
Thoughts on the Canadian and American Political Systems

James C. Simeon

Canada has a parliamentary system of government but its present constitution drew heavily on the American federal experience. Canadians continue to judge their institutions in comparison to those of their southern neighbour. When American and Canadian elections take place within a few months of each other, as is likely the case this year, it is particularly tempting to reflect upon similarities and differences in our two political systems.

In view of recent developments in our parliamentary system of government and in the U.S. congressional system it seems opportune to reflect upon current changes and evolutionary trends in the two systems of government. As always, Canada cannot help but be influenced by what happens in the United States.

The pre-election "hype" in Canada and the U.S. primaries culminating in the national conventions to select the Democratic and Republican parties' nominees for president reflect important contrasts in our two systems of government. Nevertheless, political outcomes in the United States have, inevitably, an impact on Canada. Historically, for example, whenever a Conservative government has been elected in Canada a Republican president has held office. Liberal governments in Canada have coincided with Democrats in the White House. Although Liberals have won majorities with Republicans in office the opposite has never happened. The observation exemplifies the close yet complex political interrelationship that exists between Canada and the United States. As noted, American political and constitutional changes and parliamentary reforms in Canada have reflected this fundamental aspect of our polity.

Constitutional and parliamentary reform were not the dominant issues during the 1984 election campaign but they were discussed to some extent, particularly by the Conservative party. The first item in the Throne Speech following the election was a proposal to create a Special Committee on Reform of the House.

Canadian members of Parliament, particularly backbenchers, have long envied the independence of American legislators whose control of bills is seen by some as a model for the reform of Parliament. Congressional committees are totally independent of the executive and have real power to control the legislative process. The reforms proposed by the Special Committee substantially strengthened the role of House of Commons standing committees while also establishing legislative committees to review draft bills and conduct investigations on the subject matter of bills. Legislative committees can retain experts, professional and technical support staff as required but cease to exist after tabling their report on a bill. Standing committees can hire their own staff and have greater autonomy over their own budgets. The reforms emulate Congressional committees in these respects.

The report even proposed relaxing the notion of "confidence" to give private members a more independent legislative function. It proposed limited American-style legislative control over appointments by Order-in-Council with committees inviting appointees to appear and answer questions. This reform has not been used to the extent some might have expected.

The Conservatives also promised to bring Quebec into the constitutional fold and in 1987 the Prime Minister and the ten provincial premiers agreed to constitutional reforms known as the Meech Lake Accord. Senate reform is part of the Accord. Many have called for Senate reform and one of the most vociferous lobbies is the Triple "E" pressure group which is demanding an elected, effective Senate with equal representation from all provinces. Here again, the U.S. Senate provides the practical working example of how an elected Senate could play a more important role in representing regional interests through a more democratic process.

The Canada-United States Free Trade Agreement signed in January 1988, does not envisage any specific changes in

the political institutions of either country but many argue that closer economic ties will lead inevitably to closer political ones. For instance, the Agreement establishes a binational dispute settlement mechanism, the Canada-United States Trade Commission, and procedures to ensure the proper enforcement of the provisions of the Agreement and to resolve any trade differences between the two countries. The Agreement commits the Canadian and American governments to "harmonize" their trade laws to facilitate the smooth and effective operation of the Agreement and exchange of goods and services. If the Free Trade Agreement comes into effect legislators on both sides of the border will have to become more cognizant of the interpretative effects of the new binational institutional machinery on their laws.

Recent Canadian Supreme Court decisions which rely upon the 1982 *Charter of Rights and Freedoms* also show the American influence. Under the British Common Law tradition fundamental rights and freedoms are protected by the courts but do not take precedence over laws passed by Parliament which is supreme. The American preference of entrenching rights in the constitution thereby limiting governments has again held sway, although there are some important differences in the two declarations of rights and in the way the two courts are appointed.

Are we headed for an American style government with strong Congressional style committees, an elected Senate with equal representation from the provinces, weak party discipline and fewer votes of confidence, greater autonomy and independence for private members with consequently more influence on public policy? In short, will our Parliament in the future resemble the U.S. Congress more than the British Parliament at Westminster?

These developments in our system of government have not gone unnoticed. However, those who deplore this trend and want to preserve the purity of our parliamentary system will have to offer other credible alternatives to enhance the role of backbenchers in the House, to revitalize the Senate, and other means to further protect the rights of the individual in society. Otherwise, the inexorable trend in the evolution of our parliamentary system appears to be toward a U.S.-style congressional system.

Americans, as frequently noted, revere their Constitution and institutions of government and usually do not seriously contemplate fundamental reforms. However, there are reasons for thinking Americans may be in the mood to take a close look at their constitution and perhaps introduce some major reforms to their system of government.

Last year's bicentennial celebrations on the U.S. Constitution focused considerable attention on the shortcomings of the political system in the United States and possible reforms. For example, organizations and groups were established to review the U.S. Constitution and the operation of the American political system and make

recommendations for reforms. One of the best of these efforts has been by the Committee on the Constitutional System whose book edited by Donald L. Robinson, *Reforming American Government*, has contributions from some of the leading scientists in the United States.

The Iran-Contra affair not only rocked the Reagan Administration but raised serious questions about the American political system once again. Like Watergate and the secret bombing of Cambodia during the Vietnam War it was another instance of a covert operation directed by individuals in the Executive Branch in direct violation of the laws of Congress. Ironically, the Iran-Contra affair became public, and the Congressional hearings investigating the principals involved in the affair were televised live, during the height of bicentennial celebrations.

Critics of the American political system also point to the decline of the political party as having widened the gap between initiation and implementation in government. Administrations find it increasingly difficult to get their legislative program through Congress because the President often leads one political party while Congress is controlled by another. Professor James MacGregor Burns, among others, has argued for coterminous elections for the Senate, House of Representatives and President. Others have called for reforms that would allow cabinet members to sit in the legislature or Woodrow Wilson's favourite reform to allow senior legislators to serve in cabinet. The McGovern - Fraser electoral reforms of 1972 have apparently exacerbated this problem of declining party. For instance, seventy-five percent of the delegates attending party leadership conventions must be elected through the primary process. Leadership conventions as a consequence, have become little more than coronations of the Party's nominee for the Presidency. The traditional backroom bargaining and deal making by party leaders has virtually been eliminated. Once a candidate wins the Presidency there is no party coalition to sustain his administration over his or her four-year term. Presidential candidates rely less and less on party organization to win office and more and more on their own loyal following and personal staff as well as television and radio to reach the voters.

The Political Action Committees (PACs), not political parties, have become the principal source of financing for presidential candidates. Campaign financing for Congress also has become a major concern in recent years. Candidates are spending up to \$3 million to win a seat in the House of Representatives and three times as much to win a Senate seat. There are no effective limitations on campaign expenditures in the United States. This has led to accusations that Congress is a millionaires' club. Congressmen who only have a two-year term must be constantly raising campaign funds for their re-election. Consequently, many knowledgeable observers are now calling for a ceiling on campaign



expenditures. Moreover, reforms that limit campaign contributions only to political parties have also been made.

Another cause for concern is the status of the White House itself. The *Reorganization Act* of 1939 which marks the emergence of the modern White House Office was initially seen as essential for a President who was faced with a burgeoning bureaucracy. Few today will deny that the White House Office is now a powerful bureaucracy in

its own right. Can a President, regardless how diligent and able, control his own staff who are undoubtedly essential for the effective functioning of his or her own office? The White House Office, staffed primarily by partisan political appointees, owe their political loyalty to the President and some would say the more authority the President assumes the more arrogant and disdainful the senior White House staff become.

Authors writing on the U.S. Presidency have referred to this situation as *The Imperial Presidency*, *The Impossible Presidency* or *The Twilight of the Presidency*. This suggests a clear bifurcation in how the office is perceived by Americans. While increasing in "power" the office of President seems to be more susceptible to the "evils of power".

Americans seem ambivalent on how much power the President has gained vis-à-vis the other two branches of government. Senator Daniel Moynihan has argued that for every power gained by the President a commensurate power to obstruct is sought by Congress. For every power the Presidency has gained Congress has countered. For instance, with the rise of the Office of the Management of the Budget (OMB) in the Executive Office of the President the Congress Budget Office (C.B.O.) has emerged with its own bureaucracy to assist in scrutinizing the budgetary submissions from the Executive.

All of this is perhaps characteristic of the fundamental attributes of the U.S. political system: one that is predicated on fragmented authority, shared power and creative tension. As the distinguished constitutional historian Edward Corwin

noted the U.S. Constitution is an "invitation to struggle" between the executive and legislative branches of government.

The United States is unlikely to ever the fundamental principles of "separation of power" and "checks and balance" on which its system of government is based. Nor would Canadians consciously opt for some of the problems inherent in this type of government and politics.

Nevertheless, it is remarkable, from a Canadian perspective, how many of the reform proposals advanced by thoughtful critics of the U.S. political system resemble or, in fact, clearly emulate the parliamentary conventions and principles of government. And while some Americans look to the parliamentary model to refine their system of government Canadians continue to be seduced by certain features of the American Congressional system. Does this suggest a converging path for both political systems? There appears to be a great deal of common ground and the two countries seem to be moving closer together in many areas.

Few Americans have an appreciation or understanding of the inherent drawbacks or difficulties of the parliamentary system itself. Likewise, most Canadians who advocate adopting Congressional reforms do not acknowledge or concern themselves with the problems inherent in the U.S. Congressional system. The tendency is to idealize the implicit or explicit model one is advocating without admitting possible weaknesses or negative unforeseen consequences. Frustrated M.P.s might see the U.S. Congressional system as the legislators' nirvana while executive branch officials in the U.S. might see the Prime Minister with majority control of Parliament as the answer to efficient and effective government. Obviously, both views ignore the reality that no system is perfect or that no reforms should be implemented without weighing the negative side effects or consequences.

As national elections are held in Canada and the United States, Canadians and Americans would do well to reflect upon the current state of their political systems and how they might be improved. With the aforementioned caveats in mind we should not shirk from drawing upon the best features of each others' method of governance. □

