



Canadian Study  
of Parliament Group

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WHOM DO YOU TRUST? THE GROWING  
RELATIONSHIP BETWEEN LEGISLATIVE  
ASSEMBLY OFFICERS AND CITIZENS

December 9, 2006  
Winnipeg, Manitoba

## **CANADIAN STUDY OF PARLIAMENT GROUP**

The Canadian Study of Parliament Group was created with the object of bringing together all those with an interest in parliamentary institutions and the legislative process, to promote understanding and to contribute to their reform and improvement.

The constitution of the Canadian Study of Parliament Group makes provision for various activities, including the organization of conferences and seminars in Ottawa and elsewhere in Canada, the preparation of articles and various publications, the establishment of workshops, the promotion and organization of public discussions on parliamentary affairs, participation in public affairs programs on radio and television, and the sponsorship of other educational activities.

Membership is open to all those interested in Canadian legislative institutions.

Applications for membership and additional information concerning the Group should be addressed to the Secretariat, Canadian Study of Parliament Group, P.O. Box 660, West Block, Ottawa, Ontario, K1A 0A6. Tel.: 613.995.2937, Fax: 613.995.5357, [www.studyparliament.ca](http://www.studyparliament.ca)

## INTRODUCTION AND ACKNOWLEDGEMENTS

On December 9, 2006, the Canadian Study of Parliament Group (CSPG) held a conference in Winnipeg on the subject of "Whom Do You Trust? The Growing Relationship between Legislative Assembly Officers and Citizens".

The conference was organized by Patricia Chaychuk, Clerk of the Manitoba Legislative Assembly, and Dr. Jonathan Malloy, Department of Political Science, Carleton University. Both are members of the CSPG Board of Directors.

Ms. Chaychuk and Dr. Malloy assembled an interesting cast of participants at the well-attended conference that was held in the Legislative Assembly Chamber. The participants included political scientists, independent officers of provincial legislatures, students and several MLAs.

During the morning session, a panel consisting of an academic, a legislative officer and an MLA provided a lively discussion and much food for thought on the topic of keeping public officials accountable.

The keynote address was delivered by Professor Paul G. Thomas, the Duff Roblin Professor of Government, University of Manitoba, on the subject of the emerging world of accountability and ethics, subtitled parliamentary scrutiny and the redress of grievances.

In the afternoon sessions, two panels contributed many stimulating thoughts and ideas. One panel explored the theme of protecting citizens, while the final panel of the day delved into the subject of furthering democratic rights.

Throughout the day, the audience engaged in animated discussion with the various panelists, and as always, contributed immensely to the engaging dialogue.

Many thanks are expressed to Sophie Descary for all of her hard work on the conference. It is certain that the conference would not have been a success without her efforts. Thanks are also expressed to the Manitoba Parliamentary Interns for taking notes at the sessions and preparing the panel summaries. Finally, thanks are also expressed to the panelists for their time and efforts in providing keen insights and facilitating engaging discussions.

Patricia Chaychuk  
Dr. Jonathan Malloy



## **INTRODUCTORY REMARKS**

Jeff Heynen  
President  
Canadian Study of Parliament Group

Patricia Chaychuk  
Clerk of the Legislative Assembly  
Manitoba

### **Jeff Heynen**

Mr. Heynen opened the December 9<sup>th</sup> conference, by welcoming the participants and thanking the presenters. The theme of the conference dealt with the changing role and perceptions of Legislative Assembly Officers within Canada at both the federal and provincial level. While the concept of legislative officers is not new, the visibility of these officers has increased. This shift in visibility is proportional to the growth and complexity of the government, which has implications for how governments are held accountable while respecting the rights of the citizen. The roles and powers of these legislative officers have developed with little constitutional definition and thus today's discussion is important for strengthening how we understand the function of these roles in Canadian political society.

### **Patricia Chaychuk**

Ms. Chaychuk welcomed the group to the Manitoba Legislative Assembly and thanked the Speaker of the Legislature for giving those in attendance the privilege of holding the conference within the Chamber at the Manitoba Legislature. A brief introduction to the Legislative Chamber's art highlighted the images and sculptures meant to impart justice, knowledge, and the virtues of lawmaking. These ideals complimented the discussion that was had at the conference as Ms. Chaychuk noted the lack of attention paid to the important work and contribution to governing structures that is carried out by legislative officers.

## **PANEL I**

### **KEEPING PUBLIC OFFICIALS ACCOUNTABLE**

Chair: Dr. David C. Docherty  
Dean of Arts  
Wilfrid Laurier

Panellists: Carol Bellringer  
Auditor General  
Province of Manitoba

Elwin Hermanson  
Member of the Legislative  
Assembly of Saskatchewan

Dr. David E. Smith  
Professor Emeritus  
Department of Political Studies  
University of Saskatchewan

#### **Carol Bellringer**

Ms. Bellringer, in her second term as Manitoba Auditor General, spoke candidly on the function of the Auditor General's Office and Public Accounts Committees. The role of the Auditor General is an important function in how legislatures operate as they enhance the quality and delivery of public services. These functions are built into the mandate of the office, which are reflected in the office's work and are evident in their reports.

The specific role of the Auditor is to review the work or finances of an institution however provincial Auditor Generals are publicly expected to do more. Influences such as the federal Auditor General's Office as well as the individuals who make up such offices have produced a public expectation that auditors do performance audits, which involves examining the quality and manner in which services are provided.

The Manitoba Auditor General's Office works closely with the Manitoba Public Accounts Committee (PAC). The PAC mandate is to examine the financial administration of public assets and the spending of public funds. This provides the opportunity to call government ministers to answer questions in order to hold them to account. A possible improvement to this procedure was raised in regards to the examination of unelected government officials as a way of lessening the partisan nature of the exercise.

The Manitoba Auditor General surveys the public every three years to measure changes in public perception about the office of the Auditor General. Of those surveyed, 50% believe that the office of the Auditor General facilitates public trust and helps to keep governments honest; 51% believe that the office ensures the effective use of public money; 42% believe that the office helps to keep government accountable; 43% believe that the office helps to foster trust and only 4% showed any familiarity with the PAC and the role that it played. These survey results indicate that shifts in public perceptions of the office of the Auditor General are due in part to recent changes in the office itself as well as recent high profile audit reports. However,

with only 4% showing familiarity with PAC, improvement is needed to increase public confidence in government.

### **Elwin Hermanson**

Mr. Hermanson posed the question “Are we losing our grip on accountability?” to provoke discussion on contemporary political pressures that reduce accountability.

As more power is concentrated in fewer hands, trust and transparency are weakened. Mr. Hermanson attributes this reduction in accountability to four pillars of the political structure: “the almighty PMO” (which filters down to provincial Premiers); the bureaucracy (large and unmovable); the media (huge conglomerates); and the courts. Throughout these four pillars, tensions arise concerning the accountability of elected and appointed officials who may weigh decisions according to the effects of political reputation or job security.

The truth about accountability is that access to information always improves government. Mr. Hermanson explains that there are truth-seeking aspects built into the political system that have the potential to reverse the trend of depleting transparency. These include the justice system, Freedom of Information Acts, public accounts committees, and legislative officers who are accountable to parliament. However, barriers to increasing accountability are also built into this same political system. These include the “slow learners’ club” or those prone to repeating mistakes. Other barriers include the political interests that afflict both government and opposition benches. For instance, the government will attempt to suppress mistakes while the opposition will attempt to maintain the power to suppress mistakes in the eventuality that they will hold office.

Mr. Hermanson commented on the public’s increasing demand for accountability. If legislative officers are to meet these demands, they must have adequate access to information and they must have attention paid to and action taken on their findings. This means that the media should pay attention to these reports, elected members must build on the work of these reports, and the standing committees and legislators need to be able to work as partners to bring about positive changes.

The strengths of Saskatchewan’s Public Accounts Committee arises from a good relationship with the provincial Auditor General that respects the office’s independence. The Auditor’s Budget and Business Plan are reviewed and approved by the committee and progress on the Auditor’s recommendations is also reviewed. Changes that may address the challenges faced by the PAC include performance measurements that are not only a means to the past but also to the future, governments that are responsible, an opposition that is active but does not resort to bully tactics, and reliable witnesses that provide clear and relevant information.

Mr. Hermanson closed his presentation by paraphrasing Bill Maher on Dick Cheney’s hunting accident where Maher says that, to the Vice President’s credit, he did claim all fault for the accident - it is amazing, the only time you get accountability out of this administration is when they are literally holding a smoking gun!

### **Dr. David E. Smith**

Dr. Smith divided his presentation into three parts under the title “Keeping Public Officials Accountable”:

1. The Theory of Legislative Officers
2. The Emerging Popular View of Legislative Officers
3. Conclusion

1. The Theory of Legislative Officers

Dr Smith began his discussion by stating that legislative officers could be defined as an essential component of legislative assemblies both complementing the work of the legislature as well as affording legislators the opportunity to play their role as legislators. The information that legislative officers produce allows legislative committees to function. The most well known example of this is the relationship between the Auditor General and the Public Accounts Committee.

What is the role of the legislature? In 2005, a Supreme Court rulings, defined the primary purpose of legislatures as working to hold government to account for the conduct of the country's business. Thus, the attribution of accountability is identified as the primary function of the legislature. It is this mandate that makes officers of a legislature essential given their integral role in assisting legislatures to ensure accountability.

2. The Emerging Popular View of Legislative Officers

The conception of legislative officers defined as an integral part of the legislature has been replaced by the view that legislative officers stand apart from institutions in the role of a watchdog. This misnomer extends from the perception that such officers are concerned primarily with exacting accountability. Furthermore, such so called watchdogs often prefer to be identified as ombudsmen who are concerned with advancing a specific public policy, rather than exacting accountability.

The explanation for this apparent misidentification of legislative officers seems to lie with the word 'independent' that is invariably linked to the subject of legislative officers. It seems that the public views legislative officers as needing to be independent of both government and legislatures.

Three reasons for this shift in perspective can be offered.

Loss of trust in politicians, as well as in the parliamentary system itself, has resulted in a distrust of discretionary authority; hence a desire for a more rules based system. Parties and party discipline are increasingly being seen as antithetical to the independence of legislators and the weakening of ministerial responsibility. Thus it is against this background that politicians are seen as wanting and legislative officers seen as public defenders.

Furthermore a re-conceptualization of parliamentary government, from a system where independent units work together to establish law, to an adversarial system of checks and balances where the legislature stands in opposition to the executive has resulted in an environment where legislative officers are conscripted into battles between different branches of government.

Lastly, the concepts of ethics and ethical behaviour have broadened in definition and have gained increased public awareness. Ministerial responsibility was once seen as sufficient for ensuring public accountability. Today, the concept of 'accountability' has a broader reach, one that is constantly being expanded, often by one's opponents. As a result, it has become



increasingly difficult to measure progress in achieving improved behaviour. This has led to the creation of a public that no longer accepts parliamentarians policing themselves.

### 3. Conclusion

Dr. Smith concluded by noting that a paradox exists within the current public view of legislative officers that requires further study. How can it be that the public looks on unelected and unaccountable parliamentary officials as representatives of the public, who are viewed as being more trustworthy than elected officials? The reasons expressed above seem to provide some of the answers, but more investigation is needed into the current trend of public perception of government as well as how issues are perceived and conflicts resolved in order to understand the public's expanding faith in legislative officers.

## LUNCHEON ADDRESS

Host: Hon. George Hickey  
Speaker of the Manitoba Legislative Assembly

Keynote Speaker: Dr. Paul G. Thomas  
Duff Roblin Professor of Government  
University of Manitoba

### **Dr. Paul G. Thomas**

Professor Thomas delivered a paper titled *"The Emerging World of Accountability and Ethics: Parliamentary Scrutiny and Redress of Grievances"* in which he examines the rise of "watchdog" agencies. He believes that governments are trying to address public cynicism and mistrust by establishing independent agencies. Scrutiny of policies and administration and specific redress of grievances are tasks attributed to parliaments.

Watching and controlling activities by parliaments reflect the uneasy relationship presumed to exist between democracy and bureaucracy. However watching and controlling government is too big a task for parliament on its own. Independent agencies increase the ability to oversee decisions, provide complaint mechanisms and promote improved performance and appropriate standards. Independent parliamentary agencies give parliaments the information necessary to hold public organizations accountable. Dr. Thomas starts from the premise that their rise has been positive.

Increasingly, politicians live under public suspicion, so they set up bodies to police their own behaviour. There is a focus on managerial solutions to political problems, which includes the creation and strengthening of new and existing watchdog agencies. Dr. Thomas raises several concerns associated with the new accountability apparatus and unforeseen impacts on government performance. Regulators represent values that are not always consistent such as cost minimization versus humanity. Fear of mistakes and consequences stifle creativity and risk-taking. Multiple regulatory agencies reinforce the "gotcha" mentality of detecting wrongdoing and pinpointing blame. They also create more opportunities to place blame on career public servants. They lead to a loss of anonymity for senior public servants and damage to their reputations when they are part of an investigation. Finally, the methodology of these agencies' investigations is not always transparent. Should public servants be entitled to due process and recourse if there is a negative review?

In the same way that parliaments have increasingly relied upon other bodies to supplement their scrutiny efforts, the redress function has been increasingly transferred to specialized agencies. This has resulted in the growth of Office of the Ombudsman, which became a popular concept due to the informality of procedures, the flexibility of their potential remedies and the accessibility and lack of cost to complainants.

The Office of the Ombudsman faces many trade offs, in particular, the trade off between complaint resolution and standards promotion. The Office of the Ombudsman also faces many hurdles with securing sufficient monetary and research resources as well as problems that arise from a lack of awareness by the general public of the type of work that the Ombudsman does.

Redress functions have been significantly affected by certain trends that have arisen out of the private sector and found its way into the public sector. The result has been a movement towards a customer friendly and results-based bureaucracy.

As a result of the increasing emphasis on government performance, the focus has shifted from procedural accountability to aggregate results.

The contracting out of certain programs to the private sector is a symptom of this focus on results. This trend has undermined legal protection for individual citizens who are affected by the decision and quality of services provided by the contracting organization. The question now is what sort of redress should be available to the citizen who has suffered harm as a result of “privatized” activity? Perhaps the role of the Ombudsman could be expanded to cover these activities but the question then is will this sort of oversight detract from the innovation and productivity gains which contracting out is supposed to deliver?

To conclude, Dr. Thomas notes that the growth of independent agencies arose out of a governmental need to cope with the expanded scope and complexity of governance in the 20<sup>th</sup> century. The rise of independent agencies has made a positive impact on citizens by providing a greater chance to obtain fairness while interacting with the bureaucracy. Despite a generally positive impact, perhaps we ought to ask whether parliament has given away too many tasks and whether there are any other tasks left to delegate.

The basic problem now faced by this relatively new parliamentary bureaucracy is how to strike the appropriate balance between independence and accountability. While parliamentary bureaucrats are charged with ensuring the accountability of government, this does not mean that they themselves should be any less accountable. Dr. Thomas suggests that there is enough independence but not enough accountability.

While there is a lack of accountability within the parliamentary bureaucracy, it is not recommended that we create another level of bureaucracy by trying to oversee the overseers. Eventually, parliaments must accept that scrutiny and redress functions must be addressed directly by parliamentarians themselves and that it is the right and duty of parliaments to do so.

## PANEL II

### PROTECTING CITIZENS

Chair: Dr. Jonathan Malloy  
Associate Professor and  
Associate Chair  
Department of Political Science  
Carleton University

Panellists: Dr. Ken Gibbons  
Associate Professor  
Department of Political Science  
University of Winnipeg

Irene A. Hamilton  
Ombudsman  
Manitoba Ombudsman's Office

Dr. Lori Turnbull  
Assistant Professor  
Department of Political Science  
Dalhousie University

#### Dr. Ken Gibbons

Ken Gibbons' presentation was titled "*The Manitoba Ombudsman: Protecting Citizens through Fairness, Equity and Accountability?*". The themes of his presentation—fairness, equity, accountability—were chosen from the mandate of the Ombudsman's Office to promote fairness, equity and administrative accountability.

In his brief history and introduction, Dr. Gibbons discussed the powers of the Ombudsman's Office, its independence and the four former and current Ombudsmen.

The Office can investigate, recommend and report publicly on its findings. To ensure the independence of the office, an all-party committee appoints the Ombudsman for up to two six-year terms and his/her removal and salary reductions can only be made by 2/3 vote of the legislative assembly. There have only been four Ombudsmen in Manitoba's history. Stylistically, the office has traditionally had a non-adversarial approach though marked with varying degrees of formality.

Dr. Gibbons highlights the fact that in Manitoba, the Ombudsman is charged to review matters both under (*Freedom of Information and Personal Privacy Act*) FIPPA and under (*Personal Health and Information Act*) PHIA. There are therefore two divisions in the Ombudsman's Office: the Ombudsman division and the Access and Privacy division. The Office of the Ombudsman has grown over time because of an expanded mandate to FOI (Freedom of Information) in 1988, now manifested in FIPPA and PHIA. The city of Winnipeg, which formerly had its own Ombudsman, was added to the provincial mandate in 2002.

Dr. Gibbons reviewed the data concerning the number of inquiries and formal complaints for each division over the last several years as well as staff and budgetary data. He then analyzed patterns of complaints based on geography and agencies. Over 50% of complaints come from Winnipeg and the Department of Justice is the target of the most complaints. He further broke down the patterns by organizational division. Finally, he examined case outcome statistics.

Dr. Gibbons discussed three significant issues. The first is workload. He questioned whether there is enough staff given the fact that only two staff were added when Winnipeg first fell under the provincial Ombudsman's purview, though the former Winnipeg Ombudsman's Office had six staff. Additionally, there are a significant number of carry-over cases each year. Dr. Gibbons then discusses the issue of judicialization. The Access and Privacy division with *FIPPA* and *PHIA* have led to more formal legalistic relations with senior public servants and ministers, partially because of fines. He questions whether this more adversarial approach will cross over to the Ombudsman division. Finally, he reiterates concerns raised by former Ombudsman Barry Tuckett who questioned the Government's commitment to information accessibility given incidences of the Government denying access to information without appropriate explanation, taking the maximum time to respond to requests and the possibility of raising fees, thus making it more difficult to access information.

Dr. Gibbons concludes by asking whether these three issues affect the Ombudsman's mandate of fairness, equity and accountability.

### **Irene Hamilton**

Irene Hamilton's presentation, titled "*The Perspective of the Manitoba Ombudsman*", elaborated on the role of the Ombudsman's Office and provided information on the challenges the office faces.

The Ombudsman has broad powers of investigation, to summon witnesses and to place them under oath. She is not authorized to investigate policy decisions or judicial and arbitration decisions. She also has the ability to decline appeals and to decline to investigate matters which are considered frivolous or vexatious. However, she rarely refuses to investigate, especially in situations where the state exercises a great deal of control over the life of the complainant. She believes that the Office must consider the complaint from their point of view.

Ms. Hamilton believes that the increase in responsibility demonstrates that the government of the day thinks the office is relevant and has an important role to play. The increase in accountability and responsibility has led to restructuring and reorganizing within the office. There are no longer two executive directors, and a new education and outreach position has been created. Ms. Hamilton feels that to be known and understood is essential to the efficacy of her role. It is important that the roles and responsibilities of the office be entrenched in Manitobans' minds.

Though opinion polls are not conducted, she thinks the public is not necessarily aware of the office. Ms. Hamilton is working to raise awareness through direct education by informing students about the role of the Ombudsman in the democratic process. The Office has developed a social studies curriculum component for grades 6, 9 and 11.

Another initiative has been the restructuring of the front end of the Ombudsman's Office to provide intake assistance. Their goal is to not send people away without help, which has meant developing expertise in information. In order to enhance the ability of the public to advocate on

their own behalf, it is important to encourage complainants to investigate other avenues of appeal and to provide information about alternatives. Ms. Hamilton believes that the Ombudsman should be the last resort in the complaint process.

Additionally, the Office has actively sought to build relationships with those employed by government agencies, such as correctional officer recruits in order to facilitate investigations and improve awareness. Promotional and informational material has been redesigned and put into plain language to make it more understandable. The Office is also in the process of developing an online complaint form, which would improve the public's ability to contact the Office, especially for those who do not have access to a phone during business hours. Along with the Human Rights Commission and the Children's Advocate, the Ombudsman's Office developed a brochure that gives information on youth rights, justice, child welfare and the workplace.

The Ombudsman has the power to investigate on her own initiative. This is useful in order to determine if there are systemic issues, for instance when there are many questions and complaints regarding a particular agency or group.

In conclusion, Ms. Hamilton reiterated that the relevancy of the Ombudsman's Office rests on assistance to the public, public awareness, education, outreach and the implementation of suggestions.

#### **Dr. Lori Turnbull**

Dr. Turnbull's presentation focused on the office of the Nova Scotia Ombudsman. She began with a brief history and overview of the Office. The Office was established in 1971. Opposition to the position centred on the belief that elected representatives themselves should respond to citizens' concerns. However, an independent Ombudsman allows for non-partial investigation of public officials. The Ombudsman is appointed by Cabinet for a five-year term and can be re-appointed.

In Nova Scotia the Ombudsman has four main responsibilities. First, he investigates complaints of unfair treatment by public officials. The Office has the power to launch its own investigation if there appears to be systemic issues. Second, he is involved in youth services. There is no Child's Advocate in Nova Scotia, so the Ombudsman sees himself as a protector of youth. Third, he is responsible for the seniors' services office, which is currently under construction. Finally, he is responsible for investigating complaints concerning civil servants in situations where an employee is asked or sees wrongdoing and their complaint is ignored by their supervisor or deputy minister. This plays an important role in enhancing accountability and maintaining public trust in the civil service commission.

Dr. Turnbull reported that the current Ombudsman is very proactive because of the importance of public trust in the Office. He gathers citizens' opinions on services and reports them. First, he holds regular consultations with government departments, deputy ministers, police, hospital boards, etc. He has a role in policy development because he is seen as an expert in service delivery. However, his recommendations are non-binding. Second, he has a non-adversarial relationship with the Government. If his recommendations are not accepted, he can table them in the House, though he generally tries to fly under the radar and maintain his relationships. His non-adversarial approach encourages trust in both politicians and the Ombudsman. Third, He makes visits to youth residential facilities to build trust. There is also an "Ombudsman hotline" which youth can call within 24 hours of being incarcerated. The Ombudsman is seen as

somewhat of an expert regarding youth rights and services consults with departments on how to make departments more youth friendly. Finally, he embarks on community visits a few times a year. His office is in Halifax, but he wants to ensure those outside the capital can access the office's services as well. There is evidence that his visits have reached the public: while the number of cases his office handles has stayed fairly steady, non-jurisdictional calls have decreased.

## **PANEL III**

### **FURTHERING DEMOCRATIC RIGHTS**

Chair: Dr. F. Leslie Seidle  
Senior Research Associate  
Institute for Research on Public Policy

Panellists: Dr. Louis Massicotte  
Associate Professor / Visiting Professor  
Department of Political Science / School of Public Affairs  
Université de Montreal / American University

Dr. John C. Courtney  
Professor Emeritus  
Department of Political Studies  
University of Saskatchewan

\*Note: the third panellist, Donald M. Hamilton was ill and did not participate in the panel.

#### **Dr. Louis Massicotte**

Dr. Massicotte began his presentation by posing two important questions: Is it possible to find truly independent persons to fulfill the role of Chief Electoral Officer or similar positions? If so, how can we ensure their accountability and transparency?

In a discussion about the existence of truly independent persons, Dr. Massicotte turned first to the trusted source that - a dictionary - for insight on the definition of 'independence'. What he initially found was that many definitions were not particularly illuminating such as the 'independence means not dependent' definition. The most relevant definitions talked about not being subject to control by others, not being affiliated with a larger controlling unit, not being bound by or committed to a political party, and not relying on others for a livelihood. These definitions was referred to throughout the talk.

Dr. Massicotte admitted that while the requirement of being non-partisan is usually met, the other dimensions of independence are not usually attainable in the truest sense. For instance independent officials are always subject to varying degrees of control by others or larger controlling units and independent officials rely on these units for their livelihood. Dr. Massicotte was not trying to argue that truly independent officials are impossible, but that such officials are perhaps few and far between. That being said, he stated that there is a clear need for these sorts of officials in our society.

The concepts, and the elements thereof, that have formed our understanding of how an officer gains independence originated from the judiciary. Members of the judiciary were given lifetime appointments, comfortable pay levels and protection against arbitrary dismissal. We see such similar elements within the office of the Chief Electoral Officer. For instance, the CEO has tenure until the age of 65, is subject to removal in part by the Governor General, and his salary is not at the whim of Parliament, although this was not always the case.

The appointment process of the CEO is by resolution of the House of Commons, which increases transparency and ensures that parliamentary oppositions are provided with the opportunity to voice their opinions on the appointee. So far, all appointments have been unanimous.

Professor Massicotte submitted that the success of the office of the CEO is not only due to the various procedural elements but also because of the nature in which the appointments of the CEO have been made. No CEO appointments in Canada so far have given rise to serious controversy or accusations of partisanship.

To bring us back to the first question: is it possible to find truly independent people to fulfill these roles? The answer is an unqualified yes.

As for what measures we must take to ensure their accountability and transparency, Dr. Massicotte highlighted some of the pitfalls that independence poses.

Referring back to the definitions of independence, one could say that not being subject to the control of others is in fact being accountable to no one. Someone who is not affiliated with a larger controlling unit may be discounted as a loose cannon, etc.

These pitfalls have been recognized from time to time and it brings up the question of who watches the watchdogs?

Irresponsible or questionable behavior by independent officials can irreparably damage their own position and the office they hold. Independent officials who play hardball politics may well be rewarded accordingly. A key understanding of the limitations of their role should be well understood by independent officials.

Procedures are necessary to ensure that public officials are truly independent while remaining accountable, however success at achieving this balance depends equally on the wisdom of the appointments that have been made and the wisdom of the appointees in fulfilling their duties. A good case can be made for an appointment process that allows multiple actors to judge for themselves the qualifications of each applicant.

### **Dr. John C. Courtney**

Dr. Courtney's presentation, titled *"In Every Way a Permanent and Independent Officer": Canada's Chief Electoral Officer*, outlined the development of the position of Chief Electoral Officer in Canada, and its roles and responsibilities. The purpose was to show that, although Elections Canada is not immune from criticism, it is widely perceived as a vital and positive part of elections and democracy.

Dr. Courtney identified the two major events in the development of elections in Canada. They are the introduction of the secret ballot and simultaneous voting in 1874, and the creation of the

CEO in 1920. From there, Dr. Courtney moved into a discussion of the origins of the CEO dating back to the First World War.

The independence of the Office was discussed briefly by outlining how Elections Canada reports to Parliament. In addition, a list of the five individuals who had served as CEO was provided. Dr. Courtney emphasized the importance of the individual CEO in determining the independence of the office.

Two major categories of responsibilities were discussed. They were the administration and oversight of elections and reporting to Parliament on any issues that are deemed necessary.

The presentation then identified some of the major areas where Elections Canada had shown responsiveness to the public and undertaken significant change on its own in order to make voting as accessible as possible to all segments of the population.

The adoption of the *Canadian Charter of Rights* was examined as a major turning point for Elections Canada as “the most significant influence on electoral law in the post-war years”.

Finally, Dr. Courtney points out that Elections Canada is not immune to criticism. Criticism has been levied both at procedures within specific elections and policy that the office may have been involved in. On balance however, evidence shows that the Office of the Chief Electoral officer plays “a vital and accepted part of our democratic electoral structure”.