Brief to the Special Committee on Electoral Reform
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I would like to make submissions on several topics under discussion including mandatory voting, internet voting, and lowering the minimum voting age, and an alternative voting system. To give context to my remarks, I work in the IT sector as a computer technician with training in computer programming. In addition, I am studying law, and have worked on several political campaigns occasionally as a foot canvasser, which involves talking directly to voters.

Summary

On the subject of mandatory voting, I believe that it merely papers over the problem of voluntary disengagement. Forcing someone to mime out the trappings of democracy does not lend the sense of a solemn duty and ceremonial significance it merely become another nuisance like shopping for groceries or calculating ones income taxes.

On the subject of internet voting, I also believe this to be a flawed proposal. It is too vulnerable to abuse both in design, and through mischief by both foreign and domestic actors. I am well aware of the benefits of technology, but I neither believe that it will significantly increase voter turnout nor make the process more efficient enough to warrant the dangers.

On the subject of lowering the voting age, in the end I have come to be in favour of this. I had hesitation on the point of whether those that we currently consider minor have the cognitive ability to evaluate the long term impact of their actions. However, in the course of balancing the argument, I have concluded that in the age of the Internet, what we consider children are actually more alive to long term social consequences than their grandparents and if we gave them the power to meaningfully express that concern it would cause governments to have longer term policy stability (or at least stability in long term policies).

On the subject of Alternative Voting Systems:
- I come down on the side of proportional representation with regional representation, and a ranked ballot where you don't have to rank all the options.
- I assert that the majority of voters vote for ideas more than individuals, and cite the difficulty of meeting 80,000 voters personally as evidence.
- In evaluating complexity I would emphasize simplicity in the voting process, and consider the magic behind the scenes as irrelevant to the discussion.
- I assert that a rise of small tent parties where people can hear their issues presented rather than drowned out by other priorities would increase engagement and legitimacy. Small parties only have a chance to succeed where there is some form of proportional representation.

<u>Mandatory Voting</u>

On the subject of mandatory voting, I am opposed. This proposal is usually put forward in terms of either a need to find some way, any way to increase voter participation, or instillation of a patriotic duty to take the obligations of citizens more seriously. On the former, I believe that it merely papers over the problem that people have only marginal belief in their representatives and the efficacy of how they were selected. I believe that voluntary disengagement is fed by several factors, such a perception that the government is remote from everyday life, that even if government is not remote, the governors are disinterested in exercising power in the citizen's interest (ie regardless of how they are elected, they will fall prey to lobbyists, and personal interest), and, most relevantly that they do not see the choice they did make reflected in the House. Party followers can at least take comfort in the scoreboard on election day and look forward to the next Big Game Day in four years. For the majority of individual voters, they simply see their votes discarded. On the patriotism front, the percentage of the population, even in the military town of Halifax, that have volunteered to the military, parliament or civil service is distinctly in the minority. Our Charter very astutely recognizes that people just want to be left alone to live their lives with minimal intrusion from the State. To have this patriotic minority force the rest of the population into their view of the duties of citizenship goes against this constitutional spirit.

Forcing someone to stumble into the voting booth to play pin the tail on the ballot would simply obscure the results from the people who have taken the time to become informed on the issues and research the candidates.   It would cause the people who are currently engaged to throw up their hands and stop voting effectively also. This will not inspire patriotic duty and responsible government, it will simply throw a wild factor into the mix that will undermine the efforts of the currently engaged. As someone who weighs the platforms of the various parties each time, I am offended by some of the apparently superficial bases for choices by engaged people who have given some consideration when and how they will vote (too young, too old, too black, has children, does not have children, I heard a rumour they are not married, they believe in abortion, we should bring back capital punishment, what have they done for me lately.), and I shudder to imagine what the bases that the compelled will choose (name sounds foreign, first guy on the ballot, name sounds female.)

In addition, what are we to use for enforcement measures?   Fines that are not a percentage of wealth or income will disproportionately affect the poor. Shall we have exemptions for people with mobility issues, and does that not mean that they will be disproportionately not voting?

The only feature of creating a positive duty to vote that could potential defend the enterprise is that it opens up the possibility of strong measures against those who obstruct the ability to vote, like employers who do not let their

employees leave work to vote. I do not believe this is a strong enough argument in favour to defend the proposal.

Internet Voting

I have more mixed feelings about Internet Voting, but on balance, I am opposed.

In its favour, it assists in accommodating rural persons without transportation, people who are trapped at work by non-compliant employers, and persons with mobility issues.   It reduces the, I believe the term is, "friction" of voting, that is to say it makes the transaction easier and less costly. It also saves time on election day in tabulating the vote. However, unless this is coupled with a positive right to adequate[1] Internet access in the home as an ancillary to the Charter s3 right to vote then these potential benefits are meaningless.

Unfortunately, I feel it is too prone to abuse:
- Experience in the USA has shown voting machines programmed to trick the voter into choosing against preference, or to straight-up misreport the result. These are just the scandals that have come to light. As a computer programmer, I know that unlike a poll clerk or scrutineer the computer will do exactly what it is told and only report what it is told to report.   In whose hands do we place the choice of how the election goes? The thousands of election worker who could be whistle blowers in corruption and partisan scrutineers, or one computer programmer? These concerns carry over to the website voting system, but are magnified because now subversion is not just from physical tampering by the programmer, but also the potential for a vulnerability to be exploited by millions of random Pierre Poutines and foreign agents.
- ID Requirements have been increased for better or worse. On the one hand this has led to vote suppression, but on the other hand there is the stated goal of increasing the integrity of the system. Are we now to reverse that by allowing anyone in an apartment building to vote 25 times using the cards from people who have moved? The voter card sent to the doorstep is no longer adequate ID to vote.   Are we to swing the pendulum past the prior state, and eliminate the possibility of at least catching the guy who visits the booth with 4 different cards used as ID because he looks familiar?

Internet voting is just unnecessary. The process of physically visiting a balloting place, or obtaining a mail-in ballot, and dutifully hand-marking your ballot is not so

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[1] "Adequate" means beyond dialup 56k with a fairly modern computer, as the Elections Canada website, political party websites, and media websites are no longer accessible below this standard. A theoretical advantage is rendered meaningless if it is not actually available.

onerous that it needs to be simplified. We only need to do it every 4 years, so the effort and loss of productivity is extremely minor, and hence the savings are trivial. Unlike the 4 days of line ups and days of vote counting that we see in some nascent democracies, one can get through the line in an hour at the most, and the ballots are counted by midnight.

Finally, returning the theme of patriotism and public service, I feel it is more solemn and significant to go to a place, be personally greeted and checked and to hand-mark the ballot. To degrade the decision of who will represent my interests in wielding the awesome powers of the State to the same status of whether I prefer a blue or green phone case on Amazon.ca trivializes the importance that I think should be placing on the decision.

Lowering the Voting Age

   It is possible that the proposal to lower the voting age does have some merit. It does have the danger of reducing voter turnout (17.5m over 25.6m is larger than 17.9m over 26.6m if the trend for first time 18-24 year old carries down). However, many high school students have become far more politically involved recently (possibly due to the Internet's ability to connect them to information. Further, this cohort has shown a preferencial interest in long-term problems over short-term challenges and might act as a voting block to increase the interest of politicians in problems that span further than 4 years.

       In addition, should we allow this group to have meaningful participation at a time when they are just learning the mechanics and theory of our system of government it might cause them to have longer term engagement in the process. This effect might be particularly pronounced if they can see a meaningful effect if special interest single platform parties that speak to their interests (like the Climate Action Party, the Animal Rights Front Party, the Education Party, or even the Pirate Party) have MPs in the house pressing their interest in those particular files.

       The only argument I can think of against this is the basis of legal minority: We have recognized in Criminal and Tort law that younger persons are challenged in their ability to meaningfully evaluate the long term impacts of their actions. This opens us to the possibility of politicians promising these voters, for example, free access to alcohol and marijuana in exchange for their vote as part of a platform to dismantle the structures of government and eliminate the healthcare system. Arguing against this, not only do I think there is a distinction between evaluating long term consequences in the moment versus giving consideration to them in a considered choice (like voting), but I also see this flippant decision making on the doorstep among 40+ year olds who do have legal majority.   I actually believe that older children and parents of young children are more alive to long term consequences than people who are uncertain whether they will be alive themselves to "vote the bastards out" the next time.

<u>Alternative Voting Systems</u>

We finally arrive at the contentious elephant in the room of alternative voting systems.

To start, I feel the First Past The Post system leads to distortions, and a significant disconnect between voter intention and result.   I accuse it of not just distortion of stated intention, but also of leading to strategic voting which leads to a secondary distortion of disconnecting actual intention from stated intention, let alone the result.   I feel that some form of proportional representation is vital.
I am sympathetic to the concerns expressed at the Halifax Evening Session (4 Oct 2016), about Proportial Representation being incompatible with unwritten Parliamentary Traditions and psychological barriers. However, I do not accept these as valid bases upon which to base law. In first year law, we discussed the reviewability of unwritten traditions, and the inability of the Courts to grapple with these practices. Since then I have had an antipathy for unwritten rules. If these traditions are at odds with laws passed by Parliament, then just as the Common Law must defer to the will of Parliament, so too must unwritten traditions.   If these traditions are incompatible, then it remains within the powers of parliament to write down new rules that are consistent with its Will, as long as they do not conflict with the Constitution. Interpretation of the Constitution should fill in holes between the written Constitution and written laws, not make hole and manufacture the filler to plug them. Further, it is as much within the power of Parliament to change the Elections Act to accommodate this change, as it is for them to make changes to double the electorate in 1918, to remove capital punishment from the Criminal Code, or to remove criminal sanction for doctors to assist a person in their suicide, all without referendum.   If the current system has enough legitimacy to elect a Parliament that can make such sweeping society changes, then this parliament must have enough legitimacy to change the process by which it is formed.   This is not to say that it is politically expedient to make such a change without referedum. On the other hand, the current parliament will be elected by voters who believe in Proportional Representation, so it may well be politically expedience after all.
As for the psychological barrier against different systems referred to on 4 October, I believe that it is a greater barrier among political scientists, lawyers, and civics students who are versed in the theory that we elect a personal representative rather than a party representative.

I believe that practically, most people are voting for ideas rather than people.   In the last government, it was made clear both to the electorate and the back bench that voters had elected soldiers in an ideological battle rather than personal representatives. I believe that in the last election the results can be better explained by the electorate being won by an inspirational idea, and alternate vision for Canada, and have little expectation that their MPs will be pushing regional agendas and personal representation. All of Europe votes for ideas in their Parliament, and I see no reason that Canada should not enter the modern age and do the same.   The personal representative is an anachronism from when one could

feasibly shake the hand of every one of your constituents and once you took the train to Ottawa there was little communication feasible to coordinate national opinion, other than between the personal representatives.

That being said, I am not willing to give up on the idea of having a person or persons to call. In addition, the ideas that people vote for are sometimes regional rather national. A number of years ago I found it surprising, and a little odd learning of the personal advocacy (what was referred to as Social Work last evening) that is performed by Constituency Offices.   The role needs to be filled by someone, and until we find another system for that, this is an adequate enough reason to maintain the personal representative. In addition, I can profess a personal psychological barrier against participating in the thrust of ideas only via contribution to political groups such as parties rather than phoning a person whose responsibility is to take these concerns to the colloquium of Parliament.

Despite the significant challenges in being known personally to every constituent rather than being a name and a colour on the ballot, for some people this is the basis for their vote, and to deny them representation would be an injustice. Further some of the representatives are personally representing their constituents when they are sponsored based on their support of most of the party platform, but split on some portions. From a practical perspective, an Independent has little chance of the being elected.   Should a system that decouples the Regional representation from the Idea representation be chosen then it is possible to change this.   Realistically, however it is rare for an MP to break from the party in light of local representation and an insufficient basis upon which base inertia in retaining a FPTP system.

I personally find it more intuitive to rank the candidates than the engage in the calculus of least bad option, or to ambiguate whether I was torn between two similar options and flipped a coin, or had one clear choice and none of the others were acceptable. The concern that people will be confused by a ranked ballot can be addressed operationally by accepting the way people "have always voted" and treating an "X" as "1 and none of the others are acceptable". This allows those who wish to express a ranked preference to more clearly indicate their intentions unambiguously while still accommodating those who believe one should choose a clear single option as we do now.

I would also welcome the option of having multi-member ridings whether the members in one riding decide to share out servicing geographically (ie continue to "represent" within an old riding boundary, or if they let the constituents shop for the member that best serves their needs and interests. I know of at least one Nova Scotia MP who told a constituent to never call their office again.   In a multi-member riding the constituent would not then be frozen out of servicing and the political process.

Given these biases of mine,

- I am opposed to pure Party Lists methods.
- In the end, I would like to see some form of hybrid system that gives people one or more regional representatives but focuses mostly on the contest of ideas. Whether this is a ballot that asks you to vote for your preferred party and ranked individual candidates and then balances out the party affiliations nationally or whether the ballot looks the same, with individual strongly linked to party, and we balance from a party list to add extra seats, or whatever, I am not sure. The first option would allow the independent to be elected while still getting enough philosophically aligned people to create a coherent agenda.
- Multi-Member ridings would be a beneficial change in addition to being an implementation tool in some systems.

Discussing simplicity, the emphasis should be on simplicity for the voter to vote, not on how hard it is for the ballots to be counted. Maybe I misapprehend the conception of the common voter, but my belief is that they go and do their little part, and now there is a new Prime Minister. How the sausage is made is of more interest to political scientists and party members. I feel it is far more convincing to tell people that if they pick the wrong horse, then the vote is counted in an arcane formula in a second round of magic than "we just throw it away". This argues against the separate member and party ballot, but is neutral about all other systems.

However, if my assertion of the conception of voting as being a black box is accurate, then reducing the mismatch between media reported "National Vote Share" and "Number of Seats in the House" can only help legitimacy, far more than launching into a whole spiel about the details of how MMP vs STB works and is calculated. As long as Elections Canada certifies the result, and the Scrutineers say the election was run fairly, the result should be considered legitimate. If adults are really curious then they can ask the children currently taking civics to explain how the sausage is actually made. That is to say the process is knowable, persuadable as to its legitimacy, but not necessary to the simple act of voting or accepting the formation of a government.

On the doorstep, I am hearing the under-represented reporting learned helplessness. This I believe will convince them to come back. Maybe not in droves, there is still some cynicism and disaffection, but it is a foot in the door to getting a little more legitimacy and allowing them to elect the minority voices that speak for them. Allowing the possibility for small parties to be represented creates the possibility for the under-represented to elect people who speak their message.