vote to begin with, then surely we can trust them to have the wisdom and judgement to decide how to inform themselves. In response to the second comment, she expresses the view that referenda work best if they are in a single question form. She maintains that the problem with free trade, NAFTA or other economic issues is that this is not a possibility. She contends that there is a place for legislation. The government is elected on a platform which usually includes economic issues. In her opinion, there should definitely be referendum on moral and constitutional issues but economic issues should be left to the elected politician.

Mr. Kilgour asserts that one of his favourite heroes was Abraham Lincoln. During the civil war, Mr. Lincoln would walk around talking to the widest cross section of individuals that he could meet. Mr. Kilgour believes strongly in Lincoln's example. He argues that a parliamentarian should be in close contact with the needs of his/her constituents. In the case of the GST, less than 20% of his constituents favoured the tax. He maintains that in situations such as the GST someone can easily tell the views of constituents.

How far do you go in responding to the views of constituents? Kilgour cited the case of a parliamentarian in Germany during the 1930s whose constituents wanted concentration camps. What do you do then? Resign! Senator Fulbright in the United States had an understanding with his southern constituents. They would accept his views on foreign affairs, and he, their opinions on racial issues.

In his response, prof. Flanagan first indicates that the referendum procedure should exist for all forms of legislation. He can not see any reason for

restricting it to so-called moral or constitutional issues. Secondly, he does not see why the politics of referendum are or would be different from the politics of legislation. In both cases, he contends you would have special interest groups, and lobbying. Perhaps, it is more open in the referendum but politics is politics. In addition, he does not perceive any reason to be afraid of the referendum for Charter related questions. He contends that there is no reason to believe that the politics of referendum will be particularly nasty. He thinks it will just be politics.

A third speaker asks, with regard to how to get people out for referendum, if we should be adopting the old contradiction of democracy, compulsory voting, as in Australia and Singapore. He also wants to know if the panelists think that in the debate concerning the technique of direct democracy many concepts of responsible government seem to be lost.

Mr. Kilgour responds by providing some historical background leading to responsible government across Canada. Responsible government was brought to Upper Canada in the late 1840s and probably earlier to Atlantic Canada. At the turn of the century, even cabinet ministers in Ottawa could vote against bills and the sky didn't fall. Governments survived and MPs kept their self-respect. Today, the House of Commons operates under the strictest party discipline in the entire democratic world according to experts. A recent poll indicated that only 4% of parliamentarians had the respect of Canadians. What is the reason for this? The essential problem is that parliamentarians are elected to represent constituents but when they arrive in Ottawa Government MPs end up being brute votes for Cabinets. Britain in the 1970s dropped our notion of responsible government and government measures can be defeated without provoking a general election. Mr. Kilgour thinks that it is time we caught up with other countries that are doing much better than Canada on the confidence issue.

Another participant asks if Canada adopts referenda similar to Switzerland, will we be able to vote on issues such as free trade, interest rates? Secondly, who shall decide? Will citizens have a say on what is on a referendum?

From his knowledge, prof. Flanagan believes that referendums around the world are used for legislation, ratification of treaties, constitutional amendments, and approval of budgetary items in the form of capital projects. In his opinion, the setting of interest rates is not really government policy. The only legislation that it is drawn from is that which creates the Bank of Canada and gives powers to the Governor. He cannot perceive how interest rate policy could be made on a referendum.

Mrs. Jennings believes that the feeling of alienation amongst the Canadian electorate can be changed through an attitudinal change in Parliament. In her opinion, the government enjoys such a majority that a more frequent expression and disagreement with issues would not harm the parliamentary system. In addition, it would address feelings of alienation as Members of Parliament would have the opportunity to listen and respond to constituents on a regular basis.

A participant notes that California and Switzerland have been used as two successful examples of the referendum process. There are, however, two very important differences, he says. The Swiss do not hold their referenda on the same day as the general election. The holding of referenda on the same day as a general election has proven to be a real disaster in California. There, referendum issues have become targets for second place parties. They determine the outcome of elections. For example, the defeat of Tom Bradley, who ran for governor, was based on a gun issue. Referendum issues can skew election results. Parliament is in some disrepute but the participant was not certain that referenda are the complete and utter answer. He would hope that Parliamentarians would look at the motion for free votes. He is of the opinion that you can restore Parliament without getting into California.

Another commentator asks if there is not a danger in direct democracy in that local political issues, especially in the Canadian context, would receive substantially more attention at the expense of the national interests? He notes that prof. Flanagan discussed and reviewed the three models of representation in the political science literature. He

also indicates that another model was designed to secure the general interest and a number of procedures existed to encourage Members of Parliament to balance and debate issues in the true utilitarian sense of trying to govern for the greatest number. Jeremy Bentham advocated that in some issues a secret ballot be used. He concludes by asking: "Should we continue to take this path?"

Prof. Flanagan agrees that a delegate model would tend to make politics more local in a geographical sense. On the other hand, he contends that party programs are not put together by disinterested philosophers defining together what is the national interest. Politicians may present it this way, but parties put together platforms supported by their members and the voters they hope to attract. As a result, many party programs are sectional or are a combination of sectional interests. However as it is organized there will continue to be sectional elements.

Mrs. Jennings reminds the audience that the Reform Party is a recently organized national party. It is also grassroots based in that it bases its issues and policies on the people. She does not suggest that referenda be used for all issues. In her view, the referendum may be used when the response of the people is essential. In her words, "the referendum needs to be used in balance with the legislative process, then there will be true responsible government."

The final speaker questioner if you are going to say referendum only on certain issues, then truly you are not reforming anything because you continue to give the politicians the responsibility and authority to say what the issues on referendum will be. If you are going to have referenda you have to answer to the people. If they throw the ball up then they have the right to vote on it.

Mrs. Jennings responds by stating that if an initiative suggests a referendum the response should be to hold one. It does not have to be at an election time. Another possible avenue is through income tax reports.

*rappporteur, Mona Letwin*