

Proposals for Legislative Reform in New Brunswick

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You cannot choose between party government and Parliamentary government. I say you can have no Parliamentary government if you have no party government; and therefore when gentlemen denounce party government, they strike at the scheme of government which, in my opinion, has made this country great, and which, I hope, will keep it great.

– Benjamin Disraeli (1848)

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The Problem:

Voting numbers are in decline in New Brunswick. The reason most often cited is the electoral system's inequitable translation of votes to seats, as has been readily apparent in recent provincial elections. The landslide victories of the Progressive Conservatives in 1999 and 2010 saw the PCs win 80% and 76% of the seats respectively, but on the strength of just 52% and 48% of the vote. In 1987, the Liberals received 60% of the votes cast, but won 100% of the seats.

However, as poignant as these examples are, citizen frustration with the current electoral system is not the only reason people have stopped voting. Much of the public believes that, once elected, MLAs are absorbed into a mysterious and complex machine of party politics and legislative procedure, and as a consequence lose their voice. This loss of voice means that the ability of elected officials to represent their constituents is compromised. As the recent controversy over MLA pensions reveals, the public is growing increasingly frustrated with what it perceives as a legislature that is out of touch with the concerns of its public. Furthermore, issues that dogged the tenure of the previous Graham Liberal government, such as the proposal to sell NB Power or to reform the province's post-secondary education system, resulted in unprecedented public protest. Clearly, the public is anything but apathetic. Yet it should be cause for concern that the public believed it could only communicate to its government through such actions.

Such frustrations are neither new nor unique to New Brunswick. In the last few years, provincial commissions and parliamentary committees across Canada have recommended different reforms in order to close what has been termed the "democratic deficit." At the provincial level, most of these proposals have focussed on the nation's Single-Member, Simple

Plurality electoral system (SMSP), more commonly known as the “First Past The Post system” (FPTP).¹ At the federal level, more attention has been paid to parliamentary procedures and practices. Over the past three decades, the Parliament of Canada has also considered reforms to its committee structure and mandates, “whipped” votes, and the point at which a bill is referred to a committee. Clarification of just when a government has lost the “confidence” of the House has been called for. Concerns have been raised over the Prime Minister’s apparently unilateral right to request (and have granted) the prorogation of Parliament.

Recently, criticisms have also been voiced over the behaviour of MLAs and MPs during legislative sessions. That such proceedings are now televised, and that the more flamboyant behaviours tend to be those that are reported on the nightly news, has likely contributed to the public’s somewhat skewed perception of how our legislative assemblies function. Nevertheless, what the public sees hardly improves its confidence in its democratic institutions.

Perhaps the most comprehensive review of the legislative system in Canada took place here in New Brunswick under the auspices of its Commission on Legislative Democracy. That commission, whose mandate and recommendations are discussed in more detail below, proposed a wide range of reforms, including reform of New Brunswick’s electoral system, its financing of political parties, determination of electoral boundaries, and the structure of the province’s legislative committees.

Yet few of the recommendations made by these commissions and committees have been adopted in New Brunswick or elsewhere in Canada. Electoral reform proposals put to referenda

¹ A Glossary appended (Appendix B) to this Report provides definitions for many of the terms and acronyms used here.

in Prince Edward Island, British Columbia, and Ontario were all defeated. The Parliament of Canada did make some changes to its committee system; however, the “three-line whip” system proposed by then-Prime Minister Paul Martin has not been adopted. Closer to home, only a few of the comprehensive recommendations of New Brunswick’s Commission were accepted, most notably the changes to the means by which electoral boundaries are determined, the “fixing” of the province’s election dates, and the publication of a more readily-available Hansard.

Despite the limited success such commissions have had in motivating Canadian legislatures to adopt changes, interest in democratic reform remains widespread. In addition to calls for a reform of the electoral system, there is a perceived need that the internal workings of the legislative system need to be examined. This report hopes to further that agenda. It is preliminary in nature, and while it does provide some specific recommendations, its chief purpose is to map out what direction the authors believe both the Legislative Assembly and the Government of New Brunswick should explore with a goal of improving the effectiveness of the legislative process and its ability to better engage the citizens of the province. Nevertheless, the authors believe that the current Westminster parliamentary model, with its fundamental constitutional principle of responsible government, is still the best and most appropriate system of government for the province of New Brunswick. Furthermore, whether or not such reforms are needed or are even useful, radically altering our legislative system would require complicated constitutional amendments that would task the resources of any province, not to mention a province trying to cope with other, perhaps more immediate, concerns. Therefore, we have focussed our attention on what we believe are reforms that can be made simply and effectively, but that remain within the province’s constitutional structure. The current model functions well,

but it can be improved.

What follows is a series of short discussions, each connected but focussing on separate aspects of possible democratic reforms, such as increasing third-party and citizen participation in the legislative process. We begin with a review of the different proposals that various parties in New Brunswick have put forward with a goal of improving legislative accountability, transparency, and engagement. We consider such proposals as “tabled” reforms; that is, these are the areas that New Brunswickers have identified as requiring attention. We then look at the constitutionality of “strangers” in the legislative assembly and the various means by which private citizens (and so by extension third parties) are already able to participate in the legislative process. As the reader will discover, there are already many such means, ranging from petitions to referenda, and include the possibilities of private citizens being appointed to legislative committees. We then examine the relationship between party discipline and responsible government. Understanding this relationship is important, given the fact that if there were more “free votes,” or if New Brunswick adopted some form of proportional representation, deciding which party held a majority in the Legislature might become difficult. We have also added a brief discussion of electoral reform, although we recognize that this is outside our mandate and that such a topic warrants a more thorough analysis. However, we hope such a limited contribution will help move this conversation along as well. But first, we review our mandate.

Mandate:

This report was prepared within a specific mandate. The authors were tasked with examining the feasibility of instituting new or better methods for public participation in the legislative process. Specifically (but not exclusively), such public participation was to focus on the involvement of “third parties” – registered political parties not currently holding a seat in the Legislature – in the legislative process, with a goal of making the “legislature more open and collaborative.” In turn, this mandate was designed to fulfill a pledge made in the Progressive Conservative Party of New Brunswick’s 2010 election platform: Putting New Brunswick First. In that platform, the PCs promised to create “a mechanism for third parties to be heard in the legislature.”

The authors of this report have taken their mandate seriously, and we have done our best to focus our attention on the specifics of our mandate: to recommend some means by which third parties – which in New Brunswick are the New Democratic Party (NDP), the Green Party (Greens) and the People’s Alliance (PANB) – could participate in the legislative process. We also examine how the Legislature could be made more “open and collaborative.” However, the authors note that these two goals – involving third parties, and providing for a more open and collaborative legislature – are compatible but not identical. In other words, involving third parties in the legislative process may well assist in providing for a more open and collaborative legislature, but doing so will not in itself ensure openness or collaboration. On the other hand, there are means by which the Legislature could become more open and collaborative without necessarily involving third parties. In the end, however, the goal of any reform of a political institution must be to improve its democratic character, and we believe our report is a step in that direction.

Our consultations for this report were limited, and no attempt was made to be either comprehensive or inclusive. However, we did meet with the following individuals:

Loredana Catali Sonier	Clerk of the Legislative Assembly of New Brunswick
Dominic Cardy	(then) leadership candidate, New Democratic Party of New Brunswick
Pierre Cyr	(then) leadership candidate, New Democratic Party of New Brunswick
Kris Austin	leader of the People's Alliance of New Brunswick
Jack McDougall	leader of the Green Party of New Brunswick
Janice Harvey	president of the Green Party of New Brunswick
Victor Boudreau	interim-leader of the Liberal Party of New Brunswick
Donald Arseneault	Liberal MLA for Dalhousie-Restigouche East
Mike Murphy	former Liberal cabinet minister and former MLA for Moncton
Tom Mann	Executive Director of the New Brunswick Union of Public and Private Employees and Principal, Democracy for New Brunswick.

We thank all of these individuals for their time, generosity, and valuable insights. We also received unsolicited (but welcome) interventions from a number of interested New Brunswickers. However, it is worth noting that almost all of these latter submissions concerned electoral and not legislative reform. Nevertheless, a wider public consultation on the issue of legislative reform would be desirable.

One group we intended to consult, but were unable to, was the sitting MLAs. We address this situation in our recommendations below.

Setting the Stage:

“What is the problem for which this is the solution?”

Would it make a difference had political parties other than the Liberals and PCs won seats in the last provincial election? If so, how? Would opening committees to more public involvement, or allowing leaders of registered third parties, participate in committee deliberations affect the policy direction of the government? After all, the Westminster parliamentary model is based on majority rule, and a party with a majority is capable of passing legislation as it wishes without the need for input from other parties or interest groups. So, given the fact that New Brunswick has always elected majority governments, what is the point of trying to reform the legislative process? These were some of the challenges considered by the authors of this report.

Discussion:

Although the 2010 province election saw five political parties compete for seats, only the Liberals and PCs were successful. This marks the second election in a row in which no parties other than the Liberals and PCs won seats. Such a result likely surprised no one. There have been 24 elections in New Brunswick since 1920 (the date at which political parties as we now understand them began to operate in the province), and in only six elections did third parties win seats. The first was in 1920, when the United Farmers won 11 seats. The second did not occur until 1982 when the NDP won a single seat. The third was in 1991, when the NDP again won a seat, and the Confederation of Regions Party (CoR) won eight seats, forming the Official Opposition. The elections of 1995, 1999, and 2003 all saw the NDP win a single seat, although it was the only third party to do so. Since then, the electoral pattern has been back to “normal,” with only the Liberals and PCs winning seats.

The main reason for the lack of success for third parties is the SMSP electoral system, and we discuss this situation further on. However, it is worth emphasising that until the province adopts some form of electoral reform – whether it be a proportional representation system (PR), a single-transferable vote (STV), or some hybrid – New Brunswickers can expect future elections to produce similar results. Indeed, this was the sentiment expressed to the authors by the leaders and candidates of New Brunswick’s third parties. In our conversations with representatives from the NDP, Greens, and the PANB, several themes emerged. First, there was a consensus that the electoral system needed reform, and that some variation of proportional representation was the reform consistently called for. Second, there was little interest in token appointments or symbolic representation. Third, the representatives of the third parties agreed in principle with the concerns

expressed by the interim-leader of the Liberal Party, Victor Boudreau, on the question of third-party involvement. As Mr. Boudreau explained to the authors, the position of the Liberal Party on legislative reform is: it alone constitutes the Official Opposition; it has earned this right and the seats it holds; anything that removes, diminishes, or undermines this right (including restraints on available time and resources) would not be supported by that party and may well be unconstitutional.² The authors cannot stress this point enough: no third party leader or candidate we spoke to claimed or thought it had any right to participate in the legislative process on equal terms with those parties which had won seats; all those we interviewed argued instead that their one and only goal was to win their own seats, and that they were only interested in pursuing whatever reforms were necessary to ensure that the electoral system gave them a fair chance to do just that.

Nevertheless, one question we posed to the leaders and candidates was this: what value would there be to a political party if it won just one seat, or even several seats? After all, the party would not be able to influence the outcome of legislature votes, not unless the government was in a minority situation (something which has never happened in New Brunswick). Even then, such influence would be limited, as any examination of the operation of recent federal

² In his “Reply to the Speech from the Throne” (2010), Mr. Boudreau argued that “elections in New Brunswick must matter. We have in place a first-past-the-post electoral system. This system, the rules under which New Brunswickers believed they were operating, has given us a Conservative majority and a Liberal opposition. There are suggestions that we should have a different system, such as proportional representation. That is a debate worth having – an open and honest debate. Ultimately, it will be New Brunswickers who decide whether to stick with the current electoral system or to change it. The current system has given the new government a majority. We strongly oppose any efforts to make changes to the Legislature that are designed to undermine the official opposition or to mute its voice here in the Legislature.” www.gnb.ca/legis/business/currentsession/57/57-1/042010-11-25b-web.pdf.

minority governments would reveal. Were a third party in New Brunswick to win a seat or two, then that party's MLAs would serve on some legislative committees, but again would be consistently outvoted by the majority party. Is winning a seat, then, overrated?

Our interviewees thought not. Even one seat would give a party a constant and continuing presence throughout the legislative cycle. Even one seat would allow for a party to remind the public that an alternative point of view was available. Even one seat would allow a party to maintain voter support throughout the four years between elections, and so that party would not have to rebuild from scratch every time an election was called. However, all did agree that a limited presence in the Legislature could easily be rendered futile under the current political culture. If there were no opportunities for MLAs to collaborate with members of other parties, if every legislative initiative was instantly labelled partisan and therefore unsupportable by other parties, and if the acrimony displayed during Question Period and on legislative committees continued, then winning a seat or two would be a hollow victory indeed.

Our response, then, is this: is there a way that third parties could be provided with more of a profile between elections, so that they enjoyed at least some of the benefits that they would have received, had they won a seat? Furthermore, are there ways to at least mitigate some of the partisan acrimony now present in the Legislature? We believe that this is possible, and while we acknowledge that what we propose is modest, we believe that such reforms might increase the value of third-party seats. Finally, although electoral reform was not included in our mandate, the authors of this report believe that such reform is needed, and the right reform would contribute to a more dynamic, open, and collaborative Legislature.

Democratic Reform Initiatives in New Brunswick

Over the years, several political parties in New Brunswick have offered proposals for reforming both the electoral and legislative systems in the province. In this section, we provide an overview of those initiatives. That many of these proposals, emanating from parties on the left and right of the political spectrum, are similar if not identical is an indication that there is some consensus as to what needs to be changed. We consider these proposals, then, as “tabled.”

Discussion:

That New Brunswickers are frustrated with their political system is not new, and over the years several political parties in the province have offered suggestions for (re)engaging the public.³ In 1991 the CoR party pledged that, if elected, it would institute recall legislation, hold “free votes” in the Legislature, and would require that the government hold binding referenda on important policy initiatives. Bernard Lord’s Progressive Conservatives promised similar measures in 1999, promising – among other reforms – an MLA Responsibility Act which would establish “the key roles and duties of MLAs, a code of conduct, and requir[e] that each MLA hold at least two public meetings per year” (PC Platform 1999). The PCs would go on to win the 1999 provincial election, and Premier Lord struck a commission on legislative democracy to investigate how his promised reforms could be instituted. The Commission’s report (CLD 2004), presented in 2004, called for significant changes to the electoral system and to the internal operations of the Legislative Assembly.⁴

More recently, the 2010 Progressive Conservative election platform also called for several measures designed to “increase voter turnout.” These included promises to:

Create a permanent New Brunswick Referendum Act to give citizens and governments the tools they need to address fundamental democratic issues.

Introduce legislation requiring any MLA who wants to cross the floor to either sit

³ While electoral or legislative reform has not been prominent in recent Liberal platforms, some of the most innovative proposed reforms to the legislative process occurred under the tenure of Frank McKenna following his 1987 victory. We discuss these initiatives below.

⁴ The 2006 election curtailed any movement on their recommendations. Although fixed-date election legislation was eventually passed; we discuss the Commission’s recommendations below.

as an independent or to run in a by-election.

Create a new Citizen Engagement Unit within the Executive Council Office, reporting directly to the Premier. (PC Platform 2010: 32)

Other parties in the province have promised similar reforms. Both the 2010 NDP platform and that of the Greens contained calls for legislation dealing with MLAs who “cross the floor” to join another party. The NDP argued that:

MLAs are elected as part of a team. If an MLA wants to leave their party before an election they should have two choices: to sit as an independent until the next election, or to resign and run for their new party in a by-election. (NDP Platform 2010: 41)

In addition, the Greens promised to

Create an Office of Democratic Renewal reporting to the Legislative Assembly with a mandate to encourage civic participation and to make sure government is accountable to citizens. This Office would (a) Issue rules for MLAs to follow regarding best practices for constituency communications, including requiring regular town hall meetings to be held in every riding; (b) Appoint Citizen Assemblies to deliberate on major new policy initiatives and provide feedback on public decision-making; (c) Provide rules for and oversight of citizen referenda on major decision-making; (d) Enforce a legislated Code of Conduct for MLAs including investigating citizen complaints, and providing remedies including the possibility of recall; (e) Issue an annual report to the Legislature on the performance of MLAs and the governing party in more fully engaging the public in the decision-making process. (Green Platform 2010: 4)

Finally, in 2010, the People’s Alliance of New Brunswick (PANB) promised to initiate free votes, noting that the “NB Legislature is a representative council. As such, each member needs the ability to represent his or her Constituents’ interests. This cannot be done within the current conventions of party discipline.” Furthermore,

To ensure that the People of New Brunswick are properly consulted on matters

before government, all People's Alliance MLAs will hold a minimum of two town hall style meetings per year with their Constituents. The People's Alliance will also utilize technology, such as interactive websites, to maintain constant communication with their Constituents. (PANB Platform 2010)

Commission on Legislative Democracy:

The Commission on Legislative Democracy was established late in 2003, just a few months after the provincial election. The Commission was mandated to examine and evaluate the electoral and democratic institutions of New Brunswick and to make subsequent recommendations to provide for a fair, open, accountable, and accessible system. The Commission held public consultations and allowed the public to make online submissions. The final report was delivered in December 2004, and in it, the Commission recommended, among other things, fixed election dates, and that New Brunswick adopt a D'Hont-based Multi-Member Proportional Vote system similar to that currently in place in Scotland and Wales. Recognizing that the adoption of a Mixed Member Proportional System (MMPS) would require public support, the Commission recommended that the change be put to the public through a referendum.

The Commission on Legislative Democracy also called for the reform of the processes governing electoral boundaries and the financing of political parties. The latter also included ways of encouraging more women to run for office (Desserud and Hyson 2010). From our perspective, however, the most notable recommendations made by the Commission concerned the operations of the legislature, and those germane to this report are significant and deserve to be repeated.

Summary of the New Brunswick Commission on Legislative Democracy's recommendations on "Enhancing the Role of the Legislative Assembly"

Recommendation 1: That party discipline and partisanship be reduced by encouraging more free votes, fewer confidence measures, and the introduction of a three-line whip voting system in the Legislative Assembly.

Recommendation 2: That the role of legislative committees in policy-making be enhanced by providing the committees with designated staff and resources allowing them to conduct independent research and undertake public consultations, including mandatory public hearings on important bills.

Recommendation 3: That the Legislative Assembly committees be restructured to create standing policy committees that would facilitate consideration of bills and encourage stronger MLA policy expertise. The Standing Committees could be:

1. Standing Committee on Natural Resources
2. Standing Committee on Social Policy
3. Standing Committee on Finance and Economic Policy
4. Standing Committee on Public Safety
5. Standing Committee on Government Operations
6. Standing Committee on Public Accounts and Crown Corporations
7. Standing Committee on Legislative Administration, Procedures, Statutory Officers and Legal Issues

Recommendation 4: That an independent Legislative Library Research Office be created and funded to serve all MLAs, and to support the role of strengthened legislative committees, ensuring that individual MLAs can research policy issues on behalf of constituents and acquire more legislative expertise in specific policy areas.

Recommendation 5: That MLAs have the time to review bills before they are adopted in final form by allowing for more time between first and third reading of bills.

Recommendation 6: That a new, designated one-hour dialogue and scrutiny time period every two weeks called, "Interpellation" be provided. Interpellation would be used firstly, to debate reports of committees of the Legislative Assembly and secondly, to allow for more detailed questioning of ministers on specific policy areas.

Recommendation 7: That Hansard and Legislative Assembly reports be accessible online, in a more up-to-date time frame in both official languages. A transcript of Question Period would be published within 24 hours and a transcript of Hansard within 48 hours.

These recommendations, and the explanations accompanying them, are coherent and sensible, and deserve a reconsideration.

We recommend, then, that the appropriate legislative committee review the Commission on Legislative Democracy's recommendations, with a particular focus on those dealing with the internal working of the Legislative Assembly.

Constitutionality of Outside Involvement in the Legislature:

“Strangers” in the House

Is it even constitutionally possible for private citizens – be they leaders of registered parties or not – to participate in the legislative process? If so, how? What impact might such participation have on the process? How would such participation affect the constitutional role of the Official Opposition? In this section, we provide an overview of various means by which private citizens can – and already do – participate in the legislative process. There are many such ways, some more commonly known than others. We also discuss some of the pitfalls facing any attempt to expand this participation.

Discussion:

“Strangers” is a term long used in parliamentary systems to refer to “all persons who are neither Members nor permanent officers of the Legislative Assembly” (NB Standing Rules, 1.1). Under the Westminster model, the legislature has the right to deliberate without the presence of strangers, and any Member can request the removal of strangers if he or she so desires. Such motions are non-debatable, nor can they be amended (NB Standing Rules, 11:23(1)). At one time, legislative assemblies such as the House of Commons in Great Britain took their right to deliberate without the presence of strangers very seriously; it was an offence to even report on the proceedings, and it was not until early in the nineteenth century that an official record (“Hansard”) was finally established.⁵

There are, however, several means by which strangers or non-elected members of the public can and do participate in the legislative proceedings. These primarily involve petitions and Committee hearings.

Petitions: One of the earliest and most fundamental rights of a British subject is the right to petition the Crown. After the Glorious Revolution in 1689 and the resulting constitutional changes (which asserted the sovereignty of Parliament, which in turn was declared to be

⁵ William Cobbett’s Parliamentary Debates, printed by, and later sold, to Thomas Hansard in 1812, is usually regarded as the origin of the present Hansard, used throughout the British Commonwealth. It is interesting to note in this context that Cobbett, at the time a British soldier, had been stationed in Saint John and Fredericton, and eventually married Ann Reid, a woman he met while out walking near Fort Howe in Saint John.

composed of Crown, Lords, and Commons),⁶ this right became the right to petition Parliament. The right to petition Parliament has been carried over to the Canadian constitution, and so comprises an equally fundamental right for citizens of this country.

The Standing Rules of the Legislative Assembly of New Brunswick (#36) describes the procedure for petitions. A petitions must carry the signature of a Member; it must be presented during routine proceedings; the Member may make a brief statement describing the petition and the number of signatures; petitions must pertain to matters coming within the legislative competence of the House. The government is tasked with responding, in writing, to a petition within two weeks of its presentation.

A petition, therefore, remains a means by which a private citizen can participate in the proceedings of the Legislature. Citizens have a right to have their petition heard or at least presented, as long as the petition conforms to the prescribed protocol. However, such participation is indirect as the petitioners require an elected Member to endorse or to sign the petition and to present it on their behalf.⁷ Members must ensure that the petition meets appropriate standards of form and decorum.

⁶ Canada's Constitution Act 1867 (sec 17) similarly declares that "There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons."

⁷ There is some debate concerning whether a Member's endorsement constitutes support for the principle of a petition. We believe not, and maintain that if this was the case, the fundamental British right of subjects to address their sovereign would be compromised. During the 1987-1991 Liberal regime in New Brunswick, when the Liberals held every seat, the question of petitioners' rights to have their views presented even if contrary to the government's policy of the day was dealt with by Speaker Frank Branch, who ruled that MLAs could present petitions without the necessity of supporting them. Given that the Liberals held every seat, the alternative would have been to permit only petitions that supported the government's policies, which hardly seems democratic.

Note that a petition is not simply a list of names, nor is there a minimum number of names needed before a petition can be presented. In earlier times, draft legislation drawn by the House of Commons was referred to as a petition when delivered to the Crown for Royal Assent. This idea of legislation prior to Royal Assent being essentially a petition survives today in the restrictions most Westminster-based legislatures have against Ministers sponsoring Private Bills. As the House of Commons Procedure and Practice explains, a Private Bill is essentially a petition, as it constitutes a plea from a private citizen or corporation to “confer special powers or benefits upon one or more persons or body of persons; or to exclude one or more persons or body of persons from the general application of the law.” However, Ministers cannot present Private Bills because “the Crown cannot petition itself” (Marleau and Montpetit 2000: 945).⁸

Nevertheless, it may be possible to expand the petition mechanism to make it useful for third parties. Certain days in the legislative calendar could be devoted to receiving petitions from third parties. Government backbenchers could be asked to deliver the petitions on their behalf. Whether the Government would be inclined to take such petitions seriously is another matter.

Referenda: Referenda or plebiscites provide another means by which private citizens can participate in the legislative process. Although considered to be a feature of direct democracy, voting in a referendum is probably the most indirect form of such citizen participation other than participating in a general or by-election. Nor could referenda be restricted for the exclusive use of

⁸ Unlike other provincial legislatures (such as Ontario), New Brunswick’s Standing Rules do not specify whether ministers can or cannot present petitions. However, as is the case in the Parliament of Canada, New Brunswick ministers may not sponsor Private Bills. Meanwhile, and curiously, while the Parliament of Canada does not permit Ministers of the Crown to present Private Bills, it does allow them to present petitions (Marleau and Montpetit 2000: 934).

third parties. However, it is significant that several parties in New Brunswick, including the current PC government, have advocated the use or expansion of the use of referenda. At the very least, the province needs a Referendum Act, something which has been recommended and promised many times over the years. Recently, there have been calls for referenda to determine the fate of NB Power, uranium exploration in the province, and electoral reform.

Over its history, New Brunswick has made use of use of referenda several times, albeit sparingly. Towards the end of the 19th century, the temperance issue was addressed through a provincial referendum.⁹ In the 1960s, the question of lowering the voting age to 18 was put to a referendum, which was defeated, although the Robichaud government lowered it to 18 a few years later anyway (Belkhodja 2004: 228). In 2001, the Video Lottery question was dealt with through a referendum. This referendum was held at the same time as the province's (then) triennial municipal elections. New Brunswickers were asked: Should the Province of New Brunswick continue to permit the legal and regulated operation of video gaming devices (commonly referred to as video lottery terminals or VLT's)? Inherent in this question is one of the problems with using referenda to formulate policy. If voters answer "no," are they saying they'd prefer that VLTs be unregulated? If they vote "yes," do they believe they are voting to regulate what is (apparently) an unregulated industry? How do you vote if you want VLTs banned altogether? The phrase "legal and regulated" serves only to confuse the issue. In the end,

⁹ Back when local governments determined whether a county or a town was to be "wet" or "dry" (allowed or prohibited the sale of alcohol), plebiscites were used to determine whether the populace wanted to maintain or change the status quo.

53% voted “yes,” while 47% voted “no.” Voting turnout was a low 45%.¹⁰

New Brunswick’s Commission on Legislative Democracy recommended that the province adopt a Referendum Act, together with a protocol for the use of such referenda. Referenda would only be held concerning “exceptional issues or under exceptional circumstances” (CLD 2004: 16), but the Commission declined to enumerate what those circumstances might be. However, the Commission did explain that such a referendum would not override constitutionally-entrenched rights. As well, under their proposal, only the Government could initiate a referendum; citizens could not band together and force a referendum on a government. Finally, the questions would need to be clear, and answerable by a “yes” or a “no,” and the results “binding” on governments (CLD 2004: 27-28).¹¹ However, such an act was never passed (Belkhodja 2004).

Our position on the use of referenda is that, while some issues do indeed lend themselves to such a system, there is a danger that over time governments will use this process to manipulate voters and absolve themselves of their responsibilities. It is simply too easy, and therefore will be too tempting, for governments to word the referendum question in a manner designed to elicit a desired result. As well, governments will then be able to shrug off their responsibilities by blaming the resulting policy on the “binding” referendum vote.

¹⁰ Stewart Hyson (2001-02) provides an excellent analysis of New Brunswick’s VLT referendum.

¹¹ Some of these provisions are perplexing. It is a parliamentary principle that governments cannot bind themselves, and so it is naïve to suggest that any referendum could be considered legally binding on a government, nor could a referendum supersede a constitutionally protected right.

Some of these problems could be avoided if, as some proponents of direct democracy maintain, citizens were able to initiate their own referenda,¹² albeit within established parameters (e.g., a specific percentage of registered voters would be required before a referendum would be held). We agree that having such mechanisms in place would go a long way towards restoring the public's confidence in its government. But such a solution should not be seen as a panacea for all the problems associated with civic engagement. The political culture in this province remains staunchly partisan, and we fear that citizen-generated referenda will simply provide the opposition parties with an opportunity to persist in an election campaign they just lost. In other words, despite best intentions, such referenda will become dominated by current party machinery and will lose their effectiveness as a tool for citizen engagement.

We recommend that an appropriate legislative committee study the possible impacts of using referenda in New Brunswick, with a goal of proposing a Referendum Act, but caution that such a study must be comprehensive and detailed, and that it should carefully consider the many problems that referenda pose.

¹² See, for example, Boyer (1991).

Legislative Committees:

Legislative committees provide yet another means by which private citizens can, and do, participate in the legislative process. Normally, this usually involves being called upon to appear before a legislative committee as a witness. However, on some occasions, private citizens have been appointed to committees as non-voting members.

Background: Legislation before the House is referred to an appropriate legislative committee for discussion and review. Most such committees are known as “Standing Committees” because they are permanently constituted. Standing Committees are composed of Members roughly corresponding to the percentage of seats their parties hold in the Assembly as a whole. At the present time (2011), the Legislative Assembly of New Brunswick is served by nine Standing Committees: 1. Crown Corporations; 2. Estimates; 3. Law Amendments; 4. Legislative Administration; 5. Legislative Officers; 6. Private Bills; 7. Privileges; 8. Procedure; and 9. Public Accounts.

The Legislature also strikes, on occasion, Select Committees. These are committees organized for a specific purpose. Sometimes, Select Committees are struck because a particular piece of legislation is of such a nature that it does not fit well into the existing committee structure. Other times, a Select Committee is struck because the Legislature wishes to investigate a specific policy area or public concern, such as it did when it formed the Select Committee on Wood Supply in 2003, or the current Select Committee on Point Lepreau.

Like their federal counterparts, Committees can (or should be able to) subpoena witnesses and hold public hearings. They can also invite submissions and interventions. In New Brunswick,

some Select Committees have travelled across the province in order to gather the information they require. Holding hearings and interviewing witnesses provides a means by which legislative committees can allow private citizens to participate in legislative proceedings. However, except when the legislation being considered is a Private Bill, citizens do not have a right to insist that they be heard by a legislative committee (however, only citizens directly affected by a Private Bill have such a right).

Private Citizens as Members: There is also some precedent for legislative committees to appoint private citizens as members. There are two types of such appointments. Private citizens have been appointed as “ex officio” members of parliamentary sub-committees, which have in turn been tasked with studying a specific policy area. Similarly, private citizens have been appointed as “liaison members.” In both cases, these private citizens were allowed to participate in the full activities of the committee, including questioning witnesses and engaging in debate. However, they were not permitted to vote, nor did their presence count towards quorum (Marleau and Montpetit 2000: 826).

A Full House: 1987-1991: Finally, New Brunswick has had a unique experience regarding the participation of private citizens in the proceedings of the Legislature. This took place after the 1987 provincial election in which the Liberal Party under Frank McKenna won all 58 seats. McKenna recognized that this presented problems for a legislative system based on responsible government, which means an executive held accountable by the legislature, usually through an opposition party. So the Liberal Premier tried to provide some means by which the leaders of the

political parties which participated in the 1987 provincial election could play a role in the Legislature. The parties in question were the NDP and the PCs (the CoR Party was only constituted in 1989, and therefore was not included in this group).

Three of McKenna's proposals are of particular interest. First, "representatives of registered political parties, as well as recognized interest groups and members of the public, would be encouraged to participate as witnesses" before various legislative committees. The minister responsible for the specific legislation would also attend, and witnesses would be permitted to make presentations. This would include the "consideration of Main Estimates," which is normally conducted by the Committee of the Whole. Leaders of registered political parties (or their representatives) were also to be permitted to participate in the Public Accounts Committee. This would include presentations to the Committee as well as through written enquiries. The PC party, on the grounds that it received the second most votes in the 1987 election, was given two "ex-officio" (non-voting) seats on the Legislative Administration Committee (significantly, this committee was also charged with ensuring that the other proposed reforms were properly instituted).

Second, representatives of registered political parties would be permitted to take notes while they observed the proceedings of the Legislative Assembly (it is a long-standing practice under Westminster parliamentary conventions that "strangers" are not permitted to record or take notes). The leaders were to sit with the media, which in the New Brunswick legislature is on the floor of the assembly. Finally, legislative committees and cabinet would hold meetings outside of Fredericton.

Suggestions for Reform: The committee system provides an excellent means by which the public might be re-engaged with the legislative process, and it could furnish some measure of involvement for third parties. However, the committee structure needs to be re-evaluated, and some mandates need to be reconsidered. First, and noting that the Commission on Legislative Democracy has already recommended a different structure, we recommend that the appropriate committees of the Legislative Assembly should conduct a review of the overall structure of the legislative committee system, with a goal of considering whether the current structure provides the best division of labour.

One of the reforms that took place in the Parliament of Canada during the 1980s was to allow “standing committees to initiate on their own wide-ranging studies of [government] departments” (Smith 1999: 401). By undertaking such studies, committees would acquire a character and profile of their own and could provide opportunities for MLAs from different parties to forge collegial relations. Such committees could hold public hearings, accept public briefs and interventions, and would be encouraged to travel throughout the province. However, we recognize that such committees would require adequate support and resources.

Third Party Involvement: Furthermore, we recommend that one or more select committees be struck with specific mandates, and that such committees be encouraged to appoint appropriate representatives from third parties. We would leave it to the Legislature to determine what select committees to strike, but we would suggest that committees dealing with electoral reform, economic renewal, and perhaps health would be appropriate starting points. Finally, we recognize that the Committee of the Whole is not an investigatory committee, and therefore does

not hold public hearings. But we wonder whether this could be reconsidered? If it can, and following the precedent set in 1988, then the Committee of the Whole could invite representatives from third parties to make submissions and discuss pertinent matters.

The more important and comprehensive the subject matter, the more worthwhile the experience serving on the committee, and the higher the committee's profile, will be. Meaningful participation by third parties and other private participants is possible, but such opportunities must be chosen carefully, and all parties must recognize that such opportunities will be rare.

Free Votes, Responsible Government, and the Culture of Partisanship

“One thing that really disturbs me is when we,
as Members of Parliament,
are accused of being sheep who follow the party line.”

Perhaps the most prevailing criticism of the current legislative process comes from the perception that elected Members are forced to vote “the party line.” The implication is: such MLAs would prefer to vote according to their constituents’ wishes, but cannot under the party discipline system. Therefore, several parties over the years have called for more “free votes,” by which is meant either allowing MLAs to vote according to their own conscience, or according to their constituents’ wishes, or some combination (it is significant that the two are often confused). The question of “free votes” and party discipline is a complicated one, and involves both the constitutional principle of responsible government and the “team” culture of a political party. In this section, we discuss the several nuances surrounding the free vote question.

Discussion:

In the golden age of legislative assemblies, elected members engaged in lively but informed debate, deliberated solemnly on weighty issues, and came to a wise consensus on policies.

Whether such an age ever existed is questionable. However, the concept of a legislature in which Members were free to vote as they saw fit remains an ideal for which many citizens yearn. Most often, party discipline with its associated partisanship is blamed for the decline in legislative competence and decorum. Elected members belong to a party caucus overseen by a House Leader, and are disciplined by a party “whip.” Members who fail to vote according to the party line face retribution and are sometimes expelled from caucus and forced to sit as Independents. It is not difficult, then, to understand why the public would assume that party discipline compromises the freedom of Members to vote according to “their” wishes.

However, the question of why Members vote the way they vote is complicated. First, while it is true that Members who vote against their party do so at their own peril, nevertheless, challenging party discipline remains a rarity. Normally, this is not because the Member has been cowed but because the Member wants to vote with his or her party. Electoral politics in Canada, for better or for worse, is a team sport. Candidates are members of a party, they identify with that party, and their friends are in that party. Candidates aspire to be well-regarded by their party’s leadership. They hope to be respected and valued by their peers. As one party leader told us, “if House decorum permitted it, Members would wear team uniforms, just as if we were playing a team sport.” Many believe they are.

On the other hand, most backbench MLAs appear to welcome the prospect of voting freely, at least on some measures. Writing for the Commission on Legislative Democracy,

political scientist David Docherty found that

80% of responding MLAs supported (either strongly or with some qualifications) more free votes. Further, the same survey found that nearly one-third of respondents felt present levels of party discipline prevented them from properly representing their constituents. (Docherty 2007: 160)

But party discipline and the resulting restrictions on Member votes is as much the result of parliament's constitutional structure as it is political culture. The Canadian political system is based on the constitutional principle known as "responsible government," defined by John McMenemy (2006) as

The constitutional requirement that to remain in office within a parliamentary term, a government must retain the support of the elected legislature on major government legislation and motions of confidence (336).

Simply put, the very determination of which party enjoys the support of the legislature depends on the predictability of the voting behaviour of elected Members. Such predictability requires voting regularity, and voting regularity requires party discipline. So as desirable as they may be, any reforms instituted to free up votes will require reconsiderations of both how we understand responsible government and our current political culture.

Free Votes and Responsible Government:

The preamble to the Canada's Constitution Act 1867 states the following:

Whereas the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom.

A "Constitution similar in principle to that of the United Kingdom" has been traditionally been interpreted to mean a parliamentary system under which the prime minister or premier and

cabinet are chosen by either the Governor General of Canada or the Lieutenant Governor of a province¹³ from the elected members of their respective legislative assembly. The chosen government must maintain the support of that assembly in order to govern.¹⁴ Failure to retain that support means that the government is required to either resign (upon which time the Governor General would appoint another government) or request a dissolution of the assembly, thereby triggering an election. A government that has failed to retain the support of the legislature is said to have lost the legislature's confidence, and votes indicating that the government has lost support are called confidence votes (or non-confidence votes).

Just what constitutes a failure to “retain the support of the legislature” is a more complicated question. Some constitutional experts believe that a vote that goes against the government on any key policy item – particularly, although not exclusively on those requiring the expenditure of monies, or “money bills” – reveals a loss of confidence and therefore should result in one of the two scenarios outlined above. Others, including these authors, take a more cautious view, and believe that a loss of confidence is a situation revealed over time. Confidence cannot be said to be lost until the government loses a series of crucial votes, resulting in that government's inability to function (Desserud 2006). As Eugene Forsey (1963) explained,

¹³ Unless otherwise specified, references to the powers and responsibilities of the Governor General apply as well to that of the Lieutenant Governor. With rare exceptions, the parliamentary and constitutional principles and provisions that apply to the Parliament of Canada also apply to the provincial legislatures.

¹⁴ In the 1981 Patriation Reference Case (Re: Resolution to amend the Constitution [1981] 1 S.C.R. 753), the Court pointed out that “Responsible government was clearly the intention of those who framed the British North America Act, 1867, that responsible government should continue in Canada when they stated in the preamble to that Act that Canada was to have “a Constitution similar in Principle to that of the United Kingdom.”

governments once frequently lost votes, yet continued to govern. In any case, all agree that a defeat on the Throne Speech or the Budget is about as clear an indication that a government cannot govern, and so should result in resignation or dissolution.

Jennifer Smith argues that party discipline is an integral part of responsible government. It is the means by which a government knows whether it has or has not the confidence of the assembly. If votes were random, then governments would always claim that their support was pending. As she explains,

the interests of the nation as a whole are bound to come into conflict with the interests of a particular constituency on some issue or other. Thus it is essential to find ways of accommodating local interests within the horizon of a particular national policy. ... the disciplined parliamentary caucus of the political party is an admirable vehicle for this purpose. Its very partisanship is the engine that drives the effort at reconciliation. (Smith 1999: 405-5)

However, there is one more component that needs to be added, and that is the responsibility of the Governor General. The decision as to whether a government has lost the confidence of the legislature is ultimately left to the Governor General. By convention, the Governor General does not make such a decision without the advice of the prime minister, and it is for this reason that we commonly attribute dissolutions and election calls to the first minister. Recently, however, there have been a few cases suggesting that the Governor General's discretion here may be more important than has been previously thought. Specifically, the clarity of confidence has been called into question.

During the 38th Parliament, the Liberal Government was defeated on several motions, some of which were explicitly presented as confidence motions. However, the Government did not resign, nor did it seek a dissolution until it finally concluded that it was incapable of

governing (see Desserud 2006). More recently, the Conservative government avoided what it concluded was to be a defeat on a confidence motion by requesting the prorogation of Parliament (see Desserud 2009). In both cases, the Governor General was forced to determine whether her Government did or did not enjoy the confidence of the House, or at least whether the specific loss of confidence was fleeting or long lasting. In both cases, the difficulty in making this determination was the result of the two governments (Liberal and Conservative) being in a minority situation. Furthermore, in both cases, the Government was defeated (or threatened with defeat) on some measures, but supported on others. It can be said, then, that support for either the Liberal or Conservative government was fluid. This fluidity of voting behaviour in the legislature affects the clarity of the calculation of whether a government has lost the confidence of the assembly, and constitutes an unresolved challenge to our system of responsible government.

Most of the proposals for electoral reform currently being discussed in New Brunswick (and across Canada) include calls for systems incorporating some form of proportional representation. Furthermore, several of the proposals for reform of the legislative process in New Brunswick call for more free votes and less party discipline. If successful, both such reforms would add more fluidity to the voting behaviour of the legislature. Either there would be more parties involved, and so more chances for having a minority government, or party discipline would weaken and MLAs would break party ranks more often. In both cases, the Lieutenant Governor would be forced to take a more active role in determining what constitutes confidence, and whether a government has lost the confidence of the assembly. This is not necessarily a bad thing, but it is a very different role for the Lieutenant Governor than what the public has come to expect.

The solution, however, is not to abandon attempts at electoral reform. Instead, the solution is to clarify what constitutes (and what does not) a loss of confidence. Furthermore, as David Docherty points out, it has been to the advantage of Canadian governments to expand the definition of a vote of confidence (Docherty 1997: 160). By threatening to request a dissolution if a vote is lost, governments can convince wayward backbenchers, or sometimes opposition parties, to support bills which in themselves should not be considered matters of confidence. In other words, there is considerable leeway available to a government that embraces the idea of allowing Members the right to vote freely.

In the wake of the ignored confidence votes in the 38th Parliament, and the Prime Minister's request for prorogation in the early days of the 40th parliament, several new studies of these questions have appeared, and it would be useful for these studies to be assessed and reviewed by all Members. It is a long-standing parliamentary convention that the Speaker does not delve into, nor assess, whether a government has or has not lost the confidence of the Legislature, but perhaps an appropriate Legislative Committee could establish a set of principles which would guide the MLAs as to what confidence means, and when a government has lost the confidence of the Legislature.¹⁵

Free Votes and the Culture of Partisanship:

Even if a party's leadership freed its MLAs to vote as they wished, few would stray from the

¹⁵ This would not be an easy task, given that constitutional experts cannot agree on the question either. Nor can a legislative committee create binding rules on this subject, as ultimately it is up to the Lieutenant Governor to decide whether confidence has been lost. But that should not stop New Brunswick from considering its own guidelines on the subject, if only to help clarify the issue.

party line for no other reason than the fact that most elected members understand that their effectiveness depends on their ability to gain the trust of their fellow caucus members. This is especially true for an elected member on the government side. To be effective usually means being a faithful team member, someone who can be counted on, regardless of the consequences in the constituency. As former NDP leader Audrey McLaughlin put it:

One thing that really disturbs me is when we, as Members of Parliament, are accused of being sheep who follow the party line. First of all, we are not entrepreneurs. We are, in the main, members of political parties. Political parties have platforms. We run as candidates on a platform. (Smith 1999: 419, nt. 5)

McLaughlin has a point, and it is well-illustrated when we consider the public's reaction to Members who decide to change parties between elections. "Crossing the floor" is a more serious event than voting against one's party, but the reaction to such an event is usually negative.¹⁶ This is because the floor-crossing MLA is seen as having betrayed his or her constituents, who cast their ballots with the understanding that their MLA was a member of a specific party. Indeed, during the 2010 election campaign, both the PCs and the PANB called for legislation requiring an MLA who crossed the floor to resign and run again in a by-election, so that the Member's constituents could have the opportunity to decide whether they wish to be represented by a member of a different party.

There seems, then, to be a contradiction here:¹⁷ On the one hand, an MLA is assumed to have been elected as a member of specific party, and have won the seat because the constituents chose to be represented by that party. As such, changing parties constitutes a betrayal of the

¹⁶ Albeit less so when a Government member crosses to sit with the Opposition.

¹⁷ We do not mean to imply such contradictions exist within any specific political party; rather, they exist within the general concerns about MLAs and their responsibilities.

election result. On the other hand, MLAs who vote consistently with their party are thought to have been constrained to vote against their own will. In Audrey McLaughlin's words, they are perceived as "sheep who follow the party line."

This contradiction is resolved when we realize that what is really being demanded here is not that MLAs vote freely, but that they vote according to their constituents' wishes, regardless of what their party's platform or policies. But this is also problematic, not to mention contrary to a long-standing principle of representation entrenched in our constitutional conventions and those of the British Parliament from whence they derive. In the classic words of Edmund Burke in 1774, "your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you, if he sacrifices it to your opinion" (Burke 1887). Furthermore, what often seems to be a widely-held belief or point of view is often merely that held by the loudest or most influential. While polling and referenda can allow MLAs to gain a more accurate picture of what constituents want, these are expensive and cumbersome techniques that do not allow for the flexibility required when decisions have to be made on a daily and oft-times hourly basis. Nor are they as reliable as their proponents claim. A better approach, in our view, is to focus on what we consider to be the frustration behind the calls for free votes and member accountability, which is the disconnect between what MLAs do and what their constituents think they do.

Nevertheless, it is interesting in this context to note the remarks made recently by retiring CPC MP, John Cummins (Delta-Richmond East). Commenting on the partisanship and animosity of the 40th Parliament, Mr. Cummins pointed out that all "backbench" MPs – both Government and Opposition – had a duty to hold the Government to account, and that meant

sometimes voting against the “party line.”¹⁸ MPs could do so if parties permitted free votes more often. Therefore, if freeing Members from party discipline is a priority, then we suggest the Government considering the “three-line whip” system currently used in Great Britain, and recommended by the Commission on Legislative Democracy in New Brunswick (CLD 2004: 21). Under such a system, the Government (or Opposition Party for that matter) declares a vote as a three, two, or single-line whipped vote depending on its importance to the party’s priorities. A three-line whip requires all caucus members to attend and vote with the party; a two-line whip means attendance is necessary, but party vote is not mandatory (except for cabinet or shadow members); a single-line vote frees all members to vote as they so wish. Note, however, that the large size of the UK House of Commons allows for much greater freedom in MP voting than would exist in New Brunswick, and in all likelihood even the use of a three-line whip would rarely result in MLAs voting against the party line. MLAs will quickly come to regard free votes as an excellent opportunity to score even bigger points with their colleagues and party leadership.¹⁹

¹⁸ John Cummin’s statements came on the 26 March 2011 broadcast of CBC’s The House, available on podcast at http://podcast.cbc.ca/mp3/thehouse_20110326_47195.mp3.

¹⁹ It should go without saying, but bears repeating, that there are no legal restrictions on how Members vote. Any restrictions imposed on an MLA are purely political and social, albeit powerfully so.

Education and Research

If legislative committees are to expand their mandates and activities, including travelling throughout the province and holding public hearings, then they will need sufficient resources. This includes research support for MLAs. As well, if third parties are expected to make contributions to the legislative process, then they will also need research support.

We also wonder whether some of the concerns voiced by New Brunswickers over their legislative and electoral system stem, in part, from the fact that as a province – for that matter as a country – the Province (and for that matter, the nation as a whole) does not do a good job of educating citizens about how their government works. Public hearings could provide an excellent opportunity for public education.

We believe, then, that expanding the mandate of some legislative committees and providing such committees with adequate resources would contribute significantly to the public's understanding of the legislative process, and provide committee members with a more meaningful role.

Discussion:

The Commission on Legislative Democracy recommended that an “independent Legislative Library Research Office be created and funded to serve all MLAs, and to support the role of strengthened legislative committees, ensuring that individual MLAs can research policy issues on behalf of constituents and acquire more legislative expertise in specific policy areas.” We support this recommendation, but would expand its services to include providing research support for all registered political parties. The reasons for doing so should be fairly obvious. If we expect MLAs, and in some circumstances representatives from third parties, to make meaningful contributions, then we must provide committee members with adequate resources, which include research support.

The goal of providing research support is to increase the independence and improve the capacity of backbench MLAs. However, we believe that in doing so, a larger benefit will be realized. New Brunswickers enjoy an access to their elected representatives that would be impossible in a larger province. As such, much of the day-to-day communication that citizens have with their government and its structures is through their MLAs. This provides MLAs with an excellent opportunity to help explain policies (whether they are for or against), and how the policy and legislative process works. But Members need educational and research support if they are to take on this added responsibility. Using the excellent resources available through the Legislative Library would be a good start, but to do so would mean that additional (and dedicated) staff would be required.

Legislative Internships and Scholar-in-Residence:

Another way to both increase research capacity and improve public education would be for the New Brunswick Legislature to institute a Legislative Internship programme, based on the programmes currently in place in the House of Commons and the Ontario Provincial Parliament. Such programmes have proven to be very popular and valuable. Under such a programme, well-qualified students would be paid to act as legislative assistants (primarily for research) for back-bench MLAs.²⁰

As well, we suggest that the Legislature institute a “Scholar-in-Residence” programme. An academic researcher with a speciality in legislative procedures could win the right to spend his or her sabbatical working in the Legislature reviewing and researching the proceedings, as well as visiting schools and hosting conferences and public speaking events. A modest stipend covering (some) expenses would likely be all that would be required to attract such a scholar.

Finally, we think a public educational campaign, coordinated with the province’s schools (K-12), should be developed in which New Brunswickers would learn more about such subjects as:

1. How a Bill becomes law;
2. The role of the MLA;
3. What a confidence vote is;
4. What responsible government is, including its history in Canada
5. The many electoral systems used around the world.

²⁰ In February 2006, the five New Brunswick university political science departments presented a joint proposal to the Standing Committee on Legislative Administration concerning the creation of such a programme. See Bateman (2006). Note that the Ottawa and Toronto programmes are administered by the Canadian Political Science Association. A similar relationship in New Brunswick might be possible with the Atlantic Provinces Political Studies Association.

In any case, in the current debate over electoral reform taking place in the province, much confusion exists over not just what, for example, proportional representation means, but what its purpose is. Any attempts at electoral reform, regardless of how well intentioned, will need to be preceded by a comprehensive programme of public education on electoral systems. We note the importance of party voting to responsible government, as well as what constitutes a confidence vote, is not well understood and may not be well understood even by elected members.

Therefore, MLAs may be making decisions which are interpreted by a public that does not fully understand the responsibilities of their elected representatives, nor the procedures of the Legislature.

Use of “New” Media:

Opening Government

New media technologies provide unprecedented opportunities for improving civic engagement. The authors recognize that this is a technical area in which they possess no expertise. However, such expertise exists. Therefore, we recommend that:

The Government and the Legislature consult with experts in this field, such as Mr. David Eaves (<http://eaves.ca>), to explore and institute ways to better use current information technology to provide for more open and accessible government.²¹

²¹ See as well <http://openparliament.ca> and Lathrop and Ruma (2010).

Electoral Reform

Is it time to move past the First Past The Post?

When confronted with issues such as a decline in civic engagement, political jurisdictions in Canada invariably consider reforming their electoral systems. Several such attempts have taken place in Canada; however, none have succeeded. This is in part because the proposed changes were deemed too complicated or “foreign” to a public that prefers the familiar First Past The Post system. In this section of our report, we provide an overview of the different electoral reform initiatives that have taken place in Canada. We also discuss the different electoral options available. We believe that another reason why such initiatives have failed in the past is because those promoting the reforms were unclear about what the purpose of the reform was to be: each system (e.g., Proportional Representation or Single Transferable Vote) is designed to deal with a particular aspect of a given political culture, and each provides a different result. Some are designed to force parties to broaden their appeal, others to allow for a wide range of voices to be heard. Before it can reform its electoral system, New Brunswick will need to decide what it wants such reform to accomplish, and what it hopes to avoid. This will not be an easy task, but it could be part of a robust and useful debate.

Discussion:

There has been a growing debate in New Brunswick concerning which electoral system would be most appropriate for this province. It should be pointed out that New Brunswick did not choose its electoral system: the First Past The Post (FPTP) system was the only choice available to the architects of the new confederation in 1867, most of whom would probably have been quite surprised by the current debate.²² Regardless, it is likely that even if the Framers had consider different options, they would have chosen the SMSP system. This is because the SMPS system is designed for compromise and accommodation, and is particularly efficient at stabilizing a political community which might otherwise be prone to ethnic divisions and cleavages.

Like the country as a whole, New Brunswick's political culture has been historically divided along language lines, an ethnic division that in the early years of the province's history threatened to split the province in two. However, the traumatic experience of the Caraquet riots in 1875 convinced both English and French elites in the province to downplay linguistic differences (Wilbur 1989: 39; Andrew 1996: 110), and to seek accommodation through the two main political parties, the Liberals and the Conservatives. Such has been New Brunswick's political history ever since.

Nevertheless, recent electoral distortions have once again emphasised the need for a reconsideration of the current SMPS electoral system. Consider the following:

In 1987, the Liberal government under Frank McKenna received the highest share of votes in the history of the province, winning 60% of the 411,136 votes cast. In contrast, the Progressive Conservatives received 28% of the votes, and the NDP 10.5%. However, the result

²² They did, however, consider other options. See Ajzenstat (2003: 85).

was that the Liberals won all 58 seats. The FPTP electoral system translated 60% of the votes into 100% of the seats.

In 1991, the Confederation of Regions Party shocked political pundits by winning eight of the 55 seats, or 14.5% of the total seats, and became the first party other than the Liberals and PCs to form the Official Opposition. In that same election, the PCs won just three seats (the NDP picked up one seat and the Liberals won the remaining 46). The total votes for the CoR Party, however, were only marginally more than those received by the PCs: the CoR won 21.2% or 87,256 votes, while the PCs won 20.7% or 85,210 votes. The NDP's one seat came as the result of receiving 10.8% of the votes, while the Liberal majority, 84% of the seats, was based on receiving just 46.8% of the votes.

In 1999, the Liberals suffered one of their worst defeats in their history, seeing their 45 seats (48 in the 1995 election) reduced to just 10, or 18% of the seats. Meanwhile, the PCs won 44 seats and the NDP, one. Again, the NDP's single seat was the consequence of receiving 8.8% of the votes. The PCs won a strong 53% of the votes, but the Liberals nevertheless were the choice of 37% of those who cast valid ballots.

In 2006, the Liberals defeated the incumbent PCs by winning 29 seats to the PCs' 26 seats. The Liberal popular vote was 47.1%, so higher than the percentage they had received in 1991, but this time it translated into a more reasonable 53% of the seats. However, the PCs, who lost the election, actually received more votes than the Liberals, winning 47.5% of the vote.

Finally, in 2010, the PCs won a landslide victory over the Liberals by capturing 42 seats to the Liberals' 13. The PC win was the result of a 48.8% popular vote – substantial, but still less than half of the votes cast. Meanwhile, at just 34.4% of the popular vote, the Liberals' result was

the worst in its history. Nevertheless, 34.4% of the vote translated into only 24% of the seats. Furthermore, the real story of the 2010 election was the fact that the PCs doubled their seat total (21 seats at dissolution, 42 seats won election night), but only increased their total vote from 177,744 to 181,776, an increase of just 4,032 votes. The Liberals saw their vote total drop from 176,410 to 128,113 votes or a loss of 48,297 votes. It can be argued, then, that the PC win was not the result of a massive swing of support to that party. Rather, it was the consequence of a swing of votes away from the Liberals, which were in turn ineffectively distributed amongst other parties.

Meanwhile, parties other than the Liberals and the PCs find that their inability to translate new support into seats frustrates their supporters and prevents their growth. This deprives New Brunswickers of electoral choice, and limits the range of opinions that are heard.

Not surprisingly perhaps, the three parties that did not win seats in 2010 (the NDP, Greens, and PANB) are unanimous in their call for electoral reform, specifically the adoption of (some form of) proportional representation (PR). Other groups, such as Democracy for New Brunswick, also support such reforms and recently a group of concerned citizens – including a number of academics and former Legislative Democracy commissioners – have written to Premier Alward calling on him to consider adopting a PR model. It seems, then, that electoral reform is widely seen as the most effective way to deal with the decline in citizen engagement. To quote one party leader, proportional representation was “all they were really interested in.” Several leaders told the authors that they regarded other attempts at (for example) procedural reform to be a tepid response to the civic engagement problem.

We believe, then, that external reforms – in particular reforms of the province’s electoral

system – are necessary, long overdue, and essential if New Brunswick’s governance system is to successfully re-engage the province’s citizens. However, we do not believe that the solution to these problems will be a simple one. Each electoral system, including the current FPTP system, brings with it certain strengths and weaknesses, and each has a specific purpose or goal. Some electoral systems, such as the FPTP system, tend to produce stable, majority governments that obscure or mute ideological or ethnic differences. Under a FPTP system, parties act as brokers, seeking the widest basis for consensus. Other systems, such as the STV system, are useful for fractured or divided societies in which there are a number of distinct groups, usually based on ethnic identity. Under a STV system, politicians are encouraged to broaden their appeal to members of communities other than their own, given that a voter’s second or third choice can make the difference between a political party’s success or failure. PR systems encourage a multiplicity of voices, and while they are notorious for their inability to produce stable, majority governments, PR systems are valued for their ability to ensure that minority views have a voice and can be heard.

Before New Brunswick embarks on electoral reform, it needs to first reach some consensus on what it expects from its electoral system. Then it needs to evaluate the many models available before it decides which one is most appropriate for the province. Finally, it would be worthwhile that whichever commission or committee is tasked with recommending electoral reform carefully study the problems faced by provinces such as British Columbia and Ontario when they tried to put electoral reform proposals to a referendum (see, for example, Stephenson and Tanguay 2009).

The Way Forward

This Report was written to begin a conversation; it was not meant to, nor could it be comprehensive or definitive in either its research or recommendations. It is simply a start, and we hope it is a useful start. There is much that needs to be done before meaningful reforms can be made, and the authors are aware that they have just scratched the surface. Indeed, the more we studied these questions, the clearer it became that issues such as democratic governance, civic engagement, and third-party involvement were incredibly complicated and nuanced. Much more research needs to be completed on the workings of the legislative assembly, particularly on the implications and effects of any changes. As a noted study of parliamentary procedure once put it, “every reform [creates] its own problem” (Sutherland 1991).

Unlike other reviews underway in New Brunswick, we did not attempt to consult the public, not in any meaningful or complete manner. Before any reforms are suggested or instituted, some consultation will need to take place. We suggest that the first consultations be with the elected MLAs, and it is unfortunate that we were not able to complete such a consultation ourselves. We also recommend a broad public consultation. While we recognize that the details of legislative procedure might not be of great interest, we believe that the public would value consultation on more general questions of just what role it expects New Brunswick MLAs and political parties to play. And certainly the public will need to be consulted on any reforms to New Brunswick’s electoral system.

Post Script:

We did consider other means through which third parties could participate in the legislative process. These would include using petitions and posing questions by proxy in Question Period. In the end, we decided that neither of these would work, or would not work well enough to make them worthwhile.

In the end, we concluded that the point of involving third parties in the legislative process is really to improve civic engagement in general. It is with that spirit that we composed this report.

Summary of Recommendations

Review of Legislative Procedures:

We recommend that the appropriate committees of the Legislative Assembly conduct a review of:

- a) the point at which a bill is sent to the relevant committee. We suggest that the Legislature follow the lead of the Parliament of Canada which now allows certain bills referred directly to committee (i.e., after first reading). The purpose is to allow the committees to provide more input on legislation, and to do so before partisan lines are clearly drawn. At a minimum, the Commission on Legislative Democracy's recommendation that MLAs have more time between readings should be considered (CLD 2004: 21).
- b) the Legislature's order of proceedings. We wonder whether the time of the MLAs is being used efficiently and effectively. Are some agenda items no longer useful, or do they take up too much time?
- c) Question Period. New Brunswick should monitor closely and, if possible, participate in the research presently underway by the Canadian Study of Parliament Group concerning the conduct and reform of Question Period in the House of Commons.

Review of the Committee System:

We recommend that the appropriate committees of the Legislative Assembly should conduct a

review of:

- a) the overall structure of the legislative committee system, with a goal of considering whether the current structure provides the best division of labour. We suggest that the Legislature carefully review and consider implementing the recommendations with regard to the committee structure contained in the Report of the Commission on Legislative Democracy (CLD 2004).
- b) the mandate of the legislative committees.
 - 1) We suggest that the Legislature follow the lead of the Parliament of Canada, and provide standing committees to initiate, on their own, studies of government departments.
 - 2) We further suggest that whenever and wherever possible, Committees (standing as well as select) be encouraged and provided with the appropriate resources to:
 - i: hold public hearings;
 - ii: accept public briefs and interventions;
 - iii: meet outside of Fredericton.
- c) the function and proceedings of the Committee of the Whole. Is the Committee of the Whole doing work more appropriate for a Standing Committee? If so, is this because a more appropriate Standing Committee needs to be created?

Referenda:

We recommend that an appropriate legislative committee study the possible impacts of using referenda in New Brunswick, with a goal of proposing a Referendum Act. However, we also

caution that such a study must be comprehensive and detailed, and carefully consider the many problems that referenda pose.

Involvement of Third Parties on Legislative Committees:

Under the Westminster Parliamentary system, Legislative Committees can appoint ex officio and/or liaison members. These are private citizens who participate in the full activities of the Committee (e.g. interview witnesses, debate with committee members). However, they do not vote, nor is their presence counted towards quorum.

We do not believe that such appointments need (nor should) be made for all committees. However, we do recommend that several Select Committees be struck with specific mandates, and that such committees be encouraged to appoint appropriate representatives from third parties.

Further, we suggest that the Committee of the Whole consider the possibility of occasionally holding public hearings, and in so doing, invite representatives from third parties or members of the public to make submissions and discuss pertinent matters.

Free Votes:

There has been considerable discussion about the desirability of having more “free” votes in the Legislature. Free votes, says conventional wisdom, would liberate MLAs from party discipline, and allow them to better represent their constituents. While we respect the sentiment behind the call for more free votes, we do not believe freeing up MLAs to vote according to their

constituents' wishes, or their conscience, is realistic, nor do we believe it will accomplish what free-vote proponents believe it will. Simply put, elected members are not voting with their parties because they have to; they are voting with their parties because they are enthusiastic members of their party. Nevertheless, it might be worth considering the "three-line whip" system currently used in Great Britain.

Education and Research:

We believe that more needs to be done to provide MLAs and third parties with research support, and to educate the public on the legislative process. Indeed, much of the public's frustration with the political process might be because of a lack of understanding of how it actually works.

Therefore, we recommend:

- a) expanding the ability of the Legislative Library to provide research support for MLAs;
- b) allowing registered third parties access to such research support;
- c) instituting a Legislative Internship programme, based on the programmes currently in place in the House of Commons and the Ontario Provincial Parliament. Well-qualified students would be paid to act as legislative assistants (primarily for research);
- d) instituting a "Scholar-in-Residence" programme;

e) instituting a programme of public education concerning the operations of the legislature, including (but not restricted to):

1. How an Bill becomes law;
2. The role of the MLA;
3. What a confidence vote is;
4. What responsible government is, including its history in Canada
5. The many electoral systems used around the world.

Use of “New” Media:

New media technologies provide unprecedented opportunities for improving civic engagement. The authors recognize that this is a technical area in which they possess no expertise. However, the expertise exists. Therefore, we recommend that:

The Government and the Legislature consult with experts in this field and explore and institute ways to better use current information technology to provide for more open and accessible government.

Commission on Legislative Democracy:

Much of what we discuss in this Report has been dealt with in greater depth by the Commission on Legislative Democracy (CLD 2004). Therefore, we recommend that the appropriate legislative committee review the Commission on Legislative Democracy’s recommendations, with a particular focus on those dealing with the internal working of the Legislative Assembly. We also urge the Legislature to consider the other recommendations offered by the Commission.

The Way Forward:

The first step in dealing with these recommendations is likely a fuller consultation process. We recommend the following:

- a) a repeat of the MLA survey conducted by Dr. David Docherty of Wilfrid Laurier University for the Commission on Legislative Democracy. This survey provided very useful information on a range of questions from the perspective of the elected members;
- b) a conference or workshop gathering parliamentary experts from across Canada, particularly those who have been involved in legislative and electoral reforms in their province;
- c) a broad public consultation, one which could also help improve the public's understanding of the legislative process.

APPENDIX A

Provincial Experiences with Electoral Reform²³

British Columbia

In 2004, British Columbia chose 160 citizens at random from its voting lists in order to constitute a Citizens' Assembly charged with examining the FPTP electoral system. The Citizens' Assembly conducted its work in three phases. The first phase examined and evaluated the different electoral systems around the world. The second phase conducted public hearings and also accepted public presentations. In the final phase, the Citizens' Assembly chose a form of the STV system for recommendation, arguing that this system addressed the three most pressing problems: proportionality, local representation, and voter choice.

The next step was to put the recommendation to the citizens of British Columbia in the form of a referendum, to be held during the May 2005 provincial election. To pass, the referendum needed the support of at least 60% of voters, as well as approval (by a simple majority) in 60% of the 79 ridings. This proved to be too high a bar, and the vote fell just short, with only 57% of British Columbians voting in favour. On the other hand, the STV proposal was supported in 77 of the 79 ridings, or by 97.5% of the ridings.

The BC government pledged to hold another referendum coinciding with the 2009 provincial election. The same thresholds were set; however, this time the proposal was soundly defeated, receiving just 38% of the vote. The difference in 2009 was the wording of the ballot question. In 2005, the ballot was a yes/no on the STV system; in 2009, a more convoluted

²³ For a more comprehensive overview, see Milner (2004).

question was used, asking voters to choose either the current system or the STV system.²⁴

Ontario

In 2003, Ontario Premier Dalton McGuinty announced the establishment of the Ontario Democratic Renewal Secretariat, whose mandate would be to consider how democratic engagement in the province could be improved. The Secretariat examined a wide range of issues, including member-participation within the legislature to the electoral system. A year later, McGuinty announced the formation of the Citizen's Assembly of Ontario, which would be tasked with reviewing the current electoral system in the province and, if necessary, making recommendations for its reform. The Assembly, which was made up of 103 Ontario citizens, eventually recommended that the Province adopt MMPS (see Glossary). The referendum was to be held simultaneously with the provincial election in October 2007. However, the recommendation only received 37% approval, and gained support in only five of the 107 ridings. As with British Columbia's second referendum question, Ontario's was not a simple yes/no question, with voters asked whether they preferred the current FPTP system or the alternative MMPS recommended by the Citizens' Assembly.

²⁴ The question in 2005 was: "Should British Columbia change to the BC-STV electoral system as recommended by the Citizens' Assembly on Electoral Reform? Yes or No?" However, in 2009 the question was: "Which electoral system should British Columbia use to elect members to the provincial Legislative Assembly? The existing electoral system (First-Past-the-Post)? The single transferable vote electoral system (BC-STV) proposed by the Citizens' Assembly on Electoral Reform?"

Prince Edward Island

In early 2003, the Prince Edward Island Government appointed a retired Chief Justice of the Supreme Court of PEI to examine the province's FPTP system. The one-person commission examined the electoral systems around the world with the hope of identifying an alternative system for Prince Edward Island. The Commission's recommendation was that Prince Edward Island should adopt either a D'Hont-based MMPS or a STV system. However, the final recommendation, taking into account which system would be more acceptable by Islanders, was that MMPS be adopted via a referendum. As well, MMPS would require less of a variation from the current FPTP system. From that recommendation, the government established a larger commission – The Commission on Prince Edward Island's Electoral Future – to look further into the issue and to develop a plebiscite question. This new Commission was directed to increase the public's awareness of both the FPTP and the MMPS.

The plebiscite held in November 2005 failed, as over 60% of voters indicated support for the existing FPTP system. The turnout for the plebiscite was significantly lower for Prince Edward Island than voting turnout in previous provincial elections. As well, there was a difference in opinion between the Government and the Commission on what number would be considered binding. The Commission wanted a simple majority to become binding, but the Government announced they would not be considered bound by any number less than 60%. Other factors, as well, contributed to a low turnout, such as a drastically reduced budget for Elections PEI, which in turn led to a 75% reduction in the number of polling stations.

APPENDIX B

Glossary

Backbencher: A member of a legislature who is neither a member of the cabinet, nor on the opposition's side, a party leader or designated party critic. (McMenemy 2006)

Caucus: Legislators of a particular political party who meet privately and regularly during sessions of the legislature to discuss policy and parliamentary strategy and tactics. (McMenemy 2006)

Confidence: Support on a money bill or other major legislation by a majority of members of a legislature required for a government to remain in office, thus maintaining the constitutional principle of responsible government. (McMenemy 2006)

D'Hondt system: A mathematical formula that allocates seats in a Mixed Member Proportional System (MMPS) to parties whose total votes on the regional party ballot are not reflected in the results of the single-member constituency ballot. See Hybrid (or Mixed) Proportional Representation.

Democratic deficit: A subjective measure of the difference between what the public expects from its political institutions and what those institutions deliver.

FPTP: First Past The Post. A term that describes the process by which votes are tallied in federal and provincial elections, and candidates declared elected in the single-member constituency system with plurality win. Under "first past the post," the winner in each constituency is the candidate who receives more votes than any other candidate, but not necessarily more votes than the other candidates' votes combined, that is, a plurality but not a majority of votes cast. Also known as Single-Member-Simple-Plurality or SMSP. (McMenemy 2006)

Fixed-date elections: A recurring, set date or time frame (e.g., the second Tuesday of a particular month) for a general election, usually within a four-year cycle. (CLD 2004)

Free votes: A division [vote] in a legislature when members, normally bound by party discipline, are free to vote as they wish (McMenemy 2006).

Frontbench: The first few rows of seats in the House which, on the government side, are occupied by the Prime Minister and the Cabinet and, on the Opposition side, by the leaders of the recognized opposition parties and their principal spokespersons. (GPP)

Hybrid (or Mixed) Proportional Representation: The Hybrid Proportional Representation system is commonly referred to as the Mixed Member Proportional System (MMPS). MMPS uses both the ideas of single-member districts as well as multi-member districts. With MMPS, voters cast two votes: one for the local candidate of their preference and one for the party of their

preference. The vote cast for the local candidate acts the same as the SMSP system, with the candidate receiving the most number of votes claiming the seat. The party votes are tallied after all of the local seats are allotted.

MMPS: See Hybrid (or Mixed) Proportional Representation.

Minority government: A government formed by a party that holds only a minority of seats in the legislature. Thus, the government's survival depends on the support of at least one other party or some members of another party and independent members of parliament who then hold the "balance of power." (McMenemy 2006)

Money bills: Financial legislation that deals with the spending of money (supply or appropriation bills) or with the raising of money (tax measures, ways and means). (McMenemy 2006)

Multi-member ridings: An electoral district, which returns more than one member to the Legislative Assembly or parliament. (CLD 2004) New Brunswick had Multi-Member Ridings up until 1974.

Proportional Representation (PR): An electoral system in which political parties hold a percentage of seats in the legislature that approximates their percentage of the popular vote in the previous election. (McMenemy 2006)

Plurality: The largest number of votes cast for a candidate in an election, not necessarily a majority of all votes cast. All provincial and federal elections in Canada operate on the single-member constituency system with "simple" plurality. (McMenemy 2006)

Preferential ballot: An electoral system that allows the voter to rank candidates in single-member constituency elections according to preference. (McMenemy 2006)

Private bills: Non-government legislation introduced by private members to alter the law relating to some particular interest, to confer rights on or relieve the obligations of some person, group of people, or a company. (McMenemy 2006)

Private members' bills: Public, non-government bills and motions introduced by legislators who are not in the cabinet. (McMenemy 2006)

Prorogation: The formal termination of a session of parliament by the governor general, acting on the "advice" of the prime minister (or a provincial legislature by the lieutenant-governor on the advice of the premier). (McMenemy 2006)

Public bills: Legislation introduced by the government to whose eventual passage, perhaps subject to minor amendment, the government is committed. (McMenemy 2006) Also known as Government bills.

Recall: A device by which electors can remove someone from elected office during their term of office. The Recall, a form of direct democracy, is associated with the delegate theory of representation, to ensure that legislators, once elected, faithfully represent constituents' interests and views. (McMenemy 2006)

Referenda: A means by which a policy, constitutional question, or proposed legislation can be put to the electors to register their approval or disapproval. (McMenemy 2006)

Responsible government: The constitutional requirement that to remain in office within a parliamentary term, a government must retain the support of the elected legislature on major government legislation and motions of confidence. (McMenemy 2006)

Single-member riding: A constituency or electoral district from which only one member of the Legislative Assembly or parliament is elected. (CLD 2004)

Single Transferable Vote (STV): A form of preferential ballot often used in multi-member districts. Voters rank the candidates on the ballot according to their preference. To be elected, a candidate must surpass a quota of first-preference votes. Voters can alternate preferences among political parties, and they may rank order all candidates, or mark only one if they wish. A candidate who does not meet the threshold is excluded. When a candidate is excluded, or if an elected candidate has a surplus of first preference votes, voter preferences are then re-allocated among other candidates. (CLD 2004)

SMSP:Single-Member, Simple Plurality. See FPTP.

STV: See Single Transferable Vote.

Select committee (special committee): A group of Members appointed to study a particular matter. Once it has made its final report, the committee ceases to exist. (GPP)

Third parties: 1) In a political system dominated by two parties, third parties refer to those other parties which participate in elections, but are not seen as contenders for either Government or Official Opposition; 2) Any person or group, except a candidate, registered party or electoral district association of a registered party, that incurs election advertising expenses to support or oppose a registered party or the election of a candidate. (Elections Canada)

Standing committee: A permanent committee established by the Standing Orders of the House. It may study matters referred to it by standing or special order or, within its area of responsibility, undertake studies on its own initiative. (GPP)

Three-line whip: A division requiring all caucus members to vote according to the party line.

Westminster system: A type of parliamentary system used in countries of British origin. It is characterized by having an elected, representative assembly in which the government is composed of members of the party supported by a majority of the assembly, and responsible to that assembly.

Whip: A Member charged with keeping other Members of the same party informed concerning House business, and ensuring their attendance in the House or in committee, especially when a vote is anticipated. (GPP)

Whipped votes: A division on a question during which Members follow the instructions of their respective whips so as to reflect the official positions of their parties. (GPP)

APPENDIX C

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