The Road to Electoral Reform

by Scott Reid, MP

Electoral reform is on the agenda in at least five provinces and each has taken a different approach to the process of implemention electoral reform. The House of Commons has also examined the question and in June 2005 one of its Committees presented its report. This article considers why it has been so difficult to reach any consensus on electoral reform and suggests a way to allow the Canadian electorate to play a larger role in the ultimate decision.

Given that the first-past- the-post system of electing MPs has had very few overt defenders in the past few years[1]—particularly among politicians, who are ever-sensitive to the ebb and flow of political fashion—one could be forgiven for thinking that it will be easy to develop a nationwide coalition in favour of a new and better electoral system. But such a coalition is unlikely to gel any time in the near future, if the country insists on using its traditional political processes for seeking change.

The reason for this is straightforward. Politicians are primarily concerned about getting reelected, and notwithstanding the failings of the current electoral system, every MP in the House of Commons understands that the first-past-the-post system (FPTP) has one redeeming virtue: it got him or her elected. So naked self-interest on its own will not predispose MPs to unite behind any single alternative to the status quo.

To be sure, most party leaders can point to an alternative electoral system with respectable antecedents in some other country, that would have produced more seats for their own party than actually were produced by FPTP in the most recent federal election.[2]

But any *specific* new system can only be beneficial to one or another of the political parties if it is at the expense of one or more of the other political parties. This is true whether the alternative under consideration is the Irish-style single transferable vote in multi-member ridings (STV), the Australian system of preferential or "alternative" voting within single-member ridings (AV), or the German multi-member proportional system (MMP). In the end, any change to the status quo must inevitably harm the interests of more sitting MPs than it helps.

The likeliest scenario is that MPs of all stripes will support electoral reform *in principle*, while shifting majorities within the House of Commons will remain opposed to any specific proposal *in practice*.

As is always the case when the status quo confronts a range of deadlocked alternative options, neither positive action nor public advocacy is required in order to keep FPTP in place. FPTP is simply the default solution that goes on and on, as long as majority support cannot be cobbled together for any specific alternative.

The irony, is that under such a scenario, no politician need stick out his or her neck to actually defend the FPTP system from which he or she is benefiting. Instead, each elected official need only point to his or her own preferred electoral system as the only truly acceptable solution to what ails Canadian democracy, and then vote against whatever other alternative is being placed before the House of Commons—in the name of democracy.

Being freed from the need to defend the status quo is liberation indeed, since the perverse results of FPTP in Canada are so widely known that they scarcely bear repeating. A sample of the oddities that this system has produced at the federal level includes:

- 1963-1980: the disastrous impact on national unity of the near complete freeze-out of Conservative MPs from Quebec prior to the Mulroney sweep of 1984, and the near-elimination of Liberal representation in Western Canada under Prime Ministers Trudeau and Turner.

Scott Reid represents Lanark—Frontenac—Lennox and Addington in the House of Commons and is Conservative Critic for democratic reform. He is a member of the House of Commons Standing Committee on Procedure and House Affairs.

- 1993: the reduction of the Progressive Conservative caucus to two MPs—even though the party had won a greater share of the popular vote (16%) than did the Bloc Quebecois, which captured 54 seats with 13.5% of the national vote and became the Official Opposition. This election, more than any other, proves the validity of Andrew Coyne's assertion that "the party that can cluster its votes geographically will win many more seats than a party whose support is spread more broadly and evenly, rewarding regional grievance-mongering at the expense of a national vision." [3]
- 1997: FPTP was responsible for turning Jean Chrétien's very poor 38.5% showing at the polls into a majority mandate.
- 2000: I had a personal taste of how FPTP distorts electoral results when I first entered the House of Commons as one of only two Canadian Alliance MPs elected in Ontario, in an election where my party had won half as many votes as the Liberals—who were rewarded by FPTP with 100 Ontario seats.

Similar stories occur at the provincial level. Examples include the NDP victory in British Columbia in 1996, and the Parti Quebecois victory in 1998, in elections where both parties had lost the popular vote to their Liberal opponents. Equally peculiar has been the grotesque over-weighting that sometimes has occurred when a party has been awarded every single seat in a provincial legislature, as the result of an election in which it has won a much more modest percentage of the vote. This happened, for example, in the New Brunswick election of 1987, when Frank McKenna's Liberals won just over twice as many votes as their Conservative opponents, and took every seat in the Assembly.

So public opinion is not a barrier to electoral reform in Canada. The biggest obstacle to reform, whether at the federal or provincial level, is that our politicians keep on trying to design and ratify proposed changes, using the very mechanisms that electoral reform is designed to replace. For example, Prince Edward Island, New Brunswick and Quebec have all been using traditional commissions, of one sort or another, to develop proposals for new electoral systems.

The Federal Approach

In autumn 2004 the House of Commons Standing Committee on Procedure and House Affairs was charged by the Commons with the task of designing a plan for a national review of the available options for replacing FPTP. The committee engaged in months of hearings on the methods that other countries had used to develop their new electoral systems, and took two very expensive and controversial overseas investigatory trips to Australia, New Zealand and Europe.[4] In June 2005, the committee voted to ignore absolutely everything that it

had spent six months investigating, and decided—over the protests of a few of its members—that the best way to achieve electoral reform in Canada would be to set up yet another House of Commons committee (a "special committee," for what it is worth, as opposed to a standing committee), which would design the new electoral system.[5]

Any of the models that the special committee will examine would harm the reelection chances of a majority of the MPs sitting on the committee. In the unlikely event that the special committee can nonetheless come to a consensus that sets aside considerations of self interest, and can somehow find a way of causing the majority of MPs in the House of Commons as a whole to similarly vote against their own best electoral interests, Canada will get the new electoral system that most of its politicians claim in principle to want. But the far more likely result is a deadlock, either in the committee or in the Commons.

The depressing truth, which became clear as the Standing Committee on Procedure and House Affairs undertook its study of different roads to electoral reform earlier this year, is that electoral reform in the countries we examined had rarely been achieved by means that Canadians could—or would want to—emulate. In practice, electoral reform has typically been imposed in three different ways – imposition by outside forces, unilaterally by the majority party or by accident.

Ireland's much-admired STV system was imposed by the departing British in the early 1920s as a way of ensuring that the Protestant minority would not be frozen out of the Irish parliament, as they might have been under British-style FPTP system. Germany's much-admired MMP system was imposed by the victorious Allies in the late 1940s as a way of ensuring that no marginal party could ever again elbow its way into a position of power, as the Nazis had done in 1933. Scotland's MMP system was imposed by London. The innovative STV model now being used for the legislature of the Australian Capital Territory was imposed by Australia's federal parliament. Clearly, this method of achieving electoral reform is not open to Canadians.

In a number of other jurisdictions, perfectly good electoral reforms have been imposed for overtly partisan reasons. Australia provides the best example of how this can happen. Here is how the Australian Electoral Commission describes that country's shift from FPTP to AV for elections to its lower House:

The Commonwealth Electoral Act was comprehensively rewritten in 1918 ... and the new Act among other things introduced alternative ("preferential") voting for the House of Representatives; this was in response to the rise of the Country Party in the aftermath of the First World

War, and the consequent prospect of loss of seats to Labor through a split in the non-Labor vote.[6]

In short, a governing party with a majority mandate realized that a clearly-defined change to the electoral system would suit its own partisan interests, and therefore it enacted that change.

Australia repeated this process when it introduced STV to its Senate in 1948. This time, it was Labor that was in power but facing imminent defeat. Recognizing that the existing electoral system would exaggerate its decline in popular support,[7] and not believing that it could win the coming election, the Labor government enacted changes to the electoral system that it concluded would help to "consolidate its parliamentary power base in the Senate."[8]

Although both the AV and STV models now employed in Australia have their admirers, it is clear that the means by which they were imposed are not admirable, and at any rate, could only be imposed in this country if Canada had a majority government in which the governing party were able to ram through its changes unilaterally through both the House of Commons and the Senate. This seems unlikely in the short term.

Finally, electoral reform may be introduced accidentally as was the case in in New Zealand. MMP was introduced in the 1990s as the unintended consequence of efforts by the country's established parties to appear to be favourable to the principle of electoral reform, while developing *de facto* roadblocks to any such reform. In 1992, as a part of this disingenuous effort, an "indicative" (non-binding) referendum was held on two questions—should the voting system be changed, and which system should be adopted? The second question had been designed as a FPTP question. Voters could indicate support for a single option. The assumption of the authors of the referendum was that support for the various alternatives to the *status quo* would be so split that FPTP would win a plurality of the vote even though it lacked majority support in the country. Thus, the results of the second question would obviate the mandate for electoral reform that was likely to be recorded in the first question.

What had not been anticipated was that voter turnout would be very low, meaning that a disproportionately high percentage of participating voters would be advocates of electoral reform. Thus, 84.7% of the 55.5% of voters who bothered to participate cast their ballots in favour of changing the voting system. As well, the government had not anticipated that there would be an aggressive advocacy campaign in favour of only one of the three alternatives that it had placed on the ballot as alternatives to the status quo. The result of this miscalculation was that a very high proportion of those who cast ballots

did so in favour of MMP. Thus, by accident, a single alternative to FPTP was identified, and all other options were eliminated from public debate, at the very same time that an overwhelming (and probably artificially large) mandate had been given for casting aside FPTP.

With an election looming this combination of results made very difficult for the government to push the now-dominant MMP option aside. Nevertheless, an effort to derail electoral reform was made: a binding referendum was held in 1993, in which voters were given a choice between FPTP and MMP. Prominent politicians from both the major parties campaigned hard in favour of the status quo, and worked to boost voter turnout (most notably by holding the referendum at the same time as a general election). As a result of these efforts, voter turnout rose to 85.2%. This time, a slender majority of 53.9% voted in favour of MMP.[9]

While there can be no doubt that MMP therefore received a genuine popular mandate, it is also clear that Canada's politicians cannot knowingly engage in an attempt to achieve unintended consequences of the sort that the New Zealanders had imposed upon themselves.

The only alternative to the three scenarios outlined above would be to capitalize on the stated support in principle for electoral reform of all parties in the House of Commons, in order to establish a mechanism which is guaranteed to produce a new electoral model, without any prior knowledge on the part of the politicians (or of anyone else, of course), as to which model will in the end be adopted. Each party would have to accept the risk that the model chosen might not be the one that it prefers, but each party would also have the knowledge that it could potentially come out of the process as a winner. All parties would, effectively, be stepping behind what the philosopher John Rawls has referred to as a "veil of ignorance."

Lessons from the BC Experience

This veil of ignorance was the key to the success of the world's most successful effort, to date, for building a popular mandate for electoral reform. British Columbia's Citizens' Assembly, which produced a proposed model for electoral reform in October 2004, was a truly representative body. Membership in the Assembly was randomly selected, and no politicians with a partisan axe to grind sat among its membership. On May 17, 2005, its proposal for an STV electoral model was put to the voters of British Columbia in a referendum, and received a 57% mandate, including majority support in all but two of the province's electoral districts. This is the most substantial popular mandate, of which I am aware, that has ever been given to any model of electoral reform.

But even in British Columbia, the old way of doing things helped to snatch defeat from the jaws of victory. Not only did the government require a 60% majority for the referendum to succeed but the Assembly's recommendation in favour of STV was submitted to the voters as a take-it-or-leave-it proposition. People could vote for the new STV system, or for the old FPTP system, but other options, such as Australian-style AV and German-style MMP, were simply excluded from the ballot. Voter approval of STV would end any prospect of another system finding its way onto the ballot.

This led to a situation in which former leaders of the movement for electoral reform either became neutral, or campaigned openly against the STV option, in the hope that they would be able to defeat this particular reform model, while keeping alive the popular pressure for electoral reform, thereby raising the probability that their own preferred model could be introduced at some point in the future.

For example, the provincial Green Party had long been a strong supporter of electoral reform, and probably won much of its support in the 2001 provincial election based on this policy. During the public hearings part of the Citizens' Assembly process, party leader Adrienne Carr worked hard to convince the Assembly to adopt MMP. [10] But when the Assembly chose instead to endorse STV, the Green Party became neutral in the referendum, while Carr and the party's only elected representative, Vancouver School Trustee Andrea Reimer, campaigned against STV (and hence, in favour of FPTP). [11]

Carole James, the NDP leader, was not quite so brazen in her opposition to STV. She remained officially neutral throughout the concurrent election and referendum campaigns, but publicly announced on May 18, one day after the referendum, that she had voted against STV. "I didn't feel that STV was the direction to go," she explained in an interview. "I felt that there were other models to look at. I think mixed member proportional representation meets the needs of the population of British Columbia." She went on to recommend a second referendum, presumably on MMP, to be held concurrently with municipal elections in November.

The kind of strategic voting encouraged by the Green and NDP leaders was probably enough, in the end, to cause STV to fail to achieve the 60% threshold required in order to be put into effect for British Columbia's 2009 general election. With former partisans of reform like Carr and James pulling their support away from reform, STV won the support of only 57% of voters—-three percent shy of the magic number.

This has put British Columbia into a very awkward situation. Prominent pro-reform campaigner Julian West (who has sought both Green and NDP nominations in the past) expressed his frustration this way:

> "I don't see anything procedure-wise that's putting mixed proportional back on the stage at this point. Nobody went out and campaigned on the basis that a [referendum] result like this would be a mandate to do that [i.e. to set aside STV and move on to a showdown between MMP and FPTP]." [11]

There is now no mandate in British Columbia to make any move from the status quo, given that a mandate for accepting STV requires an unobtainable majority, but that a mandate to set STV aside and to move on to one of the other alternatives would presumably require—at the least—that the STV option had been *rejected* by at least half the voters.

But the status quo FPTP system has also effectively been rejected, since it was presumably supported only by that portion of the 43% of British Columbians who voted against STV (and who did so for reasons other than those that motivated Ms. James and Ms. Carr).

An editorial in the *Vancouver Sun* on July 21, 2005, points out the difficulties in establishing a mandate for any new electoral system under these circumstances:

> [Carole] James has suggested simply mounting a second referendum which would offer voters 'more choices.' There are practical obstacles to that route ... , not least what to do if none of the options garnered majority support. (Stick with the status quo? Hold a run-off referendum?) .... In any event, civic elections rarely draw the levels of voter participation you see in provincial elections.

One obvious way to deal with the problem of legitimacy is to avoid the need for super-majority criteria in any future referendum. In referendum votes, as in votes taken in the legislature, there is much to be said for the simple rule that 50% plus one constitutes a mandate.

However, it also seems reasonable to accept Ms. James' underlying assertion at face value. She is saying, in so many words, that she believes that British Columbia voters would have selected MMP over STV, if those two options, rather than STV and FPTP, had been on the ballot. We have no way of knowing whether this is true or not.

Needed: A Preferential National Referendum

At the federal level, we could avoid the BC situation if we were to establish a Citizens' Assembly not for the purpose of pre-selecting a single option to be placed on the ballot in opposition to FPTP, but rather to design several options, which would be placed on the ballot in competition to one another. Voters would then have the option of ranking the competing models.

I am advocating that Canada should use a preferential referendum whereby voters would place a "1" on the ballot beside their preferred option, a "2" beside the option that they like second-best, and so on. If no single option won a majority of the votes, the least-favoured option would be dropped from the ballot, and the ballots of voters who had chosen this option as their first preference would be redistributed to the options that had been their respective second choices. This process would continue until a single option achieves a clear majority.

Under a preferential referendum, voters would have the option of indicating their preference for the option of which they most approve, without having to make FPTP the default option. Advocates of all options could aggressively campaign in favour of their preferred option without having to become *de facto* champions of the status quo, as occurred in British Columbia.

Preferential balloting is the best way of arriving at consensus outcomes, when no obvious majority exists; this is why it is used by many political parties, including my own, for selecting their leaders. Moreover, the idea of using a preferential referendum for selecting a new electoral system is not new. The process was advocated as long ago as 1997 by the Reform Party's task force on electoral reform, for which I was the researcher. More recently, Fair Vote Ontario has taken stock of the strengths and weaknesses of BC's Citizen Assembly process, and made the following recommendation:

> The BC Citizens' Assembly was instructed to work with the current number of seats in the BC legislature and to recommend only one system. We believe such restrictions should be removed to allow the Ontario Citizens' Assembly to recommend whatever they believe best for Ontario .... If they cannot reach a general consensus on the single best alternative voting system, the OCA should be allowed to present two alternatives, with voters using a preference ballot in the referendum to choose among the alternatives and the *status quo*. [12]

I support the application of this approach at the federal level, and would take it further: The Citizens' Assembly should be mandated to place several options before the people of Canada, designing each of its alternatives to be as complete as possible, as appealing as possible, and as reflective as possible of the values that Canadians would like to see encapsulated in their electoral system. Then the decision should be turned over to the voters, who will—as Canadians always do—choose the wisest and most generous compromise, from among the available options.

Notes

1. A notable exception has been Lawrence Solomon. See his various opinion pieces in the *National Post* in 2005.

2. The exception to this rule is the Bloc Quebecois. It is very difficult to imagine an electoral system better suited than FPTP to translating the Bloc's geographically-concentrated base of support into a large number of seats in the House of Commons. The Bloc's record is as follows: 1993: 13.5% of the national vote produced 54 seats; 1997: 14.6% of the national vote, 44 seats; 2000: 10.7% of the national vote produced 38 seats; 2004 12.4% of the national vote produced 54 seats.

3. Andrew Coyne and Lawrence Solomon, "BC's Democratic Revolution," *National Post*, May 16, 2005.

4. On February 1, 2005, committee members (including me) voted a travel budget of $289,695 for the European and Antipodean trips. Later, while the committee was abroad, committee member Françoise Boivin complained to the media about the large size of the travel budget.

5. I prepared a dissenting report for Conservative MPs on the committee, which indicated our preference for a Citizens' Assembly on the British Columbia model.

6. "A Short History of Federal Electoral Reform in Australia." http://www.aec.gov.au/_content/when/history/short_history.htm. Accessed April 15, 2005.

7. The Australian Senate was, at this time, elected by means of FPTP in multiple-member constituencies (six senators being elected at a time from each state. Under this system, known as "Block Voting", each voter was given six votes, and the first six candidates past the post were elected. This system is still widely used in Canada for municipal elections in small towns where the town is not divided into wards, and consequently, all voters can cast ballots for all candidates for town council.

8. John Uhr, "Why We Chose Proportional Representation," *Senate of Australia: Papers on Parliament,* no. 34, Chapter 2. http://www.aph.gov.au/Senate/pubs/pops/pop34/c02.htm. Accessed April 15, 2005.

9. Source for all referendum statistics relating to New Zealand: Helena Catt (Chief Executive of the New Zealand Electoral Commission), "New Zealand's Experience with MMP (AMS)." Mimeograph distributed to Canadian MPs from the House of Commons Standing Committee on Procedure and House Affairs visiting New Zealand, April 2005, p. 2.

10. Gordon Gibson, the designer of the Citizens' Assembly process, stated "I think there were attempts to influence the public hearing process .... Adrienne Carr, leader of the Green Party, claimed that 80 percent of the testimony supported her favoured system [MMP]. If so, that is a great tribute to her organizing ability, but not a reflection of the views of British Columbians, in my opinion." *Fraser Forum*, February 2005, p. 25.

11. Brad Badelt, "Vote-reform supporters vow to continue STV fight," *Vancouver Sun*, May 23, 2005.

12. See Fair Vote Ontario, "Ontario Citizens' Assembly: Improvements on the BC Model." *Mimeograph.* January 20, 2005.