

Paradox and the Study of the Canadian Parliament

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Parliament holds a puzzling and ambiguous place in Canadian politics and political science. The parliament buildings in Ottawa stand as the most physical representations of our democracy, including on many textbook covers and department websites. But Parliament itself can be a bottomless void that symbolizes frustration and cynicism with the Canadian political system. This ambiguity also characterizes much of the research on the Canadian parliament, which until relatively recently was a largely stagnant backwater of circular and defensively normative academic research (Malloy 2002). There has been a revitalization of empirical research on Canadian parliamentary topics in the last decade or so, driven particularly by easier access and availability of quantitative data and tools. We know much more about parliamentary voting, debate and behavior. But the study of Parliament in Canada continues to lack a strong theoretical framework – a solid understanding of why the institution exists and its roles and functions. New research has not resolved many of the fundamental questions that led to the stagnation in the first place.

Canada is not alone here, as legislatures are increasingly understood as puzzles and paradoxes (Malloy 2010; Loewenberg 2011). Despite their highly structured and public nature, they are perhaps the most intricate and complex of political institutions, and the most difficult to understand. They symbolize democratic governance, and their very composition is the overwhelming focus of elections and voting and the chief concern of political parties. Yet once elections are over, many legislatures, including the Parliament of Canada, appear curiously unfulfilling and hollow at the centre. They are predictable with largely mundane and/or scripted proceedings, amid occasional short-lived disruptions and drama, and real decision-making and power appear to reside elsewhere, either in the executive or the giant and often opaque processes of the modern state. While these trends are typically most evident in parliamentary systems, they are found to some degree in all legislative bodies.

Consequently, whether in academic or popular discourse, there is an ongoing sense of disconnection and ennui about the very purpose of legislatures. We understand more and more empirically about how various aspects of legislatures work. But the core of legislative studies – especially attempts to analyze legislatures in normative terms - continues to be ambiguous. What does all this data mean? What are legislatures for? What do they actually do? What is the role of a collection of disparate individuals in the governing of modern complex states and societies? Legislatures embody contradictory impulses and tensions over questions of representation, accountability, decision-making, and democracy itself.

No country appears to embody this ennui more than Canada, and the Canadian Parliament, even among its Westminster counterparts, appears stuck in a permanent identity crisis. Calls for “parliamentary reform” are certainly not limited to Canada, yet they appear built-in and perennial to a much greater degree than in similar countries. While comparison here is admittedly more impressionistic than rigorous, Britain and Australia do not see the same flood of op-eds, studies and backbench MP memoirs that regularly appear in Canada calling for a total overhaul of their legislative institutions. This follows from a more general Canadian fascination with institutional tinkering and reform, currently best seen in proceedings over electoral system reform, but also in the great rounds of mega-constitutionalism in the late 20th century. No matter what the problem, it seems, Canadians see institutional reform as the answer, and nowhere is this more found than in our perennial dissatisfaction with Parliament.

This paper argues that understandings of Parliament are driven by two competing paradigms – a logic of representation, and a logic of governance, which hold equal legitimacy but are perennially in conflict with one another. These logics are found in all legislatures to some extent and particularly in other Westminster model parliaments. Yet Canada seems particularly consumed by conflicts between the two, and unable to reconcile the contradiction and paradox that is Parliament.

The Paradox: Ambiguous and Cyclical

Ambiguity is at the heart of the study of Parliament and its paradoxical nature. J.R. Mallory observed in 1979 that “[t]he House of Commons as an institution would be more effective if there was some general agreement about what its function is”; David Docherty wrote in 2005 that “until we delineate what functions they should be performing, it is difficult to hold representative bodies up to any type of standard” (5); and Samara authors Alison Loat and Michael Macmillan lamented in 2014 the “...lack of clarity about a job description” for MPs (99), and “...surely we can do better than the current inconsistent, and even contradictory, understanding of what an MP is supposed to do” (98). Until recently, all might have at least been able to agree on the House of Commons’ fundamental role in determining that a government is formed by whoever demonstrates that they retain the confidence of a majority of members. But even this was put into doubt by the minority governments of 2004-2011. The Martin government survived a vote of non-confidence by dubious means, and in December 2008 Stephen Harper claimed said that “[t]he opposition has every right to defeat the government, but [Liberal leader] Stéphane Dion does not have the right to take power without an election” (Laghi 2008). Such actions and statements demonstrated a continuing ambiguity and confusion about the basic rules, roles and functions of Parliament, and prompted the call to “democratize” our parliamentary constitution by adopting written practices found in other Westminster systems (Aucoin et al 2011).

Despite, or because of, this ambiguity about what Parliament is supposed to do, there is also a perennial cyclicity to discussions of Parliament and its reform. Dissatisfaction and concerns about the institution evolve over time, occasionally contradicting each other and constantly reemerging after periods of dormancy. Some of this is driven by changing contexts, especially minority and majority governments. In the late twentieth century, Parliament was widely seen as highly predictable and hence increasingly irrelevant; but the seven years of minorities from 2004-2011 presented a remarkably

unpredictable Parliament that was the centre of political attention, with dramatic votes and unprecedented rulings (Malloy 2010). Parliament mattered, although not in the way envisioned by most reformers. Since 2011, discussion has reverted back to the more traditional concerns of “excessive” party discipline and restless backbenchers, and while the incoming Trudeau government pledged to make Parliament matter again after the rule-bending of the Harper years, it is safe to assume the traditional patterns of majority government will assert themselves in the era of sunny ways. While Parliament undergoes episodic frenzies and controversies that briefly appear game-changing, it inevitably settles back into longstanding patterns.

Other cyclical aspects of Parliament are driven by the inherent tensions and contradictions of legislatures themselves, especially the relationship between past “reforms” and future “problems”. The titles of two articles say it all: Mallory’s “Parliamentary Reform: Every Solution Creates a New Problem” (Mallory 1979) and (speaking to a specific aspect) Sutherland’s “Responsible Government and Ministerial Responsibility: Every Reform is its Own Problem” (Sutherland 1991). There are many such examples. Current derided practices such as the use of party-approved lists in Question Period and elsewhere stemmed from a past desire to improve Parliament by curbing unruly behavior, confusion and inequities between members. The introduction of television in 1977 was intended to create greater transparency and public accessibility but is regularly blamed for a host of ills. MPs gave up their historic right to block supply in 1968 in return for a system of standing committees and designated opposition days on the parliamentary calendar; one can still discuss whether that was a fair trade. There is a constant escalation between opposition delays and obstructions and the introduction of new tools by governments. Standing committees’ basic “dilemma” between autonomy and relevance, first identified by Franks in 1971, continues despite numerous retooling over the years. As Axworthy (2009) suggests in parliamentary reform “everything old is new again.”

Ambiguity and cyclicity is even more evident in discussions of the Senate. In the 1960s and 1970s, the Senate was supposedly a “Lobby From Within” (Campbell 1978), criticized primarily for its ties to economic elite and senators’ simultaneous involvement in major corporate boards and businesses. This is barely an issue today. The Triple E proposals of the 1980s spoke to three main criticisms of the Senate – its regional formula, its appointment, and its unclear role – but the rankings of these three criticisms tends to shift over time. Regionalism asserts itself at times like the National Energy Program; appointment and a consequent lack of accountability at other times such as the height of the Mike Duffy trial; and effectiveness when the Senate either blocks, or fails to block, bills passed in the House of Commons, according to taste. Abolition and reform themselves tend to rise and fall in favour; abolition was ascendant at the end of the Harper era, but reform is back under Trudeau. Some of the Senate’s alleged strengths even address possible weaknesses of the House of Commons; it noticeably served as a check on both the Mulroney and Chretien majority governments, and its defenders note that its appointed membership is more diverse in gender and ethnicity than the House of Commons. Again, though, we see how different concerns and values come to the fore, and consequent debates about Parliament evolve over time. The crucial problems and seemingly essential reforms of today may be subtly or dramatically different tomorrow. And at the heart is a continued ambiguity and paradoxical understandings about the purpose of Parliament.

Parliamentary Reform

All of the above has meant a perennial industry of “parliamentary reform” and “a legion of improvers” (Smith 2007 9). We noted above that there has been a continual ebb and flow in the exact issues and complaints about Parliament. However, and leaving aside the particular dynamics of Senate reform, ambivalence over the Canadian House of Commons in recent times has gone through two distinct phases. The first was in the last decades of the 20th century, and focused particularly on concerns about party discipline and the role of the individual MP under a majority government. C.E.S. Franks captured this in his 1987 book that “ours is an age of reform” (arguably another example of perennial themes and/or cyclicity). Paul Thomas also observes that “during the three decades from the 1960s to the 1990s, the House of Commons underwent more study and reform than any previous time in its history” but, he concludes, “the payoffs in terms of enhanced parliamentary influence were marginal at best.” (2010: 113) Indeed, while the reforms of 1968, 1982 and 1985-6 led to changes in how Parliament works, none fundamentally changed the institution as a whole (despite James McGrath’s 1985 vow that ““This place won't be the same a year from now”). In particular, reforms did not seriously undermine their greatest targets - party discipline and the concentration of executive power – or resolve the basic ambiguity and paradox of Parliament.

Nearly all of the above period was characterized by majority governments. But from 2004-2011, Canada saw its longest ever period of successive minority governments, and this created a new and different set of questions and ambivalence. The House of Commons was composed of four parties, one of which was the separatist Bloc Quebecois, and the Commons was characterized by constant inter-party bargaining and occasional brinksmanship, as parliamentary votes came down to one or two votes or even ties broken by the Speaker. As noted above, discussions about Parliament now took a different form – it was less about the role of backbench MPs, and more about the constant brinksmanship and partisan rancor that characterized the House.

Even more importantly, the unwritten conventions that long governed the workings of Parliament were put to the test. Lacking the codified procedures now found in some other Westminster systems, Canada was thrown into one major and several minor crises in which government and opposition parties interpreted the unwritten rules about confidence votes, prorogation, parliamentary privilege, and the formation of governments quite differently to suit their purposes. In May 2005 the Martin government ignored what the opposition parties characterized as a vote of non-confidence; in December 2008 Prime Minister Harper requested a prorogation to avoid an imminent confidence vote, and also asserted that a proposed Liberal-NDP coalition was constitutionally illegitimate, leading to the most dramatic crisis since the King-Byng affair of 1926. In April 2010 the Speaker of the House of Commons was forced to rule on whether Parliament could have access to documents the government deemed secret for national security reasons; in March 2011, a parliamentary committee was denied information on government spending plans and the opposition members ruled that the entire government was in contempt of Parliament. These are only highlights of a remarkable pattern in which the different actors interpreted conventions to suit their advantage in unusually extreme [though not always unprecedented] ways, and it is significant that virtually no MP dissented from their party’s line in any of the above incidents. Partisanship rather than constitutional principle motivated their behavior.

The 2008 crisis was particularly concerning for many political scientists and constitutional scholars, demonstrating that there was no longer an inviolable consensus over the unwritten conventions of parliamentary government, including and especially the reserve power of the Governor-General. The strains of the minority era hence produced a new set of proposed reforms, especially calls for the codification of many previously unwritten conventions and understandings about confidence votes and the formation of governments (e.g. Aucoin et al 2011; Russell and Sossin 2009). As Russell says, “the time has come to bring those spooky unwritten constitutional conventions down from the attic of our collective memory and try to see if we can pin them down.” (Russell 2009: 148). But the election of a majority Conservative government in May 2011 ended the lurching unpredictability and constitutional ambivalence of the minority era and any immediate urgency for constitutional codification. Instead, discussions and laments have returned to the rhetoric of the earlier majority era, with concerns about time allocation, closure, omnibus bills, opposition delaying, “excessive” party discipline and other familiar themes of the earlier majority eras. These issues have yet to reassert themselves in strength in the Trudeau era, but it would be extraordinarily naïve to believe they will not return. Again, we note Axworthy’s phrase that “everything old is new again.” The paradoxes, ambiguity and cyclicity remain the same.

The Study of Parliament

The ambiguity and cyclicity of Parliament has also affected its study. In 2002 I suggested there was “a lack of momentum” in the study of Parliament, with the same themes occurring again and again (Malloy 2002). Two more recent studies of the academic literature came to the same conclusions – David Smith found that “despite Parliament’s centrality, it is a subject of declining study” (2007:10) and Sharon Sutherland observed in 2010 that “over roughly the last decade, scholars have not shown much interest in Parliament’s organization and operations by any available yardstick.” (Sutherland 2010:). However, these assertions must be partly corrected since there has been a noticeable burst of activity in the last half-decade (not to mention Smith’s own books on both the House and Senate). We have seen recent book-length studies of parliamentary topics by Blidook (2012) and Gervais (2012), landmark studies of voting in Parliament by Godbout and others (2011), at least two volumes provoked in whole or in part by the 2008 crisis (Russell and Sossin 2009; Aucoin, Jarvis and Turnbull 2011), related scholarship such as Soroka’s studies of Parliament’s role in agenda-setting, immersive studies of MPs by Koop, Blidook and Bastedo, the digitizing of parliamentary debates, and much, much more. A separate and rich body of work in recent decades has looked at women’s representation in Parliament. Popular discourse, aided by the ease of technology, has also flourished, with organizations such as Samara and outlets like ipolitics and the online Macleans providing space for lengthy and intelligent discussions.

This recent surge of research is welcome for many reasons, and not just for its sheer volume. The study of Parliament has traditionally had a strong normative streak (Malloy 2002), including a strong tendency toward correction of alleged misunderstandings (e.g. Smith 1999). Much of this new work is more empirical and detached, partly aided by new technologies that have allowed much greater and simpler access to quantitative data. Yet it is still partly true that Parliament *itself* – rather than its various component parts – remains understudied (or as Blidook puts it, “both overstudied and understudied” (2012: 1)). We know more than ever about different aspects of Parliament, but few have

tackled the overall, fundamental paradox at the heart of the institution. In fact, at least some of this work has arguably only added to the paradox – for example, by focusing exclusively on MPs’s individual representative roles.

The paradox poses a continuing problem for the study of Parliament in Canada, and especially the development of comprehensive theoretical understandings and frameworks for its study. Past studies that imported theoretical models designed for the study of American legislatures (e.g. Kornberg 1967) became stymied and inconclusive, since tools designed for the study of congressional legislatures – such as tracking the introduction of bills and amendments – have limited relevance for parliamentary institutions. The most useful and transferable theoretical models are rooted in rational choice and formal models (Lever 1994, Kam 2009), but these have gained limited traction in the larger Canadian literature.

In the end, while the study of Parliament has clearly *increased* in recent years, and often in exciting ways, it remains somewhat disparate. It offers limited tools and understandings to aid popular discussions about Parliament – perhaps because the discussions are so perennial and cyclical, there is little new reflection to add. Regardless, while we understand more about how Parliament works, we have not advanced our understanding of its basic paradox.

Competing Logics

In the study of Parliament, and especially calls for its reform, we can identify two broad, competing and perennial expectations for the institution. One is the ideal that legislatures are about representation and deliberation; in such arguments the key criticism is the dominance of political parties and the lack of autonomy for individual members and prerogatives for independent parliamentary actions. For many, legislatures are at the heart of a “democratic deficit” (Lenard and Simeon 2012) whereby citizens feel disconnected from government and unable to be heard, even through their elected representatives. But the opposite argument emphasizes that legislatures, especially Westminster parliaments, are places of responsibility and accountability – where governments decide and are held to account. Here the deficit or dysfunction stems from an excessive diffusion rather than a concentration of power, and a failure by MPs to play their roles of scrutiny and holding government to account, not governing themselves. This criticism was particularly evident in the seven years of minority government from 2004-2011, and underlay Prime Minister Harper’s plea in the 2011 federal election for “a strong, stable, majority government.” But even in majority eras, there is the same complaint that legislatures, and legislators, fail to play significant roles, not necessarily because of government dominance but in part because of their own self-inflicted weakness or “infantilization” (Sayers and Banfield 2006).

I suggest that these competing expectations and inherent paradoxes can be understood as the *logic of representation* and the *logic of governance*. The first, the logic of representation, focuses on Parliament as a representative body – a set of “arrangements by which some persons stand and act for others” to use the classic definition of Hanna Pitkin (Laycock 2004 x). This logic emphasizes Parliament as the voice of Canada – each member of the House of Commons tied to a specific electoral district,

which when combined, comprises the whole of Canada. Similarly, the Senate, while not directly connected to the people by elections, follows a formula designed to represent the four regions of Canada equally and senators, ideally, further reflect the full diversity of Canada. The logic of representation primarily emphasizes MPs as individuals accountable to their local communities. It may also draw attention to MPs' gendered, ethnic and other characteristics, again emphasizing their function as representatives – standing or acting for – other communities besides their electoral district.

The logic of representation then primarily emphasizes MPs as individuals and as vehicles of representation from communities to Parliament. It may see political parties as interfering with this function, substituting MPs' role as representatives with party discipline based on the leader's inclinations and calculations. Or, it may see parties as aggregators – bringing together members representing similar views and interests into a larger representative vehicle. Regardless, the primary emphasis is on representation – Parliament as the body that stands and acts for Canada, and is the accumulated voice of Canada.

In contrast, the *logic of governance* emphasizes Parliament as a decision-making body. While recognizing the representative dimension above, the logic of governance sees Parliament – and specifically the House of Commons - as the body to which government must remain responsible. Assuming that it retains that responsibility to Parliament, government, and more specifically the prime minister and cabinet, then acts as the dominant actor in Parliament – controlling much of its agenda, determining the bulk of legislative business and, especially if it possesses a majority of seats in one or both houses, getting its bills and motions passed. Responsibility is maintained daily through Question Period, and more indirectly through legislative debate, through the scrutiny functions of committees, and is tested occasionally through votes of confidence.

The logic of governance sees MPs primarily as part of this larger process, forming into government and opposition blocs (and further blocs within opposition) and playing roles within the larger process of forming governments and holding them to account. Hence C.E.S. Franks argues that there are four functions of a Parliament – to make a government, to make a government work, to make a government behave, and to form an alternative government (Franks 1987). This list does not dismiss the individual roles of MPs, but emphasizes their *collective* roles within these functions, which are of course closely linked to political parties and party leaders. Representation is an essential part of this dynamic, but the ultimate emphasis is on governance, decision-making, and the overall accountability of governments to the House of Commons and ultimately the Canadian electorate.

These concepts are admittedly not new. Birch (1964) draws back into the seventeenth century to identify “Tory” and “Whig” views of Parliament, which he develops into the dual concepts of representative government and responsible government. For Birch, “the essence of the Tory attitude was the belief that the function of Parliamentary representatives was not to take part in the formulation of policy but to express the grievances and represent the interests of their constituents” (26). Conversely, Whig ideas embodied “the belief that Parliament should have a large share in the responsibility of governing the country, and that Members of Parliament should be as much concerned with debating the national interest as with representing the various sectional interests within society.”

Building on this, Franks (1987) distinguishes between executive-centred (Tory) and parliament-centred (Whig) approaches to Parliament, along with more collectivist or socialist conceptions that emphasize the centrality of parliamentary democracy but reject the more individualist Whig approach of Parliament. And Rhodes *et al* suggest competing themes of “‘elective dictatorship’ versus ‘theatre of action’” in *Westminster Parliaments* (2010: 190). Regardless, the dichotomous logics focus on the basic paradox of parliamentary institutions, especially in the Westminster model – are they there primarily to ratify the actions of duly-elected governments, or to make autonomous decisions in their own right?

The logic of representation and the logic of governance developed very slowly in British parliamentary tradition but in relatively speedy terms in 19th century Canada. This may partly explain their ongoing tension in Canada, yet we must also note how their emergence in Canadian history was gradual and undramatic, and this may also be a contributor. The first representative assembly in Canada met in Nova Scotia in 1758, with similar bodies soon after in Prince Edward Island and New Brunswick, and in Upper and Lower Canada (Ontario and Quebec) in 1791. In the nature of the times, certain men of property elected representatives of their communities to sit in these legislative assemblies. We can understand this as an early form of the logic of representation, skewed of course by gender and class. But in any event, this was not the same as *responsible* government. As students of Canadian history hopefully know, the principle that governments must enjoy the confidence of the legislative body was put into practice in the late 1840s, after a period of agitation and struggle. But as those who must teach this history certainly know, this implementation was murky and largely opaque, revolving around the confidential November 1846 instructions of the British colonial secretary to the Governor of Nova Scotia to select government ministers that enjoyed the confidence of a majority of the legislature; the governor did so at the next available opportunity in January 1848. A similar process took place in the recently unified Province of Canada (modern Ontario and Quebec) in February 1848, with the other colonies following rapidly thereafter. In this manner, responsible government and the logic of governance joined with the logic of representation, but in a rather disjointed, evolutionary and undramatic fashion that few Canadians can effectively recount or explain.

Understanding of these two logics is also affected by the proximity and visibility of the American experience. The United States has a distinctly different system of government that, at least in theory, prioritizes the logic of representation. The logic of governance is much simpler in the United States, where presidential terms are fixed and their powers more circumscribed. The concept of responsible government is foreign to the American system, which far from linking the government to the legislature, explicitly separates the President and executive from the Congress, as well as the judicial branch, and enacts “checks and balances” to reduce influence of one over the other. American political discourse emphasizes the principle of “the people” and their representatives, with a primary link between the two. Members of Congress have traditionally operated much more independently than Canadian or British legislators. Not only has party discipline become more relaxed, but American legislators enjoy much more individual control over the legislative agenda. American legislators can introduce bills and motions at any time, while Canadians can only do so through the specific quotas and mechanisms of private members’ business.

Some argue that a key problem of the Canadian Parliament is that too many Canadians have picked up American ideas and impressions based on the logic of representation, failing to understand the crucial institutional differences and the equally central concept of the logic of governance. Typical of this vehemence is John Stewart's assertion that "[i]f we are to understand the functions of the House of Commons, we must begin by purging from our minds both every taint of congressionalism and the view that Parliament is 'the legislature'" (1977:1). Indeed, as noted above, the study of Parliament in Canada often seems to be corrective and remedial like the above (Malloy 2002). There is undoubtedly some public and elite confusion between the congressional and parliamentary systems, but its exact effect is difficult to measure, and this alleged misunderstanding can serve as an easy excuse to dismiss concerns about the quality of representation in the Canadian Parliament and the dominance of governments and party leaders over its affairs. As well, we should note that in recent years, the United States has arguably come closer to resembling aspects of the Canadian model. Congress has become more disciplined along party lines, and presidents have tried to limit congressional oversight and maximize control and discretion within the executive branch. Regardless, there is little doubt that while the Canadian and American systems are distinctly different in design, American ideas and discourse have influenced Canadian thinking and understanding of legislatures and governments – but also served as a convenient foil for the defensive and corrective stream of parliamentary studies in Canada.

Evidence is mixed on whether Canadian MPs do understand the peculiarities of responsible government, the limits of their ability to initiate policy, and the overall tensions between representation and governance. At least some disillusioned MPs complain about their weak scrutiny function, rather than their inability to initiate policy, such as Brent Rathgeber's lament that "the members of the governing caucus see themselves as part of the government, rather than a check on the government" (64). On the other hand, the Samara exit interview project found that "[l]ess than five of the eighty MPs we interviewed...saw their role at all in terms of the traditional Westminster definition, centred on the MP's task of holding the government to account. Instead, the MPs defined their jobs chiefly in terms of representing the views of constituents and those of the party, sometimes with specific reference to advancing legislation, although often in more vague, general terms" (230).

Another question is whether these logics correspond to the political left and right. Pond (2007) identifies a "neo-liberal theory of representation" that downplays the independent value of legislatures in favour of governments claiming electoral mandates for their decisions – grounded in the logic of governance. He argues this underlay the 1990s Ontario Harris government's tendency toward omnibus bills and shrinking of the legislature, in the interest of implementing the electorally endorsed *Common Sense Revolution*. A similar impatience was observable in the Harper government, especially the Prime Minister's claim that a government (or a coalition) can only be formed with an electoral mandate, which becomes a trump card when encountering legislative difficulties. Even dissenter Rathgeber anchors his arguments in the political right and Parliament's supposed inability to control government spending: "[t]he result of an executive becoming increasingly unanswerable to Parliament, and therefore unaccountable, is that Canadian taxpayers and citizens are increasingly shut out of the decision-making process" (22). However, the logic of governance is not inherently right-wing; governments of all stripes express impatience and exasperation with legislatures. Indeed, social democrats have often been strong

supporters of party discipline and the right of governments to implement their mandates, while classical liberals were historically more supportive of strong legislatures that served as a check on government power. One might also note the strong commitment of the 1990s Reform Party – in opposition – to empowering individual MPs, reducing party discipline, emphasizing constituency views, etc.; clearly the logic of representation. A possibility is that the historic roles have reversed in times of austerity and cutbacks, so it is now the right that wants concentrated power to implement cuts, while the left uses legislative tools to resist. But the more likely and enduring correlation is between government and opposition, with each supporting the more convenient logic of the moment.

Logics and “The Decline of Parliament”

The Parliament of Canada, then, rests on two separate logics – the logic of representation and the logic of governance. While compatible and equally intertwined in history and institutional design, they are often in tension with one another, especially over the question of the individual and collective roles of MPs, leading to paradoxical understandings and expectations of Parliament. Parliament simultaneously functions according to both logics, is evaluated by both logics, and inevitably falls short of expectations on both. As David Docherty observed in 1996, there is “...a call for reform of Parliament and political careers that has no direction. There is unhappiness with the present form of representation but no consensus on how a better form might work” (5-6). There’s no reason to change the observation two decades later.

A chief explanation for the ambiguity and weakness of the institution is “the decline of Parliament.” As with many other institutions, accusations of decline are hardly new; one can note for example Lord Bryce’s 1922 essay “The Decline of Legislatures” (Bryce 1922) and the longstanding joke that school children should not visit Parliament lest they begin to copy parliamentarians’ bad behavior. But discussions of decline may follow either the logics of representation or of governance, inevitably leading to contradictions. They may focus on the alleged decline of ordinary members of Parliament and their ability to act independently of their party – and/or to act according to the wishes of their constituency. This reflects the logic of representation – that MPs are there to act as voices. But others may argue that decline has occurred because Parliament has eschewed its role of scrutiny and become too focused on blocking legislation across the board, to the point that governments cannot enact their legislative programs except through closure and other extreme tactics. This is the logic of governance. Again, these stories of decline reflect the underlying paradoxes and ambivalence at the heart of Parliament.

Three explanations are often given for the difficulties and apparent decline of Parliament, each touching further on one or both logics. The first is insufficient public understanding. Many popular and scholarly commentators have lamented the apparent decline in civic knowledge and familiarity with the rules and norms of our political institutions, and especially understanding of the equal importance of both the logic of representation and the logic of governance. This can have different implications; some argue that Canadians do not understand that their parliamentary traditions are being undermined (commonly the logic of representation), while others suggest that they are too quick to assume so and misunderstand the complexities at work (the logic of governance). For example, in 1999 Jennifer Smith

argued that “...many radical reformers [especially in the Reform Party] misunderstand responsible government...[and] the correct understanding of it had best been retrieved the Reform Party and other proponents of parliamentary reform (399). Smith argued that many of Reform’s ideas for direct democracy and relaxing party discipline were fundamentally misguided because, in her view, they were incompatible with the Westminster system of government, and particularly with what this paper calls the logic of governance. On the other hand, in the late 2000s, many academics joined in the lament that Canadians failed to realize the allegedly unprecedented nature of some of the Harper government’s actions and the degree to which they threatened longstanding parliamentary conventions, the rights of MPs, and ultimately the logic of representation. Regardless, a common lament at all levels is that Canadians no longer know enough about their own parliamentary institutions. However, this is rarely developed into a recognition that paradox and competing logics are at the heart of those institutions.

A second explanation for decline is linked to the growth of the modern welfare state. The argument here is that the growth of government legislation, spending and taxation overwhelmed the institution and established the predominance of the logic of governance, never to recover. This was a popular explanation in the 1970s and 1980s. Writing in 1985, C.E.S. Franks drew attention to this, noting that “time is a valuable commodity in the House of Commons and it is short supply. Timetabling has become one of the major problems of the House” and hence led to the diminished role of individual MPs. But, he says, “this problem has developed only within the last few decades. Up until the late 1950s the pressure of business in the House was small.” (5). Similarly, in 1978, Robert Stanfield, former leader of the Progressive Conservative party, argued that the state had expanded so greatly in the past fifty years that legislators were unable to keep up either in scope or depth: “We must make a choice between all-pervasive government and parliamentary responsible government...we cannot have both.” (IRPP 41). This explanation has a certain resonance, especially if we pinpoint the pipeline debate of 1956 as the beginning of modern laments about the decline of Parliament and especially the logic of representation. And the need to keep up with the growing state and to play scrutiny roles within the logic of governance underlay much of the broad professionalization of Canadian legislatures in the 1960s-1980s, producing modern parliamentary and constituency offices, committee systems in the federal and larger provincial legislatures, and the full-time professionalization of most legislator positions even in the smaller provinces (Atkinson and White 1980).

A third explanation for decline is the influence of modern communications, and especially television. Cameras were introduced into the House of Commons in 1977. For many, this is the key culprit in the decline of Parliament, according to either logic. Thomas Axworthy wrote in 2008 that “[t]his initiative has encouraged our politicians to perform in an exaggerated and unseemly fashion. Rather than debate, the quest is to find a 30-second clip that television will use, the more sensational and outrageous, the better.” (49). Blaming television for parliamentary misbehavior and increased partisanship has become accepted wisdom in many circles in ways that follow both the logic of governance and of representation. But again, at least some of this may be nostalgia; one early survey of MPs’ reactions found that many believed television had *improved* decorum, since members were now conscious of being on camera (Price and Clarke 1980). More recently, technological explanations have focused on Parliament’s apparent inability to keep up with the digital revolution – in this case,

Parliament is not so much declining as apparently being left behind. Social media and other phenomena have given a whole new element to the logic of representation, arguing that MPs and Canadians together have the tools to take representation to an entirely new level. But the ever-increasing speed and turbulence of modern media and discourse have also led governments – or at least the Harper government – to tighten its grip on information and decision-making, following a (narrow) understanding of the logic of governance.

Comparative Perspectives

While the two logics are found in other Westminster parliaments (Rhodes et al 2010), these counterparts do not appear to be gripped by the same level of basic angst and discontent found in Canada. This is a very difficult point to ascertain, especially if we look at academic and political discourse. Certainly British writers lament “the decline of Parliament” as much as Canadians, and Uhr for example notes the theme of paradox when he asserts “Parliament enjoys an ambiguous, Janus-like status in Australian political culture.” (2000: 3). But Canada seems particularly introspective and angst-ridden about its parliamentary institutions, which as mentioned above, Sayers and Banfield argue have allowed themselves to be “infantilized” in relation to the executive compared to other Westminster systems (Sayers and Banfield 2006), suggesting an imbalance toward the logic of governance in Canada. Canadians do appear more ambivalent about the very nature of Parliament; David Smith suggests that “[t]he habit of criticism of government, promoted in civics literature as a strength of democracies, has been broadened in Canada since the 1980s into an institutional critique.” (2007:13). This critique is at least partly a legacy of the “mega-constitutional” rounds of the “constitutional odyssey (Russell) of the 1960s-1990s, when Canadians were encouraged to rethink the basic parameters of Confederation and all Canadian political institutions. On the other hand, it may also reflect distinct pathologies peculiar to the Canadian parliament and political system, especially the greater dispersal of regional and federal power, and its relatively weak brokerage parties held together more by discipline than natural cohesion (Malloy 2003).

One of the cyclical and perennial themes in both the popular and academic Canadian discourse over parliamentary reform is envy of certain British practices that supposedly empower MPs according to the logic of representation. For example, in 2010, Michael Chong, a Conservative MP, proposed a motion that would largely adopt the British Question Time model, and especially the key practice of giving the Speaker power over questions. Chong’s motion passed second reading in the House of Commons, but languished on the order paper and died with the 2011 election. In 2004, incoming prime minister Paul Martin promised to introduce the British “three-line whip” system, which indicates the relative importance of party solidarity on a vote; this was never implemented. But other British-inspired reforms have been put into practice. The McGrath reforms of 1985-6 tried to emulate British committee practices in several important ways, such as reducing their membership to encourage collegiality and intimacy, and separating “standing” and “legislative” committees in an attempt to reduce partisanship in the former. While there were some examples of success, it was not transformative and many of the changes, especially the separate legislative committees, were later undone. There are various explanations for differences in British practice, which are often subjective and/or rooted in larger factors and contexts outside the technicalities of the parliamentary standing

orders. As Franks observed in 1987, “the reform of Parliament is not a technical matter, though it is often presented in those terms”, because, again, it often does not speak to the central paradoxes of the institution and the two competing logics.

Canadian-Antipodean parliamentary comparisons are less common, though Canadians take an interest in the greater volatility of party leadership in Australia and New Zealand, especially the recent struggles of Julia Gillard and Kevin Rudd, as examples of a greater logic of representation than in governance-dominated Canada. (Less noticed are the more raucous antics of Australian legislators, which match or exceed the disruptions seen in Canadian legislatures.) The Australian Senate also naturally draws attention, though perhaps less than one might expect given the perennial interest in Canadian Senate reform. However, the most notable area of recent activity is fascination with the greater reliance on written rules, in New Zealand especially but also other countries, for many of the most basic parliamentary functions, rather than the unwritten conventions that Canada relies on. This is the preoccupation of *Democratizing the Constitution*, with the New Zealand *Cabinet Manual* lately becoming an item of great interest in certain Canadian academic circles. Similarly, the rise of coalition and minority governments in New Zealand, and similar entities in Canada and the UK has attracted some academic attention (Hazell 2009), though limited in Canada (see Gervais 2012). Unlike the preoccupation with the supposed plight of the individual MP and the logic of representation found in much of the Canada-UK comparisons, this literature tends to follow the logic of governance, asking how and under what conditions governments can form and exert power.

In short, the three countries most similar to the Canadian political system each offer points of comparison that suggest, overall, that the logic of representation has a weaker hold in Canada while the logic of governance can be better clarified. But comparisons quickly get lost in the larger context and complexities, especially party and electoral systems; practices cannot always be easily transferred. The bottom line though is that Canada seems particularly ambivalent about its parliamentary institutions and unable to reconcile the competing logics.

Conclusion: Reconciling the Logics

Can these logics be reconciled? Never entirely – paradox and ambiguity will always be at the heart of any legislative institution and its study. But as noted, Canada seems particularly ambivalent, with the logic of representation weaker and the logic of governance in need of clarification.

Parliamentary committees are often suggested as the middle ground for reconciling competing expectations, and this indeed appears to occur in Britain and to some extent in Australia (Halligan, Miller and Weller, 2007). There are sporadic examples in Canada, but overall, parliamentary committees in Canada have continually failed to live up to the hopes of reformers. To some extent this is the self-inflicted choice of MPs, who are ambivalent about their constrained roles and cannot always reconcile their expectations rooted in the logic of representation with realities of the logic of governance (Malloy 1996). Individual MPs, especially after several terms in Parliament, may be able to reconcile the logics internally and find nuanced and satisfactory roles for themselves, but such cases are few. More commonly is MPs that leave the institution frustrated by their inability to function more independently

according to the logic of representation, or loyal soldiers that cling to the logic of governance, at least until their party loses power.

Another method of reconciliation is to take a wider perspective. This is suggested by Australians Uhr and Wanna who suggest "...an understanding of Parliament would be improved if we adopted a wider conceptualization of 'the parliament' and appreciated the multi-layered roles performed in and around the institution." (2000, 11). Indeed, this is the logical approach for academics, seeing Parliament as part of the larger ecosystem of governments, political parties, the media, citizens and other entities that all embody contradictions of their own. This big-picture approach lessens the need to explain or make sense of the everyday paradoxes of Parliament and the continual tensions between the two logics. But it leaves the academic community and other serious students of Parliament with little or nothing to contribute to the ongoing and very real dissatisfaction among the public, MPs and even governments themselves with the ambiguity and frustrations of Parliament. In contrast, this paper has argued for a more detailed examination of the competing logics of representation and governance, and the balance between the two, in an attempt to better understand and make sense of the inherent ambiguity and paradox of the Canadian parliament.

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