

Lessons learned from Brexit?

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On 23 June 2016, Britain held a historic referendum on its membership in the European Union. Today, three weeks later, the world is still reeling from “Brexit” – the term given to Britain’s decision to leave, or exit, the E.U.

The referendum reportedly saw the highest turnout in a UK-wide vote in the past 24 years. More than 30 million people voted on the exit decision, which was won by 52% to 48%. The results of the referendum were widely reported as “shocking”. Among the most “shocked” were apparently the voters who voted in support of the exit strategy.

If the media outlets are to be believed, many Britons did not understand the issue. They believed they were expressing their dissatisfaction with EU policies, like immigration, which are a significant source of controversy in many European countries today. They allegedly did not understand that they were voting in favour of disintegration and significant political change. Three days later, millions of people in Britain demanded a revote.

Brexit has given rise to many debates, including those about the pros and cons of deciding key issues by way of public referendum.

We Canadians are no strangers to the referendum process. Over the years, we have seen many key provincial issues determined by referendum: replacing parochial schools with a non-denominational system in the 1995 Newfoundland and Labrador referendum; allowing Sunday shopping in Nova Scotia in 2004. None have been so publicized, however, as the 1980 and 1995 Quebec referenda on sovereignty, in which the residents of Quebec voted against a separation from Canada.

Today, the possibility of a federal referendum has been raised again, this time in respect of electoral reform.

No doubt, voting by referendum is a more direct and immediate form of democracy. However, if Brexit has shown us anything, it is that a referendum is only truly meaningful if the voters understand the options on which they are asked to vote and the pros and cons of each. Where votes are evenly split, it may also be worthwhile to require a super-majority. This is particularly so where a referendum seeks fundamental change, either to remaining within a trade alliance or to an electoral system. In our corporate law, super-majorities are legislatively required where special resolutions of shareholders are being considered.

Regardless of whether only a 50% +1 vote or a super-majority is required on a referendum question, if Canadians are asked to consider electoral options other than the first-past-the-post system currently in place, as Prime Minister Trudeau suggests we ought to do, let’s hope that the options are clearly explained to the voters. Otherwise, we too may have a serious case of “buyers’ remorse.”

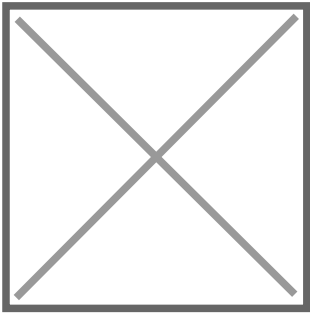
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Gardiner Roberts

Bay Adelaide Centre — East Tower
22 Adelaide Street West, Suite 3600
Toronto, ON M5H 4E3

Phone: 416.865.6600
Fax: 416.865.6636
contactGR@grllp.com

Author



Anna Husa

Partner

416.865.6687

ahusa@grllp.com

Gardiner Roberts

Bay Adelaide Centre — East Tower
22 Adelaide Street West, Suite 3600
Toronto, ON M5H 4E3

Phone: 416.865.6600
Fax: 416.865.6636
contactGR@grllp.com