



LIBRARY of PARLIAMENT
BIBLIOTHÈQUE du PARLEMENT

IN BRIEF



Party Discipline and Free Votes

Publication No. 2018-26-E
28 June 2018

Lucie Lecomte

Legal and Social Affairs Division
Parliamentary Information and Research Service

Papers in the Library of Parliament's ***In Brief*** series are short briefings on current issues. At times, they may serve as overviews, referring readers to more substantive sources published on the same topic. They are prepared by the Parliamentary Information and Research Service, which carries out research for and provides information and analysis to parliamentarians and Senate and House of Commons committees and parliamentary associations in an objective, impartial manner.

© Library of Parliament, Ottawa, Canada, 2018

Party Discipline and Free Votes
(In Brief)

Publication No. 2018-26-E

Ce document est également publié en français.

CONTENTS

1	INTRODUCTION.....	1
2	THE CONFIDENCE CONVENTION	1
3	PARTY DISCIPLINE	2
4	FREE VOTES.....	3
5	CHANGES BETWEEN 2004 AND 2018.....	3
6	CONCLUSION	4

PARTY DISCIPLINE AND FREE VOTES*

1 INTRODUCTION

With rare exceptions, the practice of party discipline means that members of the same party vote together in Parliament. Since the emergence of structured political parties in the late 19th century, party discipline in some form has been an essential feature of the Canadian political landscape.

The practice of party discipline serves two purposes:

- it ensures that the government and opposition sides in Parliament are clearly demarcated; and
- it provides a degree of ideological certainty on which the voter can rely.

However, the way party discipline is enforced in Canada has drawn increasing criticism, as it limits the role of individual members of Parliament and amplifies the differences between the parties. Critics often hold up as alternatives either the British system, where party discipline is less stringent than in Canada, or the system in the United States, where members of Congress negotiate more freely among themselves for support on votes. Although the U.S. system is so different from ours that few useful comparisons can be made,

it is unquestionable that the prominence of and high visibility of the American system, with the independence and power of individual congressmen and senators, is a model that lies, consciously or unconsciously, behind many demands for more powerful committees and more autonomy for members.¹

2 THE CONFIDENCE CONVENTION

The practice of party discipline is closely related to one of the central principles of responsible government,² namely that Cabinet must have the support of the majority of the House of Commons. This confidence convention was studied in 1984–1985 by the Special Committee on the Reform of the House of Commons (the McGrath Committee), which concluded that the confidence convention had reached the point where virtually every vote was seen as a test of the government's right to govern. Noting that strict party discipline had developed into an article of faith, despite the fact that very few votes actually involve true questions of confidence, the McGrath Committee recommended that only explicit motions of confidence, or matters central to the government's platform, be treated as such. This interpretation of the confidence convention, it reasoned, would provide a more relaxed party discipline and increase the number of free votes.

The McGrath Committee also noted that whether a vote was an issue of confidence was ultimately a political question, not one of procedure or order, and therefore did not involve the Speaker of the House of Commons. Based on the committee's recommendations, all references to confidence were expunged from the *Standing Orders of the House of Commons*.³ However, despite these reforms, most votes in subsequent Parliaments still took place along strict party lines.

3 PARTY DISCIPLINE

People vote, in part at least, for a party on the basis of its platform, which they expect the party and its members to follow. In this regard, the interests of individual MPs and of the parties to which they belong largely coincide. Parties rely on the concerted action of their elected members to fulfil their electoral promises.⁴ For their part, individual members benefit from their party affiliation during elections.

Party discipline requires balancing two opposing principles. On the one hand, members must act in concert if there are to be identifiable government and opposition sides in a debate, and some integrity and consistency of viewpoints within each party. On the other hand, individual MPs have a responsibility to give voice to the wishes of their constituents while also remaining faithful to their own political and moral principles.⁵

According to authors Jean-François Godbout and Bjørn Høyland, party discipline is strong in Canada today, but that has not always been the case. The arrival of third parties to the Canadian political scene in the late 1920s – which led to a permanent multi-party system – played an important role in consolidating party voting unity.⁶ However, it was only in the latter half of the 20th century that voting unity became near-total.⁷

In the parliamentary system, an attempt is made to reconcile diverse interests through Cabinet and in caucus, where party members sort out their differences before speaking publicly with a united voice.⁸ Caucuses exist

to ensure that all members of the party have an opportunity to debate an issue so that all members will accept a position that all are comfortable with. This is easier said than done, but all Parties work hard at it because their credibility rests on their success.⁹

Parties exercise discipline through either:

- *incentives* – for example, by appointing loyal members of the party as parliamentary secretaries or Cabinet ministers or, in the case of opposition parties, appointing them as critics; or
- *punishments* – such as relegating less-compliant members to committee assignments perceived to be inferior, denying them opportunity to travel, expelling them from caucus, or, in the most extreme cases, refusing to allow them to run under the party banner in the next election.¹⁰

To encourage MPs to vote together, parties also rely on pressures such as the opinion of colleagues, and they do not hesitate to appeal to party solidarity (being a “team player”) and a desire to prevent the opposition from “scoring points.” The media and public perception also influence this process, because parties may appear to be disunited should their members break ranks.

4 FREE VOTES

Critics continue to argue that party discipline gives too much power to the prime minister and the Cabinet, and that it reduces MPs to “rubber stamps.”

The use of free votes is often touted as a way to loosen party discipline. A free vote takes place when a party frees its members from the usual expectation that they will vote according to party lines. A free vote may be allowed by one or more parties, or it may be allowed by all. The decision whether to allow a free vote is a political one and is not a subject on which the Speaker can be asked to rule.

True free votes occasionally take place in the House of Commons, usually on questions of morality and conscience, where divisions tend to cross party lines. Since the 1960s, there have been few such votes, as illustrated by the following list, grouped by subject:

- the flag debate (1964);
- capital punishment (1966, 1967, 1973, 1976, 1987);
- right to abortion (1969, 1988, 1989);
- prohibition of discrimination based on sexual orientation (1996);
- constitutional amendments (1996, 1997);
- same-sex marriage (2006); and
- medical assistance in dying (2016).¹¹

5 CHANGES BETWEEN 2004 AND 2018

In 2004, growing concern about the democratic deficit led the Liberal government to introduce a three-line vote system, modelled on the British system.¹²

The system works as follows:

- On one-line votes, all government MPs, including ministers, are free to vote as they see fit.
- On two-line votes, the government takes a position and recommends a preferred outcome. Ministers and parliamentary secretaries of ministers affected by the issue are expected to vote with the government. Backbenchers are free to vote as they wish.
- Three-line votes are reserved for questions of confidence and matters of fundamental importance to the government. All government members must vote with the government.

In its 2004 document *Ethics, Responsibility, Accountability: An Action Plan for Democratic Reform*, the Liberal government explained that most votes would be either one-line or two-line votes, meaning that support by government members would not be taken for granted.

The vote on same-sex marriage in June 2005 is an example of a two-line vote: ministers were required to vote in support, but other members on the government side were free to vote in accordance with their own beliefs.

In 2006, the Conservative Party of Canada came to power, and the three-line vote system was abandoned. Its election platform stated that it would make “all votes in Parliament, except the budget and main estimates, ‘free votes’ for ordinary Members of Parliament.”¹³

The Conservative Party also announced its intention to hold a free vote on a motion to introduce a government bill to reinstate the traditional definition of marriage.¹⁴ Conservative MPs voted according to their own beliefs, and Liberal MPs, who formed the official opposition, did the same.¹⁵ The New Democratic Party and the Bloc Québécois required their MPs to toe the party line.

In 2015, the Liberal Party of Canada won the election. It had included free votes in its electoral platform, announcing that it would “make free votes in the House of Commons standard practice.”¹⁶ However, the platform provided for several exceptions. The Liberal Party indicated that the following votes would be subject to party discipline:

- those that implement the Liberal electoral platform;
- traditional confidence matters, like the budget; and
- those that address our shared values and the protections guaranteed by the [*Canadian*] *Charter of Rights and Freedoms*.¹⁷

In 2016, the vote on Bill C-14 on medical assistance in dying was a free vote for the Conservative, New Democratic Party and Bloc Québécois MPs. Liberal MPs, with the exception of Cabinet ministers, were also able to vote according to their beliefs.¹⁸

6 CONCLUSION

The use of free votes remains contentious. Some have argued that party discipline should be relaxed for issues that are not part of the party’s core platform. In their view, this would allow a wider variety of interests and opinions to be heard; as well, by making votes less predictable, the level of debate could be raised and issues could be more fully explored.

However, opponents of a more frequent use of free votes argue that if members, rather than the government, make the decisions, it will become more difficult to hold the government accountable. This, they fear, would lead to a blurring of the distinction between the governing party and parties in opposition, and would therefore run counter to the principle that government is accountable to Parliament and, ultimately, to the electorate in general elections. These opponents of freer voting contend that, in essence, “the government would be abandoning its responsibility to govern and political parties would be abandoning their identity and *raison d’être*.”¹⁹

Other critics have argued that removing party discipline would leave MPs more vulnerable to lobbying from special interest groups.²⁰

Experts who have studied this issue in a Canadian context concluded that

members' partisan identification remains the best predictor of voting behavior, even on these free and unwhipped divisions and even after controlling for a variety of other factors (such as members' personal characteristics and constituency preferences).²¹

NOTES

- * This paper is a revised version of Howard Chodos et al., *Party Discipline and Free Votes*, Publication no. TIPS-81E, Parliamentary Information and Research Service, Library of Parliament, Ottawa, 13 July 2006.
- 1. C. E. S. Franks, *Free Votes in the Canadian House of Commons – A Study Prepared for the Honourable Harvie André, Government House Leader*, September 1991, p. 5.
- 2. Jean-François Godbout and Bjørn Høyland, "[Unity in Diversity? The Development of Political Parties in the Parliament of Canada, 1867–2011](#)," *British Journal of Political Science*, Vol. 47, Issue 3, July 2017, p. 546.
- 3. The sole remaining exception to this is Standing Order 6, which deals with the election of the Speaker.
- 4. Lucinda Flavelle and Philip Kaye, "[Party Discipline and Legislative Voting](#)," *Canadian Parliamentary Review*, Summer 1986, p. 6.
- 5. C. E. S. Franks, *The Parliament of Canada*, Toronto, University of Toronto Press, 1987, p. 106.
- 6. Godbout and Høyland (2017), p. 547.
- 7. *Ibid.*, p. 551.
- 8. C. E. S. Franks, "Free votes in the House of Commons: A Problematic Reform," *Policy Options*, November 1997, p. 38.
- 9. John Reid, "[The Case for Party Discipline](#)," *Canadian Parliamentary Review*, Autumn 1993, p. 3.
- 10. See, for example, Rand Dyck, *Canadian Politics: Critical Approaches*, Scarborough, Nelson Thomson Learning, 2000, pp. 552–553.
- 11. Marc Bosc and André Gagnon, eds., "[Free Votes](#)," in "The Process of Debate," Chapter 12 in *House of Commons Procedure and Practice*, 3rd ed., House of Commons, Ottawa, 2017.
- 12. Peter Aucoin, "[Improving Government Accountability](#)," *Canadian Parliamentary Review*, Autumn 2006, p. 22.
- 13. Conservative Party of Canada, *Stand up for Canada. Conservative Party of Canada Federal Election Platform*, 2006, p. 44.
- 14. *Ibid.*, p. 33.
- 15. House of Commons, *Debates*, 7 December 2006, p. 5805.
- 16. Liberal Party of Canada, *Real Change. A New Plan for a Strong Middle Class*, 2015, p. 30.

PARTY DISCIPLINE AND FREE VOTES

17. Ibid.
18. House of Commons, [Debates](#), 2 May 2016, pp. 2683 and 2711.
19. Franks (1997), p. 35.
20. Murray B. Mincoff, "Party Discipline and the Legislative Process in Canada," *The Parliamentary Weekly*, 1 March 1992, p. 38.
21. L. Marvin Overby, Christopher Raymond and Zeynep Taydas, "Free Votes, MPs, and Constituents: The Case of Same-Sex Marriage in Canada," *American Review of Canadian Studies*, 22 November 2011, p. 468.