

Paper presented to the Annual Meeting of Fair Vote Canada, Ottawa, June 10, 2005

The BC Citizens' Assembly and Referendum: Lessons for Ontario
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The topic reminds me of an experience as a young researcher working for a special committee on parliamentary reform. The Chairman asked me to prepare a memorandum on how the British dealt with certain areas of procedure. Several weeks later I proudly handed him the results. After perusing it he called me up and said "So that is how the British do it. Well, we certainly do not want to do it that way."

That is basically my conclusion about the BC experience with electoral reform. We (meaning Ontario) would not want to have a Citizens' Assembly produce a recommendation that is defeated in a referendum and leaves all sides proclaiming victory without any immediate path to electoral reform. So let us look carefully at what happened in BC and draw some lessons.

Background to the May 17 Referendum

Following successive elections where the problems of First Past the Post voting system were evident the BC Liberals promised to appoint a Citizens' Assembly on Electoral Reform (randomly chosen from the voters list) to assess models for electing MLA's. If the Assembly recommended changes it further promised this recommendation would be put to a province-wide referendum. If adopted by 60% of the overall population and by a majority in 60% of the ridings the recommendation would be enacted by the government.

In October 2004 after several months of meetings and province wide hearings the CA adopted a recommendation favouring the single transferable vote (STV) over the status quo by a vote of 146 to 7. (They had previously considered and rejected a multi member proportional system (MMP) by a vote of 123 for STV to 31 for MMP). The question on the ballot was, Should British Columbia change to the BC-STV electoral system as recommended by the Citizens' Assembly on Electoral Reform? Yes/No

The result of the May 17 referendum was 57.5% in favour overall with a 50% majority obtained all but two of the 79 constituencies. Thus the recommendation failed to obtain the required double majority and was defeated.

The Debate Over STV in British Columbia

Before looking at how various parties have interpreted the results it is important to briefly outline the position of some key players in the campaign.

Premier Campbell said the government would remain neutral on the referendum but that individual members of the legislature could support or oppose the recommendation as

they saw fit. The government did establish a publicly funded referendum information office (www.gov.bc.ca/referendum_info/) but most Liberal members appear to have chosen to follow the government's position and remained neutral on the referendum question.

The Opposition New Democratic Party was also officially neutral and the issue was notably absent from the party website which linked its position on electoral reform to a policy paper written before the CA was even established. As shown in the table on the following pages some former NDP MLAs opposed STV while others supported it

The Green Party had lobbied hard for the Assembly to recommend some form of MMP. When the Leader learned of the decision to support STV she is reported to have broke down in tears and called October 24, 2004 "one of the hardest days of my life" Her original reaction was to recommend that her party endorse the no campaign however the membership subsequently persuaded her to change her mind and not discredit the "democratic process of the Citizens Assembly" On its web site the Green Party urged citizens to become fully informed on how the BC-STV system would work and stated that Green Party candidates and constituency associations are free to take a position either for or against the proposed BC-STV system.

The press while initially sympathetic towards reform was skeptical about STV. Well known columnists like Norman Spector and Bill Tieleman, made STV the butt of jokes for its complicated system of counting votes. Others saw it as a path to single issue parties getting representation in the House. Some mainstream journalists like Rafe Maier, and Michael Smith were either sympathetic or outright supporters of STV.

Several organizations were listed with Elections BC as "Registered Referendum Advertising Sponsors for the Referendum" including the Citizens' Assembly Alumni Association, Democratic Reform BC, Fair Voting BC, Know STV, Yes to STV, and the YESTV Coalition. Of these only Know STV actively campaigned for a NO vote.

The issue of STV versus MMP was hotly debated in web blogs with a number of Citizens' Assembly members joining in under either real or assumed names. Assembly Members also spoke out in their communities mainly in favour of STV.

Despite these efforts a number of surveys done during the campaign showed that only half of British Columbians were aware of the BC Citizens Assembly and of those two thirds said they knew very little or nothing about the proposed STV electoral system. Of those who were aware about half said they would vote yes in the referendum.

The table below shows the positions of some organizations and individuals during the campaign. The main point is that support or opposition to STV crossed party boundaries.

	In favour of STV Recommendation

Bruce Hallsor	Co-Chair, Vote Yes Committee
Julian West	Co-Chair, Vote Yes Committee
Nick Loenen	Chair, Fair Vote BC, Former Social Credit MLA
Gordon Gibson	Former Leader of BC Liberal Party
Michael Smith	Journalist, Victoria
Vivian Smith	Journalist, teacher, Victoria
Preston Manning	Former Leader of Reform Party of Canada
David Suzuki	Environmentalist
Lord David Steel	Former Speaker, Scottish Parliament
Bob Brown	Australian Senator
Andrew Petter	Former NDP Cabinet Minister
Troy Lanigan	Canadian taxpayers Federation
Larry Campbell	Mayor of Vancouver
Fred Bass	Vancouver City Councillor
Sam Sullivan	Vancouver City Councillor
Barb Sharp	Mayor of North Vancouver
Lawrence Solomon	Financial Post Columnist
Rafe Mair	Former Social Credit Minister and journalist
Vancouver Sun	Editorial, May 7, 2005
Jim Harris	Green Party of Canada Leader
Stuart Parker	Former Green Party of BC Leader
Shoni Field	Former Citizens Assembly Member and Alumni Co-chair
David Wills	Former Citizens Assembly Member and Alumni Co-Chair
Sheila MacDermott	Former Citizens Assembly Member
Nick Greer	Businessman and former head of ICBC
Krist Novoselic	Former Nirvana band Member
Norman Ruff	Professor, University of Victoria
Dennis Pilon	Professor, University of Toronto
Kennedy Stewart	Professor, SFU, candidate for NDP nomination
Peter Ewart	Instructor and Community Activist, Prince George

Sources: Yes for BC-ST web site (stvforbc.com); Fairvoting BC (fairvotingbc.com); various newspapers.

	Opposed to STV Recommendation
Dave Barrett	Former NDP Premier
Bill Bennett	Former Social Credit Premier
Norman Spector	Journalist, former Chief of Staff to Brian Mulroney
Bill Tieleman	Former Communication Director to Premier Glen Clark, journalist for Georgia Straight
Jack Munro	Retired Union Leader
Bud Smith	Former Social Credit Minister
Bruce Strachan	Former Social Credit Minister
David Shreck	Former NDP Member
Moe Sihota	Former NDP Cabinet Minister
Elizabeth Cull	Former NDP Cabinet Minister
Anita Hagen	Former NDP Member
Karn Manhas	Former Liberal MLA
Anne Edwards	Former NDP Cabinet Minister
Rick Dignard	Former Citizen Assembly Member
Jyoti Gill	Former Citizen Assembly Member
Susan Arnold	Lawyer with Heenan Blaikie
Paul S. Gill	Businessman and political activist
Jim Inkster	Past President of BC Rail
Bob Plecas	Former Deputy Minister
Andrea Reimer	Former Communications Director of Green Party
Jacee Schaefer	Lobbyist and Liberal party Organizer
John Young	Professor, University of Northern British Columbia
Globe and Mail,	Editorial, May 3, 2005
Andrew Coyne	National Post Columnist
David Poole	Engineer and consultant

Sources: Know STV (knowstv. ca) and various newspapers

Reaction to the Referendum

A survey of reaction in the weeks following the referendum reveals at least four distinct reactions to the vote held on May 17.

1) Proceed as if the Referendum had received 60%

According to Bruce Hallsor and others on the Yes Campaign, “If something passes by a majority and does not get implemented it is profoundly undemocratic.”¹ They viewed the results as a moral victory for STV and thought the government should proceed as if it had won the 60% and introduce STV as recommended by the Citizens Assembly.

During the course of its deliberation many members of the Assembly expressed reservations about the 60% threshold and asked the Chairman to try and determine what the government would do if their recommendation reached 50% but not 60. The answer by Jack Blaney and Kenneth Carty was that a double majority would trigger action but

¹ *Edmonton Journal*, May 21, 2005.

with a lesser level of acceptance the government might still proceed although it was not required to do so.²

Gordon Gibson, whose reaction also belongs in this group, has recently begun to develop the argument that BC has a political culture particularly favourable to STV.³

2) Hold More Public Education and a Second Referendum

A second reaction mainly by those who favour STV was that the government did not do enough to educate people about the STV option. Funds should have been granted for both the YES and NO campaigns to wage effective campaigns on both sides of the issue. The *Vancouver Sun* argued: “We know from polling that a large portion of voters knew little about STV before the vote. We also know that people who said they understood it were more likely to support it. So let's start by having the province support a real education campaign on the findings of the Citizens' Assembly. Then British Columbians should be given another chance to vote on BC-STV. It's worth taking the time necessary to get this one right.”⁴

3) Yes to Electoral Reform. No to STV

A third reaction, led by Carol James of the NDP, was to view the results as a mandate for change to the electoral system but not necessarily for STV. She disagreed with the Citizens Assembly recommendation and voted “no” in the referendum. “I did not feel that STV was the direction to go. Lets look at bringing forward another model.”⁵ She preferred a mixed member proportional system and suggested, probably correctly, that many who voted yes favoured electoral reform but would have preferred MMP. This was also the position of the *Globe and Mail* which called STV seriously flawed and said “British Columbia should thank its lucky stars that 42.6 per cent of voters shot the proposal down.”⁶ It called on British Columbians to go back to the drawing board and repeated its support for MMP. The *Times Colonist* was more blunt.

“If Campbell is as serious as he claims to be about improving the electoral system, he can do something about it before 2009. Instead of hiving the issue off to a bunch of academics and a travelling circus of citizens to devise, he can adopt a less radical, less complicated system to introduce some proportionality to the system, bring in a bill, run with it and take whatever lumps are coming. That's called leadership. It's what governments are supposed to give.”⁷

4) Accept the result and move on

² See R.S. Ratner, The BC Citizens' Assembly : The Public Hearings and Deliberations Stage, *Canadian Parliamentary Review*, vol 28, no 1, spring 2005.p. 27.

³ See *Globe and Mail*, May 27, 2005.

⁴ *Vancouver Sun* May 19, 2005.

⁵ *Vancouver Sun* May 19, 2005.

⁶ *Globe and Mail* May 20, 2005.

⁷ *Times Colonist*, May 19, 2005.

The final reaction was by a very few members of the No side, such as Norman Spector, who believe that the current electoral system usually provides the best kind of government – one party with a clear majority and a strong opposition within shooting distance of replacing it. According to Spector “The 79 MLAs who will soon be arriving in Victoria are not legally or morally or politically bound to support STV – a radical proposal that could easily have rendered our province ungovernable.”⁸ The dangers of minority government, he argued, were all too apparent by what is going on in Ottawa.

In surveying dozens of articles written in reaction to the referendum it is apparent how few individuals aside from Norman Spector viewed the referendum result as an argument for the status quo.

So the BC referendum did not really settle the issue of electoral reform. I have a suggestion about how BC might extract itself from its present conundrum but that is not the main purpose of my presentation so let me go on to the lessons I think Ontario can learn from the BC experience

Lessons of the BC Experience

I must preface these remarks by saying that I was pleasantly surprised by the BC experience. My initial feeling was that the establishment of a Citizen’s Assembly was a classic case of governments and politicians sidestepping their responsibilities and pawning their duties off to others, in this case 160 unsuspecting citizens. However there were some unique circumstances which perhaps justified the BC decision so I followed the work of the Assembly closely.

On the positive side the CA concept demonstrated there is a large untapped resource of civic minded individuals outside the party system and given the right conditions they are quite willing and able to make a contribution to public life.⁹

The CA and the subsequent referendum has moved electoral reform forward. The referendum failed but the level of support was enough to indicate to politicians that there is support for electoral reform.

In terms of public consultation the CA demonstrated that it is possible to undertake citizen engagement and public education without spending huge amounts of public funds.

Nevertheless I think there were a number of problems with the BC experiment and I suggest the following five lessons for Ontario or any other province that is considering going the CA and Referendum route.

⁸ *Times Colonist*, May 20, 2005.

⁹ See Kenneth Carty, “Doing Democracy Differently: Has Electoral Reform Finally Arrived?” *The Timlin Lecture*, March 1, 2004, University of Saskatchewan, 19pp.

1) Be clear about the nature of a Citizens Assembly. Is it a kind of constituent assembly, an alternative legislative assembly, or a super focus group?

I will not quote all examples of inflated rhetoric about the implications for democracy of the Citizens' Assembly by Gordon Gibson, Jack Blaney and Kenneth Carty but it was clear that CA members were encouraged to situate themselves somewhere between the French Estates General and the American Founding Fathers. The practical result of this was that members felt obliged to strive for the best electoral system rather than the one most likely to gain the widest support.

The result, according to Professor Dennis Thompson was that CA members came to resemble the politicians of whom they were so critical. The erstwhile outsiders became the quintessential insiders who had that special knowledge that enabled them to come up with solutions that the average person would not understand. He says, "designed to reduce the gap between citizens and experts, the process itself reproduced the problem that it was intended to overcome. The more successful the deliberative process, the greater the gap between the Assembly and the electorate."¹⁰

As much as the CA members wanted to find the best solution to a problem their mandate was very restrictive. They could not seek to increase the number of seats or propose any changes to the political or parliamentary or party system that might be necessary to improve the electoral system. "Unlike New Zealand where voters had an opportunity to consider four alternatives, the British Columbia assembly was told to come back with only one option."¹¹

The randomness of their selection gave a certain legitimacy but the exclusion of anyone with active political experience made them very unrepresentative in one important respect. As Professor Peter Aucoin has noted, only half joking, "the exclusion of politicians would not pass the Charter test if challenged."¹² Ed Broadbent said, "the exclusion of people with political experience was a little like designing a health care system without asking the participation of doctors and nurses."¹³

Related to this issue of how the CA viewed itself is the inordinate amount of time spent considering values. For example they determined that the three most important criteria for an electoral system were: effective local representation, the share of seats should reflect the votes cast, maximum choice for the voter. As Professor Aucoin has noted "These values mean nothing until they become objectives that drive an assessment of reform. So you have to bring them down from this high level, and many of them compete

¹⁰ See Dennis F. Thompson, "Who Should Govern Who Governs"? Draft Paper prepared for the Workshop in Law, Philosophy and Political Theory, Kadish Centre for Morality, Law & Public Affairs, University of California, Berkeley, March 31, 2005

¹¹ Larry Gordon, "What Can Ontario Learn from the BC Referendum on Proportional Representations, *Toronto Star*, May 20, 2005.

¹² Standing Committee on Procedure and House Affairs, *Minutes of Proceeding and Evidence*, March 10, 2005.

¹³ *Ibid.*

against one another.”¹⁴ The CA also felt it was not an important value of an electoral system that it create majority governments.

What is wrong with looking at electoral systems in terms of values? It depends on how one views politics. Is it the art of the possible; the accommodation of diverse interests; or the pursuit of correct thinking. The more one relies on values the less chance there is for compromise.

The Ontario Citizens Assembly should be encouraged to think of itself as part of a broad consultative process and not burdened with the task of coming up with the last word on electoral systems. They need to think in terms of interests and not just values. In terms of what is possible and not what might be best in an ideal world.

2) Use public hearings to gauge support not to gather information.

Public consultations are a tricky business. They always attract a very narrow segment of the population. If you propose something concrete you will normally hear mainly from people who dislike what you are proposing. If you propose nothing and seek input you will be subject to lobbying by various interests.

The CA held extensive public hearings but they deliberately decided not to hold these hearings on a specific proposal. Some 3000 people participated ranging in size from twenty to over 150. About 350 citizens were given an opportunity to make ten minute presentations. In addition to the public hearings the Assembly received 1600 substantive submissions. Assembly staff estimated that between 70 and 80% of the submission favoured some form of multi member proportional representation (MMP) and about 13% favoured the single transferable vote (STV).

Despite the overwhelming support for MMP the Assembly took that view that these represented an organized campaign and appears to have largely discounted what they heard. Had the BC Assembly gone to the public with its specific proposal for STV they might have discovered enough hostility to that idea that they could have either gone back to the drawing board or opted for another system.

The Ontario CA should hold public hearings only after it has come up with a proposal. They should be prepared to submit this proposal to the public prior to the meeting and be prepared to refine or amend the proposal in light of the hearings. This will require them having more control over the timetable than members of the BC Assembly appear to have had.

3) More reliance on the adversarial approach rather than a consensual one

From the very outset the BC Assembly made clear that it would try to operate by consensus. This was not part of its mandate but rather the choice of the Chairman who

¹⁴ *Ibid.*

was supported by the Assembly. There are many who believe we suffer from excess partisanship and who decry the adversarial nature of our politics.

However, the adversarial system is so central to our political and legal system that we tinker with it at our peril. I attribute the overwhelming adoption of STV largely to the deliberate avoidance of the adversarial system as it usually operates in our political system. Let me refer to professor Thompson's paper once again. He says. "the absence of partisanship and the exclusion of politicians, intended to encourage the members to be dispassionate and judicious, removed the passions and interests that usually are necessary in politics to motivate people to care about the judgments they need to make, and to learn what they need to know to make sensible judgments."

Without wanting to turn the Ontario Citizen Assembly into a miniature House of Commons I think there is a fairly easy way to resolve this. Fair Vote Ontario has suggested there should be co chairs of the OCA. They were thinking in terms of a man and a woman and that could be the case but more important I think is that you have as co-chairs one person who favours electoral reform and someone who favours the status quo. (or one person who favours STV and another who favours MMP).

This single simple step should be enough recognize the centrality of the adversarial approach in our political system. It would also make sure that no one could accuse the secretariat of having a bias and would lead to a better informed final discussion and debate.

4) Find a way to integrate the OCA with existing political and parliamentary institutions.

The BC process went to great lengths to keep anyone with ties to political parties out of the Assembly. The Assembly heard from innumerable professors but very few practical politicians. It is now becoming apparent that no electoral reform will be forthcoming without some involvement of legislators but this should not be a last resort. The process should be conceived from the outset to force legislators and Citizens Assembly to work together to come up with the solution.

My suggestion is that the work of the Citizens Assembly culminate not just with a recommendation as was the case in BC but with the election (or random selection) of 6 or 12 of its members to serve on a special committee along with an equal members of the Legislative Assembly. That committee would make the final recommendation on a new electoral system. That recommendation (be it the same as the OCA or different) would be put into legislative form and go through the regular legislative process with or without a referendum.

Personally I think the result of that process would have sufficient legitimacy that a referendum would not be needed.

(This is the process I would like to see BC use to extricate itself from the present impasse. Select 12 people at random from the CA and put them together with 12 members of the Legislature and go with their recommendation. There are precedents for non elected members sitting on legislative committees, even chairing them. This is a perfect time and subject for such a joint committee.)

5) Use Referenda sparingly and wisely

I have already suggested my preference for no initial referendum on electoral reform. However it may not be possible to avoid a referendum at some stage. My suggestion would be to commit to a referendum only after a new system is established be it STV or MMP and have the vote on whether to retain the new system after it has been used for at least one election. I see that as having a double advantage. It would remove the fear of buying a “pig in a poke” that was one of the main objections used by the No side in BC and it is perhaps the only way people can really make a truly informed choice on what type of system they prefer. Also, of course there should be no special majority required.

Those are the major lessons I think Ontario could learn from the BC experience. There are some other minor points that I think deserve mention since Bill 176 has not yet been adopted by the Ontario Assembly. And even when it is adopted most of the procedures relating the Citizens Assembly will be established by regulation.

Report to the Speaker not the Attorney General. That was in the original Gordon Gibson proposal but was rejected by the government of BC. Would not BC be much further ahead if the difficult post referendum negotiations now on the agenda were in the hands of an impartial official rather than the Premier or the Attorney General?

Do not pretend that all options are on the Table. The BC Assembly, particularly in the learning phases, looked at the whole variety of electoral systems before narrowing it down to a couple. Little time spent looking at the relationship between our electoral system and our parliamentary form of government.

Ontario can build upon the experience of BC and other provinces while keeping in mind that each province has a particular history and political culture. Not all the options are really on the table. At most lets focus on STV and MMP. In fact everyone except BC has come to the conclusion that MMP is the preferred alternative. There are enough options and variations of MMP that the entire time could be devoted to coming up with the best form of MMP. Similarly improvements to the FPTP including things like compulsory voting could be discussed in more detail than they were in BC..

Leave funding for public education to the private and voluntary sectors. This was one of the surprises of the BC experience. After a slow start both the Yes and No campaigns did an excellent job of making their cases with meetings in school, public libraries, community centres and so on. I do not think the Yes side would have done

nearly as well with a slick well financed publicly supported campaign that bombarded people with TV ads about the virtues of STV.

Ontario is a rich province with lots of resources both intellectual and financial. It is incumbent on those who favour electoral reform to get others involved in building support for the option rather than relying on public funds or professional ad agencies to sway opinion.

Those are my thoughts and I look forward to hearing the views of others on the BC experience and lessons for Ontario.