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# *Plebiscites in a Parliamentary Democracy*

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*On January 18, 1988, the citizens of Prince Edward Island were asked whether they favoured a fixed link with the mainland. This was neither a new question nor a fresh issue, but certainly one of transcending importance for the Island's economy, tourism and way of life. And for all the decades of debate – about tunnels, causeways and ferry boat services – it was the first time ever that the people who lived there were directly asked for their opinion, and the first time they had a chance to directly express it. This article, originally prepared for the Commonwealth Parliamentary Association Regional Conference held in Charlottetown in July 1988, has been updated to refer to the November 21, 1988 election. Mr. Boyer has introduced legislation in Parliament – the Canada Referendum and Plebiscite Act – to enable nation-wide votes.*

**E**lection campaigns, as we all know, are a grab-bag of issues and it is impossible to separate from the voting returns a clear mandate for a specific project. Even the November 21, 1988, general election – fought extensively on the single (but many dimensional) issue of the Canada-U.S. trade treaty – did not constitute a plebiscite, and those who tallied up all the votes not received by the Progressive Conservatives and then contended that 57% of the voters specifically voted against free trade engaged in some democratic revisionism of a most mischievous sort. As a candidate who was re-elected November 21, I can vouch (as any political scientist or pollster will also attest) that Canadians really decided how to vote based on a complex response to many elements – the personalities and performance of the respective party leaders, Mulroney, Turner and Broadbent; the past record and current promises of the Progressive Conservative, Liberal, and New Democratic parties, the varying qualities of the local candidates; and the effectiveness of the national campaigns and local vote-getting organization. While the trade treaty was the catch point, many other issues in the 1988 election also affected specific voter decisions – tax reform, child care, nuclear-propelled submarines, abortion, the deficit, patronage and conflict-of-interest questions, newly-announced spending programs, Western Canadian alienation, Unemployment Insurance abuse, housing, parole and the criminal justice system, pensions, the disabled and a vast range of serious environmental concerns. Anyone who contends the election was a black-and-white decision on a

single specific issue is either politically mischievous, or was not canvassing door-to-door!

There is only one way – or certainly only one good way – to obtain a clear expression of the public's collective wisdom on a particular issue, and that is, quite simply, to ask people the question in a plebiscite.

To advocate the use of more plebiscites as a formalized and democratic way of "asking the question" is hardly a radical notion, nor is it an inconsistent practice, given our system of representative government.

Unlike representative democracy, where elected members of council, the legislature, or the House of Commons take decisions which in their view are best for the community, province or country, the plebiscite allows everyone to actively consider the issue and express his or her own view without any intermediary.

Direct democracy – as in a plebiscite or referendum – can, of course, never replace representative democracy in our system of government, but it can be and is a useful adjunct for those rare issues of transcending importance where all the people should be consulted.

Premier Joe Ghiz should, in my view, be congratulated for having put the fixed-link issue to the people directly in a plebiscite. For one thing it keeps alive an important Canadian democratic tradition, one that is deeply rooted in Prince Edward Island. Second, it demonstrates the superiority of a plebiscite over mere public opinion polls.

Plebiscites are more a part of the democratic infrastructure of our country than many people would believe. We've had

two plebiscites at the national level (prohibition of liquor on September 29, 1898, and conscription for overseas military service on April 27, 1942). Over 40 plebiscites have been held at the provincial level, starting with liquor prohibition in a Prince Edward Island vote in 1878, down to the present times with the vote on independence in Quebec in May 1980, and the N.W.T. plebiscite on territorial division in April 1982. Apart from prohibition issues, province-wide plebiscites have dealt with such questions as women's suffrage, public health insurance, daylight saving time, ownership of power companies and marketing of coarse grains. At the municipal level, several thousand plebiscites and referendums have occurred in this century, on issues ranging from bond issues, building projects, local option prohibition, local franchises, and forms of municipal government.

Islanders last went to the polls in a plebiscite on June 28, 1948, because Section 28 of the Province's new *Temperance Act* required a provincial plebiscite to give majority approval before the Act came into force. That was the fifth P.E.I. plebiscite on prohibition – the others being held in 1878, 1901, 1929, and 1940. The 1940 plebiscite, held under Premier Campbell, resulted in a disappointingly small vote, but by 1948, the situation was quite different. During the liquor plebiscite under Premier Jones, voters had a choice of voting either for "bone-dry prohibition" or the new Act. The Temperance Federation sponsored large paid advertisements and speakers toured through rural areas, some of them in direct violation of the Island statute forbidding outside participation in any P.E.I. election. Premier Jones went on the air three days before the plebiscite voting and urged the people to vote for the new Act.

Judged by the campaign, and in those blessed days before opinion polls, everyone judged the outcome would be close. The result was a surprise. Islanders voted nearly 3 to 1 for the new *Temperance Act*, and the plebiscite showed that the 'dries' on the Island were more vocal than numerous. About 53% of the 52,000 eligible voters cast ballots, with 7,338 voting for prohibition, and 19,814 favouring the new *Temperance Act* which provided government control over liquor sales.

Today, P.E.I. is one of several provinces with a separate enabling statute for the holding of votes on "questions" – the *Plebiscite Act*. The *British Columbia Elections Act* contains enabling provisions for province-wide plebiscites, which have been resorted to at least nine times since Confederation. Alberta, New Brunswick and Newfoundland have similar provisions in their election acts, while Quebec, Yukon and Northwest Territories join P.E.I. in having separate statutes for holding plebiscites.

Where enabling legislation does not exist, a special statute has to be enacted each time a plebiscite is held. Thus the three plebiscites in Ontario on liquor questions (in 1902, 1919 and

1921) each required special legislation, as did our two national plebiscites. When specific legislation is required, the Act usually gets mixed up with the issue or "question" itself. Just as we have an *Election Act* at the ready whenever it is time for an election, so we should have plebiscite legislation in place, to be used when important national questions deserve to be put directly to the electors for an expression of opinion.

One can think of issues debated recently such as "universality" of social programs, capital punishment, the Meech Lake Accord, and free trade – that would be worthy of submitting to the people in this way.

The Canadian identity would be strengthened through the use of more plebiscites because we would be forced to speak out and contest with one another as to the kind of country we want – in very specific terms; moving beyond the vague generalities that too often pass for public discourse in our land.

Legally, of course, a distinction should be drawn between a plebiscite, which is a formalized expression of public opinion through the ballot box, and a referendum, which is the same thing, except its results are a binding verdict of the people which must be reflected in a law. For instance, the "referendum" in Quebec in 1980 was, in fact, a plebiscite, a large-scale opinion poll, without any direct consequences *in law*. The votes held in 1979 in the cities of Edmonton and Calgary, with respect to expensive public works projects, were truly "referendums", in that the results were legally binding on the municipal governments.

I believe plebiscites and referendums are vastly under-utilized instruments of our system of popular government in this country, and that Canadian democracy will be much healthier and stronger when we permit greater direct participation of citizens in government decision-making.

I do not want to demean the value of a plebiscite by suggesting it is little more than a large-scale formalized opinion poll. One should never under-estimate the symbolic value of the political process. While it is possible, for instance, to conduct opinion polls among the population of Quebec on the question of independence, or among Islanders on the long-discussed question of a causeway, there will always be doubt as to the wording of the 'question', quibbling as to the representativeness of the sample, and a feeling that it is "nothing more than an opinion poll" to be contradicted by someone else's poll tomorrow. Nothing speaks with the same eloquence as a counting of ballots, deliberately cast on a question by the voting citizens of the province, or the entire country, after a cathartic debate.

Other democratic countries have not been timid about using plebiscites and referendums. The Australians resort to referendums on constitutional matters. Submitting questions to voters in the United States has long been an integral part of

that country's system of government – occasionally sending seismic waves through the North American political culture, as in the 1968 "Taxpayers' Revolt" on Proposition 13 in California, when the sovereign public voted to impose ceilings on their government's spending. In the United States most state constitutions contain provisions enshrining the right of citizens to vote on certain laws.

Even in the United Kingdom, in what many considered a major departure from accepted constitutional practice by the mother of most of the world's parliamentary democracies, a plebiscite was held in 1975 on the question of Britain's entry into the European Common Market. Yet it is not the sole precedent. On March 8, 1973, in an attempt at a new settlement to the sectarian violence and problems of government in Northern Ireland, a plebiscite was held asking the voters whether they wanted the province to remain part of the United Kingdom.

For better or for worse, referendums and plebiscites are a fact of Canadian political and legal life. For better, say those who see a referendum as a means of giving a greater, clearer voice to the people; for worse, say those who see referendums as a pernicious and unparliamentary practice.

For better, too, say those who see the occasional necessity of extracting a highly controversial issue from the normal parliamentary processes (which might be shattered if forced to deal with it by traditional means of party discipline, cabinet solidarity, and the like) and turning it over to the people as a whole for a verdict by means of voting.

For worse would counter those who instead see such appeals to the public at large as a highly dangerous and unpredictable device for resolving any issue, given that battle lines must be simplistically drawn between "yes" and "no" rather than permitting the usual compromising procedures of Parliament.

Others more critical of the practice and operation of governments and legislatures and imbued with a deep faith in democracy, contend that referendums and plebiscites mean issues are squarely faced, public decisions are publicly arrived at, popular will is accurately expressed, apathy and alienation come to an end, and people have a greater voice in major political decisions, and therefore their use should be encouraged and extended.

I certainly do not think that every issue has to be "put to the people" but perhaps every decade, or in the life of each parliament, there may be one or two issues of over-riding national importance that should be subjected to the fullest expression of popular opinion.

The plebiscite process is helpful in our self-definition as Canadians. Instead of passively letting our representatives in Parliament make decisions for us, or relying on editorial page writers and CBC commentators to do our thinking for us, it is stimulating and productive to have everyone come to terms

with his or her own view about a public issue. That is what happened a few months ago in Prince Edward Island, as the heritage and future of the Island were debated in relation to the fixed link crossing. It happened in Quebec when Quebecers had to consider the future of the province as a separate entity or within a greater Canada. It happened in 1982 in the Northwest Territories as northerners voted on splitting the NWT into two territories. While the debate can be emotional and the confrontations difficult, that is what democracy is all about. The exercise is ultimately positive and creative.

Finally, in these days where we suffer a plague of opinion polls, there are several ways that plebiscites are superior, and it is good to recognize this.

First, instead of the "representative sample" in an opinion poll, you have your own say in a plebiscite and so does everyone else.

Second, you may be busy watching the hockey game, cooking a meal, working in the garden, or otherwise distracted when the telephone rings to ask you, out of the blue, your opinion on some issue of the day. Yet, in a plebiscite, there is a period of debate and deliberation over several weeks. The television programs, newspaper articles, public meetings, discussions in church halls, workplaces, coffee shops, union halls and around the dinner table enable everyone to hear all the arguments and reason through their own position. A plebiscite records a more deliberate view and a more careful conclusion than an opinion poll.

Third, plebiscites can settle an issue the way mere opinion polls never can. In Quebec, there were polls published monthly for years as to the level of support for independence. It was only the plebiscite on May 20, 1980, recording that 40.4% of voters favoured "sovereignty association" against the victorious federalist "no" option supported by 59.6% of the voters, which, I believe, put the matter to rest for at least a generation.

Plebiscites teach us the lesson that we are all responsible for our destiny and cannot leave it to others. Plebiscites help maintain a level of active participation that is so essential to a healthy democratic society. Moreover, as a democrat, I believe that the collective judgment of well-informed people, as recorded in ballots cast deliberately, is distilled wisdom. Trusting the people is the formula to be more right, more often.

Canada's history with plebiscites has been interesting and colourful and the experience has been a mixed one. The same is true of our elections. The point is that the instruments of democracy are varied, and each is important. The plebiscite is part of an essential Canadian democratic tradition – a tradition which Canadians have formed, and which we now will do well to restore more fully to its rightful place. ■