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# Nova Scotia and the "Problem" of Minority Government

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by Stewart Hyson

*In 1848 Nova Scotia was the first overseas jurisdiction of the former British Empire to gain responsible government. Over the years a strong two-party tradition prevailed and the province had little experience with minority government although on a couple of occasions the Government had a very slim majority. The election of March 24, 1998 produced a legislature with 19 Liberals, 19 New Democrats and 14 Progressive Conservatives. This article looks at the political situation in Nova Scotia following the election. It also reviews the literature on minority government in general and concludes by suggesting that this minority situation may lead to a rebirth of interest in the art of responsible government in Nova Scotia.*

Following the 1998 election the existing government led by Premier Russell MacLellan decided to remain in office despite its greatly reduced numbers (19 instead of 39 seats).<sup>1</sup> Premier MacLellan decided to appoint a much smaller cabinet of 12 members and to proceed without entering a coalition or negotiating a formal pact with either of the opposition parties. Because the NDP had to fulfill its role as the Official Opposition much of the attention has been and will be centred on the Conservatives as the minority third party. In effect, the Liberal government has to depend on the support of its arch rivals.

One of the first manifestations of the new situation was the decision to elect the Speaker by secret ballot. Opposition MLAs defeated the government's nominee and succeeded in having a Tory chosen as Speaker and an NDPer as Deputy Speaker. In both legislative and budgetary matters the MacLellan government seems to be more sensitive to the need to accommodate the opposition. The Public Accounts Committee has been especially vigorous, although this might be due more to the controver-

sial allegation of political interference in respect to the province's casinos than the minority government situation.

Both the governing Liberals and the Conservatives are aware of each other's policy priorities, and have an understanding of what it will take to make the minority government work. Informal meetings and talks between key party leaders have been held frequently since the March election and more can be expected. During the spring sitting, compromises were made on many issues while the more divisive issues were avoided. The critical question as to how long this informal arrangement can last is obviously dependent on the circumstances that develop and the persons involved. Actually, although much of the focus with minority government is on what occurs inside the legislature, specifically on the relationships between the government and opposition, everything is dependent on the situation outside the legislature. Specifically, what counts is each party's perception of its relative standing with the electorate: would its representation increase or decrease if a general election was called today?

Despite the political rhetoric of adhering to party policies and not compromising principles on key issues, no party has any desire to go to the polls again too shortly af-

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ter a general election, especially one that has resulted in a minority government. All parties have to wonder and worry about the low turnout rate in the March election – at approximately 70%, this represented a significant drop from the usual rate of 75%. Was one party hurt more severely than the others by its regular supporters not voting or were the nonvoters evenly distributed across the ranks of all three parties? What would happen if these nonvoters should decide to vote in the next election?

Equally worrisome is the question of money. It takes a considerable sum to conduct a modern election campaign, and it is safe to say that no party in Nova Scotia at the moment has the finances in place to hit the campaign trail again too soon after the last election. Even the NDP, which made the greatest gains and seems to have momentum on its side, probably has an empty campaign chest if it is not deeply in debt from the last election campaign.

A close examination of the election results at the constituency level also reveals why no party is inclined to go to the polls too soon. Although the NDP did make the greatest gains, it has to be guarded about its lack of appeal outside the Halifax metropolitan area (where it won 13 of its seats). By taking only six seats and finishing well behind in most constituencies in the rest of the province, what are the NDP's immediate prospects for improvement? The Liberals can take comfort in winning its 19 seats in all parts of the province and by coming in second place in 28 other districts. Still, the Liberal Party must be haunted by the break-down of its traditional base of support and the loss of over half the seats that it took into the March election. If another election was held within a year, would more Liberal supporters jump ship and switch their votes elsewhere?

It is the Conservative Party, however, that finds itself in the deepest quandary. On the one hand, the party was shut-out of both the Halifax area and on Cape Breton Island, with all of its seats coming from the small-town and rural areas of mainland Nova Scotia. Yet the Conservatives did much better than expected under the rustic leadership of John Hamm, whose style stirred fond memories for many Nova Scotians of Robert Stanfield's stellar leadership of the Conservative party and province in the 1950s and 1960s. But memories are not enough, and with little chance of expanding its base of support in the next few months, the Conservatives have the greatest incentive to cooperate with the Liberal Government.

There is thus every expectation for all three parties to make this minority government work for now, but then what can we expect? This is where the element of "iffiness" associated with minority government comes into play as to its durability, efficiency, and effectiveness. Will the Nova Scotia legislature be short-lived with a new

election held sooner than usual? Yes, on both points. But what is meant by a short-lived legislature – a few months, a year or two, or longer? Except to say anything less than the norm of four years, the possibilities are infinite. The Liberal minority government could work both smoothly and progressively with the opposition-dominated legislature for a reasonable period, like the 1972-74 federal minority government of Pierre Trudeau. Alternatively, it could be as ineffective as that of Joe Clark's election in 1979.

Much will depend on the willingness of the participants to compromise and cooperate in respect to their disparate policy preferences. At the same time, it is necessary to keep in mind that the Nova Scotia Legislature is only in session for a few weeks each year; for example, the spring session went from May 21 to the end of June. So, it is not as if the government will face defeat each and every day for 365 days a year (or for any period longer than a few weeks).

*The government could even survive the legislative defeat of some of its minor bills as long as it retained the legislature's majority support on a vote of confidence.*

What would happen if the government was defeated on a vote of confidence or on an important piece of legislation (such as the budget)? The government would have to resign with the premier advising Lieutenant-Governor James Kinley to dissolve the legislature and to call a new election. Most likely the lieutenant-governor would follow through with this advice, especially now that the government has survived the spring sitting and had its budget approved. If it had been otherwise, however, the lieutenant-governor could have avoided an election by asking Robert Chisholm of the NDP if he had the legislative support of the Conservatives to form a government. Although such an option would have been highly unusual, it is prudent not to overlook the Crown's authority in this situation, especially given the comparable strength of the NDP and Liberals in both seats and popular vote. But once the first sitting had successfully passed, the viability of this option from then on was quickly discredited as being too autocratic for our times, and experience suggests that the lieutenant-governor will have to follow the premier's advice.

In any case, for the reasons cited above, Nova Scotia's minority government can now be expected to last at least a year and probably longer. Besides the question of longevity, the more pressing question is that of perform-

ance. Just how effective will Nova Scotia's minority government be? Will it be weak and unstable or more responsive? It is impossible to suggest with any degree of certainty what will unfold in the province. But we can reflect upon minority government in the broader context of parliamentary responsible government.

### **Minority Government in Canada: Literature Review**

C.E.S. Franks has conveniently summarized the traditional (and negative) thinking about minority government:

The arguments are often made that majority government is not only natural and proper, but also the most efficient, and that the lines of responsibility and accountability in minority parliaments are blurred because smaller parties have an undue influence.<sup>2</sup>

Although still not the norm, minority government does seem to be occurring more frequently both federally and provincially since the late 1950s. As a consequence, there has been a change in public attitudes in respect to minority government. Familiarity with this institution has led to less suspicion and fear, to be replaced by a more open willingness to acknowledge its strengths. Thus, rather than automatically assuming minority government to be weak and unstable, there is now the alternative tendency to view it as being more responsive to the wishes of the legislators and electorate. This is the situation faced today as we reflect on the institution of minority government: weak and unstable or more responsive? It is a question that can only be settled by empirical study, rather than a reliance on myths and half-truths.

For this purpose, there is probably no better place to start than with Eugene Forsey's 1964 article on the issue of minority government.<sup>3</sup> Admittedly, this article is overly legalistic and historical in content, with examples drawn from Great Britain, Australia, and New Zealand as well as from Canada. But, and this is the critical point, Forsey did authoritatively challenge (and dismiss) the objections commonly made about minority government, especially the notion that it was ill-suited to deal effectively with the complex issues encountered by governments in the 20<sup>th</sup> century. His concluding sentence is especially intriguing: "Minority government can be not a 'problem' but an opportunity, not a threat but a promise."<sup>4</sup>

This point is centred on the nature of the Westminster model of parliamentary responsible government, in terms of how the executive (or cabinet) and legislature coexist in a state of cooperation.<sup>5</sup> In simple terms the task of the cabinet is to propose legislation (or to govern) while the legislature's task is to review, debate, and ap-

prove that legislation (and performance). In normal times when one party wins a majority of seats in the legislature, there is no problem because the majority party leader becomes the prime minister or premier who chooses cabinet ministers from the ranks of the party's elected members. Party discipline then allows the government to achieve approval of its legislation while also allowing suitable opportunity for legislative scrutiny and debate. But in a situation where no party has a majority of seats in the legislature, executive-legislative cooperation is more difficult but not impossible to achieve which raises the question: how?

Linda Geller-Schwartz has noted that, in a situation where no party commands a majority of seats, there are five possible modes of executive-legislative cooperation.<sup>6</sup> First, two or more parties with representatives in the legislature may form a coalition government, with each party having ministers in the cabinet and contributing policies as part of the government's legislative programme. A second arrangement would be a formal pact, where a smaller third party does not have membership in the cabinet but publicly agrees in writing to support another party in government for a limited period of time in exchange for specified policy concessions from the governing party.

Both of these modes in fact have been rare occurrences in Canada. Ian Stewart has correctly observed that the only federal coalition government was that formed in 1917, and that was due to the wartime emergency rather than a minority parliament situation.<sup>7</sup> Provincially, Manitoba had coalition government between 1932 and 1958, as did British Columbia from 1941 to 1952. The only example of a formal pact was that in Ontario (1985-87) between David Peterson's Liberals, with the second largest number of seats, and the third-place NDP of Bob Rae.<sup>8</sup> While both the coalition government and formal pact modes have seldom been followed in this country, the same cannot be said for the other three modes identified by Geller-Schwartz.

An "informal understanding" between a governing party and a third party can exist in place of a formal agreement. In effect, by sizing-up the situation, the party that forms the government knows that it can count on a third party's support by introducing some legislation consistent with the latter's policy priorities; in return, the third party recognizes that, in exchange for its support, it can expect favourable policy accommodation from the government. Practical astuteness thus replaces the need for a formal agreement. Geller-Schwartz identifies the fourth mode as "ad hoc majorities" where the government makes a separate accommodation with the opposition parties on each bill. The fifth mode is where both governing and opposing parties go through the pretense

as if a majority government situation exists and opposition members exercise self-restraint on critical votes in the legislature usually by being away on other parliamentary business.

Although experience suggests that these three informal modes are the common practice in Canada, they are usually less visible involving as they do the subtle working relationships amongst members of the same institution. This reality, in fact, suggests why the distinction between the three categories is often blurred to the outside observer, and why all three may coexist in the same minority government situation.

### **An Opportunity Worthy of Consideration**

Is minority government less efficient than majority government? One of the old saws often heard about minority government is that it is less efficient because of the need to devote more time to legislative debate in order to accommodate opposing views. This is a most peculiar argument for several reasons. In the first place, scholars including Eugene Forsey have demonstrated that less efficiency need not be the case. Minority government may be both efficient as well as progressive in terms of its policy accomplishments. In addition, this old-line position overlooks one of the major weaknesses with majority government, where the government is able to ramrod its bills through the legislature with legislators reduced to being little more than political eunuchs. If this is what is meant by a more efficient legislature, then is it desirable? The truth of the matter is that it is not all that relevant as to how much or how quickly legislation is approved by a legislature in one session – that is a numbers game.

***The issue of legislative performance is much more complex and cannot (and should not) be reduced to the efficiency criterion.***

Perhaps the greatest fault of the efficiency argument, however, is that it perversely dismisses the original role of parliament as a place to talk. More correctly, it is not just a matter of talking but the ability to exchange ideas in a civilized manner. There is value to be found in the orderly exchange of ideas in the open forum provided by the legislature, as a key stage in the democratic development of public policy. Legislative debate is central to the Westminster model of parliamentary government, where the cabinet governs but is also subject to legislative scrutiny. If any doubt remains as to the importance of meaningful legislative debate, then one should look back at the experience in New Brunswick following the 1987

election when the Liberals won all legislative seats leaving the opposition parties without an official presence.<sup>9</sup> This is obviously a fine balance, balancing the executive and legislative roles, that may be easily thrown out of kilter.

It would be tempting at this juncture to expound on how and why the Nova Scotia Legislative Assembly has become an executive-dominated institution, and needs to be reformed so as to redress the balance in favour of the legislature. In this sense, the Nova Scotia Legislature is not much unlike its counterparts in the rest of the country.<sup>10</sup>

### **Conclusion**

Minority government, in effect, has the potential to make parliamentary responsible government work the way it was supposed to work by allowing for greater input by MLAs. Yes, of course, there will be more legislative debate because of the need to accommodate a greater diversity of viewpoints; in fact this has already been the case in Nova Scotia. At the same time, we must fix in our heads that there is nothing wrong with more debate; rather, open debate is consistent with the democratic ideals upon which our political system is based. The executive will have to work more earnestly at mobilizing legislative support for its policies, just as the MLAs will have to ensure the executive's ability to govern. Minority government to succeed thus requires a change of attitude on the part of all those involved. This is easier said than achieved because the existing norms of legislative behaviour held by politicians are firmly entrenched and were developed in the context of majority government.

When it comes to a minority government situation, the key objective would seem to be how best to remove the dark cloud of uncertainty. The soundest routes would probably be either the coalition or formal pact modes. Both would allow for greater, meaningful legislative input, while also facilitating the executive's ability to govern without the uncertainty of being defeated at any moment. At the same time, the openness of both modes would clearly identify the line of accountability in respect to policy accomplishments and failures. Of the two modes, the formal pact would probably be the more feasible. Except for an emergency situation, parties would probably be unwilling to sacrifice completely their individualities by joining a coalition. Besides, in the eyes of many, coalition government is perceived to be foreign to, or incompatible with, the Westminster model of parliamentary responsible government. However, the formal pact allows parties to retain their separate identities in both organizational and policy terms, while placing their

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partisan differences on hold for a specified period of time yet also achieving definite policy goals.

Neither of these modes, however, received much consideration in Nova Scotia as the parties were content to rely upon informal, ad hoc tactics. Perhaps it was because of the novelty of minority government in the province that a more formal arrangement was avoided. Or perhaps, the partisan and/or ideological differences were too great to be bridged. Coalition theory would facilitate greatly any probe of what happened and why in Nova Scotia.<sup>11</sup> Given the extent of the Nova Scotia electorate's fragmentation, and its increased voting volatility in recent years, there is every likelihood of more minority governments in the province's future. If this should happen, the opportunity should be taken to consider the adoption of the formal pact mode. This mode has the potential to allow parliamentary responsible government to function effectively with a minority dominated legislature.

#### Notes

1. For personal reasons, one NDP MLA left the party caucus to sit as an Independent. Thus, the actual standings in the 57th Legislative Assembly were: 19 Liberal, 19 NDP, 13 Progressive Conservatives, and 1 Independent.
2. C.E.S. Franks, *The Parliament of Canada* (Toronto: University of Toronto Press, 1987), p. 48.
3. Eugene Forsey, "The Problem of 'Minority' Government in Canada", *Canadian Journal of Economics and Political Science*, Vol. XXX no. 1 (February 1964), pp. 1-11.
4. *Ibid.*, p. 11.
5. C.E.S. Franks, especially pp. 10-15.
6. Linda Geller-Schwartz, "Minority Government Reconsidered", *Journal of Canadian Studies*, Vol. 14 no. 2 (summer 1979), pp. 67-79. (For another set of propositions concerning federal minority parliaments, see the Stewart reference mentioned in the next endnote, pp. 452-57.)
7. Ian Stewart, "Of Customs and Coalitions: The Formation of Canadian Federal Parliamentary Alliances," *Canadian Journal of Political Science*, Vol. XIII no. 3 (September 1980), p. 453, note 5.
8. A copy of this formal pact may be found in the first edition of Rand Dyck's *Provincial Politics in Canada* (Scarborough: Prentice-Hall Canada Inc., 1986), pp. 325-27.
9. Stewart Hyson, "Where's 'Her Majesty's Loyal Opposition' in the Loyalist Province?", *Canadian Parliamentary Review*, Vol. 11, No. 2 (Summer 1988) pp. 22-25.
10. For a general discussion of parliamentary reform, see Franks, especially pp. 10-34 and 257-69; for an earlier specific account on Nova Scotia, see Michael M. Atkinson, "Reform and Inertia in the Nova Scotia Assembly," *Journal of Canadian Studies*, Vol. 14, No. 2 (Summer 1979), pp. 133-41.
11. For an insightful account of coalition theory in respect to minority government, see Stewart, pp. 451-79.