

BC ELECTORAL REFORM: VOTERS TO DECIDE, AGAIN

Gordon Gibson



When BC's Citizens' Assembly recommended a single-transferable-vote (STV) electoral reform, voters supported it in a referendum last May by a majority of almost 58 percent, and in all but two of the province's 79 ridings in the legislature. While just short of the required double super majority of 60 percent of voters and ridings, it was a double moral majority, enough that the Campbell government last month scheduled a second referendum in 2008, with the results, if ratified, to be implemented at the following election in 2009. Gordon Gibson, a senior fellow at the Fraser Institute, reflects on his unique experience as architect of the citizens' assembly, and the work that still lies ahead.

Dans un référendum tenu en mai dernier, 57 p. 100 des électeurs et 77 circonscriptions sur 79 ont appuyé la recommandation de l'Assemblée des citoyens de la Colombie-Britannique d'adopter le vote unique transférable pour réformer le système électoral de cette province. On a certes raté la supermajorité double de 60 p. 100 d'électeurs et de circonscriptions, mais de si peu que le gouvernement Campbell a annoncé le mois dernier un second référendum pour 2008. S'il est gagné, le nouveau système sera mis en place dès le scrutin de 2009. Gordon Gibson, senior fellow de la Fraser Foundation, décrit sa riche expérience à titre de président de l'Assemblée des citoyens et le travail qui reste à faire.

The Citizens' Assembly is again in the news in British Columbia. The Campbell government has decided to submit the electoral system recommendation of the assembly (a form of the single transferable vote) to a second referendum in November 2008, which if passed will be used for voting in the scheduled election of May, 2009.

This is not a new case of serial referendum-itis, governments asking the same question until they get the result they want, as in Quebec and the European Union. Whatever may be the merits of that approach, the BC case is genuinely different. It comes about because of the overwhelming democratic consensus revealed by the first referendum in May of this year.

The government had established a high (too high) double threshold, of 60 percent support overall and majority support in 60 percent of the ridings in order to implement the new system. On voting day the STV proposal received majority support in 97.5 percent of the ridings (that is not a typo) and almost 58 percent overall of the popular vote.

This was a level of popular support perhaps unprecedented in Canadian history for a specific, detailed and affirmative measure of reform. That result, combined with the immense public credibility of the assembly itself, convinced the government to give the public another shot at it with a

longer time for reflection and additional information of importance, including the exact proposed boundaries of the multi-member ridings. (The assembly had not dealt with this except in conceptual form.)

The assembly idea will continue in the news in Ontario. A committee of the Ontario legislature was recently in BC to gather data on the process in the wake of a firm decision by the Ontario government to utilize an assembly for its own electoral reform exercise.

What is the "citizens' assembly" concept and why is it so exciting? (as it is!) It is a brand new tool of direct democracy. It is a *special purpose, representative and empowered* public policy instrument. The italicized adjectives are important.

Regarding "special purpose," the assembly technique, like other tools of direct democracy, should only be used sparingly. Most public decisions are and will continue to be best made by elected representatives making informed tradeoffs and exercising expert oversight. But in some special cases — electoral reform, for example — an assembly is clearly the right way to go, because politicians are totally conflicted in such considerations.

Regarding "representative," an assembly is not intended to be like a legislature, but rather truly representative, as in a mirror or a microcosm of the body politic. Every citizen

should be able to look at the assembly and say, “Yes, there is someone there who is very similar to me.”

And regarding “empowered,” an essential characteristic of this approach is the direct submission of the assembly’s advice to the people in a referendum, unfiltered and unmodified by governments. Under the Canadian constitutional structure such referendum verdicts cannot be binding on legislatures, but they are mighty powerful statements, ignored at the politicians’ peril.

The combination of an independent deliberating body with a guaranteed validation mechanism of major democratic credibility — the referendum — is what gives this idea its enormous power.

This is the system the Campbell government envisioned and the BC legislature ultimately endorsed unanimously. It remains one of the most astonishing things I have seen in a lifetime of politics — the voluntary transfer of a very significant slice of constitutional power, first to an uncontrolled and uncontrollable group of citizens, and then to the general public.

It is significant that the politicians in Ottawa have considered this idea and rejected it with horror, in favour of setting the rules of democracy themselves, thank you very much. The fox will continue to guard the henhouse.

The most essential characteristic of an assembly is legitimacy, for without that the referendum test could never be passed. Legitimacy in turn requires a number of other good things — empowerment (so as to be taken seriously), independence, objectivity, representativeness, due diligence and transparency, for example.

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endum right, independence and representativeness would be secured by the manner of choosing assembly members, and due diligence and transparency would be secured by excellence of process.

The selection question was key. Why should we trust the assembly members?

The usual way to make electoral systems is to rely upon elected representatives, or panels of experts such as royal commissions. The latter

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route was ruled out from the beginning, as this was to be a people’s exercise. Electing a special purpose assembly has been used for constitutional purposes in some parts of the world but would not have done in the BC of today. We are too polarized, and any election of assembly members would have degenerated into a partisan contest with the main purpose lost in the shuffle.

That left the random method of selection, not used for any important public purpose (except in the restricted case of juries) since ancient Greece. The sample pool was the voters’ list, and randomly selected conditional offers of membership were sent off to about 15,000 British Columbians. The invitation list was “stratified” to ensure proper geographical, gender and age-group weighting.

There was about a 10 percent uptake of interest, so the first screening process was a high degree of self-selection. We knew that those appearing at the information meetings were genuinely interested in a serious, important but also arduous task.

(As an important aside, self-selection can have dangers if there is any reason to believe it will be done on

the basis of a vested interest in the outcome of the matter under decision. For example, one couldn’t have self-selected juries for alleged sex offenders. The “hang ‘em high” crowd would self-select in great numbers. But in this case there is no reason to believe, and much reason not to believe, that those expressing continuing interest had any preconceived views whatsoever on electoral reform.)

The next step was to choose one man and one woman at random from

each riding list. (Many of those not chosen were extremely disappointed.) The resulting age stratification was not perfect, but quite close to the provincial reality.

Further stratification (with one small exception) was ruled out for dimensions such as ethnicity, income, education, trade union membership, religion and the like. (See www.citizen-sassembly.bc.ca for my report and details on this and many other aspects of the assembly’s design and actual working.)

The assembly’s mandate was tremendously important. It was decided to focus it with great precision, ruling out recommendations on anything other than the narrow question of how to translate votes into seats. Thus, important related (but severable) matters such as campaign finance, specially reserved seats in the legislature, the size of the legislature, compulsory voting and the like were excluded from the mandate on the grounds that they would import confusing controversy around the main question.

The assembly was constrained to a recommendation consistent with the Westminster system, and to a single

recommendation, not a smorgasbord of choices. The logic was that it was to be the assembly that had the resources to investigate and weigh the multitudinous complex systems. It should do that job and present its best single judgment for a “Yes” or “No” vote.

The staff was tremendously important, as the keepers of the process. Chair Jack Blaney, Research

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Director Ken Carty and the others did superb work, building a template that can be confidently copied by others. When you put 160 strangers in a room to talk about and decide on an important topic they know nothing about, the result could be chaos. It wasn't. The education, public hearing and deliberation phases all went smoothly, and fully in the public eye. Cynical political journalists were astonished and highly impressed by how well the process worked.

In the end the assembly arrived at a recommendation that would almost certainly not have been reached by a group of politicians. Politicians tend to hate STV, which is why it is so rare in this world. It shifts a lot of power from parties to voters, and from the whip to backbenchers. That is what the assembly wanted for BC.

If the process had a defect, it was in the post-recommendation public education phase. Insufficient resources were supplied. But in the end the public reached a clear verdict and participation in the referendum vote was almost identical to the ordinary vote for MLAs.

Opining on the threshold was not a part of my mandate, but I would argue that it should have been lower — 50 percent + 1 as to overall support, while leaving the requirement for a majority in 60 percent of the ridings. The government of BC in a sense trapped itself on this one. Other governments imposing too-high thresholds in the future will suggest

prima facie evidence of an intent to strangle reform at birth.

Supermajority requirements, after all, are designed to protect either minority rights or essential elements of the status quo. The details of the electoral system do not qualify on either count.

What we have developed in British Columbia is a working model

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of the first new form of direct democracy in more than a hundred years. This is a great tribute to the politicians who authorized it.

This is not just my opinion. A colloquium at UBC scholars who study democratic theory from the universities of Toronto, Montreal, Stanford, a large contingent from Harvard and others felt (in the words of a summation document by the convenor, Prof. Mark Warren):

[W]e believe this is the first time it has been shown that an institutional innovation

can reduce democratic deficits clearly and dramatically.” The process “...will produce demonstration effects that will be crucially important as the consolidated democracies struggle with falling citizen trust in government...” “The Citizens’ Assembly process suggests a new way of dealing with initiative and referenda processes which, as in California, are not only of questionable legitimacy but produce poor public policy,” and from polling results, [T]he more voters knew about the Citizens’ Assembly the more likely they were to vote yes.”

In sum, “the Citizens’ Assembly process is BC’s legacy to democratic renewal in Canada and around the world.”

This is a huge tribute to the assembly members, and that brings me to my final point. We all take some important things in this life on faith. Democrats believe that

ordinary people have the capacity to govern themselves — but they don’t often get a shot at it, so where is the proof? Here we saw the proof in action. And most members say it changed their lives.

For a democrat to see this was a bit like a Christian seeing God.

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