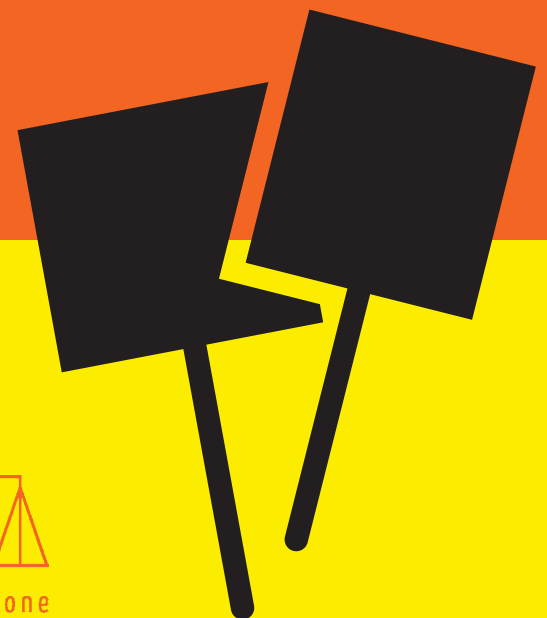




Direct Democracy

PLEBISCITES AND
REFERENDUMS



Direct Democracy PLEBISCITES AND REFERENDUMS

2020 (Version 1.0)

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PLEA is a non-profit, non-government organization funded by the Law Foundation of Saskatchewan. PLEA also receives financial support from the Department of Justice Canada and the Saskatchewan Ministry of Justice and Attorney General. PLEA is supported by the Law Society of Saskatchewan, Canadian Bar Association (Saskatchewan Branch), College of Law, Legal Aid Saskatchewan, Ministry of Education, Saskatoon Public Library and the public libraries and regional colleges throughout the province.

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ISBN #978-1-988445-16-8 (Book)

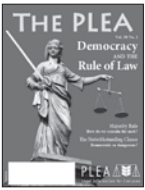
ISBN #978-1-988445-17-5 (PDF)

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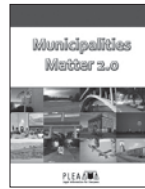
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Introduction

One of the most powerful forms of rule is direct democracy. It gives voters the power to decide what the law should be. It can change the direction of a town, a city, a province, or a country in a single vote.

Best illustrating the power of direct democracy is the United Kingdom's 2016 referendum on whether to stay in or leave the European Union. The surprise result—voters narrowly decided to leave the EU—shook the ruling class across Europe. Agree or disagree with the result, it reminded everyone that in a democracy, power ultimately resides with the majority.

For Saskatchewan voters in particular, direct democracy is not an abstract concept. In fact, citizens are given direct democratic powers in Saskatchewan law. We can force a binding referendum at the municipal level, and a non-binding plebiscite at the provincial level.

Knowing that we have these powers, how can we help ensure that direct democracy is used responsibly?

Direct Democracy: Plebiscites and Referendums can help answer this question. Written for Social Studies 30 and Law 30, this resource begins by looking at the origins of direct democracy in ancient Greece, then moves students through Saskatchewan's history with and current legislation governing direct democracy. It closes by asking students to critically consider the merits and drawbacks of direct democratic rule. Throughout these lessons, step-by-step procedures, student handouts, and case studies will help students think of ways to make better democratic decisions.

Of course, no learning resource is perfect. Your feedback and suggestions on this or any other PLEA publication is welcomed. Drop us a line at plea@plea.org.



LESSON ONE: What is Direct Democracy?

OBJECTIVE

Students will learn about the origins and basic structure of direct democracy. This foundation will underpin all subsequent lessons.

PROCEDURES

1. Brainstorm with students what democracy means to them. Use varied answers to establish the idea that it can be hard to narrow down a precise definition for democracy.
2. Break students into smaller groups. Ask each group to use the opening class discussion as a basis for creating their own definition of democracy.
3. Bring class together to share each group's definition. Use voting to determine a final classroom definition of democracy.
4. Point out that having each student vote for their preferred definition is a form of direct democracy. Each student had a direct say in determining the final definition.
5. To establish understandings of the roots of direct democracy, distribute and read "What is Direct Democracy?"

KEY QUESTION

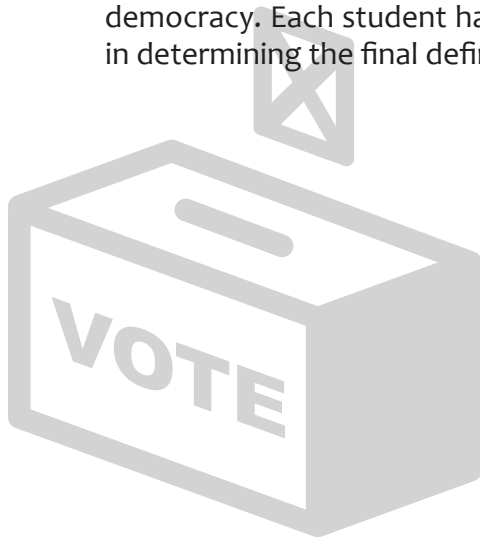
- **Greek democracy was short-lived, lasting only a few hundred years. Similar democratic structures in Rome did not last much longer. European democracy did not begin to re-emerge until at least England's Glorious Revolution in 1688. What does democracy's long absence tell us about democracy's fragility?**

CASE STUDY: ROOTS OF INDIGENOUS DEMOCRACY

6. Use case study to illustrate that ancient Greece was not the only democratic society of our past.

FURTHER EXPLORATION

7. To more deeply consider democracy's varied definitions, check out Lesson 1.1: What is Democracy in Our Government Our Election. Find it at **teachers.plea.org**.



STUDENT HANDOUT

What is Direct Democracy?

In a democracy, the people rule. This is the meaning of the word democracy. In Greek, *demos* means people and *kratos* means rule. This is the nature of democracy. Unlike societies where kings or dictators make the final decision, in a democracy the ultimate power resides with the people.

How people use their democratic power differs from place to place. In Canada, we elect people to government. These elected representatives make decisions on our behalf. This is called representative democracy.

Democratic power can also be used in a more direct way than simply voting for a representative. People may be asked to vote on a specific policy. When citizens—not elected representatives—decide specific issues, it is called direct democracy.

Some countries are governed by direct democracy. For example, the tiny European nation of Liechtenstein presents its proposed laws to the people. Citizens vote yes or no to each proposal. Because the people of Liechtenstein directly decide what will become the law, the country is a direct democracy.

People Like Democracy

Whether a country is governed by representative democracy or by direct democracy, in both cases the people rule. The idea that the people should rule is widely supported.

In 2017, the Pew Research Center—a non-partisan research organisation—studied beliefs about democracy in 38 countries. Their research found that in high-income countries, support for representative democracy is very strong. 78% of respondents said that representative democracy is a good way of governing their country.

Interestingly, the Pew Research Center also found that people living in representative democracies would strongly support more use of direct democracy. People were asked:

Would a democratic system where citizens, not elected officials, vote directly on major national issues to decide what becomes law be a good or bad way of governing this country?

Put another way, people were asked if they supported more direct democracy. Two thirds of respondents said yes.

In Canada, we sometimes use direct democracy. For example, in 1992 Canada held a national vote on amending the constitution. In 1991, Saskatchewan held votes on public funding of abortions, balanced budgets, and methods of approving constitutional changes. And countless municipalities in Saskatchewan have allowed their citizens



to vote on local issues. For example, in 2013 the City of Regina asked citizens who should build their new waste water plant.

The idea of direct democracy—people directly voting on issues—is nothing new. It goes back at least 2,500 years, when ancient Greece was governed by direct democracy.

Athens and the Origins of Direct Democracy

Ancient Greece was a collection of approximately 1,000 city-states. Most city-states consisted of a walled-in urban core surrounded by agricultural land. This was called a *polis*. Each polis developed its own form of governance. Many used direct democracy.

Athens was ancient Greece's largest polis. At its peak in 5th century BC, Athens was home to about 250,000 people and covered a territory of 2,500 square kilometres. Because of Athens' size, because vast archaeological records of Athens remain, and because Athens was a direct democracy, Athens is ideal to help understand the origins of direct democracy.

How Athenian Direct Democracy Worked

As a direct democracy, Athens was governed by its citizens. Assemblies were held so citizens could vote on laws and public policies. As well, about 1,200 public officials in Athens were chosen every year, either by a vote or by a lottery. Amongst the people chosen by lottery were jurors who would vote to decide court cases.

Assemblies in Athens were open to male citizens. How citizenship was granted changed over the years, but in general people were considered citizens if they completed military service, were born to citizen-parents, or had citizenship conferred upon them by the assembly. Women and children could hold citizenship, but unlike men they were not allowed to vote.

Assemblies usually took place at the Pnyx, a central hill in Athens. However, if more than 6,000 people were meeting they would assemble in the *agora*, the central marketplace. Attendance was usually optional. Those who attended were compensated for their time.

At an assembly, laws and policies were put forth for citizens to consider. The proposals could be made by any citizen beforehand. Public officials determined which suggested proposals would be



Support for various types of rule. Source: Pew Research Center Spring 2017 Global Attitudes Survey



A POWERFUL SOCIAL CHECK

Athens used a system of exile to help keep both average citizens and the elite in check. Once a year, Athenians could propose people for exile. A vote would be held, and if passed, that person was exiled from Athens for ten years. After ten years, they were given a clean slate and allowed back in. While exiling fellow citizens is ethically questionable, the threat acted as a powerful social check.

considered at the assembly. Most often, radical proposals for change would not be forwarded to the assembly for consideration.

Anybody could speak at an assembly. Nevertheless, it was usually ambitious men who spoke. The vast majority merely listened and voted. One reason most people just listened was because speaking out was risky: speakers could potentially be held legally responsible for giving bad or false advice. On the flip side, citizens were never held responsible if they irresponsibly cast votes.

Democratic power in Athens was a radical departure from earlier systems where leaders ruled by decree. The power of the vote meant that citizens could keep the elite in check.



The stepping stone (speaker's platform) of the Pnyx in Athens. Here citizens assembled to debate and vote on laws.

THINK

1. Is it a good idea to allow people to vote directly on issues? Explain.
2. Many Athenians remained silent during debates. Silence can be both useful and harmful. Think about remaining silent in a debate.
 - a) Can you properly contribute to a debate without also listening to all perspectives?
 - b) Why do some people remain silent during debates?
3. Athenian democracy gave citizens voting power, which helped keep Athenian elites in check. How does democracy today help keep elites in check?
4. Is the majority always right? If not, do the great masses of people also need to be kept in check?

CASE STUDY

Roots of Indigenous Democracy

We often view democracy as a Greek tradition. However, ancient Greece was not the only society in our past that gave people a say in how they were governed. Early democratic structures can be found across the world, from India to China to Iceland to Africa.

Closer to home, many nations in the land we now call North and South America embraced democratic concepts. A good example is the Haudenosaunee, also known as the Iroquois Confederacy. This collection of five (and later six) nations built their decision-making processes around the democratic principle of everyone having a say.

Government of the Iroquois Confederacy

The Iroquois Confederacy was an alliance of the Mohawks, Oneidas, Onondagas, Cayugas, and Senecas. In the 1700s, a sixth nation was added when the Tuscaroras migrated into Haudenosaunee territory.



Traditional lands of the original five nations of the Haudenosaunee, around 1500.

The Confederacy formed in 1142 with the guidance of Dekanawidah, The Peacemaker. Dekanawidah persuaded the five nations to accept the Great Law of Peace. The Great Law ended the nations' battles and created a new system of governance that would allow them to coexist in peace.

Confederacy government was a bottom-up structure. Decision-making began in the community, and worked its way upwards through the Haudenosaunee leadership.



CONSENSUS

Consensus is not unanimity. If a decision is unanimous, everyone agrees. If a decision is reached by consensus, some people will accept that they cannot get their way.

Understanding how the Confederacy's governance worked requires an understanding of the bottom-up nature of Haudenosaunee communities.

The Haudenosaunee lived in settlements made of longhouses. Each longhouse was home to a clan of 30 or 40 people, consisting of families and extended families. The men and women of each clan would meet separately in their own councils. At these meetings, they would discuss day-to-day issues and come to a consensus on what the clan should do. The councils then advised the clan mother of their decision.



A reconstructed 15th century Haudenosaunee longhouse at Crawford Lake Ontario.

Clan mothers were the oldest and most respected women of each clan. In addition to overseeing their clan, it was their job to select and advise the Hoyaneh. The Hoyaneh was the male leader (chief) of each settlement. Hoyaneh served at the will of the clan mothers: if they did not fulfill their role of preserving peace and carefully considering the advice of each clan, the clan mothers had the authority to replace the Hoyaneh with another person. Because the Hoyaneh served at the will of the clan mothers, and because the clan mothers took the advice of their clan, community governance of the Haudenosaunee was truly a bottom-up system.

Consensus Building and Peacekeeping across Nations

When it came to issues of importance to the Five Nations as a whole, the Grand Council would meet. The Grand Council was made up of the Hoyaneh from each of the 50 smaller communities of the Haudenosaunee, split into five distinct councils, one for each nation.

Decisions by the Grand Council of the five nations followed an orderly process to build consensus in decision-making.

The Older Brothers

The first step in coming to a consensus was having the Hoyaneh from the Seneca and Mohawk arrive at a decision. They were called The Older Brothers. When the Older Brothers made a decision, they would pass the decision forward to the Cayuga and Oneida.

The Younger Brothers

The Cayuga and Oneida were called The Younger Brothers. They would consider the decision made by the Older Brothers. If the Younger Brothers did not agree with the Older Brothers, they would ask the Older Brothers to reconsider their decision. If the Younger Brothers agreed with the Older Brothers, they would pass the decision forward to the Onondaga.

The Keepers of the Council Fire

The Onondaga were known as the Keepers of the Council Fire. If the Onondaga agreed with the decision of the Older and Younger Brothers, then a final decision was made. If they disagreed, the issue would be sent back to the Older Brothers, and the process would start all over again.

This system of passing decisions forward and back allowed the Confederacy to be governed by consensus. Everyone had to consider their own interests and the interests of others.

DISCUSS

1. Hoyaneh means “Caretaker of the Peace.” Why is it important that our leaders are caretakers of the peace?
2. Western democracy rests upon the idea that the majority should get its way. Haudenosaunee governance relied upon building consensus across several communities: a simple majority was not necessarily enough to make a decision.
 - a) What could happen if the majority does not fully consider the impact of their decision on the minority?
 - b) Would Canada be better-governed if we took more time to build consensus?

LESSON TWO: What are Plebiscites and Referendums?

OBJECTIVE

Students will learn about plebiscites and referendums. This lesson will expand pathways to consider if the majority is always right.

PROCEDURES

1. According to Plato's *Laches*, Socrates said:

It seems to me that to decide things well it is necessary to decide them on the basis of knowledge and not by the majority.

Lead classroom discussion of this statement. When the majority makes a decision, is it necessarily made on the basis of knowledge?

2. Reconsider the Haudenosaunee system of using back-and-forth decision-making processes. How does slowing down our decision-making processes and interacting amongst communities allow for better use of knowledge?

3. Read "What are Plebiscites and Referendums?"

KEY QUESTION

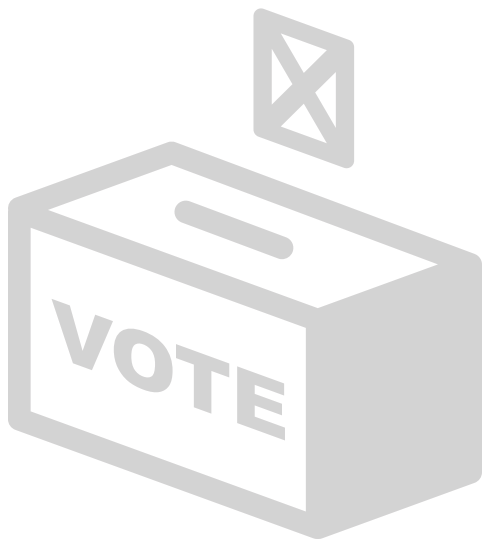
- **Direct democracy in ancient Athens helped keep the powerful in check. How does (even the threat of) a plebiscite or referendum keep the powerful in check?**

CASE STUDY: SASKATCHEWAN'S HISTORY OF DIRECT DEMOCRACY

4. Use case study to explore early demands for direct democracy in Saskatchewan.

FURTHER EXPLORATION

5. To consider the influence of the wealthy and the elites on our laws, check out the background information Progressive Personal Taxation in Lesson 1.4: Paying for Government Services in *Our Government Our Election*. Find it at teachers.plea.org.



STUDENT HANDOUT

What are Plebiscites and Referendums?

Direct democracy is a form of governance where the people directly vote on an issue. In Canada, direct democracy is practiced through plebiscites and referendums.

Even though plebiscites and referendums both ask people to vote on an issue, they are not the same. There is an important difference between the two:

- Plebiscites are not legally binding. The government is only required to consider the results of the vote.
- Referendums are legally binding. The government must do what the people decide.

Why Direct Democracy?

There are many reasons why the government would want to have citizens vote on a particular issue.

Sometime an issue is so important, it can be difficult for the government to move forward without a mandate from the people. A good example is when amendments to Canada's constitution were proposed in 1992. Every major political party was in favour of the changes. However, the general feeling was that Canadians themselves should decide. A nation-wide referendum was held to ensure that our highest law would only change if a majority of Canadians approved.

Other times, an issue does not fit into party politics. For example, in the early 20th century there were many public debates about prohibiting alcohol. Political parties were reluctant to take a firm stand, because no consensus on prohibition existed amongst party members or party supporters. To break the gridlock, the people were asked to decide. This helped keep political parties united, and ensured the majority would get its way.

Regardless of the reason for holding a plebiscite or referendum, they can be a useful decision-making tool.





VOTE

CONFIDENCE WHEN WE VOTE

Unlike many countries, Canadians are confident that our votes are accurately counted. In fact, a recent Elections Canada survey found that 95% of us trust the accuracy of election results. This confidence is due in part to the independent electoral agencies that oversee our provincial and federal voting systems. Further, if an election result is contested, checks such as official recounts and judicial reviews can take place. While these safeguards are important, they are seldom necessary: incidents of ballot-box fraud in Canada are *extremely* rare.

THINK

1. Plebiscites are advisory. Their results do not have to become the law. Why would the government want to give people a say without guaranteeing the majority gets its way?
2. Referendums are binding. Their results must be acted upon. Why would the government give the final decision-making power to the people?

CASE STUDY

Saskatchewan's History of Direct Democracy

Early in Saskatchewan's history, citizens began lobbying for direct democratic power. These demands were not so much a made-in-Saskatchewan phenomenon as they were a spillover from successful movements in the United States.

In the late 1800s, many midwestern Americans felt that the ruling elite were ignoring the interests of the average person. Organised labour and farmer collectives picked up this torch, and began to lobby for direct democracy. Labourers and farmers both argued the same thing: giving the average citizen more democratic power would keep the elite in check.

American politicians were sympathetic to demands for direct democracy. By 1911, thirteen states legislated some form of direct democracy. There were three common forms:

- Recalls: a vote on whether or not to remove a sitting politician from office.
- Initiatives: a vote to approve or reject a law proposed by a citizen.
- Referendums: a vote to approve or reject a law passed by the government.

To trigger a recall, initiative, or a referendum, people would first circulate a petition. If enough signatures were collected (usually around 8-10% of eligible voters), the government would be obliged to hold a vote.

American zeal for direct democracy crept northwards. Advocates for direct democracy began speaking in Saskatchewan, often invited here by our labour and farmer organisations. Saskatchewan's strongest supporters were the Trades and Labor Council of Regina and the Saskatchewan Grain Growers' Association. Their widely-read newsletters, *Saskatchewan Labor's Realm* and the *Grain Growers' Guide*, often lobbied for direct democracy.

Saskatchewan's politicians heard the calls for direct democracy. In the 1912 provincial election campaign, both the Liberals and the Conservatives promised that if they gained power, they would implement some form of direct democracy.

The Liberals won the 1912 election. Despite their campaign promise, they were uneasy about direct democracy. They feared it would give too much power to the masses. Premier Walter Scott privately asked party representatives to pour cold water on the idea at local constituency meetings.

Nevertheless, the Liberals could not easily throw away an election promise. So they introduced a bill called *The Direct Legislation Act*. It



received unanimous approval by all parties in the 1912-1913 legislative session.

The Direct Legislation Act allowed for referendums and initiatives with the following caveats:

- Referendums: if the signatures of 5% of the population were collected within 90 days of a law being passed, the government would have to put the law directly to the people for a vote of approval.
- Initiatives: if a citizen proposed a law and collected the signatures of 8% of the population, the government could either instate the proposed law at the next legislative session, or put the proposed law to a public vote for approval.

Under the legislation, referendums and initiatives could not impact supply and means. In other words, citizens could not use their direct democracy powers to force the government to spend money, nor could they force the government to change its tax laws.

The Direct Legislation Act was not immediately put into effect. Rather, a referendum on it was

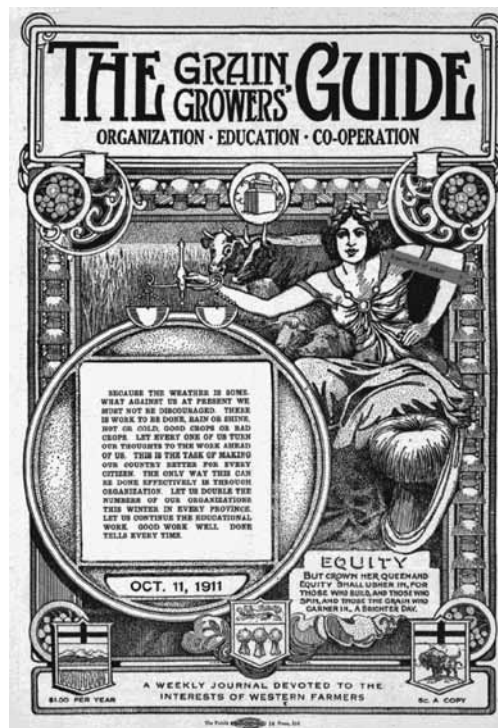
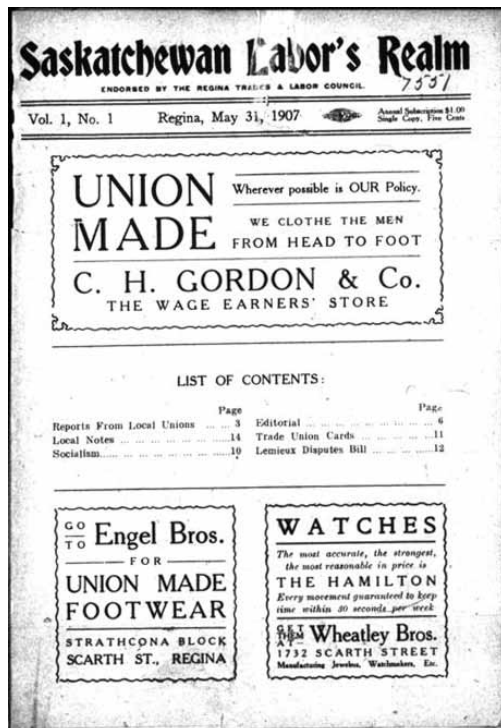
held, asking Saskatchewan's citizens to approve or reject the law.

The referendum had two requirements for the act to come into effect. The first requirement was for a simple majority: 50% of votes cast must be in favour of the act. The second requirement was more controversial, and purposely meant to sink the law. It set a minimum level of voter turnout: at least 30% of Saskatchewan's 161,561 eligible voters must vote yes. If these two requirements were not met, there would be no direct democracy in Saskatchewan.

The government did two things to lower voter turnout. First, they held the referendum in November 1913. By holding the vote at the tail end of the busy harvest season, supporters of direct democracy had little time to drum up widespread interest in the referendum. Second, the government did the bare minimum to promote the referendum.

On referendum day, 32,133 ballots were cast. The results were:

- 26,696 votes in favour of the act
- 4,897 votes against the act
- 540 spoiled ballots



First issue of Saskatchewan Labor's Realm, May 31, 1907.

The Grain Growers' Guide, October 11, 1911. It was the most-read farmer's publication in western Canada.

83% of the ballots cast were in favour of *The Direct Legislation Act*, meeting the 50% approval threshold. However, the result did not meet the voter turnout requirement. Only 16.5% of *all* voters in the province said yes to direct democracy. Consequently, *The Direct Legislation Act* never came into force.

After the vote, Premier Walter Scott said “The notable lack of interest taken in the matter as disclosed by the poll goes to show that the people of this Province are not sufficiently advanced to have the laws of the Province made under the plan of Direct Legislation.” His message was clear: Saskatchewan citizens were not interested enough in direct democracy to make it workable.

Despite Premier Scott’s dislike of direct democracy, his government called a referendum on prohibition in 1916. In fact, since the rejection of *The Direct Legislation Act*, the provincial government has initiated eight plebiscites and referendums.

Nearly 80 years after the defeat of *The Direct Legislation Act*, the outgoing Progressive Conservative government reintroduced the idea. In 1991, *The Referendum and Plebiscite Act* was passed into law. It gave citizens the power to force plebiscites. These powers will be discussed in the next lesson.

DISCUSS

1. Was it reasonable for the Saskatchewan government to set a minimum voter turnout to allow *The Direct Legislation Act* to become the law? Is a law legitimate if it does not have the expressed support of most people?
2. Did the low voter turnout in the 1913 referendum suggest that direct democracy gives too much power to a motivated minority?
3. It has been said that if somebody sits out an election, they are willing to accept the decision of those who go out and vote. Discuss this statement.

LESSON THREE: Saskatchewan's *Referendum and Plebiscite Act*

OBJECTIVE

Students will learn about the direct democratic powers granted to citizens in Saskatchewan law, and consider when it is appropriate to use these powers.

PROCEDURES

1. Voting is not the only way that citizens can participate in the creation of laws and public policy. Citizens can also:
 - engage in letter-writing campaigns to sway public opinion
 - create social media and online petition campaigns
 - request meetings with elected representatives
 - join or form a political party
 - join or form a civil society group to advocate for an issue

Ask students to think of these and other ways to participate in the creation of laws and public policies. What are the benefits and drawbacks of each method?

2. Lead class discussion of the following question:

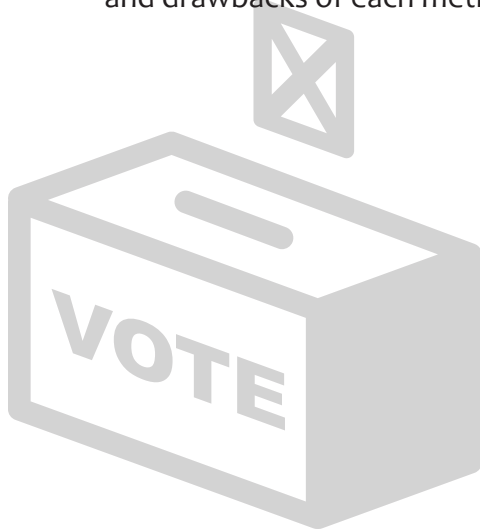
- Are some issues better determined without the use of a referendum or plebiscite?

3. Read "Direct Democracy in Saskatchewan Today."

KEY QUESTION

- **For a citizen-initiated plebiscite to take place today, over 100,000 signatures would be required. Is it possible for an individual to gather this many signatures? If not, what kind of political, organisational, and financial resources would be required?**

4. If necessary, review with students the specific powers of each level of government. An outline can be found in the background information of Lesson 2: Why Laws in Our Government Our Election. Find it at teachers.plea.org.



CASE STUDY:

SETTING MINIMUMS: PEI VOTES ON ELECTORAL REFORM

5. Use case study to explore the reasons government may have for not implementing the results of a plebiscite.

FURTHER EXPLORATION

6. The Government of Saskatchewan's *A Citizen's Guide To Shaping Council Decisions* explains how citizens can force their municipal council to meet to discuss a particular issue. It also spells out the rules for launching a municipal referendum. Find the guide at <http://publications.gov.sk.ca/documents/313/104661-2017-Citizens-Guide-To-Shaping-Council-Decisions.pdf>
7. Saskatchewan's Chief Electoral Officer recently issued a discussion paper on *The Referendum and Plebiscite Act*. Find the paper at www.documentcloud.org/documents/3149251-Michael-Boda-Elections-Saskatchewan-Sept-2016.html

STUDENT HANDOUT

Direct Democracy in Saskatchewan Today

In the late 1980s and early 1990s, a populist wave was crashing through Canadian politics. People were demanding more say in how they were governed. The Reform Party, an upstart western political party, picked up on these demands and promised to give citizens more say.

The quickrise of the Reform Party worried established political parties. The party's popularity was one reason why established political parties began to look at ways to better involve citizens in government.

In Saskatchewan, the ruling Progressive Conservative party was very unpopular. They were accused of being out-of-touch and ignoring the will of voters. In an effort to change this perception, they put into place plebiscite and referendum legislation that gave more democratic power to Saskatchewan's citizens.

The Referendum and Plebiscite Act

Saskatchewan's *Referendum and Plebiscite Act* came into effect in 1991. The Act sets out the rules for province-wide referendums and plebiscites.

Government-Initiated Referendums

If the provincial government calls a referendum, two thresholds must be met for the result to be binding:

- more than 60% of the ballots must be cast in support of the question, and
- voter turnout must be at least 50%.

These two requirements help ensure that a referendum only passes if there is a clear majority of people in favour.

Voter-Initiated Plebiscites

A second feature of Saskatchewan's new law was that it granted citizens the ability to prompt a province-wide plebiscite. Citizens first must circulate a petition that spells out the proposed plebiscite question. If at least 15% of voters sign the petition, the government must hold a vote.

A plebiscite will only be held if the question falls within the province's jurisdiction. For example, if 15% of voters demand a plebiscite on a radio broadcasting law, there would be no vote. Broadcasting laws are the constitutional responsibility of the federal government.

If the proposed question is unclear or confusing, the government can change its wording before the plebiscite is held. Any change to





MONEY TALKS?

The Referendum and Plebiscite Act puts almost no spending limits on referendum and plebiscite campaigns. This creates a risk that the people with the most money could have the most influence in a plebiscite or referendum campaign.



MUNICIPAL REFERENDUMS

Direct democratic powers also exist at the local level of government. Citizens can petition municipal governments for a binding referendum. The minimum number of signatures required in cities is voters representing at least 10% of the population. In all other municipalities, the signatures of 25 voters or voters representing at least 15% of the population must be collected, whichever is greater. The proposed referendum must demand something within the jurisdiction of the municipality, and cannot commit the municipality to create new taxes or spend money.

the question's wording must be approved by a court, to ensure the spirit and intent of the petition remain the same.

Recall that plebiscites are not binding. Nevertheless, they can be very useful. Plebiscites measure the public mood, and provide advice on how a government should proceed. As Gary Lane, then Saskatchewan's Minister of Justice, told the legislative committee examining the proposed *Referendum and Plebiscite Act*:

Plebiscites are certainly, as has been discussed, not binding. But I think they're very persuasive. It may well be that once we go through the process down the road that a future government will want to have binding public-initiated initiatives, if I can say that. But as a first walk down this new road, I think that we've gone a long way.

Minister Lane's belief that plebiscites are persuasive is a fair point. Any government that does not follow the will of the people must carefully explain their reasoning, or risk being thrown out of office in the next election.

Even though Saskatchewan citizens have had the right to initiate provincial plebiscites since 1991, not one has yet taken place.

THINK

1. Sometimes people do not care about a particular issue, so they do not vote. Other times people are undecided about an issue, so they do not vote.
 - a) What other reasons would people have for not voting?
 - b) When is it a good idea to not vote?
2. Voter turnout for Saskatchewan's 2011 and 2016 general elections was barely over 50%. Voter turnout in civic elections almost never reaches 50%. Nevertheless, we accept the results of these elections. Is it fair to require a minimum 50% voter turnout for a referendum result to be binding?
3. In a democracy, the majority rules. Yet a provincial referendum in Saskatchewan requires 60% voter approval to pass. Is this fair?
4. *The Referendum and Plebiscite Act* does not give citizens the power to force a binding referendum. Citizens can only petition for a non-binding plebiscite. Is this a reasonable limit on citizen power?
5. Why do you think there has never been a citizen-initiated provincial plebiscite in Saskatchewan?

CASE STUDY

Setting Minimums: PEI Votes on Electoral Reform

Canadian federal and provincial elections use the first-past-the-post voting system. The candidate with the most votes wins. A candidate does not need to receive 50% of the vote: they simply need to receive more votes than any other candidate.

One criticism of the first-past-the-post system is that elected legislatures do not always reflect the popular vote. For example, in Saskatchewan's 2016 provincial election, the Saskatchewan Party won 62% of the popular vote. However, they took 84% of the seats in the legislature. The NDP's 30% of the vote only gave them 16% of the seats. Smaller parties, such as the Greens, Liberals, and Progressive Conservatives, received no seats whatsoever.

Legislatures could more closely reflect the popular will if we changed to a system of proportional representation, or some other alternative method of voting. But such a change could significantly alter how we are governed. Therefore, many believe reforming our electoral system can only be legitimately done if it is approved by the voters. Recently, three provinces held votes on proposed electoral reform:

- Ontario in 2007
- British Columbia in 2005, 2009, and 2018.
- Prince Edward Island in 2005, 2016 and 2019.

None of these votes resulted in electoral reform.

Several important considerations about plebiscites and referendums are well-illustrated in Prince Edward Island's last two votes on electoral reform.

PEI Electoral Reform: The 2016 Plebiscite

In 2016, Prince Edward Island's Special Committee on Democratic Renewal recommended that a plebiscite be held on electoral reform. The government obliged, and a non-binding plebiscite was held later that year. A ranked ballot asked citizens:

Rank the following electoral systems in your order of preference, 1 through 5 (with "1st Choice" being your most preferred and "5th choice" being your least preferred). You may choose as many, or as few, of the electoral system options as you want.

- ___ Dual Member Proportional Representation
- ___ First-Past-The-Post (the current system)
- ___ First-Past-The-Post Plus Leaders
- ___ Mixed Member Proportional Representation
- ___ Preferential Voting





RANKED BALLOTS

Ranked ballots allow people to choose options in order of preference. When the votes are counted, if no option wins at least half the votes an instant run-off begins: the option with the fewest votes is dropped, and the second choice of those who voted for the dropped option becomes their first choice. This process repeats until one option has at least 50% of the votes.

When the votes were counted, no option received a majority of the votes on the first count. First-past-the-post came in first at 31% and mixed member proportional representation came in second at 29%. Following three run-offs, mixed member proportional representation gained 52% of the votes, with first-past-the-post coming in second at 43%.

Despite the final victory for the mixed member proportional representation option, the government was unconvinced that the voting system should be changed.

At first, it seems unfair that the government rejected the will of the people. However, the premier was concerned that low voter turnout meant there was no mandate for change. Consider his statement following the plebiscite:

Notwithstanding unprecedented measures taken to encourage voter turnout and to facilitate voting, just under 36.5 per cent of registered voters cast a ballot during the ten-day plebiscite voting period. On the other hand, 63.5 per cent of registered voters did not participate.

Put another way, because voter turnout was so low, only 19% of eligible voters said they wanted to change the province's electoral system.

Low voter turnout is nothing new. However, low voter turnout is unusual on Prince Edward Island. The province boasts some of the highest voter participation rates in the world. Its provincial elections most often have turnout of over 80%. Given that the special committee on democratic renewal said that "the outcome of a plebiscite must be considered in concert with voter turnout," the premier had a point. It was difficult to say that the plebiscite produced a clear mandate for change.

The provincial legislature as a whole agreed with the premier. When legislators met shortly after the plebiscite, they voted 20-6 to not implement the result of the plebiscite.

However, this rejection did not spell the end of electoral reform in PEI. Rather than shelve the idea of electoral reform, the government proposed a binding referendum. It would be held in conjunction with the 2019 provincial election, and allow voters to choose between the two top vote-getters in the 2016 plebiscite: retain the first-past-the-post system or move to a mixed member proportional representation system.

Electoral Reform: The 2019 Referendum

The 2019 referendum ballot asked citizens:

Should Prince Edward Island change its voting system to a mixed member proportional voting system?

- ☐ No
- ☐ Yes

The government set two minimum requirements for mixed member proportional representation to be implemented. The yes side had to:

- receive at least 50% of the vote
- win in at least 17 out of PEI's 27 electoral districts.

As well, ground rules were created for the campaign. Both the official Yes and No campaigns were given \$75,000 in public funding. Individuals and groups not registered with either the Yes or No side could not spend more than \$1,000 campaigning. As well, a commissioner was appointed to oversee the referendum. One role of the commissioner was to hold non-partisan educational sessions across the island, to educate citizens about their choices. These rules helped ensure there was a balanced and informed debate.

The leaders of the Progressive Conservatives, Greens, and New Democrats came out in support of electoral reform. The leader of the Liberals declined to take a position, instead saying he would respect whatever decision the voters make.

On voting day, the Yes side failed to meet either of the referendum's minimum requirements. Yes received slightly less than 49% of the vote, and only won 15 out of the Island's 27 constituencies. The Yes campaign accepted the loss, although its representatives said they would continue to work for electoral reform.



A Vote Yes PEI flyer in a Charlottetown mailbox. The Yes and No campaigns were independent of any political party.

DISCUSS

1. Was PEI's premier and legislature right to reject the result of the 2016 referendum?
2. Should spending limits be put in place for each side of a referendum campaign?
3. Should public funding be provided for each side of a referendum campaign?
4. Should a referendum be held during a general election? Or will the referendum not get enough attention?

LESSON FOUR: Do the People Know Best?

OBJECTIVE

Students will consider the benefits and drawbacks of direct democracy and look at ways to make better democratic decisions.

PROCEDURES

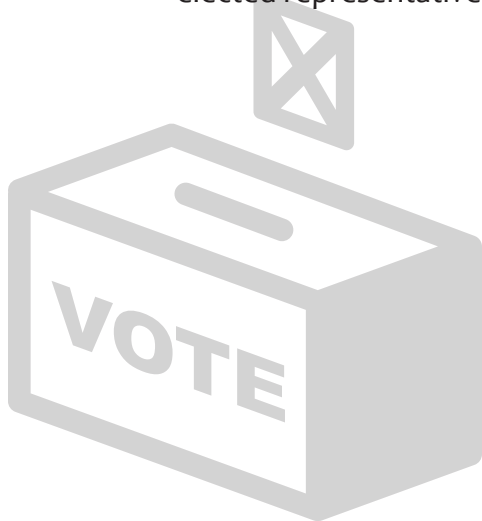
1. Review the powers that citizens have to bring about plebiscites and referendums in Saskatchewan.

2. Read “Do the People Know Best?”

KEY QUESTION:

- **Can we truly understand the views of our opponents if we do not hear them out in their own words?**

3. As a summary discussion, ask class to consider the merits and drawbacks of governing by direct democracy.
 - Is direct democracy the best possible way of governing society?
 - Are some decisions best left to elected representatives?



FINAL CONSIDERATIONS

4. The final consideration questions point to issues related to direct democracy. They may be best used as a long-form assignment such as a paper or presentation.

FURTHER EXPLORATION

5. To more deeply consider how referendums may produce results that trample the rights of minorities, check out Switzerland’s Minaret Debate in Lesson 5 of *Democracy and the Rule of Law*. Find it at teachers.plea.org.
6. To more deeply consider Hitler’s rise to power, check out *The Rise of Naziism and the Destruction of Liberal Democracy* in Lesson 3 of *Democracy and the Rule of Law*. Find it at teachers.plea.org.
7. To better understand how we can identify bias, check out Media Smart’s Bias in News Sources Lesson Plan. Find it at https://mediasmarts.ca/sites/mediasmarts/files/pdfs/lesson-plan/Lesson_Bias_News_Sources.pdf
8. For ways to identify and deal with so-called “fake news,” check out the CBC’s multi-part feature on fake news. Find it at www.cbc.ca/news/technology/fake-news-misinformation-online-1.5196865

STUDENT HANDOUT

Do the People Know Best?

People do not cast votes with the intention of making the wrong decision. People vote for what they believe to be right. When every vote is counted, the results are said to be the best way forward. In other words, democracy is a belief that the collective will of the majority is smarter than the judgment of any one individual.

However, democracy occasionally produces head-scratching results. Consider the unexpected results of these recent referendums:

- Thai voters approved a constitution that entrenched military rule
- Colombians rejected a peace deal that would have ended a 50-year-long war
- Swiss voters amended their constitution to restrict religious freedoms

Referendums with unexpected results is nothing new. Perhaps the most outrageous example of a referendum gone awry took place in Nazi Germany. In 1934, 88% of Germans gave approval for Adolf Hitler to declare himself Germany's president, chancellor, and head of the military. In the German referendum, the voting process was flawed: there was widespread voter intimidation and questionable counting of the ballots. Nevertheless, historian Ian Kershaw believes that the majority of Germans supported Hitler.

To be sure, each of these referendums involved complex considerations. People had compelling reasons to vote the way they did. But the results give reason to ask: do plebiscites and referendums always produce the wisest possible decision?

Are We Smart Enough to Govern Ourselves?

For the most part, Canadians are governed by representative democracy. At election time, candidates spell out positions on a wide range of issues. Citizens vote for a candidate to represent them. Plebiscites and referendums are different. Citizens have the opportunity to deeply think through a single issue, then come to a conclusion and cast a vote.

Some people believe that representative democracy is better than direct democracy. Representatives can devote their time to examining complex issues, then make informed decisions. If—on the whole—we are unhappy with the decisions that our representatives have been making, we can vote them out in the next election.

On the other hand, referendums and plebiscites require citizens to do the work of elected representatives. We must take the time



to determine individual laws and public policies. Even if we have the time, critics wonder if we will have all the specialised information needed to make a wise decision.

Critics also worry that people will let narrow self-interest guide their decision-making. People acting out of narrow concerns may cast votes in favour of laws and public policies that ignore the well-being of society as a whole.

These critiques of direct democracy have some merit. Without adequate time and without access to adequate information people may make poor decisions, sometimes out of narrow self-interest.

However, these critiques of direct democracy also suffer from some shortcomings.

First, a handful of countries frequently and successfully use direct democracy. Switzerland and Liechtenstein both rely almost entirely upon direct democracy. Other countries, like Ireland, frequently hold referendums. These nations have not collapsed from their embrace of direct democracy. In fact, they have some of the highest living standards in the world.



Billboards in Cork, Ireland, promoting the Yes and No campaigns for the 2018 referendum regarding abortion. Irish citizens voted to amend their constitution so that abortion would be legal.

Second, if we do not believe that the average citizen is capable of making an informed decision on a single issue, how can we believe that the average citizen is capable of making an informed decision in a general election? In a general election, voters must think through countless issues. In addition, voters must assess the qualities of each candidate, the candidate's party, and the party's leader. Far more considerations are at play in an election than a referendum. Suggesting that the average person is not smart enough to decide on a single issue could be a pathway to undermining democracy as a whole.

If we are capable of choosing our governments, then surely we are also capable of deciding a single issue.

Nevertheless, democracy is not perfect. Making good democratic decisions is not easy.

How We Inform Ourselves

During a referendum, organised campaigns usually form on each side of the issue. The campaigns argue why their side deserves your vote. Each campaign will provide facts, appeal to your emotions, and undermine the arguments of the opposing side.

The information put out by each campaign is a good starting point to make a decision. When looking at this information, try to give each side a fair hearing. After all, very few issues are a simple matter of one side being right and one side being wrong. Even if you disagree with one side's stance, hearing them out in their own words allows for a better understanding of their viewpoint.

Doing our best to give a fair hearing to each campaign is only the beginning. A *truly informed* decision requires that we seek out information beyond the campaign messages.

Sources of Information

We have access to more information than at any other time in history. Consider ways we gather information, especially during a referendum or plebiscite campaign:

- advertisements
- news and media coverage
- editorials and opinion pieces
- endorsements from interest groups and public figures
- opinions of friends and family
- positions held by political parties
- other sources, especially on social media

Every source will have some bias. Sometimes the bias will be strong. For example, some talk radio hosts loudly argue their point of view without giving equal air time to contrary opinions. Sometimes the bias will be minimal. For example, many journalists try hard to put aside their personal beliefs and present a diverse range of views.

No matter how much information we gather, nobody can sift through all the available information. At some point we need to weigh the arguments, then come to our own decision.

Avoiding Pitfalls

Because the amount of information available can be overwhelming, we sometimes use shortcuts to make decisions. Examples of shortcuts include relying on soundbites or simplistic tweets, uncritically accepting the opinions of people we usually agree with, or even things as silly as judging the physical appearance of campaigners.

Shortcuts help us make a quick conclusion. But shortcuts do not challenge us to think. Rather, they provide us with a lazy opinion.

Lazy opinions can also be formed due to something called confirmation bias. Confirmation bias is when people focus on information that

reinforces their existing beliefs, and ignore information that may challenge their beliefs.

Former American President Barack Obama was aware of the pitfalls of confirmation bias. In a 2018 speech, he said:

Most of us prefer to surround ourselves with opinions that validate what we already believe. You notice the people who you think are smart are the people who agree with you. Funny how that works.

But democracy demands that we're able also to get inside the reality of people who are different than us so we can understand their point of view. Maybe we can change their minds, but maybe they'll change ours.

And you can't do this if you just shut out of hand disregard what your opponents have to say from the start.

Social media users are especially vulnerable to falling into the confirmation bias trap. There can be no doubt that social media has benefitted all of society by giving greater voice to marginalised people. Unfortunately, studies show that social media users tend to congregate in like-minded groups. These like-minded groups are called echo chambers. In an echo chamber, users post and promote opinions they already agree with. Meanwhile, the echo chamber lacks alternative views. Often when people step out of their echo chamber, it is not to engage with the other side but rather to disparage them.

Echo chambers divide us into small homogenous groups, rather than unite us as a diverse society. This is bad for democracy. Recall that in ancient Greece's democracy, all citizens assembled together in a public square. They would discuss, debate, and ultimately vote on issues. The Iroquois Confederacy was similar, with the entire longhouse community assembling together to make decisions.



THE PERCEPTION GAP

A recent American study, *The Perception Gap*, contends that the more partisan and politically active people are, the more they misunderstand the values of their political opponents. Perhaps not surprisingly, people who post political content on social media tend to have the most distorted understanding of the other side. Curiously, the study also shows that Americans who consume less news have a better understanding of their political opponents.

By hearing each other out—face to face—citizens have the opportunity to see things from the point of view of the people they agree with *and* the point of view of people they disagree with. This allows everyone the opportunity to gather diverse information, then make informed decisions. Just as importantly, it requires that people face up to the consequences of their beliefs that may be harmful to others. A full hearing provides everyone with an opportunity to build empathy and understanding with those we disagree with.

We Are Smart Enough to Govern Ourselves

Humans are not perfect. Sometimes, we poorly gather and use information. Occasionally, we act out of narrow self-interest. Now and then, we let emotions override rationality. And often, we make honest mistakes. Little wonder that democracy is not perfect.

Despite these flaws, democracy is still the best way to determine our laws and public policies. As former British Prime Minister Winston Churchill told the British House of Commons:

Many forms of government have been tried, and will be tried in this world of sin and woe. No one pretends that democracy is perfect or all-wise. Indeed it has been said that democracy is the

worst form of government except for all those other forms that have been tried from time to time...

Fortunately, everyone is capable of making good democratic decisions. And more often than not, democracy produces the right decision. However, democracy can only work if we fully consider issues through a broad range of perspectives and make decisions with the public good in mind.



British newspaper front pages on June 23, 2016, the eve of the “Brexit” referendum on European Union membership. Most newspapers took strong editorial stances on how people should vote.

THINK

1. Very few of us can claim to be experts on most issues. If we are not experts, why should we be allowed to directly decide laws through referendums?
2. Consider these three pitfalls associated with forming opinions:
 - shortcuts
 - confirmation bias
 - echo chambers

What can you do to avoid these pitfalls?

3. Why is a sense of human decency necessary for making good democratic decisions?

FINAL CONSIDERATIONS

1. Taking Responsibility

A referendum allows a government and political parties to avoid taking responsibility for making a difficult decision. Discuss this statement.

2. Yes or No?

Plebiscites and referendums boil down complex issues into a simple yes or no binary. Are all issues in life simple, two-sided matters? Or is life more complex?

3. Emotion vs. Reason

Our emotions can sometimes get in the way of reason and rational decision-making. For example, if a particularly egregious murder case was front-page news, it would be a poor time to hold a referendum on the death penalty.

What kinds of issues should not be decided by referendums?

4. National Identity and Sovereignty

Philosopher Roger Scruton believes that matters of national identity and sovereignty can only be decided by the people whose identity or sovereignty are at stake. This belief is why major constitutional changes and independence movements are usually decided by referendums.

However, a referendum may not resolve an issue of identity. For example, when the United Kingdom held their “Brexit” referendum on whether or not to leave the European Union, the leave side won with a slim majority. Because the result was close, many people felt the issue was not settled. Political parties were divided, and many people demanded a second referendum.

Are some issues so big and so divisive that they should require a “super majority” of well over 50% to pass?

5. Leading Questions

Sometimes the question asked in a referendum or a plebiscite can be problematic. For example, Quebec’s 1992 sovereignty referendum asked voters:

Do you agree that Quebec should become sovereign, after having made a formal offer to Canada for a new economic and political partnership, within the scope of the bill respecting the future of Quebec and of the agreement signed on June 12, 1995?

Research has shown that people are more likely to respond “Yes” to a question that begins with “Do you agree.” A better question would have asked “Should Quebec become sovereign?”

Why must a referendum question be as clear as possible?

6. Good and Bad Political Decisions

In his book *Too Dumb for Democracy?* political scientist David Moscrop defined what makes a bad and a good political decision.

A Bad Political Decision

A bad political decision is one driven by bias, poor or incorrect information, or hidden motives. It is a decision that is often made on instinct, without research or reflection — the sort of decision we are likely to rationalize in the face of challenge or questioning. And it is something we are all prone to do. (23)

A Good Political Decision

A good political decision is rational (informed, coherent, and consistent) and autonomous (the person knows why they made it and can explain their reasoning to you). We make good political decisions when we have enough good information to work with, the time and resources to sort through it, and the skills to work through what we want and why we want it. A good political decision also includes the ability to explain our reasoning to ourselves and to others. It's not enough to say just because, at least not if we want to meet the standards of a democracy in which we treat one another as citizens worthy of respect. (25-26)

Do you trust the general public to make good political decisions?

7. Democratic Miracle Machine?

In the public debate surrounding Saskatchewan's Referendum and Plebiscite Act, an April 21, 1991 editorial in the Regina *Leader-Post* said:

The referendum and plebiscite mechanism may be a response to the times, but let no one presume it will be a democratic miracle machine.

Discuss this statement.

NOTES

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PLEA

Legal Information for Everyone

