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Political Ethics and the House of Commons Electoral Reform Process: Four Dimensions

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As befits an event hosted by the University of Toronto's Centre for Ethics, I would like to help frame today's panel discussion with a brief overview of some of the ethical dimensions of the Liberal Party's 2015 electoral reform promise as it relates to what has transpired since.

Let me first remind the audience of what that promise was. The Liberal "Real Change" promise was (bolded emphasis is that of the Liberals):

We will make every vote count.

We are committed to ensuring that 2015 will be the last federal election conducted under the first-past-the-post voting system.

We will convene an all-party Parliamentary committee to review a wide variety of reforms, such as ranked ballots, proportional representation, mandatory voting, and online voting.

This committee will deliver its recommendations to Parliament. Within 18 months of forming government, we will introduce legislation to enact electoral reform.

Having reminded everyone of this text, allow me now to make some preliminary points on the following:

- The ethics of promise-making
- The ethics of appropriating language into deceptive "spin"
- The ethics of democratic decision procedure
- The ethics of political positioning that collapses into dissembling

I. The Ethics of Promising

What is the moral status of electoral platform promises in the "real world" of promises? In our discussion today, we may find it helpful to distinguish between:

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1. broken promises, with the question being the kinds of reasons and circumstances that may justify breaking sincerely-made promises
2. false promises, where the problem is a knowing lie dressed up as a political commitment
3. deceptive promises, wherein it is unclear whether a promise was false or, rather, a deliberate effort to confuse and obfuscate – for example:
   A. promises written such that most people understand *x* even when, in an act of crafty lawyerly drafting, the promise technically says *y*
   B. promises that are double-voiced, that is, designed to focus one group of citizens on aspect *v* of the promise and another group of citizens on aspect *w*

I will leave for discussion whether the treatment of the Liberal electoral reform promise since the 2015 election suggests (a trend line towards) a broken promise or whether (perhaps in addition) it reflects a promise that was either deceptive or false from the outset.

II. Ethics of language appropriation and spin

Allow me to trace a brief history of the phrase "make every vote count", which, recall, appears in the top-line Liberal election platform commitment.

In 1999, Canadian scholar Henry Milner edited a book exploring the evolving academic and public-policy debates around proportional representation. The book was called *Making Every Vote Count.* Very shortly thereafter, Fair Vote Canada was launched with the mission of advocating for electoral reform through proportional representation. Fair Vote's motto became and remains "Make Every Vote Count." Then, when I went on an electoral reform tour of Canada between spring 2013 and fall 2014 on behalf of the New Democratic Party, in my capacity as Official Opposition Critic for Democratic and Parliamentary Reform, the tour was also called "Make Every Vote Count" – as was the online awareness campaign of the NDP.

Then came that top-line Liberal platform commitment, "We will make every vote count." It defies reality not to think this was a deliberate misappropriation of a term directly associated with the value and purpose of proportional representation – even as the promise then went on to list proportional representation as only one of the things a parliamentary committee would consider. Consider these three further elements of context.

One, until the Liberals used this formulation in mid-2015 on the eve of the election, the Liberal Party to that point had only modified its only party policy book in early 2013 to say alternative electoral systems should be "studied" after the next election, mentioning "proportional representation" as one item to study – while declining to remove the existing policy that stated the Liberal party's preferred electoral system is Alternative Vote (use of ranked ballots to elect MPs from single-member districts).

Two, in December 2014, a breakthrough occurred in the House of Commons when I tabled a motion calling for mixed-member proportional (MMP) representation, which was then debated for the day and later voted on. In that vote, 31 of the 35 Liberals were present, and

16 of them (over half) voted with the NDP – leaving the future Prime Minister Trudeau in the minority with 14 other Liberals. This development radically changed the stakes (as **my subsequent account of the vote in *Maclean's*** made clear), and revealed to Liberal strategists that grassroots support for PR had snuck up on them and they were going to have to take that into account in their future messaging (especially in the urban ridings where many of those 16 Liberals were from).

Three, the above-quoted Liberal promise was rolled out early in a separate democratic-reform document in June 2015, before reappearing in the full Liberal platform about three months later. It was rolled out at a time when the Liberals had slipped behind the NDP in the polls, and was clearly intended to kick-start energy and excitement around the Liberals. Along with their later infrastructure-plus-deficit announcement, it became a major messaging tool in those ridings where "fixing Ottawa" and democratic reform mattered to a cross-over pool of voters for whose votes the Liberals were competing with the NDP and Greens.

Flowing on from these three bits of context, this appropriation of "Make Every Vote Count" had two key effects. The first was that it allowed Liberal candidates and phone canvassers to signal that the Liberals were not just open to PR but favourable to it. More particularly, it allowed space for many dozens of Liberal candidates to knock on doors and say they personally wanted PR and the party had created space for this to happen. Somewhere along the way, I can testify this messaging took root. In my own riding during the election, I had several people at the door asking why the NDP was not in favour of PR when the Liberals were running on it. Say no more.

The second effect was that, in semantic terms, the Liberal's top line "We will make every vote count" actually converted their promise to replace for First Past the Post by 2019 into a promise to bring in some form of proportional representation – by simple virtue of the fact that only proportional representation is actually intended to make every vote count. The "make every vote count" pledge is completely incompatible with the Liberals' preferred Alternative Vote, for reasons I gave both in my **September 2 testimony to the House of Commons Special Committee on Electoral Reform (ERRE)** and in a **follow-up submission to the Committee**.

There is much more about the Liberal tactic that I could say to show how deliberate an effort it was to engage in deception, but I have time limits – and in any case, some of the information remains confidential.

III. Ethics of democratic decision procedures

I will not elaborate here; let me just set out some contrasts about the different approach to the democratic process that would lead to electoral reform.

The NDP committed to legislating on mixed-member proportional representation by 2019 and the Greens similarly committed to some system of proportional representation by 2019, without specifying the kind of PR.

As for the NDP, the plan was to involve extensive consultation on the institutional design of an MMP adapted to Canada as part of the legislative process – as set out in an announcement I made in Victoria at the end of 2014 on our commitment to PR by 2019. No mention was made of a referendum, but we knew that the debate would go there after the election and, so, we were prepared for the possibility we might propose a ratifying referendum that would take place after the reform such that voters would have the benefit of comparing the new system to the old one – which is indeed what the current NDP Democratic Reform Critic, Nathan Cullen, announced in January 2016. Thus, the NDP position was that electoral democracy, with our clear commitment to a specific system, would give a mandate to proceed through legislation in Parliament; that a referendum was accordingly not necessary; but that a later referendum would have much to say for it.

The Conservatives' election platform said no electoral reform could occur without a referendum in advance, and that party has since been consistent in making this their top-line demand since the election. This direct democracy approach has allowed the Conservatives to avoid taking a stand on their favoured system – which many assume is a preference for the current system – and at the same time, it helped pave the way for the Conservatives on ERRE to endorse proportional representation as long as it was subject to a choice between some form of PR and the current system in a referendum. Simultaneously, the NDP and Greens put water in their wine, in the interests of principled compromise, in order to produce a four-party (Conservative, Greens, NDP, Bloc) consensus that there should be a referendum on PR.

The Liberals' promise was one of a parliamentary committee process followed by legislation, by which the current system would be replaced. We have seen the striking ambiguity of the content of the promise in that the Liberals were simultaneously saying it would be PR ("We will make every vote count.") and also saying it only needed to be something other than First Past the Post. Not surprisingly, the Liberals after the election have denied that "We will make every vote count" meant a top-line promise of PR (indeed, the Liberal Chair of ERRE went so far as to say, after the ERRE report was tabled, that many people thought the Liberals were promising Alternative Vote, an exceptionally audacious claim). As a result, they reduced their promise to a process promise and an indeterminate specific selection of a replacement system, which had made them especially vulnerable to the Conservative demand for a referendum – precisely because Canadians did not vote for a specific system when the Liberals received a plurality of the votes in 2015. However, to date, the Liberals have resolutely resisted accepting the need for referendum despite this fiercely made "no mandate" argument from the Conservatives.

Yet, if we again look at exactly what the Liberals did promise qua process (see again the text reproduced at the start), it is hard to see how they can deny that they should now – if they are acting in good faith – be taking the parliamentary committee 7-4 (7-5, if you include the Liberal Chair) outcome as their legislative starting point. This is both because of the wording of the electoral reform platform promise and because the Minister for Democratic

Institutions set up the committee as a cooperative partner in setting the parameters for the post-committee government legislation.

That is, that was the approach the Liberals were taking until they began to see the writing on the wall as experts and citizens alike appeared before ERRE with a near-uniform demand (and good arguments) for proportional representation. At that point, out popped the Minister's plan for a new process of online surveying to supplement (and, we can perhaps predict, second-guess) the parliamentary committee result, alongside an unfathomably ham-handed decision to (initially) attack the committee for not giving her a specific model to legislate.

IV. The ethics of political positioning (aka: dissembling)

It is hard to read the last paragraph in the above section without seeing that I am intensely skeptical of the Liberal government's good faith on this issue. That is to say, we have entered the realm of transparent hypocrisy and badly executed messaging that only serves to make that hypocrisy even more transparent.

I have said what needs to be said in a commissioned Policy Options article that appeared the day after ERRE reported, called "**The 'noble failure' approach to electoral reform**.'" In that piece, you can find a discussion of the Prime Minister's flubbed forays into "trial balloon" space in June and then again in November, in which he trips over his brief in trying to make it seem electoral reform has no future. You can see a discussion of the multiple prongs of the Liberals' delay strategy. You can also see my warning that the government would start holding up the mathematical formula known as the Gallagher Index (reproduced in the Liberal dissenting "supplementary" report) as a way to mock the majority ERRE report – a prediction that came true after I submitted the paper to Policy Options, when Minister Monsef indeed did stand in front of the Ottawa press gallery waving around an enlarged print-out of the formula.

Since that Policy Options piece, the farce that is the MyDemocracy.ca survey has also served to highlight that this government is essentially all about manipulation on this file. On that front, see the **excellent letter of Conservative Democratic Reform Critic Scott Reid** in which he sets out a series of questions for Minister Monsef about MyDemocracy.ca: just reading those questions is all you need to understand the ethics of dissembling that are on full display in the Liberal Party shop-front window.