

# *A Model for Direct Public Participation in Policy Formation*

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by Bob Chiarelli, MPP

*The Citizen's Assembly Project Act, 1993 is a Private Members' bill introduced in the Ontario Legislative Assembly. It would establish a pilot project whereby certain public policy issues defined by the Lieutenant Governor in Council would be examined by citizens assemblies established under the Bill with a view to preparing legislation for consideration by the Legislative Assembly. This article outlines some of the provisions of the proposed bill.*

In the current era, no government in Canada comes close to addressing the alienation of the electorate, which sometimes deceives itself by accepting the politics of personality — Trudeaumania, Campbellmania, Kleinmania — as a fundamental solution to the problems of government. In response to this phenomenon, governments need to free themselves of straight-jacket thinking and initiate experiments at creating new institutions and new processes. If governments do not take bold new initiatives to reform the democratic process, the schism between the public and their governments will continue to widen perilously.

It is with this concern that I recently introduced a Private Members' bill entitled *The Citizens Assembly Project Act, 1993*: legislation which is designed to set up a "constituent assembly" type process, as an additional and alternative way to pass legislation in Ontario.

In summary, the bill proposes to establish a process for so-called "citizens assemblies" to be created for the purpose of consulting, researching and preparing legislation in a policy area specified by Cabinet, on a



project by project basis. Established on a six-year trial basis, resulting legislation would be introduced into the legislative stream and "fast-tracked" into law by way of "free vote" passage in the legislature. This new process for creating legislation would take traditional Royal Commissions and "Task Forces" well beyond the usual "recommendations" mode which, more often than not, add to public cynicism and end up collecting dust, having served their non-stated purpose of putting out a political firestorm.

The *Citizens Assembly Project Act* would operate as follows. The Attorney General, with the advice of cabinet, would define an area of public policy, an issue

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or a goal to be achieved, from time to time, by new legislation to be described in a "Citizens Assembly Project".

The Project would also establish a "Proposal for Membership"; being a list of persons or entities who have agreed to participate in the Citizens Assembly Project. This list would be in compliance with a requirement in the law that the participants in the "Citizens Assembly Project" should be broad based and include individuals from the broader general public, persons with particular and academic expertise in the subject matter to be legislated and persons or entities who would be defined as "stakeholders" or "parties with interest". The legislation would also include a budget and resource availability schedule, and would set a time period within which the new legislation must be submitted by the project assembly to the Clerk of the Legislature.

The Attorney General would be required to submit the designated "Citizens Assembly Project" to be legislated to the Chief Justice of Ontario who shall within 4 weeks be required to cause to be convened a panel of three judges of the Ontario Court of Appeal who in turn shall be required to hold public hearings to receive submissions to determine the appropriateness or otherwise of the "Proposal of Membership". The judges would have full authority to add, reduce or combine participants in the assembly (within the requirements of membership) but would have no authority to deal with other aspects of the defined project.

The membership of the "Citizens Assembly Project", as confirmed or adjusted by the three judge panel, would establish its own rules, procedures and process for completing its mandate and define its own research and consultation dynamics.

Legislation drafted by the "Citizens Assembly Project" would be submitted to the Clerk of the Legislative Assembly of Ontario (within the specified time period) together with a Citizens Assembly Project Report. The Bill would be automatically deemed to be given First and Second Reading and to have been referred to Committee of the Whole House where, after specified times for amendments and debate, the bill would automatically be passed into law unless amended or defeated by at least two-thirds of the members of the legislature in a free vote.

In situations where the Citizens Assembly is unwilling or unable to draft legislation, a Citizens Assembly Project Report would be tabled in the legislature regardless, citing reasons for same and providing recommendations to the members of the legislature on the issue.

Citizens Assemblies would be no panacea for what ails governments. Implemented as a trial model, deficiencies could be worked out on trial and error basis. Indeed, the definition of the issue to be dealt with would need to be

carefully crafted so as to deal appropriately with legislation impacting on public spending. The *Citizens Assembly Project Act* therefore contains a failsafe section providing that after enactment of a law by such a project, it can be amended using normal procedures by a simple majority of the legislature. However, this would carry the onerous moral and political burden of going against the will of the Citizens Assembly and at least two-thirds of the members of the legislature.

The *Citizens Assembly Project Act*, quite simply, uses the concept of a constituent assembly to help make public policy and write legislation. A review of the literature indicates there are no precedents for governments using the Constituency Assembly device on non-constitutional legislation. Many governments have used constituent assemblies to provide for broad-based participation in the writing or amendment of a constitution including Newfoundland (1964), Australia (1973-75), Nicaragua (1984), United States (1787) and others.

Dr. John Godfrey, noted Canadian scholar and author, postulates that public decision-making must be fundamentally altered — all affected and interested parties, including the public, must be involved concurrently in decision-making. He believes that existing processes are not inclusive and are too time consuming; indeed, governments and stakeholders can change before decisions are made when the process is too long, most often leaving in their wake valuable research and consultation inventories never to be seen again. Dr. Godfrey emphasizes that decision-making can no longer be made in one or two dimensional settings: many public decisions involve the economy the environment, human resources, stakeholders with private interests, governments and the broader public, all of whom should be involved at all stages of the decision-making process with a finite timetable.

The *Citizens Assembly Project Act* represents a bold experiment to involve the public more and the bureaucrats and politicians less in aspects of public policy formulation.

Enacting the concept would be a courageous experiment to help break out of our institutional straight jacket and would help to address legitimate and mounting public frustration and cynicism with our political institutions.

