# The “Mendelsohn Debate” – Public Brokerage and Its Critics

**Mendelsohn, Matthew. “Public Brokerage”. *CJPS* 33:2, 2000.**

**Lusztig, Michael. “A Response”. *CJPS* 33:3, 2000.**

**Ajzenstat, Janet. “Two Forms of Democracy”. *CJPS* 33:3, 2000.**

**Mendelsohn, Matthew. “A Reply”. *CJPS* 33:3, 2000.**

***Theses and Summaries:***

Matthew Mendelsohn’s article attempts to correct what Mendelsohn sees as a widespread misunderstanding of the Charlottetown failure. For most political scientists, the failure of the Charlottetown Accord represents a public rejection of (1) elite accommodation and executive federalism and (2) all attempts to accommodate Quebec. According to Mendelsohn, only (1) is correct. If Canadian political scientists realized that there are options between the extremes of elite accommodation and majoritarian democracy – namely, deliberation and “public brokerage” – they would see that Constitutional change is not impossible in Canada. The true lesson of Charlottetown is that executive federalism is discredited and a new model of public brokerage is needed to replace it.

According to Ajzenstat, Mendelsohn’s article is based on the assumption that “anti-partyism” is the only defensible form of democracy; Ajzenstat and others are not anti-democrats, they are *liberal* democrats. As such, they believe in representation. They also fully support participation, but they object to giving citizens a *formal* share of law-making power. Ajzenstat concludes with a critique of Mendelsohn’s interpretation of the Confederation debates, which she claims are biased by Mendelsohn’s “anti-partyism”.

Michael Lusztig defends his own position against Mendelsohn’s critique, largely by turning that critique (quite successfully) back on Mendelsohn himself, and then presents some additional criticisms of Mendelsohn’s position. Mendelsohn’s own approach, Lusztig argues, is normative theory cloaked in empirical garb, and would require considerably more empirical work before it could be defended. Above all, Mendelsohn is guilty of conceptual fuzziness, and he fails to explain how models of public brokerage would really look at the level of constitutional amendment.

In his response to Lusztig and Ajzenstat, Mendelsohn corrects a few misperceptions (above all, he explains that he is attempting to combine “anti-partyism” with “liberal democracy”, an attempt which is inevitable in a world of declining deference).

***Methodology and Theoretical Perspective***

Mendelsohn provides a thorough criticism of other political scientists – Lusztig, Ajzenstat, etc. – but his own arguments require more empirical verification than Mendelsohn supplies. Janet Ajzenstat responds to Mendelsohn largely at the level of normative theory, pointing out the normative assumptions which underlie Mendelsohn’s claims.

Michael Lusztig’s response to Mendelsohn is more empirical, offering criticisms of Mendelsohn’s evidence and the logical adequacy of his model. Lusztig points out briefly that Mendelsohn seems to be mixing normative and empirical claims.

***Comparison with Other Readings and Contribution to the Literature***

In this debate, Mendelsohn attempts to shake up the widely held view of the collapse of the Charlottetown Accord, namely that executive federalism was discredited and that the accommodation of Quebec was rejected. The first is true; the second is a result of inadequate models of public deliberation. Thus this debate contributes to the literature on the effects of the “decline of deference”.

All of the authors in this debate (with the possible exception of Ajzenstat, though this is somewhat unclear) accept Neil Nevitte’s claim that Canadians are less deferential today and demand increased participation and involvement.

***Relevant Exam Questions***

This debate is most relevant for exam questions about the Canadian “democratic deficit”, the responsiveness of Canadian institutions to the “decline of deference”, as well as any questions dealing with lessons from the failure of the Charlottetown Accord. It is also relevant for questions about executive federalism.

***Detailed Notes:***

*Matthew Mendelsohn: Public Brokerage: Constitutional Reform and…*

245 Canadian political scientists have incorrectly diagnosed Canada’s failure to resolve

long-standing constitutional conflicts: they haven’t properly distinguished executive federalism from accommodation and brokerage, assuming that the two must go together

246 Since executive federalism is discredited, these scholars assume that the only other

option is majoritarian democracy, which can’t adequately address Canada’s complexity; but this is wrong. Yes, executive federalism is discredited, but there are new models of “public brokerage” which allow for the accommodation of mass publics

248 **Executive federalism and accommodation**: most important traditions in the study of

Canadian politics have avoided citizens and focused on institutional accommodation; plus, Canada’s constitutions (1774, 1791, 1840, 1867) have not been concerned with public participation (the fathers of Confederation has little interest in increasing democracy in Canada)

250 The basic point: (1) Canadian political scientists have not seriously studied citizens and

(2) they have assumed that the management of regional/linguistic conflict requires elites

251 The simple fact is that elite accommodation is dead: citizens are less deferential, the

Charter created the expectation that groups would be consulted (creating precedents), and several provinces require referendums before constitutional amendments

252 **The Charlottetown Accord**: Most assume that the rejection of the Accord was a

simultaneous No to executive federalism *and* the accommodation of Quebec (cites Courchene, Lusztig, Watts, Atkinson, Ajzenstat); all of these scholars agree on three points: (1) accommodation in a democracy can be conducted by elites only (2) participation renders constitutional change impossible (3) such participation was responsible for the demise of Charlottetown (then critiques Atkinson, Lusztig, Ajzenstat in detail)

258-61 The real question is whether there are any other kinds of integrative public processes

which might have mobilized opinion differently; first of all, we must note that it’s *not* necessarily the case that elites are more open to rational compromise: in fact they are more ideological and strategic than mass publics; often the options are seen as either one extreme (elitist, integrative, executive federalism) or the other (popular, participatory, aggregative, referendums)

261-71 **Public Brokerage**: The *sine qua non* of executive federalism – a deferential public – is

no longer operative; so where do we go from here? Need to consider (1) theories of deliberative democracy and (2) practical models of citizen engagement

(1) Deliberative democracy: the idea is to reach agreement through discursive

conversation rather than strategic conversation; there are a number of criticisms of deliberative democracy, but deliberative institutions can be used even in deeply divided societies; the mechanisms of Charlottetown were “public venting” and “tell and sell”, not truly deliberative

(2) Models of public brokerage: the constituent assembly has been suggested in Canada;

other more experimental models include the deliberative poll (you take the poll after deliberation), citizen juries; other countries have used deliberative techniques in constitutional processes, including South Africa (constituent assembly), Australia (people’s convention on republicanism)

271 We need to realize that (1) yes, elite accommodation is suspect in Canada today but (2)

this doesn’t mean that constitutional change is impossible. We need to realize that there is more than referenda for consulting the public

272 The current process is so dysfunctional because nobody has any control: the insiders are

basically impotent and feel like outsiders, and the outsiders feel like they have no genuine control; what we need is a different theoretical framework to generate a different set of answers.

*Janet Ajzenstat: Two Forms of Democracy*

587 Underlying Mendelsohn’s argument is “anty-partyism” and assumes that true

democracy is anti-partyist democracy

588 What Mendelsohn misunderstands is that the Canadian Parliament represents another

*kind* of democracy – a liberal democracy – according to which all citizens are free to put themselves forward to represent their fellow citizens (with whom they are equal); it’s not that Ajzenstat and others object to interest groups and public participation – they object to giving citizens a *formal* share of law-making power at the constitutional level

591 Mendelsohn’s anti-partyism is on display in his assessment of the Confederation

debates; he claims that they weren’t ratified by the people, but most colonies held general elections on the issue (except Red River, which was annexed, and Nova Scota, which was ratified by a stale parliament)

592 The fathers of Confederation were not anti-democratic in our sense; they were anti-

democratic in that they were opposed to republicanism which they saw as “mob rule”; they debated elected Senates, referenda, and other things, and “democratic control of government was perhaps their major concern”.

*Michael Lusztig: A Response to Mendelsohn’s…*

594-97 Defending the “conventional wisdom” attacked by Mendelsohn: Mendelsohn makes

four criticisms of the argument, to which Lusztig must respond:

(1) Lusztig’s argument is inductively derived: this is true, and in fact quite normal when

attempting to construct a model; M.’s argument here is a methodological quibble

(2) Lusztig’s argument is tautological: well, actually it’s based on the prediction that (1)

executive federalism is dead and (2) therefore constitutional amendments in Canada will fail – both of these claims are clearly falsibiable; moreover, Mendelsohn’s argument is unfalsifiable too

(3) Lusztig’s argument lacks empirical support: wrong, he supplies plenty

(4) Lusztig’s argument wasn’t tested against alternative hypotheses: fine, but this is

another methodological quibble, and besides, Mendelsohn didn’t exactly construct an experiment himself

597-600 Contra Mendelsohn: Two major criticisms:

(1) success with public brokerage at the local level tells us basically nothing about potential at the constitutional level; moreover, it seems that the commissions, forums, and fact-finding missions of Charlottetown are precisely the kinds of brokerage techniques Mendelsohn is hoping for, and the only reason he dislikes it is because it failed: it’s basically normative political theory disguised as political science

(2) A difficult to amend constitution militates against public brokerage because people will want to satisfy their interests and the stakes are high; an easy to amend constitution would weaken the principle of the constitution itself, making constitutional brokerage little more than an alternative form of legislative process

*Matthew Mendelsohn: Reply to Ajzenstat and Lusztig*

604 Mendelsohn begins by summarizing the many and various ways that Ajzenstat has

misunderstood his argument; Mendelsohn objects to the distinction between “anty-partyism” and “liberal democracy” – Mendelsohn is interested in blending the two

605 Regarding Ajzenstat’s historical criticisms: stands by the claim that *BNA Act* lacks a

tradition of popular sovereignty; Ajzenstat ignores the central claim of the article, which is that executive decision making is now widely discredited and the public is now inevitably involved in constitution making

608 Concludes by listing some examples of public brokerage on a large scale, and accuses

others of suffering from a lack of international knowledge and imagination