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Only voters have the right to decide on the coalition

By TOM FLANAGAN

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Defenders of the Liberal-NDP-Bloc Québécois coalition argue that, if the Conservative government's budget is defeated in the House of Commons, the Governor-General should invite the Liberal Leader to form a cabinet with some posts allocated to the NDP. There is no need for another election, they say, because together the three coalition partners hold a majority of the seats in the House, and the Bloc has agreed not to bring down a Liberal-NDP government for at least 18 months.

The coalition's apologists glory in the supposed fact that Canada's Constitution is not democratic. Responsible government, they say, means only that the cabinet has to maintain majority support in the House; it doesn't mean the voters have a voice. Canadians, in their view, are just deluded if they think Canada is a democracy.

Obviously, the apologists didn't pay attention in Political Science 101. Here's why they're wrong.

Canada has inherited the antiquated machinery of responsible government from the pre-democratic age of the early 19th century, when most people couldn't vote and political parties were only parliamentary cliques. But a lot has happened since Benjamin Disraeli last took tea with Queen Victoria.

Canada changed from a constitutional monarchy to a constitutional democracy as the franchise was extended to all adults and political parties became national in scope. That evolution was recognized in 1982 in the Charter of Rights and Freedoms. Section 1 characterizes Canada as "a free and democratic society," and Section 3 grants the right to vote to "every citizen of Canada."

In its 1998 decision on the secession reference case, the Supreme Court of Canada emphasized that democracy was one of "the underlying principles animating the whole of the Constitution."

The most important decision in modern politics is choosing the executive of the national government, and democracy in the 21st century means the voters must have a meaningful voice in that decision. Our machinery for choosing the executive is not prescribed by legislative or constitutional text; rather, it consists of constitutional conventions - past precedents followed in the light of present exigencies. The Supreme Court has said it will expound these conventions but will not try to enforce them. The virtue of relying on conventions is that they can evolve over time, like common law, and can be adapted to the new realities of the democratic age.

That means that, in the area of choosing the executive, the Constitution, for all practical purposes, is whatever the Governor-General says it is; there is no appeal from vice-regal decisions. But that doesn't mean the Governor-General is a free agent; she has a responsibility to make her decisions within the Constitution, including those "underlying principles" identified by the Supreme Court.

How, then, should Michaëlle Jean decide if the government is defeated over the budget? Arguably, a new election

would be called for, even though it would only be five months after the last election. Gross violations of democratic principles would be involved in handing government over to the coalition without getting approval from voters.

Together, the Liberals and the NDP won just 114 seats, 29 fewer than the Conservatives. They can be kept in power only with the support of the Bloc, whose *raison d'être* is the dismemberment of Canada. The Liberals and NDP have published the text of their accord but not of their agreement with the Bloc.

The coalition partners, moreover, did not run on a platform of forming a coalition; indeed, the Liberals' Stéphane Dion denied that he would make a coalition with the NDP. In countries where coalition governments are common, parties reveal their alliances so that citizens can know how their votes will affect the composition of the executive after the election. In stark contrast, those who voted for the Liberals, NDP or Bloc in the last election could not possibly have known they were choosing a Liberal-NDP government supported by a secret protocol with the Bloc.

Put it all together, and you have a head-spinning violation of democratic norms of open discussion and majority rule. The Governor-General, as the protector of Canada's constitutional democracy, should ensure the voters get a chance to say whether they want the coalition as a government. They haven't yet had that chance.

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