



Parliamentary Book Shelf

Democratizing the Constitution, Reforming Responsible Government by Peter Aucoin, Mark D. Jarvis, and Lori Turnbull, Emond Montgomery Publications, Toronto, 2011.

During the years of minority government political observers frequently decried the state of our parliamentary democracy. It was often said we needed an adult conversation. The academic community tried to shed light on some issues but mostly they vilified the Prime Minister, called for less partisanship, proposed proportional representation or cited the need for a cabinet manual to set out the rules of governance. Such suggestions were not very helpful.

Now, finally, with publication of this book we can have an adult conversation. The authors have done a serious analysis of our problems and made some serious proposals to fix them. What a tragedy that lead scholar Peter Aucoin died in July 2011 a few weeks after this book was published. It stands, however, as a fitting memorial to a career devoted to the study and reform of our democratic institutions.

The Canadian problem, according to the authors, is twofold – constitutional and parliamentary. The constitutional problem is the capacity of a prime minister “to abuse the constitutional powers to summon, prorogue and dissolve the House of Common to advance the partisan interests of the governing party.” (p.4). The parliamentary problem is the ability of a prime minister to

abuse the rules and procedures of the House of Commons that are meant to allow the government to manage the business of the House in an orderly way.

The authors point out the now familiar examples of abuse that occurred during the last few years but they rightly insist that Prime Minister Harper is hardly the first Prime Minister to be guilty of such behaviour. It is endemic to our system including Joe Clark’s decision to wait 142 days before calling parliament after the 1979 election. That would never have been tolerated in other Westminster democracies. Jean Chrétien used prorogation to forestall tabling of the Auditor General’s report on the sponsorship scandal until his successor took office. There are many other examples.

The book includes a chapter on responsible government in Australia, New Zealand and the United Kingdom but does not conclude we need to follow their practice of writing down the conventions in a cabinet manual. In our case a collection of precedents would merely be a catalogue of bad practices. Their message seems to be -- let us get the system working before we try to write it down!

The book looks at the role of unwritten convention in our form of government. It suggests that the continuing absence of

consensus on certain conventions will leave us in a kind of constitutional limbo with very little protection against arbitrary authority.

Another chapter looks at the issue of government formation and takes dead aim at the misguided concept that a government can only be formed after an election and that only the party that wins the most seats in an election can be called upon to form a government.

In the early days of our last federal election statements by both Prime Minister Harper and Opposition leader Ignatieff added to the confusion about this constitutional convention. In fact no one is “called upon” to form a government after an election. The government that was in office remains in office. Only when a government resigns or is defeated in the House does the issue arise. Government formation has rarely been an issue in Canada but it is so fundamental that failure to clarify this convention weakens our country and exposes it to potential collapse one day.

After outlining all that is wrong with our institutions the authors put forward four ideas to address constitutional problems, another four ideas to reform parliamentary governance and finally two ideas to reform political parties.

Their constitutional ideas are very similar to proposals put forth by the coalition government in Great Britain following the last election. They would:

- establish fixed election dates every four years that could not be changed by the Prime Minister unless a majority of two thirds of MPs approved a motion to dissolve.
- adopt the “constructive non confidence” procedure whereby the opposition can only bring down a government via an explicit motion of non-confidence that would also identify who would become the new Prime Minister.
- require the consent of a two-thirds majority of the House of Commons in order to prorogue Parliament.
- establish a deadline requiring the House of Commons to be summoned within 30 days after a general election.

These changes are intended to remedy the central problem – the ability of prime ministers to abuse power. All would require formal constitutional amendment. All are absolutely necessary if we learned anything from our period of minority government. It is time our elected men and women put aside the self imposed post

Meech Lake moratorium on constitutional change and start to move us from a dysfunctional to a functional form of government.

To reform parliament the authors would like to see the House:

- Adopt legislation limiting the size of ministries to a maximum of 25 plus 8 parliamentary secretaries
- Use secret preferential ballots by committee members to select committee chairs for the duration of a parliament.
- Adopt a schedule of opposition days in the House that cannot be altered unilaterally by the government
- Reduce by 50% the partisan political staff complement on Parliament Hill.

Of course much more is needed to reform Parliament, particularly in the way parliamentary time is used, but these ideas would be a good place to start for the members of the 41st Parliament.

To reform political parties the authors suggest:

- Restoring the power of party caucuses to dismiss party leaders including a sitting prime minister and to appoint a new interim leader.

- Removing the party leader’s power to approve or reject party candidates for election in each riding.

These sound easy but in fact are probably even more difficult than the proposed constitutional changes. In any event they are somewhat of an afterthought to the main constitutional and parliamentary discussion and perhaps deserve to be developed in a similar but separate book on political parties. Sadly professor Aucoin will not be around to contribute to that work but let us hope that his two collaborators will continue their reflections on responsible government.

Thomas Jefferson wrote that the tree of liberty must be refreshed from time to time with the blood of patriots and tyrants. Responsible government inspires no such dramatic language but it too must be reviewed and refreshed. Let us hope that every one of our politicians both federal and provincial find time to read this book and to take its message to heart.

Gary Levy
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Canadian Parliamentary Review

Gaston Deschênes, *L’Affaire Michaud : Chronique d’une exécution parlementaire, Septentrion, Quebec 2010.*

Ten years after the incident occurred, Gaston Deschênes, a former research director at the Quebec National Assembly, recounts what is now known as the Michaud Affair. On December 14, 2000, in a move that many people later described as impulsive, the National Assembly unanimously adopted a motion denouncing Yves Michaud for making “unacceptable statements toward ethnic communities and, in particular, the Jewish community” in a

speech at the Estates General on the French language in Montreal. The motion, unprecedented in a Westminster-style legislature, sparked a flurry of media coverage and ignited a debate that continues to this day over the legitimacy of the National Assembly’s actions. The author leads us through the years that followed the incident, a period in which Mr. Michaud constantly sought reparation for what he considered to be a grave injustice against him.

Deschênes begins by recounting the events which unfolded on December 14, 2000. In response to a question from Jean Charest, then Leader of the Opposition, Premier Lucien Bouchard stood in the National Assembly and condemned comments made by a candidate for the Parti Québécois nomination in the riding of Mercier, Yves Michaud, and announced that all government members would be voting