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**Democratizing the Ontario Legislature: Change, but Change
Enough?**

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The Canadian Study of Parliament Group (CSPG), as part of its efforts to foster knowledge and understanding of Canadian parliamentary institutions, is publishing a series of papers describing and analyzing the thirteen provincial and territorial legislatures. The papers are being made available free of charge, in both official languages, on the CSPG Web site. The views and opinions contained in these papers are those of the authors and are not necessarily reflective of those of the CSPG.

Introduction

The Ontario Legislative Assembly sits at the centre of the many currents of political change in the province. Over the last few decades the three main political parties, the Progressive Conservative Party, the Liberal Party, and the New Democratic Party (NDP), has each formed a majority government at least once. In the 2011 provincial election, Ontarians voted for change again, albeit of a different kind: Dalton McGuinty's Liberals were left one seat short of a majority, and Ontarians had elected their first minority government in a generation. In two by-elections in September 2012, Ontarians denied Premier McGuinty the opportunity to return to majority government. Just one month later, the Premier announced his resignation and prorogued (suspended) the legislature.

These events raise questions about the democratic quality and evolving role of the Ontario Legislature. Amidst these changes, we ask: is Ontario's legislature as democratic as it could be? This paper is organized around three key themes: the institutional features of the Ontario legislature, legislative processes, and political representation. We canvass various reforms and proposed changes in each thematic area and conclude with a discussion of the strengths and weaknesses of Ontario's legislature as an instrument of democracy. We suggest that despite some reforms, the processes of making it more democratic remain unfinished. To this end, we also make several recommendations for improving the democratic quality of this central symbol of democracy in Ontario.

Part I - The Institutional Context of the Ontario Legislature

British Cabinet-Parliamentary Government and Responsible Government

The legislature is at the centre of the democratic process in Ontario. At its core is the British cabinet-parliamentary model in which the executive and legislative branches of government are fused (the judicial branch is independent of the other two), and the doctrines of responsible government and ministerial responsibility (both collective and individual) prevail. The executive – the premier and cabinet – must retain the confidence of the legislature to govern. The relationship between the executive and legislative

branches is further characterized by an adversarial nature rooted in a three-party system and competitive democratic elections.

The legislature was created in 1867 through section 69 of the British North America Act, which stipulates "There shall be a Legislature for Ontario consisting of the Lieutenant-Governor and of One House, styled the Legislative Assembly of Ontario." The government moved into its current home, known as Queen's Park, in 1893.

Interestingly, Ontario was the only one of the four former colonies of British North America to adopt a unicameral legislature. By this time, responsible government had been entrenched following the 1837 Rebellion and Lord Durham's Report of 1840. These developments emerged in response to abuses of power wrought by the prevailing elite known as the Family Compact, who monopolized plumb appointments and apportioned land grants to its supporters and friends. This prevailing hierarchical political, economic, social and religious order increasingly came under attack by the 1830s from more liberal and reformist parts of colonial society whose ideas about democracy and social equality were contrary to the values of the Family Compact. The reformers promoted the idea that the legislative branch should have genuine power to check the authority of the executive and in particular its prerogative over spending. In other words, arguments for *responsible government* emerged, led by the firebrand William Lyon Mackenzie, himself a member of the legislative assembly whose frustrated ambitions featured prominently in his widely-read newspaper, the *Colonial Advocate*. Mackenzie argued that the Family Compact controlled the Governor General, lacked any effective check on its power, and that "they fill every office with their relatives, dependants and partisans ... they are paymasters, receivers, Auditors, Kings, Lords and Commons!"¹ Mackenzie led the failed Rebellion of 1837, which prompted the colonial authorities to dispatch Lord Durham to the colonies of Upper and Lower Canada (which experienced its own rebellion in 1838) to investigate.

Durham was highly critical of the concentration of power in the oligarchies in Upper and Lower Canada, and the favouritism evident in the granting of land, public offices, and positions. Durham's recommendation for responsible government was eventually accepted, and the power struggle between the Family Compact and the elected

assembly was resolved in favour of the latter. This reform added a more democratic and progressive element to the governing of the society and elevated the role of the legislature to a position more easily recognized by contemporary observers.

The achievement of responsible government is a milestone in the development of democracy in Ontario. But it also ironically allowed the continuation of a form of executive domination of the legislature. The political leaders in the assembly, able to control proceedings there, were also granted executive powers. Once party discipline became entrenched by the late 19th century, the executive—under the direction of the premier—came to be the effective centre of power. The old model of executive domination over the legislature was replaced by a newer model. However, in the context of responsible government, the legislature did have at least an important theoretical role in holding the government to account. But majority government and the emergence of party discipline meant that the chamber became geared mainly toward law-passing rather than law-making.²

Political Culture

In several respects, the legislature reflects Ontario's political culture, defined as the set of attitudes, values and beliefs that give order and meaning to the political process, and which provide the underlying rules that govern political behaviour. Historically, the roots of executive domination reflected Ontario's political culture, which has been described as a hybrid of a conservative cast of mind oriented toward stability, good governance, and careful leadership, mixed with a progressive notion of fair play and equal treatment for all.³ Robert Williams notes that "values like elitism, hierarchy, continuity, stability and social order" are elements in Ontario's political culture which could be classified as "conservative."⁴ Donald C. MacDonald argues that the Ontario political culture values conservatism and stability but with a progressive element, where success is achieved at the ideological centre by pragmatic governments.⁵

Political Parties

The development of a robust party system with entrenched party discipline also defines the Ontario model. Strong political parties go hand-in-hand with the convention of

responsible government and are of central importance to the Ontario legislature. Indeed, the rules that govern the legislature – the *Standing Orders* – make frequent reference to parties, including how Members of Provincial Parliament (MPPs) are assigned to legislative committees and the distribution of questions during Question Period. Indeed, Ontario is unusual among provincial legislatures for the number of explicit references to parties in the *Standing Orders*. Examining the relationship between legislature and cabinet through the prism of the individual MPP would be a hopelessly flawed approach. At Queen's Park, the role of parliamentary parties is fundamental and pervasive.

Ontario currently boasts a three-party system. This model became permanent with the arrival in the legislature of the Cooperative Commonwealth Federation (CCF) – later, the NDP – in 1943, when it catapulted into official opposition status. So the most important number in the Ontario legislature is three, as in three political parties.⁶ In the post-war period, Ontario's legislature was remarkably stable. Between 1943 and 1985, the province was governed by one party, the Progressive Conservatives. More recently, the legislature has experienced considerable turbulence. In the last six provincial elections, all three major parties have formed majority governments: the left-wing NDP in 1990; the right-wing Progressive Conservatives in 1995 and 1999, and the centre-right Liberals in 2003 and 2007.

Virtually nothing happens in the legislature without party, and while the voices of individual members may have an influence on party policy, they generally have little bearing on the activities of the legislature.⁷ As a consequence, the legislature operates in the context of a serious on-going tension between party leaders and backbench MPPs; for example, when legislators bring constituency matters to Queen's Park and find their positions contradict that of the leadership. Parties are hierarchical bodies with a prescribed chain of command headed by the leader, with ordinary MPPs near the bottom. This hierarchy and party discipline is even more pronounced for the party in power given the higher stakes of governing. Opposition and third party leaders do not have the same cornucopia of rewards and punishments at their disposal as does the premier. Moreover, the premier's political staff sometimes takes precedence in decision-

making over some MPPs, a reality ruefully noted during the Harris years by an MPP who complained policy was being directed by a bunch of twenty-somethings in the premier's office with a university degree in one pocket and a copy of Machiavelli's *The Prince* in the other.⁸ The cult of leadership in Ontario's parties is also evident in the personification of the government in the name of the premier (for example, the "McGuinty government"). The public and media typically focus on the leader to the exclusion of garden-variety backbench members; this enhanced status and prestige for the leader carries over into governing the caucus. Rock-solid party discipline means that MPPs in the same party virtually always vote together. In an election the prospect of winning (or losing), often on the coattails of the leader, does wonders in bringing upstart members into line. In short, the overarching rule is that party discipline prevails in the activities, personnel and behaviour within the legislature.

The Party Caucus

Apart from participating in the business of the legislature through debates, question period or legislative committees, a member must attend weekly caucus meetings.⁹ Caucus meetings provide party members with opportunities for frank and confidential assessments of their party's policies. The dynamic of these closed meetings varies, but generally the executive has the upper hand, enjoying as it does the overarching system of rewards and punishments useful in keeping party members in line. Nonetheless, critical voices find expression in caucus, providing the leadership with input and suggestions.

Professionalization

The functions of the legislature sometimes lagged behind the tenor of the times. Until the latter part of the 20th century, the legislature was a part-time concern. Political amateurs functioned under a schedule that accommodated the old seasonal calendar of planting and harvesting as befit the largely agricultural province that Ontario had once been. For most legislators, the income earned as an MPP was secondary to their main employment. One former Speaker of the legislature recalled that "until the late 1960's, Ontario MPPs held an annual card game at the Royal York Hotel to celebrate the

payment of \$3,000 that members received each spring. The celebratory card game in Toronto's most refined establishments was reflective of the fact that the vast majority of MPPs were financially self-sufficient during this era."¹⁰

A turning point was reached in 1973 when the Ontario Commission on the Legislature (the Camp Commission) was struck to assess and make recommendations on the function of the legislature. The report confirmed that as the complexity of government evolved, the legislature must follow. The era of part-time MPP was over, and the professionalization of Queen's Park was in full swing. The Commission undertook the study of the contentious question of compensation for MPPs, comparing their work and financial rewards with other jurisdictions. It argued that the role of MPP had been affected by, among other things, dramatic increases in the volume of constituency work and of legislation. The Commission also noted demographic changes amongst MPPs, most importantly that their average age was declining while their level of education and professional training and skills was increasing. Hence the Commission recommended an enhanced and standardized compensation scheme for legislators that included travel allowances, enhanced administrative resources, increased salaries and a severance allowance.

The Camp Commission represented a new conceptualization of the Ontario legislature as the democratic locus of an increasingly complex political and societal decision-making structure. The Commission expressed concerns about adequate financial and administrative support for legislators, representativeness, diversity and inclusiveness. These latter values were increasingly "in the air" as barriers to participation in political life were identified by academics, journalists, activists and others in the 1960s and 1970s.¹¹ Arguments for the professionalization of legislatures were often linked to critiques of the elitist, white-male-dominated nature of many political bodies, including the Ontario legislature. A certain populist impulse in the Camp Commission sought to break down some of the class barriers to participation in governing through the provision of adequate salaries. The Commission argued "If the political system is to be open to all aspirants, and if personal wealth or occupation is not to determine whether or not public office can be sought, a key consideration must be that of providing an

income which will allow any elected member to be reasonably self-sufficient.”¹² Not all these arguments met with easy acceptance, though. Support for the Commission’s recommendations was partly conditioned by the class and social status of members of the legislature; support was lowest among well-off Conservative MPPs, mediocre among Liberals who drew on farming incomes and strongest among NDP members whose experience was in wage earning occupations.¹³ But the serendipitous fact of minority government in 1975 allowed the opposition parties to leverage support for many of the Commission’s recommendations. An impressive package of reforms was enacted, providing for offices in Queen’s Park, staff and research capabilities, and larger travel and accommodation expenses. In addition the internal affairs of the legislature were turned over to a newly-created Board of Internal Economy chaired by the Speaker and including representation from all three parties.

Enhancing the Role of the Legislature

Subsequent developments enhanced the Camp Commission reforms, before a sustained period of retrenchment and a drawing down of the legislator’s benefits that continues today. The 1985-1987 Liberal-NDP Accord in which the government was given a two-year mandate free from votes of non-confidence played an important part in improving the conditions for legislators. Although the strictures of party discipline still applied, the role of legislative committees was enhanced and televised coverage of legislative proceedings was greatly expanded and improved. The standing committee examining government estimates was henceforth chaired by an opposition member. Membership on other standing committees was distributed in proportion to party standing in the legislature. In 1990, the role of the Speaker was enhanced and detached from the direct hand of the premier whose prerogative of appointment was replaced with election by the MPPs.

The net effect of these changes was to enhance the capacity of the legislature and increase its effectiveness in relation to the executive. The executive had to take committees and question period more seriously, ministers had to be more attentive to their briefs, and the government house leader had to brush up on procedure to stay ahead of the opposition parties’ maneuvers. Even the public found more opportunity for

input through hearings before legislative committees, and the media arguably paid more attention to the legislative proceedings at Queen's Park.

Constraining the Role of the Legislature

These developments, however, were countered eventually by other emerging currents. In the 1990s, successive governments began to reverse some of the gains made in these reforms. First the NDP, followed even more so by the Conservatives, and later the Liberals, each found the enhanced effectiveness of the opposition vexing. Consequently, each began to reassert the power of the executive by systematically limiting the ability of the opposition parties to hold up government business. Legislative rules and procedures were tightened, and limits on debate were increased. For example, under Harris, the marginalization of the legislature was signaled by the reduced number of sitting days and committee hearings, a reduction in the number of MPPs, and the speed and frequency with which large and complex bills were rammed through the legislature after superficial debate. The rules of the legislature were amended in 1997 to restrict opposition opportunities to debate and slow the passage of legislation. Perhaps the most egregious example of these developments was realized in 2003 when Conservative Premier Ernie Eves took the unprecedented step of authorizing the delivery of the government's budget in an auto parts plant instead of the legislature in order to avoid facing the opposition parties. The move was broadly ridiculed and condemned for its flouting of parliamentary tradition.

MPP Resources

Some reforms were aimed at MPP resources, which had generally grown since the Camp Commission reforms. By the 1990s, constraining costs by reducing MPP compensation was seen as part of a new ethos of governance. The resource most fundamental to attracting and retaining talented MPPs is compensation. In 1991, the Rae NDP government amended the Legislative Assembly Act to somewhat curtail compensation. But with the election of the Harris Progressive Conservatives in 1995 a concerted effort to constrain MPP compensation was put firmly in place. Trends in MPP salary restraint were mirrored in other compensation-related developments. The

Progressive Conservatives election platform called the *Common Sense Revolution* laid out a series of pledges to cut taxes and reduce government spending and focused in part on MPP pensions. MPPs had a fairly generous pension plan under the 1980 Legislative Assembly Retirement Allowances Act (LARAA). In 1996, the Harris government repealed the LARAA and eliminated MPP pensions under the ironically-named MPPs Pension Act. Despite later pledges to restore a fairer pension scheme, the McGuinty Liberals were unable or unwilling to resolve the pension question for MPPs.

Notwithstanding the shifting policies over compensation, today, MPPs have a wide variety of resources at their disposal. Depending on caucus size, parties receive funds which they apportion at their own discretion to hire researchers, strategists and communications professionals. MPPs personal office budgets allow them to hire staff for their Queen's Park office and to rent space in their ridings and hire constituency assistants. MPPs also receive travel expenses, and those from outside Toronto receive funding to rent accommodations near Queen's Park. MPPs also benefit from non-partisan legislative resources like the Legislative Library and Legislative Research Service. These help legislators serve their constituents in routine matters and fulfill their legislative duties in holding government to account.

The Changing Mood of the Legislature

An important cultural change has overtaken the legislature since the 1980s.¹⁴ Previously, the tenor in the legislature was collegial, even clubby. While clearly executive dominated, there nonetheless existed a certain camaraderie that often crossed party lines. However, a much more acrimonious mood now prevails. Filibusters, delays, grandstanding and interminable arguments over procedure have become commonplace, jeopardizing the capacity of the legislature to effectively conduct its business. Several prominent examples are worth flagging. When the Liberals introduced laws liberalizing Sunday shopping in 1989, the NDP filibustered, taking advantage of the fact that there were no time limits on how long the bells which summoned MPPs to vote rang. The NDP simply refused to show up for votes, and the bells rang interminably. In 1991, MPP Mike Harris read the names of every lake and river in Ontario into the legislative record during introduction of bills purportedly addressing zebra mussel

infestations in Ontario waters. In 1995, now as the new Premier, Harris introduced Bill 26, omnibus legislation containing a huge number of provisions, and tried to limit debate. In an act of protest, Liberal MPP Alvin Curling refused to cast his vote, remaining in his seat all night long. Eventually, the government gave in to the Liberal demands for public hearings on the bill in a legislative committee. When the Harris government attempted to introduce legislation to amalgamate metropolitan Toronto into one “megacity” in 1997, the opposition parties stalled its passage by introducing over 10,000 amendments generated by computers, with each amendment subject to a vote. These obstructionist measures were later made impossible by changes to the Standing Orders.

A number of factors explain this more acrimonious mood.¹⁵ First, prior to the 1980s, the legislature conducted much of its business in evening sittings, which allowed for some socializing across party lines over the dinner hour or after the session ended. Close interpersonal relationships and friendships often developed. The phasing out of evening sittings largely brought an end to this practice. Second, the introduction of televised proceedings in the legislature gave a broader public platform for each of the parties. With increased public attention, scoring political points and providing the best one-liner or ‘zinger’ across the floor became a more prominent goal than substantive debate. Third, the victory of the NDP in 1990 signaled that any of the three parties could win power, thus heightening the competitive rivalry between them. Related to this, a more ideological politics emerged, with the differences between the parties increasingly emphasized in the pursuit of electoral victory. Fourth, an extensive turnover in members since 1985 meant that newer members, not conversant with the more collegial and clubby style of the “old days,” introduced more partisan and aggressive approaches. The traditions of civility and moderation gave way to a new culture of competitiveness amongst members. Notwithstanding the prohibition in the *Standing Orders* that “When a member is speaking, no other member shall interrupt such member, except on a question of order,”¹⁶ civility and decorum are not hallmarks of the current legislature.

The increasingly nasty mood in the legislature coincided with reassertions of executive dominance. Less moderation and more stridency meant governments felt more justified

in pushing their agenda at the expense of more collegial relations. Individual MPPs were unwilling to object to this trend, as each had a chance of grasping the golden ring of a cabinet post. The professionalization of politics increased the stakes and the rewards for success, and compromise became an increasingly dirty word among increasingly ideological partisans. Hence, the executive was driven to tighten the rules to enact its agenda, backed by a more disputatious winner-take-all set of relations within the legislature.

One consequence of these changes was to harden the lines between government and opposition and diminish the role of the legislature in the public policy process. Indeed, even the backroom negotiations over how much time is spent debating in the legislature, a feature of earlier more collegial times, gave way to a general lack of cooperation and consensus. The trade-offs of the past, wherein the government might grant some concessions to the opposition in return for relatively expeditious passage of legislation, were increasingly difficult to come by. Clearly, in the struggle between the executive values of efficiency and the legislative values of democracy, the former reasserted itself.

The Recent Minority Government – Pas Comme Les Autres

The more combative relationships within the legislature intensified in 2011 with the election of a Liberal minority government. Generally, minority governments help enhance cooperation and democratic processes, as they require bargaining and compromise from all parties. As Peter Russell argues, minority governments in Canada have been quite productive and are inherently more democratic than their alternative of “false majorities” where the governing party has won more seats than their share of the popular vote would warrant.¹⁷ However, the functioning of Ontario’s legislature in the 2011-2012 minority government was neither productive nor democratic. The debate on the Liberal government’s Budget Bill in the spring of 2012 highlights the recent acrimony and partisan tension. Rather than seek compromise, Progressive Conservative leader Tim Hudak immediately vowed his party would vote against the bill, leaving the NDP to decide whether it would prop up the Liberal budget, or defeat it. The government then made a deal with the NDP to include a 2 point surtax on individuals making more than

\$500,000 per year, plus a freeze on the corporate tax rate, in order to secure NDP support. When the NDP—surprisingly supported by the Progressive Conservatives—began making major changes to the bill in an opposition-controlled committee, the Liberal government threatened long legislative hours into the summer and the possibility of a snap election.¹⁸ The McGuinty government viewed the opposition parties' maneuvers as delay tactics and gamesmanship. It then refused to break up the 351 page omnibus bill in order to debate it clause-by-clause and moved time allocation to limit debate (see below). For her part, NDP leader Andrea Horwath argued that her party had agreed to help the budget survive the first stage of the budget, but that it had never agreed to “shut down debate on an omnibus bill that would give the government broad new powers to privatize services.”¹⁹ After negotiating a few more concessions behind closed doors, the NDP finally agreed not to defeat the budget and abstained, allowing the budget bill to pass.

Despite these shenanigans, the depth of the acrimony is perhaps best represented by the opposition parties' unusual step of invoking a motion of contempt against Liberal Energy Minister Chris Bentley in the fall of 2012. They charged that his ministry failed to release documents related to the \$230 million cancellation of power plants to help secure seats in the 2011 election. The charge of contempt had not been employed in over a century, and the business of the legislature came to a halt while the motion was debated. Then, in a stunning development, Premier McGuinty simultaneously announced his resignation and prorogued the legislature until such time as his successor could be chosen. His stated reason for the radical step of proroguing was that the rancor in the legislature had become so pronounced that the business of the government was unable to proceed. In effect, in order to govern, the Premier reasoned that the legislature had to be shut down, thus rendering it (and the convention of responsible government) irrelevant to the decision-making processes of the government.

These events highlight the extent to which the healthy functioning of the legislature requires that members put aside their partisanship and work for the collective interest of the province as parliamentarians. When they are unable to do so and partisanship

dominates, the democratic quality of the legislature is greatly reduced, particularly in a minority government.

Accountability

The issue of accountability underpins the tensions between the executive and legislative branches of government in Ontario. Holding the government to account is a central expectation of the legislature. But when a dominant executive is armed with the tool of party discipline, the legislature has a limited capacity to do so. In strictly constitutional terms, the governing party only holds office in so far as it retains the confidence of a majority of the legislature. Unless a minority government is in place, holding the government to account through a vote of non-confidence is a virtual non-starter. However, the legislature can hold the government to account without defeating it in a non-confidence vote. For example, the legislature is theoretically the key venue for debating important issues. In the process, it also serves an educational function by raising awareness among citizens of the key issues and problems confronting the government, and how they are being (mis)handled. Just as important is the function of providing oversight of the government's activities, and particularly the raising and spending of revenues. Scrutinizing taxation and spending, and the public service, are also important aspects of what the legislature does.

Another development related to accountability is the growing array of independent bodies reporting directly to the legislature, rather than the government, on various matters of public concern. This has been a consistent trend across many Canadian jurisdictions. In Ontario, these bodies include the Office of the Provincial Auditor, the Office of the Ombudsman, the Information and Privacy Commissioner, the Election Office, the Environmental Commissioner, and the Provincial Advocate for Children and Youth. The growth of these agencies is a signal of sorts of the limited capacity of the legislature to hold the government to account. In terms of democracy, they provide another venue for accountability to be realized. But they potentially further undermine the legitimacy and role of the legislature in holding the government to account by shifting the focus away from the legislature and in a sense usurping its role.

Historically, the legislature promotes civic acceptance of the broad rules of the democratic game. In a culture of diminished regard for politics and politicians, however, this function is under severe stress. Nonetheless, the legitimate exercise of power requires the imprimatur of the legislature, which regularly shows that the government should not be able to act arbitrarily or undemocratically. The legislature debates, criticizes and exposes. The executive responds, and its response is legitimated by a vote carried by the majority in the legislature. The processes behind these ideas are detailed in the next section of this paper.

Part II - Legislative Processes

The processes of the Ontario legislature are complex, overseen by the Clerk on the administrative side, and the Speaker on the political side. The budget for the legislature in 2011-2012 was about \$130 million.²⁰ The legislature contains a substantial professional bureaucracy which differs from the government bureaucracy in that it must serve all party members, regardless of party affiliation. The work of the legislature is governed by the *Standing Orders of Legislative Assembly of Ontario, January 2009* which prescribes that the body sits from the third Tuesday in February to the first Thursday in June; and from the Monday following Labour Day to the second Thursday in December, and provides for approximately five “constituency” weeks per calendar year.²¹ The Legislative Assembly does not sit during constituency weeks, allowing MPPs to return to their ridings to conduct local business and meet with their constituents. When in session, the legislature meets Monday 10:30-6:00, and Tuesday-Thursday 9:00-6:00 for an average of about 90 days per year. In comparison, the House of Commons sits for an average of 111, while Canada's other provincial legislatures sit for an average of 54 days each year.²² But MPPs are much busier than these numbers imply.

It is the function of passing laws that is perhaps the most important activity of the legislature. It does so largely at the behest of the executive, with occasional opportunities for the consideration of legislation introduced by private members (MPPs who are not cabinet ministers). Private members also have opportunities to present motions, which, while a useful communications tool, do not commit the government to

action. Cabinet members introduce most bills and all bills with budgetary implications. Given the historically constrained opportunities for law-making rooted in executive dominance of the legislature, backbench and opposition MPPs often focus on advocating for their constituents; a robust “ombuds” function that has become a vital part of the life of legislators. Indeed, it has become the most important function for some, who cultivate it as a means to public service as well as to re-election.

The business of the legislature is divided into “Routine Proceedings” and “Orders of the Day”. Routine proceedings include: Members' Statements; Reports by Committees; Introduction of Bills; Motions; Statements by the Ministry and Responses; Petitions; Introduction of Visitors; Oral Questions; and Deferred Votes. Members' Statements are 90 second announcements by MPPs on matters of their own choosing, often related to constituency developments, but sometimes related to issues of broader public concern. Most citizens will recognize oral questions as the central feature of legislative life. The government is placed under intense partisan scrutiny by the opposition, which adopts an adversarial stance and attempts to reveal the wrong-headedness of the government's policies. For 60 minutes, “Questions on matters of urgent public importance may be addressed to the ministers of the Crown...”²³ who, in turn, do their best to put the most positive sheen possible on the efforts of the government to run the province. Orders of the day follow routine proceedings, and allow the government to more tightly control the agenda of the legislature as the focus is on government business. Up to ten “opposition days” are held each session which permit the opposition parties to choose subjects for debate.

The Speaker

The Speaker plays an important role in the legislature. He or she must be neutral in presiding over debates. Even though the Speaker is first elected as a member of one of the political parties, he/she is excluded from their own caucus and party activities. Historically, the Speaker was an appointment of the Premier. But in 1990 the legislative branch wrestled this prerogative away from the executive and it now elects the Speaker in a secret vote. In passing legislation, should there be the unlikely event of a tied vote, the Speaker casts a vote; otherwise he/she does not participate as a partisan in the

affairs of the legislature. Generally, the Speaker is somewhat constrained by a lack of powers necessary to do an effective job and often suffers from a lack of respect for the position judging from the manner in which MPPs carry on in the legislature. The work of the Speaker and legislature is also supported by the Clerk, the chief permanent officer who has the rank of a deputy minister. The Clerk advises the Speaker and MPPs on procedure and the rules of engagement in the legislature. The overall direction and administration of the legislature falls under the purview of the Clerk, who also serves as the secretary of the Board of Internal Economy.

Legislation and Responsible Government

Legislation is both the most prominent and most powerful policy tool available to government, although it is not the only one. While many significant policy decisions are made through *regulation*, only *legislation* may “impose a tax or specifically direct the expenditure of public monies.”²⁴ The restriction of taxing and spending measures to legislation is essential to the convention of responsible government, because legislation (unlike regulation) must be passed by the legislature to come into effect. The requirement for legislative approval means that expenditure and taxation measures are accountable to the legislature and subject to public scrutiny. However, legislation often leaves many details undecided. The legislation empowers cabinet, a minister or an administrative authority to fill in the gaps through regulation, which is not subject to the same level of legislative scrutiny and oversight.

Developing Legislation: Civil Servants and Political Masters

Government legislation is only introduced in the legislature after a lengthy, complex development process and is rarely amended substantively after it is introduced. As a result, the most significant steps in law-making are pre-legislative; legislation is largely the result of deliberations and interactions between the cabinet and bureaucracy that take place well before the legislation ever arrives in the Legislative Assembly.²⁵ The pre-legislative development of bills occurs outside of the public eye, as advice to cabinet and cabinet deliberations are protected by the convention of cabinet confidentiality.²⁶

This convention allows the government to consider and discuss proposals without fear of public backlash.

Governments have a high degree of discretion in structuring the pre-legislative process, but certain common phases across governments can be identified. The first step is identification of the need for legislation. There are many avenues for identification. Often, the governing party has committed to significant policy changes in its electoral platform which require legislation. In other cases, stakeholders or the public service identify a need. In Ontario, as in many other Canadian jurisdictions, not only has executive power increased at the expense of the legislature, but it has become concentrated at the very centre of government, in the Premier's Office. As a result, it's usually the Premier's Office, not the cabinet or the minister responsible, which makes the final determination as to whether legislation will go forward. The Premier's Office weighs whether the potential benefits of legislation are worth the political capital required to pass it. Political capital is "spent" because legislation is subjected to legislative (and media) scrutiny, giving opposition parties an opportunity to score political points at the expense of the governing party. Further, it takes time to move a bill through all the stages of the legislative process, particularly with opposition parties seeking to prolong debate. Time can become the largest constraint on the legislative agenda, not the ability of opposition parties to defeat the bill.²⁷

When government decides it needs legislation, it turns to the public service to develop it. Initial instructions to the public service can be vague. For example, government may wish to provide funding to businesses in a struggling sector. But how much funding is required? Who will be eligible? How will it be delivered? It is up to a ministry to develop options for realizing the goal. An iterative process takes place with proposals from the ministry going to the Minister's Office, which works with the Premier's Office to come up with legislation. The actual drafting of the legislation is done by the Office of Legislative Counsel a branch of the Ministry of the Attorney-General.. When the minister responsible for the legislation is comfortable with it, the next stage of the process begins: obtaining cabinet approval.

Developing Legislation: Cabinet Approval

Before any legislation is introduced to the legislature, it must be endorsed by cabinet. Potential legislation is generally vetted through a multi-stage cabinet committee process before reaching cabinet, although it can be fast-tracked directly to cabinet in case of urgency. Cabinet committees support the work of cabinet in a variety of ways, and vary in their influence on cabinet decisions. Cabinet's time is often severely limited, and the most general purpose of cabinet committees is to provide more thorough review and oversight than is possible at cabinet proper.

Cabinet committees are formed at the discretion of the Premier, and they are often dissolved, combined or renamed. In 2012, the roster of cabinet committees included: Treasury Board/Management Board of Cabinet, which is responsible for vetting decisions with an impact on government resources; Priorities and Planning Committee, a small group of influential cabinet ministers responsible for broad government priorities and implementation progress; Legislation and Regulation Committee, responsible for the more technical elements of all legislation and regulation; and two policy committees, the Health, Education and Social Policy Committee and the Jobs and Economic Policy Committee. These committees are designed as pre-screening mechanisms, catching and resolving potential policy or political issues before they reach cabinet.

When issues with potential legislation are identified at the committee stage, the draft legislation is returned to the public service for refinement. Of course, cabinet proper can also amend or even stop draft legislation in its tracks. After bills are approved by cabinet, they are introduced in the legislature and become public, so the stakes are very high to get it right before that point.

Historically, the legislature has had no real role in the important decision-making processes involved in drafting legislation (a problem that is exacerbated in majority governments). This changed in 2003, when Premier McGuinty altered the composition of cabinet committees, giving a role to backbench government MPPs in cabinet decisions. Such a change, he argued, would:

...make government more relevant to the people that we serve. With that goal in mind, we're moving to make the people's representatives -- our MPPs -- even

more relevant to government. For the first time in Ontario history, every MPP in the government caucus will sit on Cabinet Committees. And those committees will be chaired by non-ministers. In keeping with our parliamentary traditions, decisions will remain with Cabinet. But with this innovation, MPPs will have real, meaningful input into those decisions. When it comes to policy making in our government, *there will be no back bench.*²⁸

This was a significant change from former practice. Premier McGuinty's argument was that backbench participation in cabinet decision-making – through the committee structure – would empower the backbench (the people's representatives), resulting in more responsive, democratic policy making and government. At first blush, the initiative seemed to signal a diminution of executive power and an increase in legislative influence.

However, this democratic benefit was quickly contested. Peter Kormos, an NDP MPP, argued that drawing the backbench into the executive through committee participation would effectively constrain backbench scrutiny of the government.²⁹ Rather than empowering the backbench, the reform would co-opt it, concentrating power in the executive. This is an interesting argument that raises important broader questions about the relationship between the executive and the legislative branches.

Interviews with cabinet committee members (both ministers and non-ministers) demonstrate that the reform did give backbench MPPs a modest but meaningful policy role, especially in the case of committee chairs.³⁰ As direct representatives of the public— whose expectations for their MPPs include a policy role— the reform can be considered democratic. However, as Kormos suggested, it also blurs the line between the government and backbench. The dominant understanding of Westminster cabinet-parliamentary tradition is that the government makes policy and the legislature, which includes the backbench of the governing party, reviews, amends, and eventually votes on it. As Docherty writes, the primary function of all non-cabinet MPPs, opposition and government, is to scrutinize government and keep it honest.³¹ Schindeler, in his classic study of responsible government in Ontario, argued that government backbenchers should be “considered ... an instrument for controlling the executive.”³²

The argument against the inclusion of non-ministers on cabinet committees is that if backbench MPPs are crafting government policy, they cannot scrutinize it objectively. This would in turn weaken the oversight function of the legislature, suggesting that the reform is actually anti-democratic. This is a compelling argument, but it rests on the assumption that the government backbench really does enhance the legislature's scrutiny function. The evidence in Ontario (and perhaps the rest of Canada) suggests otherwise. Ironclad party discipline has severely restricted the ability of the governing party's backbench to hold the executive to account. A comprehensive study of the 32nd Parliament of Ontario's recorded votes demonstrated the extent of party discipline: in 94 per cent of votes, at least 90 per cent of the members of each party voted together.³³ As White argues, "the unusually strong party discipline evident in Canada's Parliaments and legislatures ... effectively gives Canadian cabinets all but unshakeable control over the House of Commons and its provincial counterparts."³⁴ If this is the case, decentralization of power away from the Premier and cabinet would require smudging the line between executive and legislature, not delineating it more clearly.

The reform seems to have staying power; when Premier Wynne assumed the reins of power in February 2013, she maintained the practice of having backbenchers serve and chair cabinet policy committees. But despite the reform, the role of regular MPPs in the policy development process remains limited. The Premier and, to a lesser extent, the cabinet, controls the development of legislation before it is introduced to the legislature. This is not in itself problematic. Many students of parliamentary government believe that developing legislation is the exclusive purview of the executive and that any non-ministerial role could undermine democracy. However, the executive domination of the development of legislation does underline the need for an effective vetting process in the legislature. Otherwise, legislation will receive little scrutiny and the government cannot be considered accountable.

Parliamentary Review: First and Second Reading

When a bill has been reviewed and approved by cabinet, it is introduced into the legislature by a cabinet minister. Ministers can introduce bills during the Routine Proceedings portion of the legislature's agenda. Formally, a bill is introduced in a "first

reading motion.” The minister responsible generally provides a short summary of the purpose of the legislation, and then the Speaker asks the MPPs if the motion will carry (pass). First reading motions are virtually always allowed to pass in Ontario.³⁵ It would be unfair to defeat a bill before it is even read – bills are only on the record, or Order Paper, once they pass First Reading. First Reading is a *pro forma* part of the legislative process.

Once a government bill has passed First Reading it can be called for Second Reading during Orders of the Day. Second reading gives MPPs, who have now studied the bill, an opportunity to debate the *principle* of the legislation.³⁶ During Second Reading, the rules of the Legislative Assembly (the Standing Orders) allow a speaker from each recognized party to speak for 60 minutes. Subsequent speakers are limited to 20 minutes, and, after seven hours of debate, to no more than 10 minutes. Following each Member’s speech, up to four Members may ask questions and comment for up to two minutes each, and the Member speaking originally may reply for up to two minutes. After six and one-half hours of debate at second reading, the Speaker deems the debate to be adjourned unless the Government House Leader directs the debate to continue.³⁷

Debates can be cut short by the use of a time allocation motion, which specifies how much time MPPs can debate legislation before it goes to a vote. Such motions can only be introduced after six and a half hours of debate, or after Second Reading debate is adjourned. Time allocation motions are very controversial, and, as we noted above, their use has become more widespread.³⁸ When MPPs have concluded (adjourned) their debates, the Speaker calls for a vote on moving the bill to the next stage. If a majority of MPPs present vote in favour, the bill is referred to a legislative committee. Although it is rare, bills can skip the second reading stage and be sent directly to committee from first reading. Also, if *all* MPPs agree, legislation can skip the committee process and go directly to third reading.³⁹

Legislative Committees

The legislative committee stage is central to the passage of legislation. Legislative committees are usually comprised of nine MPPs, with each party receiving committee seats in proportion to their seats in the legislature. The roles of committees are to review and amend legislation, exercise financial scrutiny, and conduct special inquiries.⁴⁰ Generally, there are two types of committees: Standing Committees are permanent bodies established under the *Standing Orders* that are struck each legislative session (barring the type of political stalemate described above). These include: the Committee on Estimates, Public Accounts, Finance and Economic Affairs, General Government, Government Agencies, Justice Policy, Social Policy, Regulations and Private Bills, and the Legislative Assembly. The Legislative Assembly can also establish Select Committees to investigate and report on particular policy issues, such as the Select Committee on Mental Health and Addiction, which completed its work in 2010.

The meeting times for committees are established by motion at the beginning of a Parliament, usually at the same time that the membership is moved. The Committee may meet at its discretion but only in those times that they are authorized by the House to meet. In the first session of the 40th Parliament (November 21, 2011 to October 15, 2012), the nine standing committees met 18 times each, on average. In the previous session (the second session of the 39th parliament) which ran slightly longer (March 8, 2010 to June 1, 2011), the nine committee met 21 times each, on average.⁴¹ Each committee publishes its meeting schedule each week in the Orders and Notices Paper and sends notices to each committee member when a meeting has been called. Each Committee is staffed by a Clerk and a Research Officer, and is provided with legislative assistance and support. They can also hire specialists and advisors to assist them in their work and invite witnesses to provide independent information and analysis. When the legislature is not in session, committees sometimes tour in pursuit of insight and support from Ontarians across the province. After witnesses are heard, the committee goes through the legislation clause by clause, proposing and voting on amendments. While such amendments are commonplace, they are generally of a more technical nature, and major changes are rare.⁴² After reviewing and amending the legislation, the

committee votes on the revised bill as a whole. If legislation passes this stage, it is referred back to the legislature for Third Reading.

The ability to hear witnesses and make amendments gives committees a unique opportunity to influence policy, and they can be important venues for holding the government to account. Recently, the Standing Committee on Public Accounts demonstrated the extent to which committees can have influence, especially in a minority. In the summer of 2012, the committee was studying a decision to cancel the construction of power plants, a decision made during the writ period preceding the 2011 general election. The committee, which was Chaired by an opposition MPP, found that the Minister of Energy had not produced the necessary documents ordered by the Committee to allow it to review the government's spending estimates, which ultimately led to the motion of contempt against the Minister discussed above.⁴³

Despite these powers, committees are still limited by the wide-reaching influence of party leaders and the executive. Party leaders determine which MPPs from their party sit on each committee. This is a meaningful part of the rewards and punishments that allow Premiers and party leaders to concentrate power in their own offices. Further, in a majority, the governing party has a majority on committees, allowing it to control committee activities. The governing party can choose when the committee meets, decide which bills to consider and which amendments to make. On the other hand, in minority governments, opposition MPPs can outnumber their government counterparts on committees, and leverage reforms that might not otherwise see the light of day. This is one of many ways in which a minority magnifies the role of ordinary MPPs in relation to the executive branch.⁴⁴ However, as a sign of the dysfunction that marked the 2011 Liberal minority government, in the fall sitting of 2012 the house leaders could not agree on the composition of the committees and the committee system ground to a halt prior to prorogation in October of that year.

Third Reading, Royal Assent and Coming Into Force

Once a bill has passed the legislative committee stage, the Chair of the committee reports the bill to the legislature and it is scheduled for Third Reading, the final stage of

legislative review and voting. At this point MPPs focus their debate on the final form of the bill.⁴⁵ When the debate is concluded, MPPs at last have an opportunity to vote on whether the bill will pass. In a majority, government bills virtually always pass. Because cabinet is conventionally bound to solidarity in all decisions, only government backbenchers can threaten the passage of government legislation in a majority, and that is extremely rare in Ontario. In a minority, the cooperation of at least one opposition party is required to pass legislation.

Even when a bill has passed Third Reading, it is not yet law. It is then passed to the Lieutenant Governor, who is asked to give Royal Assent on behalf of the Sovereign, although this step is a pure formality. Finally, many bills do not even come into effect after receiving Royal Assent. Bills often specify the date on which they come into effect, and can also be scheduled to come into force at a date to be named later by a cabinet proclamation.

Private Members' Public Bills and Private Bills

While only a minister may introduce a government bill, every MPP has the ability to introduce Private Member's Public Bills. A random ballot is drawn at the beginning of each legislative session to determine the order in which MPPs are allowed to call their private member's bills for Second Reading. Private members' bills may not impose taxes or specific spending measures. Known as the "financial initiative of the Crown," this rule, which is enshrined in the *Constitution Act, 1867*, is also fundamental to the principle of responsible government. The government (executive) is solely responsible (to the Legislative Assembly) for the province's budget. Despite these limitations, the scope for private members' bills, as they're colloquially known, is quite broad. For instance, private members' bills have been introduced that would regulate the pricing of cell phone plans, eliminate the ability of MPPs to change their party affiliation without losing their seat, proclaim October 13th as Major-General Sir Isaac Brock Day and require fast food chains to provide nutritional information on all their products.⁴⁶ MPPs tend to use private member's bills to bring attention to their priorities, even without hope of actual passage of the bill. But these bills are really another indication of executive-dominance; private members' bills are seldom passed.⁴⁷ Another form of legislation,

private bills, can also be introduced by regular MPPs (not Ministers). When passed, they exempt organizations, companies or individuals from specified laws. Private bills are not tools of public policy, and are of limited significance.

Part III – Representation and the Ontario Legislature

Representation is a crucial aspect of any legislature in a democracy. In practice, however, the question of how best to represent Ontario's diverse population through the legislature is complex.

Demography of Ontario

When it was created in 1867, the Ontario legislature had 82 members for a population of approximately 1.4 million (or one member for every 17 000 residents). There were about seven provincial employees, mostly hired on the basis of patronage, for every MPP. At that time, the population was over 80 percent English, Irish, Scottish or Welsh. Franco-Ontarians, Italians, and Germans were the next largest groups. The largest metropolis, Toronto, only had 59,000 people, as the bulk of the population was rural. Religion was a key factor in political, social and economic life, setting the stage for many of the political questions the legislature wrestled with.

By 1987, the legislature held 130 members. Bill 81, the *Fewer Politicians Act* passed by the Harris Conservative government in 1996, reduced the legislature to 103 for the 2003 election (mirroring the federal ridings in Ontario numerically and geographically) for a population of 12,851,821 (or one member for every 120,110 residents). Today, Ontario is one of the most diverse provinces in the country; with just over 13 million people, visible minorities account for 23 percent of the population, up from 13 percent in 1991. Ontario has the largest absolute number of Aboriginal people of any province in the country, but at about 2.2 percent of the total provincial population, the proportion of Aboriginals is among the lowest of any province. Ontario also receives more immigrants than any other province (approximately 37 percent of Canadian newcomers in early 2012), although this has declined over the last twenty years.

The legislature governs over a people characterized by a median age of about 37 years. There are about 5 million households. Life expectancy is about 79.2 years for men and 83.6 years for women. The labour force exceeds seven million people.⁴⁸ About 64 percent of Ontario residents over the age of 25 have completed post-secondary schooling, and there are about 20 degree-granting institutions and 25 colleges of applied arts and technology.⁴⁹ Eight million Ontarians identify English as their mother tongue, while about 490,000 identify French. Chinese speakers constitute about 500,000, Italian 251,330, and German 140,315. Other significant languages include Polish, Spanish, Punjabi, Ukrainian, and Portuguese.⁵⁰

Representation and Under-Representation in the Ontario Legislature

The extent to which the identities of Ontarians are reflected in the representational composition of the legislature is important to consider in any democratic assessment. Historically, the most common way Ontarians have their voices heard is by voting in elections. Generally, seats in the Ontario legislature are allocated based on the principle of representation by population, or 'rep by pop.' This means that, roughly, each of Ontario's 107 constituencies should include the same number of people. Yet the question of electoral boundary design is complicated. Patterns of settlement linked to economic activities have produced uneven population distribution. For instance, 85 percent of the Ontario population is urban, making Ontario the most urbanized province in Canada. The regionalization of that population is striking. The vast North contains 90 percent of province's area, but only 10 percent of its population, while Toronto contains over 40 percent of the population. Overall, 80 percent of Ontarians live within a three hour drive of the United States border.

Ontario's electoral boundaries deviate from 'rep by pop' in that the province's rural, northern ridings are overrepresented compared to their southern and more urban counterparts. A 2005 change to Ontario's electoral boundaries means Ontario's ridings are no longer identical to the federal electoral boundaries. Currently, the province is divided into 11 northern electoral districts, and 96 southern electoral districts.⁵¹ One justification for this deviation is that if 'rep by pop' was strictly applied, many northern ridings would be quite massive, rendering it expensive and time-consuming for MPPs to

travel and represent all regions of their riding. The riding of Kenora-Rainy River, for example, is 336,783 square kilometres (bigger than Italy!) and comprises almost 40 percent of the total land mass of the province. Such deviations from strict 'rep by pop' are not uncontroversial; they are sometimes thought to be undemocratic because they violate the 'one person, one vote' principle and individuals' votes should not matter more (or less) depending on where they live.

Population growth in the province is another concern, given that it is concentrated largely in the Greater Toronto Area (GTA). Between 2006 and 2011, the population growth of the GTA was 9 percent, compared to just 5.7 percent for the province as a whole; in fact, 98 percent of Ontario's total population growth occurred within the 15 Census Metropolitan Areas (CMA) of the province.⁵² If this trend continues, the principle of 'rep by pop' may become a more pressing issue in Ontario in the not-too-distant future.

To complicate matters, the diversity of Ontario's population extends beyond geographic and regional differences, and includes groups organized around other identities. Religion, for instance, was once a key point of division in Ontario society. It is less prominent today, although it played a major role in the 2011 election when then-Conservative leader John Tory's proposal to extend public funding to all denominational schools proved highly contentious and arguably cost his party victory. But representation in the Ontario legislature rarely organizes around religious orientation.

Conventional wisdom suggests class differences are not germane to Ontario politics. Yet there is a strong undercurrent of working class radicalism represented, for example, in the province-wide "days of action" strikes during the Harris regime and the presence of vocal and active left-wing social movements. The right-wing is similarly vocal and active in a variety of pro-free market interest groups. A socio-economic characteristic of Ontario is its high concentration of wealth in a small number of hands, a growing underclass of poor and "working poor", and a shrinking middle class. Both left and right are well-represented in the Ontario legislature.

Other identities such as gender and race are prominent. Historically, women, racial minorities, Aboriginal peoples and immigrants have tended to be poorer and less educated than the general population of Ontario. Yet these groups continue to be underrepresented in the legislature relative to their overall share of the population. In terms of gender equality, in 2011 women won a record 28 percent (30 out of 107) of the seats at Queen's Park. Several factors contributed to this, including the increase in seats for the NDP which historically nominates more women than the other two parties, and the role of Equal Voice, a non-for-profit non-partisan group which encourages political parties to run more women. At the same time, Ontario's legislature is not equal in terms of gender. Women constitute 52 percent of the provincial population yet only occupy 28 percent of the seats in the legislature. The pace toward gender equality has also been glacial. The first two women were elected to the legislature in 1943 (24 years after women could legally stand for office) and held 2.2 percent of the seats. At this rate, it would take 17 elections (or 68 years) to achieve gender equality in Ontario.

Despite constituting 23 percent of the population, only 12 percent of all MPPs were visible minorities after the 2011 election.⁵³ Underrepresentation of Ontario's Aboriginal population, which constitutes 2.2 percent of the total provincial population, is even more pronounced. The first Aboriginal Canadian MPP was elected in 1990 (Peter North) and the second in 1999 (Dave Levac).

In order to be eligible as an MPP, candidates must be at least eighteen years of age. Today, some of the youngest MPPs include Jagmeet Singh (NDP), who is 34, Mike Harris (PC), who is 35, and Michael Coteau (Lib), who is 41.⁵⁴ The reality, however, is that most MPPs are older than this. MPPs also tend to be better educated and drawn from small business and professional backgrounds when compared to Ontario's general population.⁵⁵

Size Matters

One question related to the representative nature of Queen's Park is the size of the legislature itself. As noted above, in 1996, Premier Harris enacted the *Fewer Politicians Act* reducing the number of electoral districts from 130 to 103. While there was a minor

cost savings in terms of MPP salary, pension and office budgets (approximately \$11M annually), the move was largely symbolic, and fit with the narrative that government had become, in Premier Harris's words, "too big, too cumbersome, too costly and too unresponsive."⁵⁶ Since then, critics have argued that reducing the size of the legislature also reduces its democratic quality. First, a smaller legislature will generally lead to a smaller caucus relative to the cabinet for the party in government. A higher proportion of MPPs from the governing party can expect to be cabinet ministers, making them less likely to criticize government and hold it to account. Smaller opposition caucuses also make it more difficult for MPPs to hold the government to account. Second, although the number of MPPs was reduced, the amount of legislation to be reviewed was not. This means that the time and attention of individual MPPs and parties was more thinly stretched.

A Disengaged Electorate

A fairly recent change in the province's political culture is reflected in a persistent decline in voter turnout. Fewer than half of registered voters voted in 2011 – a record low for the province. Figure 1.1 compares voter turnout in Ontario at the municipal (City of Toronto), provincial and federal levels. Interestingly, provincial turnout was lower than either federal or municipal turnout in the most recent elections.

<<Insert Figure 1.1. about here>>

Indeed, Ontarian ranks second to last in voter turnout among all the provinces and territories. Voter turnout in the 2011 Northwest Territories election was 48 percent, just 2 percentage points lower than Ontario. Prince Edward Island's 2011 turnout was 77 percent — the highest turnout in all the provinces.

Why do so few Ontarians vote? Given Ontario's political culture of moderation and managerialism in politics, one argument holds that political parties offer limited choices to voters, as evident in the 2011 election.⁵⁷ Consequently, voters may feel that their vote will not make a difference. Voter turnout is especially low amongst younger voters. In the 2011 federal election that produced a majority government for Harper's Conservative Party, less than 40 percent of Ontarians between the ages of 18 and 24

voted.⁵⁸ Several reasons account for this, including the fact that youth generally have lower levels of political knowledge and interest than the rest of the population.⁵⁹ Moreover, they are more exposed to and reliant upon media (internet, television) to form their political opinions. Media tend to focus on the negative and ‘horse-race’ aspects of a political campaign, rather than substantive policy issues. While this can be explained in part by life cycle effects (that is, that as youth enter the workforce, have children and pay taxes they will become more interested in politics), there is also a cohort effect: youth voters today are less likely than youth voters of previous generations to vote.⁶⁰

Some voters may be disinclined to vote due to dissatisfaction with the first past the post (FPTP) electoral system. The ‘FPTP’ system means that the candidate who receives more votes than any other candidate wins the seat. There are advantages and disadvantages of ‘FPTP’: it ensures that each elected member comes from a specific geographic constituency thereby linking MPPs to local issues, but it also typically distorts the relationship between popular vote and seats by giving some parties more seats than their vote warrants, and other parties fewer seats. Table 1.1 shows that in the 2011 election, the Liberals garnered only 37.7 percent of the popular vote, but that translated into 49.5 percent of the legislative seats. Almost 3 percent of Ontarians voted for the Green Party, yet it was unable to win any seats.

Another reason for lower voter turnout (particularly among younger people) is changing attitudes about traditional forms of political participation. Citizens are engaging in non-traditional forms of participation, such as signing a petition, joining an interest group, or protesting. For example, province-wide “days of action” strikes occurred in the 1990s (as noted above). During the first “Global Day of Action” on October 15th 2011, thousands of Occupy protests occurred in many cities across the province. And in the fall of 2012, thousands of teachers and students protested against Premier McGuinty’s public sector wage freezes. Indeed, scarcely a week goes by that does not feature one group or another protesting on the lawn in front of Queen’s Park. These forms of political participation are not unique to Ontario; comparative research demonstrates that they are common elsewhere.⁶¹

Electoral Reform

That some citizens were “opting out” of traditional ways to participate politically (like voting) prompted Premier McGuinty to create the Democratic Renewal Secretariat in 2003. Located in the Ministry of Attorney General it was charged with “strengthening democracy” in the province. Premier McGuinty enacted legislation to move to four-year fixed election dates for general elections⁶², real-time disclosure of political contributions to parties and candidates, and requirements that Cabinet Ministers (including the Premier) attend at least two-thirds of Question Periods or face a \$500.00 fine per absence.

In a related initiative in 2003, Markham, Ontario became the first municipality in Canada to introduce online voting in advanced polls at the municipal level.⁶³ Promisingly, turnout increased by 300 percent.⁶⁴ In 2010, 33 municipalities used some form of online and/or telephone voting systems to record votes; but there were reports of several individuals unable to vote due to website crashes.⁶⁵ Further research and public debate on technology and voting need to be conducted in the province before conclusions can be drawn about its democratic impact.

One of the biggest proposed changes to make Ontario more democratic was electoral reform. In 2004, McGuinty announced the creation of a Citizens’ Assembly to investigate whether Ontario should reform the electoral system. In 2006, the members of the Citizens’ Assembly on Electoral Reform were randomly selected and included a cross-section of Ontarians. After countless hours of expert testimony and public hearings, the Citizens’ Assembly recommended a Mixed Member Proportionality (MMP) system. In the Ontario MMP version, 70 percent of local members would be elected using FPTP, while 30 percent would be elected as party list members. The size of the legislature would increase to 129.

In a referendum during the general election in 2007 only 36.9 percent of Ontarians voted for MMP, while the existing FPTP system garnered 63.1 percent of the vote. Several factors explain this outcome. Procedurally, the threshold for success was set exceedingly high: 60 percent of all valid referendum ballots were required, with a majority in at least 64 ridings. (as a point of reference: if this threshold were applied to the general elections of 2003 or 2007, it would have prevented the Liberals from

acquiring a majority government in either election.) Politically, the Liberal government was lukewarm at best to MMP: the government took no official stance on its preferred method, and it did not invest a substantial amount of funding to educate Ontarians on the proposed system. Weeks before the referendum, two public opinion polls found that almost half of the population did not know a referendum was taking place at all.⁶⁶ Given the poor information provided to Ontarians leading up to the referendum, the 36.9 percent of support for MMP is somewhat surprising, which begs the question of how different the outcome may have been with an engaged and informed electorate.

Conclusion and Recommendations

This paper has highlighted the democratic quality and evolving role of the Ontario legislature. Is Ontario's legislature as democratic as it could be? We think not. Exploring the institutional features of the Ontario legislature, legislative processes, and political representation, we have revealed the impact of past change as well as the need for further change. The strengths and weaknesses of Ontario's legislature as an instrument of democracy have been shown to be adequate in some areas, but lacking in others. We suggest that despite some reforms, the processes of making it more democratic remain unfinished and recommend improving the democratic quality of Ontario's central symbol of democracy.

Executive-dominated British cabinet-parliamentary government is the institutional basis of the Ontario legislature. Derived from the historical struggle for responsible government and consistent with the province's political culture of progressive conservatism, these features provide the context of the democratic quality of the institution. The struggle for responsible government also gave rise to a competitive three-party system governed within the legislature by the iron hand of party discipline within which each caucus is dominated by its leadership. Chafing at executive dominance, though, MPPs have pressed for reform, professionalization of their status and working conditions and have enhanced the role of legislator in significant ways since the Camp Commission. However, executive push-back has seen some reforms stalled, some rolled back, and others never fully realized. While MPP resources have increased, their capacity to democratize proceedings and relationships in the legislature

have not. The key issue of better holding the government to account, then, is one which needs addressing, as recent events with the 2011-2012 minority government attest.

While every parliament has a unique approach to debating and passing legislation, Ontario is largely reflective of its Westminster heritage. The Premier and cabinet work with the non-partisan public service to craft legislation, which is then scrutinized by the legislature. However, increasing partisanship severely limits the effectiveness of the legislature's scrutiny function. As a result, Queen's Park has become more a theatre for political combat than a forum for the contest of policy ideas. To no one's surprise, many Ontarians are tuning out. While the reforms of the Camp Commission and the more recent inclusion of backbenchers in cabinet committees have been aimed at enhancing the role of the MPP, they have been unable to buck the powerful trends that are marginalizing the role of the legislature and threatening the quality of Ontario's democracy.

No democratic legislature mirrors exactly the society it represents. For all democratic assemblies, decisions must be made about how best to represent the diverse backgrounds of their communities. The Ontario legislature has made significant strides in being more representative of women and in terms of ensuring that MPPs from the North are given resources to deal with the problems associated with massive geographic constituencies. Other representational issues remain: the legislature does not adequately reflect the province's growing racial and ethnic diversity, or its Aboriginal population, and many of the urban ridings are underrepresented relative to the 'rep by pop' rule. Women continue to be underrepresented. The single member plurality system also produces "false majorities", which can increase the stability of the legislature, but reduces the proportionality of seats to votes.

Given the province's dismal voter turnout, political leaders and Ontarians alike may want to consider better ways to connect political leaders to citizens. Below, we offer a few recommendations for consideration along the path of making the Ontario legislature stronger and more democratic in the future.

Recommendations

- Strike a modern-day Camp Commission to make recommendations for democratizing the Ontario legislature focusing on issues such as:
 - Increasing the size of the legislature
 - Assessing the practice of having backbench MPPs sit on cabinet committees
 - Decentralizing appointments from the purview of the Premier and handing them to an all-party legislative body
 - Enhancing the role and power of legislative committees
 - Adding more opposition days and opportunities for Private Members' Bills
 - Increasing MPP compensation and removing it from partisan control
 - Relaxing party discipline, perhaps instituting a three line whip system similar to Britain
- Limit the ability of the Premier to use prorogation for partisan purposes by subjecting it to approval by the legislature
- Strike a commission of inquiry to investigate electoral reform including:
 - Considering legislation which encourages political parties to adopt a more diverse slate of candidates, including increased representation of women, racialized minorities, immigrants, and Aboriginal persons.
 - Providing Ontarians with adequate education in classrooms, online, and on television about the electoral system
 - Investigating more thoroughly the possibility of online voting in provincial elections.
 - Increasing the educational focus on provincial politics in Ontario schools, including but not limited to a focus on the Ontario legislature, its processes, and party and electoral systems.

About the Authors

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Appendix I: List of Tables and Figures

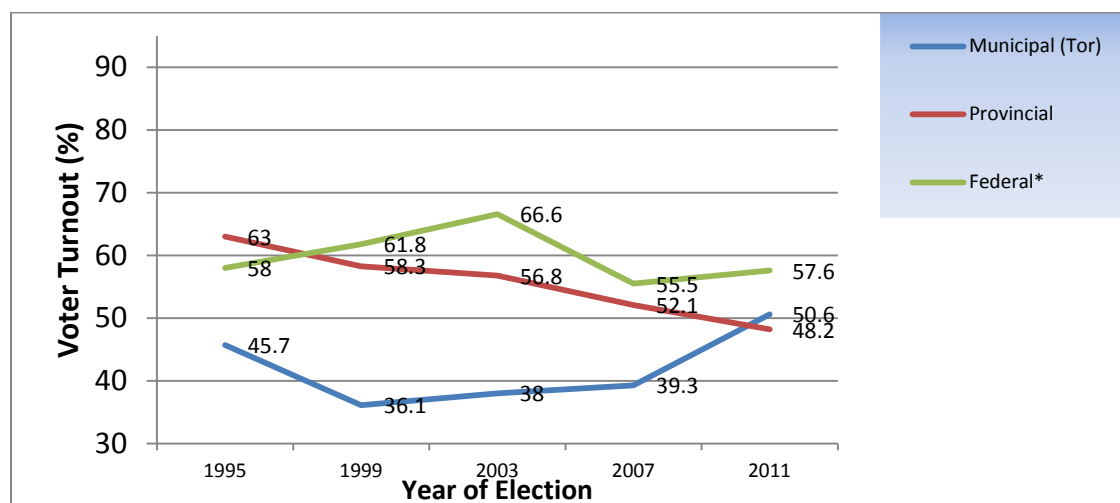
Table 1.1: 2011 Election Results by Party: Comparing Seats and Popular Vote

Party	Leader	Popular Vote	# Seats Won	% Seats
Liberal	Dalton McGuinty	37.7	53	49.5
Progressive Conservative	Tim Hudak	35.4	36	33.6
New Democratic Party	Andrea Horwath	22.7	17	15.9
Green Party of Ontario	Mike Schreiner	2.9	0	0
Ontario Libertarian Party	Allen Small	.5	0	0
Total		99.2*	107	100**

Source: Elections Ontario: www.elections.on.ca

*The remainder of votes cast went to other registered political parties. **Does not equal 100 percent exactly due to rounding.

Figure 1.1: Voter Turnout in Ontario Over 5 Elections (% of registered voters)⁶⁷



Sources: City Clerk's Office (City of Toronto), Elections Ontario, Elections Canada

*Federal turnout includes Ontario voters only

Notes

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² Graham White, "The Legislature: Central Symbol of Ontario Democracy," in Graham White, ed. *The Government and Politics of Ontario. Fifth Edition*, (Toronto: University of Toronto Press, 1997), 77.

³ Peter Woolstencroft, "Reclaiming the Pink Palace," Graham White, ed. *The Government and Politics of Ontario Fifth Edition*, (Toronto: University of Toronto Press, 1997), 385.

⁴ Robert Williams, "Ontario's Provincial Party System after 1985: From Complacency to a Quandary" in Hugh Thorburn ed. *Party Politics in Canada Seventh Edition*, (Scarborough: Prentice Hall, 1996), 497-513.

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