

## Which is more democratic?

IN THIS 150TH YEAR of Canada's existence, initially as a ?dominion? and today as an independent constitutional monarchy, one question Canadians should be asking themselves is whether there is a need to make the country more democratic.

After all, there's not much evidence that the framers of the British North America Act (BNA Act) of 1867 were really concerned about anything more than an appropriate sharing of powers between the dominion and provincial governments. The fathers of Confederation were undoubtedly influenced much more by the civil war raging in the United States than by the checks and balances provided in the U.S. form of government.

In their effort to protect the republic from tyrannical rule, the framers of the U.S. Constitution decided that while a president should have considerable power, he should not be as powerful as British monarchs had been; that only Congress should have the ability to legislate, and that there should be an independent judiciary.

In Canada, there are no similar protections in law, apart from a Charter of Rights and Freedoms that has been in existence only since the 1980s.

The BNA Act placed executive power in the hands of a governor-general who would act with the assistance of the Queen's Privy Council of Canada. There was no mention of a prime minister, although even in 1867 we had one in Sir John A. Macdonald, and with him a cabinet that, while notionally selected from among members of the Privy Council, were either elected Members of Parliament or senators.

Clearly, although Canada is technically a monarchy with Elizabeth II as our head of state, the role of the monarchy has been reduced over the years to the point where the only significant power of a governor-general is to sign bills and cabinet orders into law and occasionally to decide whether to accept or reject a prime minister's request that Parliament be dissolved and an election called.

In today's world, there is no doubt that a Canadian prime minister has lots of power, particularly if his party holds a majority of seats in the Senate and Commons. At present, the main limit on the power of Justin Trudeau and his cabinet is the lack of a Liberal majority in the Senate, thanks to his decision to appoint a lot of independent senators.

In the U.S., meanwhile, we are currently experiencing an unprecedented demonstration of the extent to which presidents can be either hamstrung or far too powerful.

As we see it, Barack Obama will go down in history as perhaps the best president Americans could have had, if only they had equipped him with a compliant Congress. Faced with a Congress controlled by the Republicans, he was limited to acting by executive order, setting the stage for nearly all of his accomplishments to be undone by his successor, Donald Trump.

What we are seeing now, with the recent sacking of FBI Director James Comey, is a far-to-powerful president who is governing by fiat (executive order) and tweet, with no evidence thus far of any checks or balances, thanks to Republican domination of both Congress and the U.S. Supreme Court.

Perhaps the ultimate irony is that today we have a far preferable form of democracy, without the risk of having a president elected after losing the popular vote, or having a prime minister who is unable to carry out his or her promises because another party controls Parliament.

And, unlike the situation south of the border, we have a truly independent judiciary, with a Supreme Court that has a long tradition of standing up for what it sees as right, rather than bowing to the wishes of the government of the day.

We should surely be thankful.