

de l'argent, ils attendent en retour autres choses qu'un bon gouvernement ».

Au Québec, il existe, lors de la tenue d'un référendum, une façon originale de procéder qui s'inspire de la législation britannique. Le nombre de comités est limité à un par option. Ce fut le cas lors des référendums de 1980, 1992 et 1995. Au cours du référendum de 1992, sur l'accord de Charlottetown, la loi fédérale s'appliquait à travers le Canada, sauf au Québec où la Loi sur la consultation populaire prévalait. Il y avait donc au Québec deux comités nationaux.

Cependant, lors de ce référendum pan-canadien, le nombre de comités étaient illimité dans le reste du Canada. Il y eut alors 241 comités référendaires! Quelque 88 p. 100 des contributions reçues par ces comités provenaient de personnes morales (compagnies privées, groupe d'intérêts, syndicats, etc.), une pratique qui aurait été interdite si la loi canadienne retenait les exigences de la loi québécoise puisque celle-ci limite à 3000 \$ la contribution de chaque électeur à chacun des comités nationaux et interdit les contributions provenant de personnes morales.

En somme, la question fondamentale qui se pose peut se résumer ainsi: qui doit contrôler les campagnes électorales ou référendaires? Il est impératif que les législations soient rédigées de telle façon que la responsabilité du contrôle des scrutins incombe à chaque électeur plutôt qu'aux groupes financiers. Ce qui fait la force du système de financement électoral québécois c'est avant tout l'encadrement des activités financières des formations politiques et des candidats. Par ses règles d'autorisation et de financement ainsi que le strict contrôle des dépenses électorales qu'elle impose, la loi québécoise ne vise aucunement à s'ingérer dans les programmes et les politiques des entités autorisées. Elle ne vise essentiellement qu'à assurer l'équité et la transparence des activités financières par des règles auxquelles tous les acteurs et intervenants politiques sont soumis sans exception.

Toute restriction légale doit s'inscrire à l'intérieur de limites raisonnables et doit pouvoir être justifiée dans le cadre d'une société libre et démocratique. La démocratie peut être en danger et toute réforme électorale compromise si l'on n'exerce pas une vigilance constante et s'il n'existe pas une législation adéquate concernant le financement et le contrôle des dépenses lors de la tenue de tout scrutin.

Pierre F. Côté était directeur général des élections du Québec de 1978 à 1997.

by R. Kenneth Carty

ELECTORAL REFORM SHOULD BEGIN WITH THE SENATE

Toute véritable réforme électorale devrait commencer par le Sénat. La réforme du Sénat, en effet, ne compromettrait pas les choix des électeurs en ce qui concerne le gouvernement qu'ils souhaitent et n'affaiblirait pas les gouvernements nationaux. Au contraire, elle aboutirait à un Parlement plus représentatif et permettrait aux revendications régionales d'y trouver un écho. Loin d'être un saut dans l'inconnu, elle permettrait de créer une dynamique parlementaire saine.

At its heart, the debate about electoral reform in Canada is cast as a choice between fair, balanced representation on the one hand and effective, accountable government on the other. It is as if representation and governance stand in opposition to one another so that both can not be had, or at least can not be had in a regionally divided, socially heterogeneous place like Canada. In fact they can be had, but only if we shift our focus on what needs to be reformed.

By now the two sides of the argument about electoral reform are well known. Our current plurality electoral system distorts election outcomes so that parties' vote shares do not look much like their parliamentary seat

shares. Parliaments do not represent public opinion and governments claim mandates where none exist, a recent example being the victory of free trade in 1988 on a 43 percent Conservative vote share. The extra Canadian wrinkle to this is that marked regional variations in party support are also distorted, leaving us with governing and opposition parliamentary parties whose membership is often unrepresentative of their support in the country. The current parliament is simply another case of this dysfunctional reality.

However it is also a fact that our electoral system does produce majority governments in the face of a fragmented electorate. Only three of the last 23 elections gave one party a majority of the vote, but 15 of them produced a single-party majority government. Politicians prefer majorities to the uncertainties of minority government, arguing that it makes for more coherent and longer-lasting cabinets. For voters, single-party majority governments make it clear who is to be held accountable for what has gone on since the last election. Defenders of the system reasonably claim that if we abandon the single-member plurality electoral system we will be abandoning any capacity to choose and remove governments.

Moving to some kind of proportional representation might lead to a more representative parliament, if the match between a party's votes and seats is the relevant test of representativeness. It will not cure the mischiefs of regionalism for Ontario and Quebec will still command over three-fifths of Canada's MPs. PR would probably help make parliamentary parties more representative of their electoral base and it might even stimulate participation for there is some evidence to suggest that voter turnout is higher in PR than plurality systems. However it is also likely that PR would increase the fragmentation of an already divided political system by rewarding the growing number of small parties that are already lining up to contest our general elections.

What sorts of governments might form, or how long they would last in such circumstances is difficult to predict. Under PR, the 1997 election results (assuming the same voting patterns) might have pushed the Liberals to seek a coalition with the Conservatives (a Lib-NDP coalition would not have commanded 50 percent of the House), but given Reform's challenge to their place in the system it seems probable that the Tories would have rejected the offer leaving no obvious majority government possible. The resulting minority Liberal government, with under 40 percent of the Commons seats, could hardly have planned to stay any tough or

extended course.

Does this mean we are forced to choose between having a more representative legislative assembly in which regional and minority voices are heard or a stable government chosen by the voters rather than by manoeuvring parliamentarians? The answer is no, for it is possible to have both. The way to do it is through the Senate. A popularly elected Senate whose members are chosen by PR will do the trick. Such a house could provide for an effective voicing of claims not heard in the Commons dominated by a disciplined government party. Its party caucuses could contain representatives of all their supporters. It could actually make our national parliament a more relevant and effective institution. Governments, without an assured majority in the Senate, would have to pay attention to elected opinion rather than steamrolling over it. Ministers would have to persuade elected representatives rather than dictating to them. For all this, the Commons, and its manner of election, would not have to change. The advantage of this scenario is that electors would still be able to use the current system to choose, reward and

punish their governments. And majority governments could get on with directing the public service and running the country.

Could such a system actually work? It could, and one has for several decades in Aus-

tralia. There a majoritarian electoral system ensures that elections to the House of Representatives provide sharp choices between Labour or Liberal/National majority governments. But elections to the Senate, governed by (a single transferable vote form of) proportional representation are different. They allow a number of the country's smaller parties to elect their share of members, and the result is a house whose membership is more reflective of the distribution of partisan support in the country. The Australian Senate, with equal numbers of members from each state, and the same legislative powers as the House of Representatives, is an integral part of the Australian parliamentary process. Since Australian governments in recent decades have rarely been able to command a party majority in their Senate they have had to learn to work with it. The result is that what happens in the Australian parliament matters. It is not just cabinet ministers whose voices count in Canberra, but few would argue that their governments have been less effective or accountable than those in Ottawa.

Of course providing for a proportionately elected Canadian Senate would dramatically change that body and its role in our political system. But the Senate itself

Senate reform provides us with an avenue for a representative reform of our most important national institution while not undermining our ability to elect (or defeat) majority governments.

has been changing over the past decade. The list of issues on which it has set itself against the Commons is growing, a development that shows no sign of ebbing. It was a Liberal Senate that rejected the Mulroney Conservative government's first attempts to pass free trade (leading to the 1988 election) while it was Conservative Senators who thwarted the Liberal government's attempt to reform the electoral boundary revision process during the 35th parliament. This has not been simply a matter of partisan warfare for even in the 34th parliament (when last the governing party had a majority in the Senate) the government found itself thwarted by Senators on occasion. If we are going to have a more activist Senate, using its full legislative powers in opposition to the Commons, surely it ought to be one that is elected and responsive to the full range of opinion in the country.

The Australian example suggests that the patterns of party politics in the two houses would soon diverge. With its unreformed electoral regime, the Commons-based party system would change very little with the protagonists continuing to fight over single-party majority governments in a classically adversarial way. However party politics in the Senate would be different. More, including smaller, parties would almost certainly be elected under PR and, reflecting the fragmentation of partisan support in the country, none would have a majority. In that situation competitive relationships would tend to become more cooperative than confrontational as individuals and parties sought to build positive support for their positions and policies. In Canberra, the small Australian Democrats party has held the balance of power in the Senate for most of the last 20 years forcing Australian governments to be responsive to the claims and demands of more than the minority that provided their House of Representatives victory. Voters recognize that the Democrats are not a potential governing party and so do not elect them to the House. But those same voters clearly value the Democrats' self-proclaimed mission of "Keeping the Bastards Honest" and regularly return them to the Senate.

Arguments for reforming the Senate in Canada have traditionally been about trying to make Canadian federalism work better. The logic has always been that the federation will work better if the institutions of the nation are responsive to the claims of more than just the centre. If we couple this longstanding federalist argument for an elected Senate with the imperatives of creating a parliament that is more representative of public opinion and of strengthening the national disposition of our political parties, then the case for an elected Senate grows much stronger. It provides us with an avenue for a representative reform of our most important national institution while not undermining our ability to elect (or defeat) majority governments.

How such a Senate might be apportioned is an open question. An argument from our contemporary patterns of co-operative federalism, and the examples of both Australia and the US, suggests that equal numbers

from each province is probably the only acceptable solution. Although providing this much legislative power to the other provinces might well be opposed by Quebec, it does provide a way of enshrining the principle of the equality of the provinces in our politics. In turn that could make accepting the special mission of the Quebec government more palatable to those in the rest of Canada. Exercising its full constitutional powers, this new, representative Senate could provide a genuinely national counterweight to the competing pulls of prime ministerial government on the one hand, and the demands of rapacious provincial premiers on the other.

Can it be done? If what the proposal amounts to is a triple-E Senate then the prospects might seem dim. After all that scheme requires constitutional amendment (to establish the equal part) and it has been around long enough to have collected lots of opponents who see it as part of an old constitutional reform agenda of disgruntled westerners. But if we think about this new Senate as the vehicle for introducing an element of proportional representation into our parliament then the obstacles may not be as great as the alternative. After all electoral reform of the Commons seems even more difficult for it requires existing parties to give up on the idea of controlling the government in their own right. Our politicians are not likely to want to do this, especially if they see it weakening national authority at a time when the system is under threat from decentralizing impulses in some of the affluent provinces and from *indépendantiste* politics in Quebec.

So I conclude that anyone genuinely interested in electoral reform ought to begin with the Senate. That change would not interfere with voters' electoral choice of governments but it would provide for a more representative parliament. It would not weaken national governments but it would provide a focus for regional claims at the centre. It would not be an institutional leap in the dark but it would allow us to create a healthy new parliamentary dynamic. It would not lead to more fragmentation of the national parties but it would allow all partisan interests to play their full role in our political life. If it really is time to adjust our electoral processes then we ought to be prepared to learn from the experiences of our neighbours. And the Australian Senate provides the best first lesson.

R. Kenneth Carty is Professor and Head of the Department of Political Science and a Senior Fellow of Green College at the University of British Columbia. He has written extensively on Canadian political parties including a book length study for the (Lortie) Royal Commission on Electoral Reform and Party Financing entitled *Canadian Political Parties in the Constituencies*.