

The Case for Parliamentary Democracy

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In conversations over this past year, and particularly after Julie Payette resigned her office, many friends have argued we have no need of a Governor-General in this country.

Some say the office should be replaced with an elected President, and others argue there is no need for anyone other than the Prime Minister to head the government. If someone is required to attend to the niceties of constitutional order — by signing the odd

piece of legislation — surely it could be done by a Supreme Court justice. As for the ceremonial aspects of the job, they wonder if such things need doing.

They pooh-pooh any concern that it might be unwise, or a conflict of interest, for a Supreme Court justice to sign into law — legislation that might one day be the subject of a ruling by this same court.

The whole issue is interesting and I plan to make the case for a Governor-General in this article. But first it might be useful to set out a few facts about the early history of Upper Canada, before and after confederation.



In the early days of Upper Canada, the government consisted of a Governor and a legislature. The legislature had two chambers — one appointed by the Governor (called the *Legislative Council*) — and the other elected by property owners in the colony (called the *House of Assembly*).

The Governor was appointed by the British Crown and controlled the government through his *Executive Council* (or cabinet), as well as the *Legislative Council* noted above.

The *House of Assembly* was a minor part of the government. All taxes and legislation in the colony

required its approval. But aside from that, the vast powers of the Governor to issue orders in council, distribute patronage and raise money from sources independent of the *Assembly* usually allowed him to govern as he wished.

In 1867, Upper and Lower Canada, New Brunswick and Nova Scotia expressed a desire to be federally united in a new country called Canada.

The enabling legislation provided that each new province would have its own government, consisting of an elected legislature and a Lieutenant-Governor. A separate federal government — with an elected legislature and an appointed Senate — would govern in areas of federal jurisdiction. A Governor-General assumed the role of the Crown in this new federal Parliament.

Since the late 1840s in British North America, the Governor General, and the Lieutenant-Governors in each province no longer took an active role in governing their colonies. Their new responsibilities were modest, and ceremonial in part, but still important to a well-functioning democracy.

Governments were now selected from among those elected members who held a majority in the legislature. Elections were normally held every four years, but new elections were usually called in the interim, if the government no longer had its

majority, and/or lost a vote of confidence. A new government was then formed by those who won the election and controlled the legislature.



The Governor-General and Lieutenant-Governors are important to parliamentary democracy because there is a need for someone (other than the Prime Minister or Premier) to make difficult decisions at troublesome times. It is no surprise that every parliamentary democracy has a President, Monarch or a vice-regal representative to do just that.

The Governor-General and Lieutenant-Governors may be called upon to decide, when and if Parliament should be prorogued, when to call elections, which party might be asked to form a government, or whether a government might be asked to resign. It would be a sad day if these decisions were left to a Premier or Prime Minister, given their interest in having things their way.

The Governor-General / Lieutenant-Governors also have the right to advise, encourage and warn their Prime Minister (or Premier). Often they do. Given these discussions are held in private, between the head of government and a knowledgeable representative of the Crown, they can be (and often are) useful.

More importantly, in the event of serious

unconstitutional acts by the government, the Governor-General remains the Commander-in-Chief of the Armed forces, a responsibility that may give him or her some clout in such matters.



Consider this? What if our current Prime Minister Trudeau was the boss of everything? William Watson considered this possibility in his recent column in the Financial Post. Here are his thoughts (paraphrased in part).

Some Canadians find him insufferable.... Imagine how his arrogance would soar with no one above him constitutionally.

Having a Governor-General, who is neutral and fair-minded, to handle decisions about whether to prorogue Parliament, let the government off the hook from time to time, have a new election, or give some other parliamentary party a shot at governing, seems indisputable.

The problem is how to find someone neutral.

In Canada, the Prime Minister chooses the Governor-General. This might be unwise. Far better to choose a Governor-General in a manner that is as far removed from the office of the Prime Minister as possible.

Or for those republicans in our midst — to choose

a President who would serve in the role the Governor-General fulfills today. The name of the office would change, but the job would remain the same.

Some parliamentary democracies choose their Governor-General (or President) by a vote in Parliament. India chooses its President by a combined vote of federal and state legislatures; England vests this authority in the Crown.

It seems all parliamentary democracies try to choose people who are above partisan politics to decide the difficult issues mentioned earlier.



I suspect this will become an issue in the years to come. When Queen Elizabeth dies and Charles III takes the throne, I expect many Commonwealth countries, including Canada, will re-evaluate the role of the Monarchy.

Australia did just that in November of 1999, when a referendum was held to determine if Australia should become a republic. The question put to voters was as follows:

"Should the constitution be altered to establish the Commonwealth of Australia as a republic, with the Queen and Governor-General replaced by a President, appointed by a 2/3 majority of the

members of the Commonwealth Parliament.”

Surprisingly the referendum failed, not so much on the question, but the particulars underlying the question. It seems republican voters could not agree how their new President should be selected, so those that favored direct election of the President, voted against the proposal, along with the monarchists.

It's a good lesson in politics. When it comes time for Canada to deal with this same question in the years ahead, we may well decide that the system we have is the best of a bad bunch.

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