

**STV FOR BC**  
(Single Transferable Vote for British Columbia)

by

NICK LOENEN  
B.A. The University of British Columbia, 1975

A THESIS SUBMITTED IN PARTIAL FULFILMENT OF  
THE REQUIREMENTS FOR THE DEGREE OF  
MASTER IN ARTS

in

THE FACULTY OF GRADUATE STUDIES

Department of Political Science

We accept this thesis as conforming  
to the required standard

THE UNIVERSITY OF BRITISH COLUMBIA

May, 1995

© Nick Loenen, 1995

In presenting this thesis in partial fulfilment of the requirements for an advanced degree at the University of British Columbia, I agree that the Library shall make it freely available for reference and study. I further agree that permission for extensive copying of this thesis for scholarly purposes may be granted by the head of my department or by his or her representatives. It is understood that copying or publication of this thesis for financial gain shall not be allowed without my written permission.

Department of Political Science

The University of British Columbia  
Vancouver, Canada

Date April 25, 1995

## **ABSTRACT**

In a representative democracy the people's representatives are expected to do what the people would do if they were present in person. To attain this ideal requires that the legislature in its composition embodies the politically relevant diversity that exists within society, and that the legislature has power to act. These two requirements are prevalent among significant theories of representation, post-Charter court rulings, and the commonly accepted expectations of the people themselves.

Typically, the composition of the BC legislature is not representative; and the legislature lacks power to act. The Single Member Plurality electoral system manufactures majorities in the legislature where none exist among the people. Most voters are not represented in the legislature, and the artificial majorities give cabinet undue power. When cabinet has too much power, the concept of responsible government is subverted, MLAs lose their independence, and are beholden to their political party, instead of their constituents.

Replacing the Single Member Plurality system with the Single Transferable Vote has the potential to give voters more choice, waste fewer votes, bring greater diversity into the legislature, lessen party discipline, weaken the power of the Premier and cabinet, increase the power of the legislature, restore responsible government, render government more responsive to changing public demands, reconnect government to the people, and give voters power over their representatives.

Our electoral system is designed to benefit political parties – not people. Therefore, change will not likely originate with parties and party activists. It must come from the people themselves, aided perhaps by the courts.

# TABLE OF CONTENTS

<b>Abstract</b>	<b>ii</b>
<b>Acknowledgements</b>	<b>iv</b>
<b>Introduction</b>	<b>1</b>
 <b>CHAPTER ONE: REPRESENTATION</b>	 <b>8</b>
<b>1.1 Theories of Representation</b>	<b>8</b>
<b>1.2 Popular Demands</b>	<b>18</b>
<b>1.3 The Charter and Recent Court Rulings</b>	<b>26</b>
 <b>CHAPTER TWO: THE LEGISLATURE</b>	 <b>32</b>
<b>2.1 Responsible Government</b>	<b>33</b>
<b>2.2 The Legislature in Practice</b>	<b>36</b>
<b>2.3 Caucus, Party, and Elected Member</b>	<b>40</b>
<b>2.4 "...In a Manner Responsive To Them" ?</b>	<b>44</b>
 <b>CHAPTER THREE: DEMOCRATIC REFORMS</b>	 <b>50</b>
<b>3.1 Direct Democracy</b>	<b>51</b>
<b>3.2 Parliamentary Reforms</b>	<b>57</b>
<b>3.3 Summary and Transition</b>	<b>60</b>
 <b>CHAPTER FOUR: TOWARDS A SOLUTION</b>	 <b>63</b>
<b>4.1 Proportional Representation (PR)</b>	<b>63</b>
<b>4.2 Objections Considered</b>	<b>67</b>
<b>4.3 Single Transferable Vote (STV)</b>	<b>79</b>
 <b>CHAPTER FIVE: IMPLEMENTATION</b>	 <b>88</b>
<b>5.1 The Legislature Revisited</b>	<b>90</b>
<b>5.2 Would Turkeys Vote for an Early Thanksgiving?</b>	<b>98</b>
<b>5.3 Lessons From History</b>	<b>103</b>
 Appendix A	
Classifying Countries by Electoral system	108
Appendix B	
Suggested STV Electoral Districts	109
Appendix C	
STV Counting Procedure Used in the Republic of Ireland	112
Appendix D	
Projecting 1991 Election Results, Using the Proposed 15 STV Districts	113
 <b>Bibliography</b>	 <b>114</b>



## ACKNOWLEDGEMENTS

When and where did this work start? Where is the start of anything? When and where does a person start? This study is my work, but the seeds were sown long ago. Perhaps by a mother who instilled self-confidence, and a father who was educated without the benefit of much schooling. He fought against an oppressive social order to establish workers rights, and resisted National Socialism, that persons might be free. Perhaps it started with my maternal grandfather, a day labourer, who in the 1890's walked with a wheelbarrow from Nieuw Loosdrecht to Amsterdam (30 km as the crow flies) to purchase study books that would assist the Young Mens Christian Society debate the meaning of existence. Where is the beginning of anything? Did it start during the five years on the backbench, when Richmond constituents complained that their government did not speak for them, and each passing year confirmed the lack of accountability in government?

This work owes much to all these individuals, and many others. It took shape under the professional and watchful eye of my advisor, Paul Tennant, and benefited from helpful suggestions by other members of UBC's Political Science faculty, especially Ken Carty and Alan Cairns.

Marilyn Zuidhof-Loenen, and Jeff Loenen provided excellent editing. George Gibault, who combines practical political instinct with a love for history, and political philosophy, offered penetrating commentary on every idea in these pages. Their enthusiastic support and helpful suggestions are much appreciated. Research was assisted by library staff at UBC, and the legislative library in Victoria.

Finally, without Jayne's tolerance for my strange, unsociable working habits, this work would not exist. I am grateful to each of these persons, and many not mentioned, for being part of my life. They all helped shape this project.

## INTRODUCTION

Democratic ideals suggest that acts of government should express the collective will of the people. In practise it is not always so. This study suggests institutional change to increase the likelihood that when government acts, the people have spoken, and when the people speak, the government acts. This study is about limiting the misuse of government power, and increasing choice for citizens, so necessary for human freedom. Thomas Hobbes, the 17th century's British political philosopher titled his work on government *Leviathan*, that mystical, large, and powerful sea-monster. Government is big, with enormous, coercive powers. Paradoxically, such power is the condition of our freedom. Without law, anarchy, chaos, and barbarism would result. But the balance between freedom and oppression is almost impossible to maintain. The power so essential to preserve freedom, often destroys it. The 20th century, more violent than any previous, has witnessed oppression, terror, and death inflicted on millions, not because it lacked government, but because the Leviathan of government ran amok. Why should any of this concern the peaceful citizens of Canada, and British Columbia; are we about to succumb to totalitarianism? No, but neither are we an example of democracy. Consider the following.

**Item One:** Late Saturday evening, February 6, 1988 the then Premier of British Columbia, Bill Vander Zalm, on returning from a holiday in Hawaii, announces as he steps off the plane, that funding for abortions will be discontinued. The next day his caucus enters a two-day meeting. Funding for abortions is not an item on the agenda, but in response to a question, caucus is told government policy is as stated by the Premier at the Airport; end of discussion. On Monday, February 8th, Cabinet meets and by order-in-council amends the provisions of the Medical Services Plan to effect the policy. CBC Vancouver asks by way of phone-in poll: "Should the government pay for abortions that result from rape and incest?" The answer: 2,901 yes; 496 no.

On March 6, two polls show 66% of the population oppose the government's new policy.<sup>1</sup> The BC Supreme Court rules against the government on March 7, on technical grounds, suggesting that if the government insists on this policy, there are better ways of doing it.<sup>2</sup>

**Item Two:** On September 12, 1994, Quebec elects a government committed to taking Quebec out of the Canadian federation. The separatist Parti Quebecois receives 44.7% of the popular vote and 77 seats. The Liberals receive almost the same popular vote, 44.3%, but only 47 seats. Premier-designate, Jacques Parizeau claims to have a mandate to set in motion the process leading to sovereignty for Quebec.<sup>3</sup> Opinion polls consistently show support for sovereignty in Quebec is at 40%.

Both items show a Premier committed to using the power of office to implement a policy not supported by a majority of the citizens.<sup>4</sup> In a representative democracy government action is supposed to reflect what the people would have done had they made the decision themselves. If our governmental institutions are meant to ensure that the people's will prevails, then the two items cited are instances of institutional breakdown. The contrary could be argued. On this view the judicial branch of government stopped Vander Zalm, and the people will stop the Parti Quebecois in a referendum if the majority is so minded. The government as a whole did not fail; in fact, these instances show that the institutional checks and balances work. My reply would be twofold: first, should we be satisfied with a system that can take us to the edge of the precipice, and cause so much unrest and confusion, particularly in the

---

<sup>1</sup> *Vancouver Sun*, March 5, 1988, polls by Angus Reid and Marktrend.

<sup>2</sup> *BC Civil Liberties Association vs BC (AG)* (1988), 24 BCLR (2d) 189 (BCSC).

<sup>3</sup> *Vancouver Sun*, September 13, 1994 p.1.

<sup>4</sup> The issue in Item One, for the purpose of this paper, concerns the process of decision-making, not the merits of funding abortions. Lest there be any doubt about my motives in selecting the abortion instance, my personal view is largely pro-life, and on public record at least back to Oct. 19, 1983, see *Richmond Review* of that date.

instance of Quebec? Second, the parts of government that are the subject of this thesis, namely the legislature and the electoral system, did in some sense fail.

In Item One the breakdown occurs because the Westminster parliamentary model<sup>5</sup> gives too much power to the first minister (Prime Minister or Premier)<sup>6</sup>, and in Item Two the breakdown is due to an electoral system that artificially generates majorities in the Legislature where none exists among the people.<sup>7</sup> Our electoral system typically awards government to a minority. For example, W.A.C. Bennett never enjoyed majority support. The two items point to the two areas where representative democracy is endangered in our present system of government. Government accountability is weak and the composition of the legislature is not representative. The two are not unrelated; correcting the second will probably remedy the first. The best way to prevent misuse of government power is to enlarge choice for people. An electoral system that favours parties must be exchanged for one that favours people.

This thesis attempts to show that giving people more choice at election time, and more accurately translating voter's preferences into seats, will likely concentrate power less in the cabinet (Premier and cabinet), and more in the legislature. A proportional electoral system will do both – give people more choice<sup>8</sup> and translate

---

<sup>5</sup> A term used to denote the British Parliamentary system which selects as Prime Minister or Premier the Leader of the political party with the largest number of seats, who in turn selects a cabinet from the popularly elected Members of the House. Cabinet is said to be responsible to the House in as much it cannot remain in power unless it enjoys the support of a majority of the Members of the House.

<sup>6</sup> Hogg Peter. W, *Constitutional Law of Canada*, 2nd ed. Toronto, Carswell, 1985, p.197.

<sup>7</sup> Rae Douglas, *Political Consequences of Electoral Laws*, New Haven: Yale University Press, 1967, pp 74-75; Cassidy Michael, "Fairness and Stability in Canadian Elections: the Case For An Alternative Electoral System", 1992, Ottawa: Parliamentary Centre for Foreign Affairs and Foreign Trade, p.3.

<sup>8</sup> Confirmed by many studies. Taylor P.J, and Johnston R.J, *Geography of Elections*, New York: Holmes and Meier Publishers Inc. 1979. They conclude their study by noting, "If you want maximum choice for voters, then go for STV." p. 486; McLean Iain, "Forms of Representation and Systems of Voting" in Held David, ed., *Political Theory Today*, Cambridge: Polity Press 1991 pp.172-196.

voter's preferences into seats more accurately.<sup>9</sup> Therefore, the thesis is: **replacing British Columbia's Single Member Plurality (SMP) system with the Single Transferable Vote (STV)<sup>10</sup> in multi-member districts will likely change the relationship between the Cabinet and the Legislature, making the Cabinet more responsible to the Legislature and less prone to usurp the legislative function of the Legislature.**

Much discontent with government exists because people feel powerless. The system does not respond to them. On election night most voters get a representative they did not vote for. Further, many do not vote for their first preference. The unresponsiveness of our system does not stop there. Those few voters whose first preference does make it to the legislature, are still not represented. All decisions of importance are made outside the legislature. For a voter to have a voice in the legislature is meaningless, if the legislature has no clout. Cabinet has too much power, rendering the people's representatives almost impotent.

Government unrepresentativeness, and unaccountability can be resolved only by giving people more choice. The limited choice offered voters under our present system, stifles political diversity and meaningful participation. While increasingly people experience, and come to expect, greater diversity, for example in consumer goods, life-style, education, and multi-culturalism, our political institutions are not keeping pace; they inhibit diversity. Single Member Plurality (SMP) systems are unkind to minorities, except to the largest minority<sup>11</sup>. In an increasingly pluralistic

---

<sup>9</sup> Confirmed by many studies. Andre Blais writes on this point, "This assertion is plainly indisputable." Blais A, "The Debate over Electoral Systems" in *International Political Science Review* (1991) vol.12, no.3 Butterworth-Heinemann pp.239-260; Taagepera R, and Shugart M. S, *Seats and Votes*, New Haven: Yale University Press, 1989.

<sup>10</sup> Not to be confused with the Alternative Vote system used in BC for the 1952 and 1953 elections. The Alternative Vote ensures each representative has majority support, but it is riding based, and therefore, it does not yield proportional results.

<sup>11</sup> Cairns Alan C, " The Electoral System and the Party System in Canada, 1921-1965" *Canadian Journal of Political Science*, Vol.1 March 1968 p. 59.

society, this is intolerable, and is a significant contributing factor to the wide-spread lack of trust in anything political. Government should be as pluralistic as the society it serves.<sup>12</sup> Attaining that goal may require institutional change.

The material is presented as follows. Chapter One considers ideas about the function and composition of the legislature drawn from three sources. First, what do theorists in democracy and representative government teach? Second, what are the attitudes and expressed desires of the people? Third, what can be learned from recent court rulings? Each of these suggest, if not demand, that the legislature should have a significant role in law-making.

Chapter Two is a study of the relationship between the BC cabinet and the legislature. When SMP is combined with party discipline the concept of responsible government suffers. The legislature, as presently constituted, does not have a significant role in law-making.

The impotence of the legislature has not gone unnoticed. Many corrective measures have been proposed, such as direct democracy (recall, referendum and initiative), and parliamentary reforms (free votes, fixed election dates, and a more meaningful role for standing committees of the legislature). These are discussed in chapter Three, and are judged to be inadequate. Chapter Four introduces proportional representation generally, and STV in particular. It also suggests a BC electoral map using STV.

Chapter Five considers the likely consequences of changing the electoral system from SMP to STV, particularly on the functioning of the legislature and its relation to the cabinet. It concludes that such a legislature would more closely meet the requirements of democratic ideals. The chapter closes with a brief consideration of

---

<sup>12</sup> See: Hirst Paul, *Representative Democracy and its Limits*, Cambridge (UK): Polity Press 1990.

the possibility of implementation given political realities, and historical experience with electoral reform.

My interest in this subject is not merely academic. I believe it is possible for people to participate more meaningfully in politics, to assume responsibility for public policies, and experience a greater sense of ownership over their government.

Participation is important, both on an individual level and to maintain a free social order. It is in ruling and being ruled that persons exercise their highest human capacities. By nature we are destined to live in community. Not everyone can be a ruler, but all should participate; not everyone can have their way, but all should have a say. Persons are less fully developed and satisfied to the degree they are excluded from political life.<sup>13</sup>

Citizen's participation is essential to maintain a free social order. This is paradoxically, especially true for democracies. Many observers, particularly de Tocqueville, have noted that democracy breeds individualism; people turn in upon themselves; few will bother to take an interest in public issues. This leaves democracy open to a new form of despotism; not the despotism of tyranny and oppression, but an "immense tutelary power,"<sup>14</sup> – the vast bureaucratic state. People keep demanding more services. Their horizon has shrunk, it stops at their own immediate self-interest. The appetite for private benefits from the public purse, destroys freedom. For de Tocqueville, the only defence is a political culture of participation. That alone will broaden the limited horizon of individualism. To

---

<sup>13</sup> Participation must extend beyond voting in periodic elections. Alexis de Tocqueville warned that if between elections most public policy decisions are made for people, they will lose the ability to make choices at election time. "It is in vain to summon a people, who have been rendered so dependent on the central power, to choose from time to time the representatives of that power; this rare and brief exercise of their free choice, however important it may be, will not prevent them from gradually losing the faculties of thinking, feeling, and acting for themselves, and thus gradually falling below the level of humanity." de Tocqueville A, *Democracy in America*, (H. Reeve translator) Boston: John Allyn Publisher, 1882, Vol. II, p.395.

<sup>14</sup> Ibid., p.392.

preserve freedom, politics must be structured to produce citizens committed to common responsibilities, justice for all, and a society built on cooperation and consensus, rather than the pursuit of private gain. In addition, social order depends on respect for law, respect implies assent, and assent requires participation. Proportional systems of representation are not sufficient, but probably necessary for fuller participation, and to making government authority more legitimate.

Thinkers from Aristotle to Alexis de Tocqueville warn that democracy depends on informed, virtuous citizens, capable of participation and judgment. For J.S. Mill, the principal aim of good government is the improvement of people themselves. He considered a proportional system the best means to that end.<sup>15</sup> The Norwegian scholar Rokkan viewed the spread of PR as the final stage in a process of increasing public participation, and thus the natural successor to suffrage reform. He describes Norwegian parishes that retain a SMP system as pre-political. SMP gave way in Denmark in 1856, and by 1920 Great Britain was the exception in Europe.<sup>16</sup> When will British Columbia shed its colonial past, to enter the modern, democratic political era?

The quest for PR is a search for meaningful citizens participation in the institution of their government. It is based on a high view of human nature. And such is the motive that informs this study.

---

<sup>15</sup> Mill J.S, *Utilitarianism, Liberty, Representative Government*, London: J.M. Dent 1910, pp.206 and 268.

<sup>16</sup> Taylor P.J, and Johnston R. J, *Geography of Elections*, New York: Holmes and Meier Publishers Inc. 1979, pp.414-15.



## CHAPTER ONE: REPRESENTATION

*Every representative system -- geographical, proportional, or other -- is an instrument whose purpose is to make effective the participation of citizens in communities too large to permit each a direct voice in substantive affairs. No such system will be perfect; but the continuing effort to improve old forms and devise new ones so as to make representation more just and more effective is an enterprise no democracy can wisely abandon.<sup>1</sup>*

Why is it desirable to change our electoral system to allow the legislature a more significant role in law-making? This chapter attempts an answer by specifying the composition and function of the legislature which democratic theory leads to, and both citizens and the courts increasingly demand. Ideas about democracy influence public expectations about the role of politicians, and the method they use to gain entrance to the legislature. Electoral systems define the rules by which electors choose those who govern. They stipulate who can vote, the number of constituencies, and their boundaries, the number of seats assigned to each constituency, and most importantly, how votes are translated into seats. Electoral systems are not objective, purely technical, mechanical, or value-free. Far from it. Different electoral systems are based on significantly different understandings and values related to the nature of representation, representative democracy, the role of political parties, and the crucial relationship between the legislature and the government.<sup>2</sup> Therefore, it is useful to start with democratic theory, both to show why the legislature should have a meaningful role in law-making, and to understand the kind of democratic values that should be reflected in an electoral system.

### 1.1 Theories of Representation

Deeply held common beliefs are often the most difficult to describe and define. Such is the case with our belief in democracy. To most of us, democracy is good and important. Twice this century, Canada sent the bloom of its youth into war to save

<sup>1</sup> Cohen Carl, *Democracy* Athens: University of Georgia Press. 1971 p.86-7.

<sup>2</sup> Cf. Plant Raymond, "Criteria for Electoral Systems: The Labour Party and Electoral Reform", *Parliamentary Affairs* Vol. 44 No. 4, Oct. 1991, Oxford University Press.

democracy. But what is democracy?

In its simplest and most literal sense democracy means “rule by the people”.<sup>3</sup> Pericles, largely responsible for Athenian democracy, told the people of Athens, “We are called a democracy because the government is in the hands of the many and not of the few”.<sup>4</sup> Democracy embodies the notion of self-rule, based on the belief that people are the best judges of their own interest. Bertrand Russell wrote: “All history shows that, as might be expected, minorities cannot be trusted to care for the interests of majorities.”<sup>5</sup> Theodore Roosevelt stated, “The majority of the plain people will... make fewer mistakes in governing themselves than a smaller body of men in trying to govern them”.<sup>6</sup> However, since there is not enough room under the village tree to accommodate all British Columbians, we choose representatives to do for us what we cannot do ourselves. Our form of democracy rests on several values and principles, among them the principle of representation. Our institutions of government are democratic, in no small part, to the extent they are representative. Therefore, we need to consider principles of representation, but it is important to retain the image of the original – people ruling themselves.

Theories of representation raise significant questions most voters seldom think about. Pitkin, in an influential linguistic study<sup>7</sup> identifies many elements of representation. These elements may be grouped in two categories, “structural” and “substantive”. The structural element deals with who and what should be represented, that is, it considers the make-up of the legislature, while the substantive

---

<sup>3</sup> The purpose of this study does not require consideration of the question that has dominated the 20th century, namely, whether democracy aims at an equal distribution of goods, or at libertarianism.

<sup>4</sup> Quoted in Kornberg Alan, et al., *Representative Democracy in the Canadian Provinces*, Scarborough, Prentice-Hall Canada Inc. 1982, p 2.

<sup>5</sup> Russell R, *Power*, London: Unwin Books, 1960 ed. p186.

<sup>6</sup> Quoted in Deverell J; Vezina G, *Democracy, Eh?* Montreal, Robert Davies Publishing, 1993 p. 101.

<sup>7</sup> Pitkin F. Hanna, *The Concept of Representation*, Berkley, University of California Press, 1967.

element emphasises what it is a representative does. Pitkin repeatedly warns that both are necessary, and blames much confusion on theorists who hold any one element of representation as sufficient for the whole.<sup>8</sup>

## STRUCTURAL REPRESENTATION

Hobbes had a very simple notion of representation; for him, every government represents its citizens, since all citizens are bound by government decisions. This may not be useful as it does not separate representative government from any other. In this century, Joseph Schumpeter advanced a view influential among academics, politicians, and voters alike.

The democratic method is that institutional arrangement for arriving at political decisions in which individuals acquire the power to decide by means of a competitive struggle for the people's vote.<sup>9</sup>

On this view, representation occurs when formal requirements for authorisation and accountability are met. These formal requirements are free, competitive elections at regular intervals. Such requirements are necessary, but are they sufficient for political representation? Others would want to specify more particularly, both the composition and function of the assembly that represents the people.

Under the influence of democratic ideals that shaped the American and French Revolutions, theorists began to conceive of representative bodies as microcosms of the population writ large. Comte de Mirabeau told the French Constituent Assembly in 1789, "... the representative body should at all times present a reduced picture of the people – their opinions, aspirations, and wishes, and that should bear the relative proportion to the original...".<sup>10</sup> Across the ocean, John Adams advanced the same

---

<sup>8</sup> Ibid., p. 81; 111; 139; 165.

<sup>9</sup> Quoted in Boyle T. Patrick, *Elections British Columbia*, Vancouver: Lions Gate Press, 1982 p. 4.

<sup>10</sup> Sterne Simon, "Proportional Representation" in Pitkin H.F., ed., *Representation*, New York, Atherton Press 1969. p.37.

concept.<sup>11</sup> On this view a legislature, to be representative, should consist of people that share the characteristics, and hold political convictions that are similar to, and in the same proportion as they exist among the electorate. The legislature should “mirror”, or be an accurate reflection of all the politically significant characteristics of the population in whose behalf it is to act. J.S. Mill was an ardent proponent of this view. To him, parliament is an arena, “where every person in the country may count upon finding somebody who speaks his mind”. Mill states further that, “In a really equal democracy, every or any section would be represented, not disproportionately, but proportionately.”<sup>12</sup>

On Mill’s view, human nature is such that a person’s interests are best represented and protected by oneself, and if not oneself, at least someone very like oneself. The goal is self-rule. If physical restraints prevent direct democracy as in the original, the substitute should, in its composition and function, resemble the original. If all the eligible voters in British Columbia could meet to conduct governmental affairs, every stripe and shade of political persuasion would be represented; hence, for a legislature to be representative, it too, should embody in its composition the politically significant diversity present among the voters. Only then, according to this view, can a legislature give expression to the will of the people.

The specification “politically significant” is important. Descriptive representation need not imply that political representation must involve sociological representation, such as, gender, age, income, religious affiliation, level of education, ethnicity, or occupation. Such sociological differences, often do, but need not imply political

---

<sup>11</sup> Quoted by Mc Lean Iain, “Forms of Representation and Systems of Voting”, in Held David, ed., *Political Theory Today*, Cambridge: Polity Press 1991 p.173.

<sup>12</sup> Mill J.S, *Utilitarianism, Liberty, Representative Government*, London, J.M.Dent and Sons Ltd.1957 pp.239;257.

differences. Political interests often cross sociological categories.<sup>13</sup> It is the diversity of political interests that needs representation. Pitkin observes that the history of representative government is "... shaped by the changing demands for representation based on changing concepts of what are politically relevant features to be represented."<sup>14</sup> Dimensions that reflect political differences change with changing times. For example, religion is less politically significant today than it used to be.

J.S. Mill does not see sociological representation as a prerequisite for political representation. In fact, he turned to a proportional system of representation partly because it would allow persons of exceptional talent, ability, and distinction to attract voter support. Mill's theory of representation is not some levelling device. However, sociological representation may carry political significance. For example, Mill also holds that it takes someone from the labour class to represent the interests of the labour class, presumably, because belonging to the labour class is politically significant. Also, sociological characteristics carry symbolic significance, apart from any political importance. I might not share the political views of the middle-aged, white males in the legislature, but if no middle-aged, white males were ever elected, my identification with the legislature would be weakened. Therefore, an electoral system that consistently limits elected office to certain segments of society could not be considered politically representative.<sup>15</sup>

This descriptive view of representation has a strong intuitive appeal. I have not found contemporary scholars who take a strong opposing view to descriptive representation in as far as it applies to the composition of a legislature. Going back in history, Edmund Burke opposed universal manhood suffrage, and electoral districts of

---

<sup>13</sup> Canada, *Royal Commission on Electoral Reform and Party Financing*, Vol. 1, 1991, Ottawa: Minister of Supply and Services p. 93.

<sup>14</sup> *Supra* note 7, p.87.

<sup>15</sup> Descriptive representation need not imply affirmative gerrymandering, nor that members of a particular sociological group may vote for no candidates except those of their group.

equal numerical size, because it would lead to personal representation. M.P.s would become agents for the people of their district, and be subservient to their will, instead of serving the national interest.<sup>16</sup> On this view, the representativeness of a popular assembly is measured by outputs, by what it does, more than by its composition. It is helpful to not place all emphasis on composition alone. Representation is a multifaceted concept. Much has changed in society since Burke's talk about a natural aristocracy. Certainty about the knowledge, wisdom, and virtues legislators possess has dwindled and the opinions of the people have gained greater respect. Burke was certain that the legislator's superior knowledge, wisdom, and virtue would lead to sure knowledge of what is best. Mill was less sure, and therefore thought it best to have all opinions represented in deliberation, from which truth would emerge. But even Burke supported extending suffrage to Irish Catholics because their interests were not represented.<sup>17</sup> I support Vernon Bogdanor when he writes, "the best guarantee of justice in public dealings is the participation in their own government by the people most likely to suffer from injustice."<sup>18</sup> That is the purpose of ensuring the legislature "mirrors" in composition the people it serves. It is to maximise the opportunity for self-rule.

## SUBSTANTIVE REPRESENTATION

Political representation involves more than formal requirements for authorisation and accountability and stipulations about who or what should determine the composition of the legislature. The legislature exists to do something. Therefore, the second element concerns representation as an activity. We must specify what that activity consists of. What is a political representative to do? For example, should

---

<sup>16</sup> Supra note 7, p.182.

<sup>17</sup> Supra note 7, p.175, and Freeman Michael, *Edmund Burke and the Critique of Political Radicalism*, Chicago: University of Chicago Press, 1980, p.118.

<sup>18</sup> Bogdanor Vernon, *What is Proportional Representation?* Oxford: Oxford University Press, 1984 p.121.

representatives be guided by their own view, judgment, opinion, conscience, or that of their constituents? Any vote by a representative either corresponds to how the constituents would have voted themselves, or it doesn't. If it doesn't, then surely those constituents are without representation. Some hold that it is nearly impossible to determine the wishes of tens of thousands of people on any number of issues. Besides, government should give leadership; the wishes of the people at the moment may not be in their best interest. Government is an instrument to arrive at wise decisions after careful deliberation and full consideration of all relevant information. Why revert to mob rule, by the ill-informed and least competent? On this view, listening too closely to the people turns representatives into mere errand boys, while the importance of government requires qualified persons capable of sound, independent judgment. There are good arguments to support both of these seemingly irreconcilable positions – often referred to as the mandate/independence controversy.

Pitkin has shown that this controversy derives from an equivocation embedded in the word representation itself. "The core meaning of 'representation' is making present in some sense of what is nevertheless not literally present."<sup>19</sup> Those who insist that the peoples' opinions and wishes must count want to make present, in a meaningful way, what is not present. Those who insist that a representative must have discretion to act, correctly point out that if the represented is present itself, no representation takes place. The represented must be absent in some meaningful sense. Pitkin suggests that representation is a careful, prudent balancing between these two extremes. Where a representative's actions bear no relationship to, or even contradict the wishes and interests of the represented, no representation occurs. Similarly, where a representative must not act except on the explicit instructions of the represented, there too, no representation takes place. The extremes are out of

---

<sup>19</sup> Pitkin H.F, ed., *Representation*, New York: Atherton Press, 1969 p.19.

bounds. With this in mind, Pitkin offers this definition: "Representation means acting in the interest of the represented, in a manner responsive to them."<sup>20</sup>

The last part, 'in a manner responsive to them', is significant, and also misunderstood.<sup>21</sup> It indicates that in a democracy representatives must explain themselves, especially when their view of the interests of the represented differs from the popular view. But in particular, Pitkin looks for a network of institutional arrangements which allow citizens to express an opinion. She does not expect citizens to express an opinion on every issue, but the means should be in place in the event they have an opinion to express. This is best illustrated with reference to local governments, which have more effective mechanisms to solicit citizens views than the provincial government. For example, zoning decisions involve a comprehensive Public Hearing process at each stage of the Official Community Plan, the Area Plans, the Rezoning Applications, and the Development Permits. Affected residents must be informed by mail, signs and print-media advertising of stipulated size and frequency. In addition, local councils must consult voters on borrowings for capital expenditures above a certain monetary value, and are bound to follow their will as expressed through referenda. These are the kind of institutional arrangements Pitkin is after. She is concerned that the outputs of the legislature serve the public interest, but that cannot be all; a benevolent dictator or despot may well serve the public

---

<sup>20</sup> Pitkin H.F, *The Concept of Representation* p.209.

<sup>21</sup> For example, see Eulau H. and Karps D. P, "The Puzzle of Representation: Specifying Components of Responsiveness" in Johnston P.J, and Pasis H.E, *Representation and Electoral Systems*, Scarborough: Prentice-Hall 1990, pp.44-60. The authors note Pitkin's formulation of responsiveness does not "specify the content or target of responsiveness" (p. 49). They then proceed to fill the void and suggest responsiveness may be measured by outputs in areas, such as, policy, service to constituents etc. But Pitkin's stipulation 'in a manner responsive to them' is directed at process, not output. Pitkin dismisses those whose sole concern is with outputs. She writes: "A representative government must... not merely promote the public interest, but must also be responsive to the people." , and "Representative government is not defined by particular actions at a particular moment, but by long-term systematic arrangements -- by institutions and the way in which they function." Supra note 20 pp. 232;234. Also, the authors criticize Pitkin for failing to observe Wahlke's findings that citizens are not significant sources of input for representatives, since citizens either lack the ability or willingness to develop and express meaningful opinions on policy questions (p.47). Again, this misses the mark. Pitkin's concern is with process, not content, a means for allowing people to express an opinion, whether used or not.



interest.<sup>22</sup> Representative government, on this view, requires, in addition, a process that is responsive to people.

Burke strongly defended the need that representatives use their own best judgment, and held that individual voters, or groups of voters may not always, at the time, be the best judges of their own, real interest. But he also considered that where a representative consistently disagrees with the represented, the view of the people must prevail, since the people as a whole, in the aggregate, are best equipped to judge, over time, their interest. Also, if the people's view is known beforehand on an important matter, that view should prevail.<sup>23</sup> Burke is often thought to believe that citizen input is unnecessary, but his position is more balanced.

The various aspects of representation considered suggest a progression – a range of conditions, and requirements necessary to representative government. For some, the most basic, formal requirements of free, competitive elections enabling the electorate to express a judgment on the performance of the representatives, after the fact, is considered sufficient. Others insist, that in addition, the composition of the legislature be prescribed to ensure all politically relevant opinions and interests be present. The behavior of the representatives may also need to be considered, what they do, and finally, how they do it. Representation is a multi-faceted concept. Where one places the emphasis depends on values, on one's view of human nature, the degree to which citizen participation is considered desirable, the history of a people, and their social homogeneity. If one is committed to classical democracy as self-rule, and maximum participation to improve and develop the character of citizens,<sup>24</sup> then the full range of requirements seem desirable, particularly in a society with significant political

---

<sup>22</sup>Supra note 20, p.231.

<sup>23</sup>Supra note 20, pp.181-2.

<sup>24</sup> Self-rule is important to Canadians. "Our political values ascribe a high priority to the right -- even obligation -- of its citizens to be self-governing." Canada, *Royal Commission on Electoral Reform and Party Financing*, Vol. 1, 1991, Ottawa: Minister of Supply and Services.

diversity.

Few contemporary scholarly works overtly disagree with Pitkin's view of representation. However, many studies try to measure responsiveness in terms of outputs – the kind of services a representative delivers.<sup>25</sup> As a result of this attempt to measure responsiveness by means of quantifiable, empiric research of outputs, there seems to be less emphasis on process, and perhaps an unstated acceptance that output is all that matters to the average voter, and process in representative government entails no more than periodic, free, and competitive elections. In contrast, Pitkin's concern with responsiveness is directed at process, not output. Outputs must serve the interests of the represented, but in a democracy, where government is, as much as possible, 'in the hands of the many, not the few', the *manner* in which this is done is as important as *what* is being done. That I take to be Pitkin's point. It is one I endorse.

Unfortunately, it is true that many persons have no interest in the democratic process, as such. Concern with process is kindled only when their "bread and circuses" are cut off. Such behavior is fed by an impoverished view of government. If government is primarily an instrument to dole out material plenty for the masses, then there is no qualitative difference between a dictatorship and a free society. Democracy and human freedom are ill-served by empirist, political science studies that focus exclusively on outputs, while neglecting process.

Whether one accepts the mandate or independence view of representation, or the Pitkin version of responsiveness, one essential ingredient is common to all: representatives must have the freedom and means to act for, and on behalf of the

---

<sup>25</sup> For example, Miller W.E, and Stokes D.E, "Constituency Influence in Congress", *American Political Science Review* 57, March 1963, pp.45-56. And Birch writes, "The responsiveness of elected representatives ... has been the subject of a great deal of research." Birch A.H, *Representation*, London, Pall Mall Press Ltd. 1971 p.127.

represented. They must have as much power as the people would have were they present in person themselves. Where allegiance to party or political leader takes precedence over the interests of the represented, representation is weakened. Where a political party, Premier, and cabinet diminish the independence of the representatives, the channel through which citizens are to engage in self-rule is obstructed. Where a representative is impotent, the represented are impotent. The legislature must have a significant role if the people are to be heard. If the people cannot be heard through their representatives, representation, and hence democracy, is weakened. The legislature is the people's forum; it is the place where the people vicariously engage in self-rule.

In addition, if one supports the Pitkin view that representativeness implies responsive institutional arrangements, the legislature itself is the first institution to be assessed for responsiveness. Then the question is: can people express an opinion through the legislature when they have an opinion to express? The conformity of the BC legislature to these requirements of representation, is the subject of chapter Two.

## **1.2 Popular Demands**

So far, to make a case that the legislature should have a significant role in law-making, I have considered requirements for the function and composition of the legislature derived from theory about representative government, but what do the people say? People express opinions in a variety of ways, including polls, lobbying of special-interest groups, and their vote at each election.

## **ELECTIONS**

Why do people vote, what are their intentions? Do voters vote for the local candidate, the party, or the party leader? Perhaps, they vote *for* nothing, but strategically,

against something.<sup>26</sup> BC's political culture is particularly infected by the latter. National election surveys show the leader and party to be far more significant factors for voters than local candidates.<sup>27</sup> If so, how are representatives to understand their role, and what is the function of the legislature to be? If votes for a representative are primarily expressions of support for the party leader and the party platform, then party discipline is a virtue, and a weak legislature most desirable. Every election is followed by comments, from academics to journalists, that 'The people have spoken', and 'You can't argue with democracy'. All this gives rise to the view that government receives a mandate from the people on the basis of a platform. Since the people vote for the leader, the party, and its platform, no legislature should be in a position to thwart the will of the people. The people have a right to expect the government to deliver on its promises, and the government should be given the tools to do so. Defenders of SMP point to this as its virtue; it creates strong government, able to make decisions, and implement its program. This is said to lead to accountability – the government is given the tools to do the job, and has no one to blame should it fail.<sup>28</sup>

However plausible such a view may appear, it would have more validity if Premiers were elected directly, like US Presidents. SMP focusses on local constituency representation. A modern political culture that relies on mass political parties, and that focusses on the leaders, not the local candidates, cannot achieve its aims through a single-member, riding-based system designed for the horse and buggy days. If a vote for the local candidate is in reality a vote for party and platform, then a list-

---

<sup>26</sup> Elkin's study defines strategic voting as voting for one's 'second choice' and suggests this happens infrequently. Elkins D. J, *Manipulation and Consent*, Vancouver: UBC Press, 1993 Chapter 7. Yet, it is common wisdom that under our system, governments do not get voted in, but out of office, and that for many their choice at elections is the "the least of all evils". Also, what is the motivation of the 25-30% of eligible voters who abstain? Perhaps, each ballot should have a box for 'None of the above'.

<sup>27</sup> Clarke H. D, et al., *Absent Mandate*, Toronto: Gage Educational Publishing Company 1991, pp.114-15. I don't know of a similar study covering BC politics.

<sup>28</sup> Franks C.E. S, *The Parliament of Canada*, Toronto: University of Toronto Press 1987 pp.222; 249; 260; 268; Birch A. H, *Representation*, New York: Praeger, 1971 p.115.

proportional representation system which focusses on party and leader would be far more appropriate. Voter intention would find its way into the legislature, the role of the representative would be without ambiguity, and truthful claims about the meaning of an election would be easier.

The contention that under SMP government has a mandate from the people is not only suspect because votes are for local candidates, but more importantly, the claim is suspect because SMP elects governments by minorities. In BC, typically, governments are not formed by the majority of the voters, but by the electoral system. SMP translates votes into seats so as to produce a legislative majority where none exists among the voters. Governments lack legitimacy; in most instances their mandate is questionable.<sup>29</sup> For example, the current Harcourt government won with 40% of the popular vote. Therefore, 60% of the people did not support him, the party, or its platform. In addition, modern campaign strategies induce parties to engage in politics of image, perception, and personalities, instead of principle, policy, and platform.<sup>30</sup> Political strategists know that a platform with too much detail is more hindrance than help.<sup>31</sup> They know policies demand that people make decisions; decisions can go both ways, for or against the party position. Images, bereft of content, are much safer. Under our present system governments

---

<sup>29</sup> In 1903 parties first entered BC politics. In all except 4 of the 24 general elections held between 1903-1986 the government received less than a majority of the popular vote. The exceptions occurred in 1909; 1912; and the wartime coalition of 1945, and 1949. Also, it is possible to go from Opposition to a majority government while sustaining a loss of popularity compared to the previous election; for example, the NDP in 1991. *British Columbia, Electoral History of British Columbia 1871 - 1986*, Victoria: Elections BC, and Legislative Library, 1988. Creating legislative majorities artificially is intrinsic to SMP, see: Rae D, *Political Consequences of Electoral Laws*, New Haven: Yale University Press, 1967, p.27.

<sup>30</sup> Kent Tom, *Getting Ready For 1999*, Ottawa: The Institute for Research on Public Policy, 1989 p.10. On negative advertising and campaign strategies that attack incumbents without offering alternatives, see: Lee R. M, *One Hundred Monkeys*, Toronto: Macfarlane Walter and Ross, 1989; Laschinger J, *Leaders and Lesser Mortals: Backroom Politics in Canada*, Toronto: Key Porter Books Ltd., 1992; Gagnon G, and Rath D, *Not Without Cause*, Toronto: Harper Row, 1991.

<sup>31</sup> In July, 1991 The BC Social Credit Party drew two thousand delegates to its convention. Reluctantly, and only at the eleventh hour, after Minister of Finance, M. Couvelier had publicly denounced the backroom organizers, did they allow 1 1/2 hours, out of 2 1/2 days, for policy discussion under conditions of strict control.

are not elected because of their policies. They receive a performance mandate, not a policy mandate. Did W.A.C. Bennett have a mandate to buy BC Electric in 1956, or Barrett to introduce the Agricultural Land Reserve in 1972? The suggestion that government is democratically chosen and mandated is, under our system, contrary to fact on two counts: typically, the majority does not support the government, and elections are seldom about policies.<sup>32</sup> Whatever it is that people "say" at election time, elections are usually not expressions of confidence in the new government by a majority of the people. This, of course, does not stop every new government from claiming to be the voice of the people. Following the 1988 federal election, which was largely concerned with free trade between Canada and the US, Mulroney claimed to have a mandate for Free Trade, but he won with only 43% of the popular vote. It should come as no surprise that trust in government is low.

## POLLS AND SURVEYS

When listening to people one fact stands out. There is wide-spread, deep cynicism and lack of trust directed at politicians and our political institutions.<sup>33</sup> Every year pollster Martin Goldfarb measures the level of esteem Canadians have for various professions. Laschinger reports that politicians are usually at, or near the bottom of the Goldfarb list.<sup>34</sup> Similarly, the Lortie Royal Commission on Electoral Reform and Party Financing found that Canadians have a low level of trust and confidence in their political institutions, that this is declining over time, more pronounced here than world-wide, and greater than in the United States.<sup>35</sup> Among the reasons to which

<sup>32</sup> Carty K, et al. *Leaders and Parties in Canadian Politics*, Toronto: Harcourt Brace Jovanovich Canada Inc. 1992. They note that delegates of the Social Credit party choose a leader for "ability to win", not for policy, and "...as in other Canadian party systems, electoral competition in BC focusses much on personalities and character of the party leader."

<sup>33</sup> Findings indicate feelings of political powerlessness and dissatisfaction with politicians and political processes. Canada, *Royal Commission on Electoral Reform and Party Financing*, Vol. 1, 1991 Ottawa: Minister of Supply and Services, pp.25-43.

<sup>34</sup> Laschinger J, *Leaders and Lesser Mortals: Backroom Politics in Canada*, Toronto: Key Porter Books Ltd., 1992, p. 217-18.

<sup>35</sup> Supra note 33, pp.223-24. Attitudes about provincial governments are virtually the same. See, Clarke H, et al., *Absent Mandate*, Toronto: Gage Educational Publishing Co. 1991, p.41.

Lortie attributes the low level of public trust are: (1) the perceived control party leaders have over their supporters in Parliament; (2) political parties inadequately represent the population, and the diversity of interests; and, (3) political institutions offer little opportunity for significant participation.<sup>36</sup> In support of the first reason, Lortie reports a survey in which 78% of respondents agreed with the statement: "We would have better laws if Members of Parliament were allowed to vote freely rather than having to follow party lines."<sup>37</sup> A closely related survey tried to uncover what people think the role of their representative ought to be – trustee or agent. A full 67% thought MPs should follow the views of the people in their riding.<sup>38</sup> MPs have a different view. They see their role as primarily using their own good judgment.<sup>39</sup> The Reform Party of Canada's official position is to end party discipline to allow elected Members to represent constituents views.<sup>40</sup> In recent years most political parties talk about lessening party discipline. All this attests to a growing public sentiment that government should listen more effectively to the people. It is clear that people think government and their elected member should be their mouthpiece, but one that under our system does not get the message out.

One study which tried to measure opinions about our electoral system asked how respondents felt about a system which often awards a majority of seats and hence the government to a party which does not have a majority of the votes. In BC only 41% found this acceptable. The same study then asked respondents if they would favour a system of two votes, one to elect their local representative and one to elect

---

<sup>36</sup> Supra note 33, p.208.

<sup>37</sup> Ibid., p.226; Franks reports a Gallup poll in which only 7.9 % of Canadians felt MPs should vote as their party requires. Supra note 28 p.29; also see, Johnston Richard, *Public Opinion and Public Policy in Canada: Questions of Confidence*, Toronto, University of Toronto Press, 1986; and Dobell Peter, Berry Byron, "Anger at the System: Political Discontent in Canada". *Parliamentary Government*, No. 39, January 1992, Ottawa: Parliamentary Centre for Foreign Affairs and Foreign Trade pp. 3-11.

<sup>38</sup> Blais A, and Gidengil E, *Making Representative Democracy Work*, Canada: Minister of Supply and Services Canada, 1991 pp. 59-61.

<sup>39</sup> Clarke H. C, et al. ed., *Parliament, Policy and Representation*, Toronto: Methuen 1980, p. xv.

<sup>40</sup> Reform Party of Canada, *Blue Book 1994*, Calgary: Reform Party of Canada 1994, p. 3.

the government. In BC 70% favoured such a two-vote system. The same study attributes both these responses to a desire for greater control by voters over their local representative.<sup>41</sup> Obviously, people do not think the system allows their will to filter through without distortion.

### SPECIAL INTERESTS

A significant number of people also speak through special interest groups. The existence, prominence, and public support of interest groups in itself suggests that many people do not consider political action through one's elected local representative to be effective. For example, the Canadian Advisory Council on the Status of Women is not concerned so much that party discipline and the relative impotence of the legislature frustrates responsiveness to their agenda,<sup>42</sup> rather, they believe that men cannot represent women. Demands for gender equity in representation grow out of the belief that differences between the sexes are sufficiently significant to warrant that women be represented by 'one of their own'. Proponents claim that history shows men have failed to represent women's issues and interests, that women have been marginalized, and disadvantaged, if not oppressed. Boyle suggests that every riding have a male and a female seat, because "assimilation has failed, we need a strategy of separation".<sup>43</sup> The argument is that women are paid less, suffer employment and pension discrimination, have menial jobs, are objects of sexual gratification, have had property taken without compensation, and that their enfranchisement was ridiculed and opposed by men. All this empirical evidence is

---

<sup>41</sup> Blais A, and Gidengil E, *Making Representative Democracy Work*, Toronto: Dundurn Press Ltd. 1991 p.55.

<sup>42</sup> There is some recognition of that, for example, Maille C, "Primed for Power: Women in Canadian Politics", Ottawa: Canadian Advisory Council on the Status of Women, 1990 p. 31.

<sup>43</sup> Boyle C, "Home Rule for Women: Power -Sharing Between Men and Women", *The Dalhousie Law Journal*, October 1983 Vol. 7 No. 3, Halifax: Dalhousie Press, p. 796.



offered as proof that women cannot be represented by men.<sup>44</sup> Boyle and others are no longer content to support a dated electoral system that recognises geographical interests, but ignores human interests, which in today's society are far more significant. Another study gives some evidence that such voices are representative of women generally. Blais and Gidengil found, "... women are less likely than men to find the present system of translating votes into seats acceptable."<sup>45</sup>

Lortie Commission research shows that women, ethno-cultural groups, visible minorities and Aboriginal people are all under-represented in the House of Commons.<sup>46</sup> Progress towards gender equity for elected members is painfully slow. In federal elections, it may take another 40 years.<sup>47</sup> The BC general election of 1991 elected 25% women MLAs, compared to only 13% in 1986. Whether this trend will be sustained remains to be seen. A recent study of BC party activists concludes, "British Columbia's extra-parliamentary parties remain predominantly male-dominated institutions".<sup>48</sup> To speed up gender equity women's groups are calling for a proportional electoral system.<sup>49</sup> The reason is simple. Numerous studies have shown that gender equity is much easier to attain under proportional systems than under

---

<sup>44</sup> I think such concerns might be overstated. A recent study designed to detect differences in political behavior between men and women found: "On the major questions of policy and government priority, women and men in aggregate tend to concur with each other. The areas in which there tends to be disharmony are usually less relevant to the electorate as a whole." Wearing P, "Does Gender Make a Difference in Voting Behavior", in Wearing J, ed., *The Ballot and its Message: Voting in Canada*, Toronto: Copp Clark Pitman Ltd., 1991 p. 348.

<sup>45</sup> Supra note 41 p. 51.

<sup>46</sup> Supra note 33, p. 269.

<sup>47</sup> Canadian Advisory Council on the Status of Women, "Women in Politics", *Issue Summary*, November 1993 Ottawa: CACSW p.1.

<sup>48</sup> Blake D, et al. *Grassroots Politicians: Party Activists in British Columbia*, Vancouver: UBC Press 1991 p.28.

<sup>49</sup> Young L, "Electoral Systems and Representative Legislatures: Consideration of Alternative Electoral Systems", Ottawa: Canadian Advisory Council on the Status of Women, 1994; Day S, "The Key Isn't Quotas, It's Proportional Representation", *Vancouver Sun*, September 22, 1992; Smith L, and Wachtel E, "A Feminist Guide to the Canadian Constitution", Ottawa: CACSW 1992 p. 56; Maille C, "Primed for Power: Women in Canadian Politics", Ottawa: CACSW 1990 p. 33; Also see, CACSW's Brief to the Royal Commission on Electoral Reform and Party Financing, Ottawa: CACSW, June 1990, pp. 10-11.

SMP.<sup>50</sup>

So what do the people say? Typically, elections in BC do not democratically mandate a government. This should caution us when assigning a role to the cabinet. There may be good reasons why the cabinet should control the legislature, but the claim to a popular mandate is not one of them. People are distrustful of a system that gives too much power to the party leaders, and one that relegates their interests to secondary importance behind the interests of the party. They wish representatives who will speak for them. Significant groups of electors reject an electoral system which does not accurately reflect, in the composition of the legislature, the politically significant interests as they exist among the electorate, such as those of women, who make up at least half of the population.

To these demands can be added calls for popular democracy, such as recall and initiative.<sup>51</sup> All such demands and sentiments of distrust have no significance except as evidence that people expect the legislature to have a considerable degree of power. Most people have little knowledge of, and even less interest in, the exact relationship between the cabinet and the legislature, but they are clear about their representative being their voice, and if that representative has no voice, they have no voice. In the eyes of some, people are equally without a voice if their representative is not 'one of their own'. The quest to end undue party discipline, the quest for popular democracy, the quest for gender equity, are all quests for power, clout, and influence. The expectation is that a person's vote counts, that people can make a difference, that they can participate meaningfully, that their interests will be protected. What else is

---

<sup>50</sup> A study of factors, such as electoral structures, political parties, and socio-economic conditions that contribute to the election of women in 23 countries found that the type of electoral system is the most important predictor of the number of women elected. Rule W, "Electoral Systems, Contextual Factors and Women's Opportunity for Election to Parliament in Twenty-Three Democracies", *Western Political Quarterly*, vol.40, no. 3 (1987). Also see, Norris P, "Women's Legislative Participation in Western Europe", *Western European Politics*, 1985 no. 4: pp. 90-101.

<sup>51</sup> BC electors strongly supported both recall and initiative legislation by referendum in 1991.

democracy for? The desire to have 'one of their own' is a desire for participation, for entry into the game. Why? Because the legislature is considered to be a decision-making body, and as its name implies, a place where laws are made. To participate in the legislature, is to participate in law-making, or so it is thought.

### 1.3 The Charter and Recent Court Rulings

This concern for meaningful participation by citizens in the legislative process, through their elected representatives, also underlies a number of recent court decisions related to section 3 of the *Charter of Rights and Freedoms*. In particular, these cases reveal a concern that citizens have equality of legislative power. They are therefore important to this thesis. As a bonus for this thesis, the courts also introduced the concept of "effective representation". This concept caused one scholar to write: "To this reader, the Trojan Horse of the argument for proportional representation may be buried in these cases."<sup>52</sup>

Alan Cairns observes that the *Charter* has induced Canadians to think of themselves as rights-bearing citizens.<sup>53</sup> One such right is the right to vote, as found in section 3.

Every citizen of Canada has the right to vote in an election to the House of Commons or of a legislative assembly, and to be qualified for membership therein.

Three cases, one heard by the Supreme Court of Canada, have tried to understand the meaning of this section for electoral systems. In reviewing these cases it will be of particular interest to ask why the courts hold to the principle of voter equality, and whether section 3 demands electoral arrangements that represent political diversity.

British Columbia's electoral boundaries legislation was the first to be tested against

---

<sup>52</sup> Thomas D, "Turning a Blind Eye: Constitutional Abeyances and the Canadian Experience", Calgary: Mount Royal College, 1992 p.25, note 7.

<sup>53</sup> Cairns A, "The Limited Constitutional Vision of Meech Lake", p. 256 in Swinton K. E, and Rogerson C. J, eds., *Competing Constitutional Visions: The Meech Lake Accord*, Toronto Carswell 1988; Cairns A, in Williams D. E, ed., *Disruptions: Constitutional Struggles: from Charter to Meech Lake*, Toronto: McClelland and Stewart Ltd., 1991.

section 3 in what came to be known as the Dixon case. Chief Justice McLachlin of the BC Supreme Court, as she then was, delivered her judgment on April 18, 1989.<sup>54</sup> The argument centred on the urban/rural split, whereby some votes under the then current BC legislation, were 15 times as powerful as others. McLachlin observed: "the purpose (of the right to vote) cannot be less than to guarantee to citizens their full democratic rights in the government of the country and the provinces." And, "...the right to vote and participate in the democratic election of one's government is one of the most fundamental of the Charter rights."<sup>55</sup> Such a fundamental right must not be diluted for some citizens by giving greater weight to the vote of others. Therefore, to ensure equality of voting power, representation must be by population. The electoral system must protect the equal worth of each citizen. Without equality of voting power, the popular will cannot be determined.

"The essence of democracy is that the people rule. Anything less than direct, representative democracy risks attenuating the expression of the popular will and hence risks thwarting the purpose of democracy."<sup>56</sup>

However, absolute equality cannot ever be attained, and must also be tempered by historical and geographical considerations. BC's legislation was found to contravene section 3, because many of its boundaries constituted "considerable" infringements, even of the right to relative equality of voting power.

The court elaborated on why equality of voting power is so important. After observing that elected representatives have both a legislative and an ombudsman role, the court wrote:

In the legislative role, it is the majority of elected representatives who determine who forms the government and what laws are passed. In principle, the majority of elected representatives should represent the majority of the citizens entitled to vote. Otherwise, one runs the risk of rule by what is in fact a minority.<sup>57</sup>

---

<sup>54</sup> Dixon v. B.C. (A.G.), (1989) 4 W.W.R.

<sup>55</sup> Ibid. p. 404.

<sup>56</sup> Ibid. p. 406.

<sup>57</sup> Ibid. pp. 413-14.

Voting power then means that a citizen's vote should be capable of making a difference in determining who forms the government and what laws are passed. As an aside, it is noteworthy that the court seems to be ignorant that SMP regularly and consistently produces majority governments from a minority of the votes.

Compromise of the principle of voter equality is an inherent feature of SMP, and is not restricted to unequal district-size by numbers. If the court had drawn out the logical implications of its principle, SMP might have been judged to contravene section 3.

The Dixon case found that geographical factors might warrant deviation from strict equality based on population, but subsequent cases broaden such factors to include non-geographical diversities. Following the Dixon case, the Saskatchewan government referred its Electoral Boundaries Commission Act to the province's Court of Appeal for an opinion on its constitutionality.<sup>58</sup> The Court of Appeal interpreted section 3 to embody principles very similar to the Dixon case. One person – one vote, also means 'a vote of equal worth'. To give full effect to this Charter right, electoral laws must "strive to make each citizen's portion of sovereign power equal." This will lead to 'fair and effective representation'. In devising electoral boundaries the controlling and dominant principle is equality in the numbers of citizens each representative represents. By way of explanation, the court wrote:

This is so because most citizens can participate (in government) only as qualified voters through the election of legislators to represent them. ...Voter's rights merit constitutional safeguards in this way because the proportionate share of voting power enjoyed by each elected member of the Legislative Assembly. Any malapportionment with respect to voter population, and the subsequent dilution of a person's vote, is reflected in the exercise of power in the legislature. The array of powers enjoyed by the legislature are exercised through the aforementioned voting scheme in our democracy. Since these powers touch the lives of each and every citizen in one way or another, the preservation and growth of our democratic process is not furthered by electoral practises which offend the worth of a person's vote.<sup>59</sup>

<sup>58</sup> Reference Re: Provincial Electoral Boundaries (1991) 3 W.W.R. (Saskatchewan Court of Appeal).

<sup>59</sup> *Ibid.* p. 609.

The court held the legislation to contravene section 3. This was appealed to the Supreme Court of Canada, which delivered a decision on June 6, 1991, reversing the opinion of the Saskatchewan Court of Appeal.<sup>60</sup> In this decision, the Court did not disagree with the Appeal Court in any matter of principle, but found that in addition to equality of voting power, section 3 also guarantees "the right to effective representation". This right derives from the nature of representative democracy whereby each citizen is entitled to be represented in government, and "of having a voice in the deliberations of government."<sup>61</sup> Since, "it is more difficult to represent rural ridings than urban",<sup>62</sup> a smaller population for rural ridings is justified. The right of citizens to participate in governing is in practice more difficult for some, than for others. Allowances have to be made to ensure that the exercise of each citizen's portion of sovereignty can in practice be effectual. That is the essence of effective representation.

It seems that the Courts picture the process as follows. Citizens have a right to participate in governing, through their representative. This requires communication and contact between representative and the represented. In rural ridings such contact is deemed to be more difficult than for urban ridings, hence deviation from strict mathematical parity is justified. It is a concern familiar to every electoral boundaries commission. But these recent Court cases go beyond the traditional concerns by broadening the scope of factors that fall within the concept of effective representation.

Factors like geography, community history, community interests and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic. These are but examples of considerations which may justify departure from

---

<sup>60</sup> Reference Re Provincial Electoral Boundaries (1991) 5 W.W.R. p.1 (Supreme Court of Canada) McLachlin was elevated to the Supreme Court of Canada shortly after the Dixon case, and wrote the majority opinion, which Norman Ruff has dubbed McLachlin II. Courtney J. C, et al., eds. *Drawing Boundaries*, Saskatoon: Fifth House Publishers 1992, p.128.

<sup>61</sup> *Ibid.* p. 12.

<sup>62</sup> *Ibid.* p. 20.

absolute voter parity in the pursuit of more effective representation; the list is not closed.<sup>63</sup>

Some of these factors are territorial, and can be accommodated by SMP. Others, such as minority representation, may require districts that are not contiguous, and therefore, a proportional system of representation. The logical consequence of this ruling must lead to PR, particularly when the list of political diversities that potentially come within the scope of effective representation is not closed.

In 1992, the Alberta government submitted its Electoral Boundaries Commission Act to its Court of Appeal for an opinion on its constitutionality.<sup>64</sup> The Appeal Court found the Supreme Court's doctrine of "effective representation" a "difficult" one, for two reasons. First, minority claims to effective representation might affect the tradition of single-seat districts and contiguous boundaries. Secondly, shared representation might encourage mutual respect, but to allow every group in society its own member in the legislature might have the opposite effect. Clearly, the concept of effective representation is far from resolved, and open to further challenge. Public debate preceding the recent Charlottetown Accord referendum, questioned the assumption that the Senate should represent place or territory. This challenge came particularly from women, the disabled, visible minorities, and aboriginal representatives.<sup>65</sup> The court rulings reviewed here provide such groups considerable encouragement to pursue their cause. If they do, the courts must question, not just lines on a map, but our electoral system's efficacy in representing political diversities.

For the purpose of this thesis, it is important to note the reasoning behind the judgments. The courts suggest that each citizen possesses a portion of sovereign power which entitles one to participate in governing, to have a voice, to make a

---

<sup>63</sup> Ibid. pp.12-13.

<sup>64</sup> *Reference Re Electoral Boundaries Commission Act* (1992) 1 W.W.R. p 481 (Alberta Court of Appeal).

<sup>65</sup> Canada West Foundation, *Conference Report: Renewal of Canada -- Institutional Reform*, Calgary 1992.

difference. This legislative or governing power is exercised through one's representative. The act of exercising this legislative power is not restricted to casting a ballot on election day once every four or five years. It is a continuous process requiring communication and contact between the representative and the represented. The implications of drawing electoral boundaries reach into the legislature, affecting its day to day operations.<sup>66</sup> Entitlement to effective representation results from the representative's legislative role.

In summary, there is much agreement between what the theorists, the people and the courts say. The court's demand for effective representation is the same as Pitkin's call for institutional arrangements to facilitate responsiveness, which is the same as the people's desire that representatives take direction from the represented. All three do so because they assign an important function to the legislature. All three consider the legislature a forum where the people act through their representatives, where political diversities are present, have a voice, and can be heard. The people, the theorists, and the courts all assume that government is elected by the majority, that legislators make laws, and act in the interest of their voters. All three are wrong. This chapter has shown that governments are not elected by majorities. Chapter Two shows legislators do not make law, nor act in the interest of their voters. Public policy decisions are made outside the legislature, and legislators are beholden more to their parties than their voters.

---

<sup>66</sup> Ken Carty believes these court decisions fundamentally misunderstand the Parliamentary system. Courtney J. C, et al., eds., *Drawing Boundaries*, Saskatoon: Fifth House Publishers, 1992 pp.152-55. I think he is correct. These court rulings assume the British Parliamentary system is democratic in the sense that sovereignty resides with the people, instead of the Crown. The court's misunderstanding is a reflection of the misunderstanding that exists out on the street. The popular view, and that of the courts, is fed by the cultural influences that spill across the border from the American democracy. Our formal government institutions were imported from Britain and brought to Canada for the express purpose of stopping at the border the excesses of the democratic temper of the times. Now the question is: what will give way, the British institutions, or the popular views, and what role will the courts, encouraged by their new powers under the Charter, assume? The popular views are not about to disappear. Therefore, our British institutions should be made more democratic. They need not be abandoned in favour of the American congressional system. We need to rethink concepts such as responsible government, the origin of sovereignty, and the riding-based electoral system.



## CHAPTER TWO: THE LEGISLATURE

*Behind the familiar and reassuring facade of the Parliament buildings in Ottawa (and Victoria) lie an unfair system of election, an inefficient legislature, an autocratic and secretive cabinet, a frustrated Opposition, and a couple of reminders of our colonial and undemocratic past. We can and must devise a better system of government if we hope to preserve democracy.<sup>1</sup>*

The thesis calls into question the legislature's ability to hold the cabinet responsible, and it asserts that the legislature is inclined to forfeit its legislative function to the cabinet. This chapter aims to establish that this is so, and the likely reasons why it is so. It is important to note what this chapter is not about.

First, in the parliamentary system, as opposed to a congressional system, the legislature, for the most part does not initiate, draft and propose legislation.<sup>2</sup> The cabinet meets in private, decides its policies, and then presents a united front in presenting them to the legislature. Perhaps in a less complex, simpler era it was otherwise, but today the legislative function of the legislature consists in deliberation of, making amendments to, and voting on Bills put forward by the cabinet. This study does not question that process. To question that is to question the essence of the parliamentary system. This thesis wishes not to abolish the parliamentary system, but to remove obstacles to its proper functioning. Nor is this thesis an appeal to return to an alleged 'Golden Age' when much legislation is said to have originated from Private Member's Bills.<sup>3</sup>

Secondly, many scholarly studies have tried to assess the relative influence and power of legislators within the same legislature and also, between legislatures. Such studies, empiricist and behaviourist in methodology, measure in minute detail what

<sup>1</sup> Westell A, *The New Society*, Toronto: McClelland and Stewart, 1977 p. 39.

<sup>2</sup> Veteran parliamentarian, Stanley Knowles, in defining the tradition of parliamentary government in the Commons on June 2, 1975 said, "The government makes the decisions and all we can say is yes or no." Quoted in *ibid.*, p. 28.

<sup>3</sup> See: March R. R, *The Myth of Parliament* Scarborough: Prentice-Hall of Canada Ltd., 1974; Hill A, and Whichelow A, *What's Wrong With Parliament*, London: Penguin Books Ltd., 1964.

legislators actually do.<sup>4</sup> We learn what occupies their time, and perhaps what kind of influence they have; how much and in what areas. These studies search for causal relationships between level of education, political socialisation, previous experience and a legislator's degree of influence. Most of these findings are not particularly helpful for this study. Statements about individual legislators do not easily translate into statements about legislators as a collectivity, or the legislature as a whole. That certain legislators might be deemed to have more influence than others because they speak more frequently and use more words, ask more questions, or are considered leaders by their peers, reveals little about the distribution of power between the cabinet and the legislature. To have influence in the legislature is not the same as having influence in government. This chapter considers the relationship that holds between the legislature and the cabinet, not the relationship between legislators.

## 2.1 Responsible Government

Politics, especially government, is about power. Everything in the legislature is animated by the appetite for power. Those who lack it want it; those who have it fight to maintain it. The framers of the American Constitution understood this well; they trusted no one to have exclusive power. As a result, the congressional system shares power. The legislative and the cabinet branch can both act within their respective fields, but not independently, as each needs the support of the other. By contrast, in the parliamentary system, government power is not shared. Rather, it is given to the cabinet; it alone acts. Nor is there a separation of powers, the cabinet is part of the legislature. The task of overseeing the cabinet, of holding its actions up to public scrutiny, and of vetoing policies and laws that are not deemed to be in the public interest, rests in Canada primarily, and in Britain entirely, with the legislature.

---

<sup>4</sup> For example, Wahlke J, et al., *The Legislative System: Explorations in Legislative Behavior*, New York: John Wiley and Sons 1962; Goddard A. M., *Legislative Behavior in the British Columbia Legislative Assembly*, Ann Arbor: Ann Arbor University Press, Micro films, 1973; Kornberg A, *Canadian Legislative Behavior*, New York: Holt, Rinehart, and Winston, 1967; Kornberg A, and Mishler W, *Influence in Parliament*, Durham: Duke University Press, 1976; Kornberg A, and Musolf L. D, *Legislatures in Developmental Perspective*, Durham: Duke University Press, 1970.

In the parliamentary system government is said to be "responsible" because the cabinet must give an account of itself to the legislature. Upon losing the confidence of the legislature, the cabinet is removed. Confidence in the cabinet is tested by formal motions of confidence, majority support for any Bills involving expenditure of public funds, and votes on ministerial estimates.<sup>5</sup>

Responsible government was introduced to Canada not by referendum, or even by law, but by a simple dispatch from the colonial office in London. Lord Durham's report of 1838-39 recommended, "...administering the government on those principles which have been found perfectly efficacious in Great Britain."<sup>6</sup> He meant a political system in which the cabinet is directly responsible to the legislature, and in which the ministers are members of the legislature. In 1848, Colonial Secretary, Earl Grey, following Durham's advice, instructed Nova Scotia's Lieutenant-Governor, John Harvey, to ensure "...that any transfer which may take place of political power from the hands of one party in the province to those of another, is the result, not of an act of yours, but of the wishes of the people themselves."<sup>7</sup> From there, responsible government spread to Canada (Ontario and Quebec), New Brunswick, Prince Edward Island, and Newfoundland. British Columbia adopted responsible government in 1871 upon joining Confederation.<sup>8</sup> In Australia, the first constitutional conference, held at Sidney in 1891, debated responsible government, which it described as a governor-general and "...his advisors, such persons sitting in Parliament, and whose term of

---

<sup>5</sup> For a complete constitutional description of responsible government see, Hogg P.W, *Constitutional Law of Canada*, 2nd ed., Toronto: The Carswell Co.Ltd., 1985, pp.189-213.

<sup>6</sup> Langstone R. W, *Responsible Government in Canada*, London: J.M. Dent and Sons Ltd., 1931 p. 87. see also, MacGregor Dawson R, *Democratic Government in Canada*, Toronto: University of Toronto Press, revised ed., 1963 p. 8.

<sup>7</sup> Quoted in Langstone, *ibid.*, pp.158-59. Up to then cabinets were selected largely by representatives of the Crown. Also see: *supra* note 5, p. 189.

<sup>8</sup> "The 14th Article of the Terms of Union had pledged the Dominion to consent to representative government when desired by the people of British Columbia, and Governor Musgrave had intimated, at the opening of the Session of 1871, his intention to introduce such a measure. This was the Constitution Act, 1871." Howay. F. W, and Scholefield E.O.S, *British Columbia*, Vancouver: S.J. Clark Company, 1914 Vol. ii, p. 327

office shall depend upon their possessing the confidence of the house of representatives, expressed by the support of the majority."<sup>9</sup> Later, and much closer to home, Henry Angus instructed residents new to BC as follows:

A minister... may be dismissed at any time if he is distrusted by the representatives of the people in the Legislative Assembly. He is said to be a responsible minister because he is answerable to the legislature for his actions in office: and government carried on by responsible ministers is called responsible government.<sup>10</sup>

It is noteworthy that proponents of responsible government for the North American Colonies spoke of it as self-government. Langstone's extensive study of the coming of responsible government to Canada, uses the terms responsible government and self-government interchangeably. Logically, these two terms do not fit. Responsible government is government by cabinet in behalf of the Crown, enforced by an oath of allegiance to the Crown. The role of the legislature is to approve, or withhold approval from, the actions of cabinet. Self-government is more appropriately applied to the congressional system, which allows the people's representatives to be law-makers. That responsible government was described as self-government, might indicate that the classical concept of democracy as self-rule was present at the birth of responsible government in Canada. Earl Grey concludes his dispatch with these words, "...it is neither possible nor desirable to carry on government of any of the British Provinces in North America in opposition to the opinion of the inhabitants." This being the 19th century, 'inhabitants' for Grey meant, the local ruling class. But that aside, the principle holds: laws are useless, if not acceptable to the people. To this day, the democratic principle that the legislature exists to express the wishes of the people co-exists uncomfortably with the practice of parliamentary government, which vests sovereignty in the Crown, not the people. Pitkin does not choose between responsible, and congressional government. She stipulates only, that the process be such as to

---

<sup>9</sup> Weller P, and Jaensch D, eds., *Responsible Government in Australia*, Victoria: Drummond Publishing, 1980 p. 2.

<sup>10</sup> Angus H. F, *Citizenship in BC*, Victoria: King's Printer, 1926 pp. 33-4.

permit the people's views to be heard, and to influence law-making. The aim of this thesis is to make responsible government work as it was intended. The argument is that the result will largely satisfy Pitkin's requirements, without the need to adopt the congressional system.

## **2.2 The legislature in Practice**

The formal requirements of responsible government are meticulously observed in the BC legislature, but sadly, without their intended effect. Cabinet is so powerful that the legislature is rendered nearly impotent to oversee, scrutinize, or veto the legislative agenda. A cursory look at the *BC Journals* will quickly establish that the cabinet is never denied legislation it wants. With majority governments, all government Bills pass, as do all ministerial estimates, and every budget. In every election since 1956, Single Member Plurality (SMP) has artificially generated majorities out of minorities, and the legislature has complied with whatever legislation, budgets, and estimates the cabinet placed before it – without exception. What power to veto, what power to call into account, what power to dismiss is there, if in practice this alleged power is never exercised? A power on paper that is never used, is no power at all.<sup>11</sup> An Australian describes law-making in the parliamentary system as follows: "Once the point of legislation is reached, it is usually assumed the battle is over. The theoretical sanction of withdrawal of confidence, amendment, or rejection of government measures, in practice, are most unlikely to be used."<sup>12</sup>

Power is with the cabinet, and the legislature is the arena where it exercises its power. That power cannot be used arbitrarily, or completely behind closed doors. Legislation and the budget must be placed before the legislature, in a prescribed,

---

<sup>11</sup> Only three times has a BC Premier resigned as a result of a vote of non-confidence. The last time was January 29, 1883, well before the formation of political parties in 1903. Source: *Electoral History of BC 1871 - 1986* p. 545.

<sup>12</sup> Saunders C, "Rethinking the Parliamentary System: Contributions From the Australian Debate", 29 *Alberta Law Review* 336 (1991) pp. 336-50, Edmonton.

open, public process. No doubt, the process itself influences the behavior of the cabinet.<sup>13</sup> The legislature may not be able to stop, or significantly amend legislation, but it is a forum to expose government measures to full public scrutiny. The legislature draws public attention to government action. This is a formidable weapon because governments are sensitive to public opinion. The legislature is used by the Opposition to mobilize public opinion against the government. The cabinet and the Opposition both know the conventions. Such conventions will not permit the legislature to deliberate meaningfully, reflect on the great issues of the day, and then find agreement in a mutually satisfactory solution. On the contrary, the legislature is an adversarial public forum where the combatants battle for public opinion. Their instrument is propaganda, the projection of images, "spinning" stories, and "packaging" their leaders.<sup>14</sup> The goal is to win the ultimate prize – power. The objective is to discredit, attack, and tarnish the credibility and image of the opponents. The primary venue for this contest is the legislature.

The formal process of putting legislation through the legislature need not be an exclusively negative experience for the cabinet. The process is used as a marketing tool, a stage from which to "sell" the cabinet's agenda, to legitimize the cabinet's agenda in the public mind, and to build acceptance and consensus among the diverse interests in society. The process is also used as a shield to dodge Opposition attacks. The cabinet controls the Orders of the Day, and the Select Standing Committees agendas. The latter provide a fertile field to "bury" indefinitely, embarrassing issues

---

<sup>13</sup> N. Ruff argues that the legislature influences policy, not directly, but by giving voice to public opinion. Morley T. J, *The Reins of Power*, Vancouver: Douglas and McIntyre, 1983 p.12. Occasionally, cabinet is embarrassed into withdrawing legislation, e.g. Glenn Clark's super surtax on property. In other instances it ignores public opinion, e.g. dropping the secret ballot in union certification votes.

<sup>14</sup> Recent works that give an insider's view include: Gagnon G, and Rath D, *Not Without Cause*, Toronto: Harper Collins, 1991; Lee R. M, *One Hundred Monkeys*, Toronto: Macfarlane Walter and Ross, 1989; Laschinger K, *Leaders and Lesser Mortals: Backroom Politics in Canada*, Toronto: Key Porter Books Ltd., 1992.

and questions.<sup>15</sup> The cabinet uses the legislature to market-test its legislation for public response. If the response is unfavourable such legislation is left to “die” on the Order Paper. In summary, the legislature’s procedures, designed to prevent arbitrary use of power, may be used by a cabinet to its advantage, while always risking unfavourable public exposure. But the legislature’s role in formulating the legislative agenda is minimal, and its ability to veto, virtually none existent. The legislature is an arena where a contest takes place. Participating in a contest is not the same as participating in making decisions. As a result, some question if the institution should appropriately be called a legislature at all.<sup>16</sup>

Others might object that such a characterization of the legislature is excessively unsympathetic. What about all the debate that takes place? J.S. Mill, for example, conceived of the legislature as a deliberative body.<sup>17</sup> And Carl Schmitt traces in detail how parliamentary government is founded on liberalism’s belief that truth flows from the free competition of ideas.<sup>18</sup> On this view, parliamentary rule is justified by open debate leading to truth. Is the legislature not a place for open, unfettered debate? Do the MLAs not fill several volumes of Hansard each year? Does the clash of ideas in open, public debate not represent the essence of the legislature and the finest tradition of liberalism?<sup>19</sup>

Again, practice and theory are two different things. True debate consists of one person speaking while others listen. In the legislature every one speaks, but no one

---

<sup>15</sup> Matters referred to Committees preclude debate in the legislature until after the Committee reports. MacMinn G. E, *Parliamentary Practice in British Columbia*, 2nd ed., Victoria: BC Government 1987 p. 118.

<sup>16</sup> Greenstein F. I, and Polsby N. W, eds., *Handbook of Political Science*, Reading, Massachusetts: Addison Wesley Publishing Co. v.5 p. 235.

<sup>17</sup> Mill J. S, *Utilitarianism, Liberty, Representative Government*, London: J. M. Dent and Sons Ltd., 1910, reprinted 1957, p. 231.

<sup>18</sup> Schmitt C, *The Crises of Parliamentary Democracy*, Ellen Kennedy tr., Cambridge, Massachusetts: MIT Press 1985 pp. 33-50.

<sup>19</sup> “Parliament” derives from the French “parler”, to speak.

listens. Any comparison between speeches in local government and those in the BC legislature reveal the superior level of debate at the local government level, though the subject matter might be more mundane. Unlike local government, in the legislature all minds are decided before the speeches begin. There is no need or desire for genuine debate. Former Prime Minister Lester Pearson comments in his memoirs on his reluctance to speak in the House of Commons:

The main reason...was that much of the debating seemed artificial, a kind of play-acting. The words were for the record, not uttered in hope that they would change the minds of anyone. Minds were, with very few exceptions, already convinced.

Philip Givens, a federal Liberal backbencher, has this perspective:

The vast majority of Canadians think the House of Commons is a place where speeches are made and listened to. What actually happens is that at the end of question period every day the House flushes out like a toilet bowl – members leave, cabinet ministers leave, the press gallery empties, and you get up to talk to 240 empty seats... nothing is accomplished by debate... I don't know why we don't have the US Congress idea – if you want to get something on the record, you put it there and you don't have to spout it to empty seats.<sup>20</sup>

Words spoken in the legislature, particularly from the Opposition, may attack and criticise the cabinet's legislation, and hence generate negative publicity. But talk in the legislature seldom is debate and rarely contributes to the formulation of public policy. Voters should not think their representative goes to Victoria to participate in law-making, even if only negatively through a veto. Minds are made up in advance: for the most part the government side will support whatever the cabinet presents, and the Opposition will oppose much of what the cabinet presents. The Opposition's influence is limited to instigating negative publicity. The cabinet proposes laws, taxes, and spending of public funds, and a compliant legislature invariably approves. The argument is not that the legislature is without any influence, and that cabinet power is totally arbitrary. The legislature can arouse public opinion, which, at times,

---

<sup>20</sup> Quoted in: March R. R, *The Myth of Parliament*, Scarborough: Prentice-Hall of Canada Ltd., 1974 pp. 65; 121-22.



is a powerful weapon. The argument is that all decisions of importance are made outside the legislature. The proper and internal power of the legislature, which is a veto power to amend and/or refuse legislation, has been forfeited. In practice, it exists only at the outside limits of public tolerance for acts proposed by cabinet, and not always then.

### **2.3 Caucus, Party, and Elected Member**

As noted, minds are virtually always closed before the speeches begin. Producing closed minds is a function of the party caucuses, fueled by the desire for power. Intra-party differences, in all but exceptional circumstances, remain behind closed doors. Caucus is the chief link through which party discipline is administered. More positively, caucus may also provide opportunity for policy input. It is difficult to measure how much this in fact happens. If my own experience is typical, it happens rarely. During the Vander Zalm administration, ministers would apprise caucus of legislation during the one-hour caucus meeting immediately prior to tabling the subject legislation in the legislature.<sup>21</sup> Rarely would there be prior notice, and delay of Tabling to allow more discussion was even more rare. The purpose of these caucus briefing sessions was less to discuss the merits of the proposed legislation, and more to anticipate how the Opposition might react, to plot strategy, and to ensure Members would all "sing from the same hymn book".<sup>22</sup>

In a former, simpler era, caucus was the means by which the cabinet kept abreast of public opinion. Caucus members were an important link between the electorate and

---

<sup>21</sup> Occasionally, the Opposition MLA-s would have knowledge of pending legislation prior to the government backbench. The government House Leader in consultation with the Opposition House Leader works out a legislative agenda. This requires deal making, and disclosure of cabinet's intentions. Government backbenchers often complained, not without some justification, that to know what cabinet was up to, it is best to consult the Opposition. Under Bill Bennett, Vander Zalm's predecessor, it was no different. One day his caucus pinned mushrooms on their lapels, indicating they were always in the dark.

<sup>22</sup> Goddard's extensive study of BC MLA-s notes that 71.4 % of Social Credit respondents selected "consensus building" as the most important function of caucus. Goddard A.M, *Legislative Behavior in the British Columbia Legislative Assembly*, Ann Arbor: University Microfilms. 1973 p.170.

the government. Modern means of communication, public opinion surveys, and polling have changed all that.<sup>23</sup> Today a Premier is in direct communication with the people. Each morning the previous evening's polls, surveys, and mass media tell the Premier the mind of the Province.

...if a Prime Minister has an Alan Gregg or a Michael Adams or anyone else sitting at his elbow, bending his ear, interpreting the facts and saying, 'Prime Minister, this is what the people are seeing and saying and thinking and feeling', then you don't want to bother listening to this distorted prism of a national caucus trying, in a garbled fashion, to explain what the people are thinking – let alone the House of Commons. It is not efficient.<sup>24</sup>

Today a government caucus member's primary role, pertaining to legislation, is to vote the correct way, and to sell the government package in and outside of the legislature. Goddard, in assessing the role of caucus, concludes, "...decision-making appears to be undivided and concentrated at the top in BC given the weakness of the legislative assembly, and the legislative committee system of the Province."<sup>25</sup>

It is commonly observed that the first minister within the parliamentary system has more power than a US President.<sup>26</sup> When was the last time a Premier had trouble getting a budget approved?<sup>27</sup> Yet, near-deadlock is a regular feature of the congressional system. Why are first ministers so powerful? Their power derives from the strength of political parties, and manufactured majorities. Sir John A. Macdonald relied on patronage to get his legislative program through the Commons. To him,

---

<sup>23</sup> As early as 1938, B. Russell, writing about the impact of mass communication on politics, observed, "The result has been to diminish the importance of the representative and increase that of the leader. Parliaments are no longer effective intermediaries between voters and governments." Russell B, *Power*, London: Unwin Books 1938, fifth printing 1967, p.132.

<sup>24</sup> Boyer P, in Canadian Study of Parliament Group, *Proceedings Year 7: A Review of the McGrath Committee Report of the House of Commons*, Dec. 2, 1992 pp. 37-8.

<sup>25</sup> Supra note 22, p.196.

<sup>26</sup> Supra note 20 pp. 77-83; also see, Ward N, "Confederation and Responsible Government" *Canadian Journal of Economics and Politics*, 24:1, February 1958 p. 49.

<sup>27</sup> Robert Marleau, Clerk of the House of Commons, describes the review of estimates and supply in the parliamentary system as a 'dismal, farcical, absolutely silly exercise'. He also notes that the 1985 McGrath committee ran out of time to address this issue. Supra note 24 p.18.

Canada could not be governed without patronage.<sup>28</sup> Today that function is performed by the political parties. In BC, as in most Canadian legislatures, Members of the legislature have no independence.<sup>29</sup> They are "trained seals"<sup>30</sup> to be manipulated by their parties. Elected Members are beholden. It is virtually impossible to get elected as an independent.<sup>31</sup> The Members are controlled by the party leaders. A party in power is controlled by the Premier's office. This office influences nomination meetings, the flow of party funds, the party conventions, and hence the shelf-life of individual MLAs. In addition, a Premier's ability to reward or punish includes a vast array of appointments, such as those to cabinet, Parliamentary Secretaries, Boards of Directors of numerous Crown corporations, Caucus Chair, House Leader, Speaker, Deputy Speaker, Chair of Committee of the Whole, Government Whip, Deputy Government Whip, Chairs and membership of Select Standing Committees, and task forces of all kinds. Also, the Premier makes in excess of three thousand appointments to boards of hospitals, colleges, and regulatory commissions and bodies of all kinds. Such appointments are highly coveted, either for the pay, the prestige, or both. The Premier's office reaches far and wide, a fact any freshman MLA quickly learns. To obtain benefits for one's constituency, an MLA cannot afford to cross anyone in the Premier's office. Even under thrifty Vander Zalm, the Premier's office employed nearly one hundred persons. Real power is not in the legislature, or even in

---

<sup>28</sup> Supra note 20 p. 56; and Ward N, "Confederation and Responsible Government" in *Canadian Journal of Economics and Politics*, xxiv, February 1958 no.1 pp. 49-56.

<sup>29</sup> "Representative democracy in Canada is so dominated by political parties that some experts believe the party discipline exerted on most votes in our House of Commons and provincial legislatures is the tightest in the democratic world." Kilgour D, and Kirsner J, "Party Discipline and Canadian Democracy", *Canadian Parliamentary Review*, 1988, 11:10. Canadian party discipline is certainly more severe than in Britain. Thatcher advised Trudeau she could not guarantee her backbenchers would vote to pass a unilaterally imposed federal constitutional package. As Peter McCormick has observed, "Had the situation been reversed, the warning would have been both unnecessary and inaccurate". In Cassidy M, *Democratic Rights and Electoral Reform in Canada*, Toronto: Dundurn Press, 1991 p. 287.

<sup>30</sup> This derogatory, but descriptive term, first entered the Parliamentary lexicon May 15, 1956. It was used by George Drew against the Liberal backbench in the famous "pipeline debate", and has been repeated in every session of every legislature since. Aiken G, *The Backbencher*, Toronto: McClelland and Stewart Ltd., 1974 pp. 7-8.

<sup>31</sup> James Mowat was the last Independent to be elected in BC, for Alberni in 1949. He was first elected for Alberni in 1941 as a Liberal, and re-elected in 1945 under the Coalition. Without that record it is doubtful he would have won as an Independent in 1949. *Electoral History of BC*.

the cabinet, but in the Premier's office.<sup>32</sup> Former MP and cabinet Minister, Don Johnston writes:

The imposition of party discipline in the House of Commons has eroded the value of the institution. It has turned intelligent, vigorous, creative members into eunuchs. It has depreciated the value of the standing committees. It has permitted cabinet to arrogate all meaningful policy development. Worse, it has permitted the Prime Minister's Office to emasculate even cabinet.<sup>33</sup>

Politics is about power. Its appetite is never sated, the struggle for power never ends. In this perpetual battle for control, the legislature loses each round, usually in the name of efficiency, and over time it is crippled.<sup>34</sup> Campbell Sharman, in a perceptive paper, points to yet another transfer of power to the cabinet. In 1973, the *Constitution Act* 1871 was amended to increase the size of the cabinet. A further amendment in 1980 removed all limits. The original 1871 limit meant members of the cabinet could not in number exceed 38% of the total government supporters in the legislature. This original provision Sharman interprets as a constitutional protection for the principle of responsible government. This provision constitutionally ensures the possibility that a caucus can out-vote cabinet.

The removal of any limits at all on the size of the cabinet in a relatively small legislative assembly would seem to be a rather brutal expression of the cabinet dominance of the parliamentary process. It is certainly a serious modification of the sort of government created in 1871. The changes of 1973 and 1980 might be seen as amounting to a substantial alteration of the mode of responsible government in the province resulting not from changes to

---

<sup>32</sup> Eugene Forsey writes, "The Prime Minister used to be described as 'the first among equals' in cabinet... This is no longer so. He is now incomparably more powerful than any of his colleagues." Forsey E, *How Canadians Govern Themselves*, Ottawa: Publication Canada, 1980, p. 28.

<sup>33</sup> Johnston D, *Up The Hill*, Montreal: Optimum Publishing International, 1986 p. 263.

<sup>34</sup> For an account of recent transfers of power to the cabinet see, Graham L, *Breach of Promise*, Madeira Park: Harbour Publishing, 1991 part 3.

convention but from amendments of a constitutional document.<sup>35</sup>

During the last years of the Vander Zalm administration, the cabinet out-numbered the rest of caucus. Also, the ten Parliamentary Secretaries, and persons in other special positions,<sup>36</sup> all have a monetary interest in supporting the cabinet.

## 2.4 "In a Manner Responsive To Them"?

On Pitkin's view representation is to act, not only in the interest of the represented, but also in a manner responsive to them. This requires institutional arrangements through which the people can be heard. It is also what the people expect, and what the courts mean by effective representation. Clearly, the legislature does not meet this test of representation. In addition, the legislature lacks the power to deliver responsible government. Except for minority governments, it is virtually impossible for the legislature to vote non-confidence in the cabinet.<sup>37</sup> Its ability to hold the cabinet accountable is severely attenuated, and therefore the theory of responsible government as outlined above (2.1), is not practised in our system.<sup>38</sup> Lloyd George, former British Prime Minister is reported to have said, "Parliament has no control over the cabinet; it is only a fiction."<sup>39</sup>

<sup>35</sup> Sharman C., "The Strange Case of a Provincial Constitution: The British Columbia Constitution Act" *Canadian Journal of Political Science*, March 1984 pp.102-03. *Hansard* reveals that both in 1973 and in 1980, no one raised the impact of these amendments on the principle of responsible government. Lorne Nicholson, NDP member for Nelson/Creston came closest. Without elaborating he said, "We are allowing the erosion of the legislature itself." June 25, 1980 p. 3039. The amendment was buried along with amendments to 18 other statutes in the Miscellaneous Statutes Amendment Act (No. 1) 1980. By convention Miscellaneous Statutes Acts are not debated during Second Reading, which is debate on principle. To bury such a significant change in a basketful of house keeping changes is itself shamefully autocratic.

<sup>36</sup> Maureen McTeer, *Parliament: Canada's Democracy and How it Works*, Mississauga: Random House, 1987, writes, "Cabinet Ministers who go against the government on any matter must resign their posts. The same applies to Parliamentary Secretaries and MP-s who hold other important parliamentary positions." p. 75.

<sup>37</sup> In 1980 Prime Minister Joe Clark had a minority government but decided to act as though he had a majority, and lost on a motion of non-confidence.

<sup>38</sup> Many studies conclude that provincial legislatures do not hold the cabinet accountable in an effective manner. Kornberg A, et al., *Representative Democracy in the Canadian Provinces*, Scarborough, Prentice-Hall Canada Inc., 1982; Clarke H. D, et al., eds., *Parliament, Policy and Representation*, Toronto: Methuen 1980, Chapters 8,9, and 11.

<sup>39</sup> McLeod J, ed., *Agenda 1970: Proposals for a Creative Politics*, Toronto: U. of Toronto Press, p. 217.

Representative and responsible government demands MLAs who are independent. Prior to mass political parties, SMP could safeguard that independence. Today, the independence of government MLAs is compromised at every point. As a link between the electorate and government, they are redundant,<sup>40</sup> and in their legislative function their vote is captive to the interests of the party.<sup>41</sup> Should MLAs threaten a revolt, the Premier might dissolve the legislature, and they face an election in which their fortunes depend entirely on the very same Premier.<sup>42</sup> MLAs owe the Premier almost everything, the Premier owes MLAs almost nothing. It would help if the caucus could elect the parliamentary leader. Waltz credits this British practice as leading to a more responsible use of power, firstly, because it more effectively selects qualified persons with proven leadership abilities, and secondly, it limits arbitrary use of power by leaders. In comparing the powers of a US president and a British PM, Waltz notes, "The British mode of recruitment creates a condition that serves as a gross restraint on executive power."<sup>43</sup> Allowing the membership of extra-legislative parties to select a Premier in the name of greater democracy is hopelessly misdirected. The increased democracy benefits a partisan group of activists who bought their membership, but weakens the legislative caucus, such that democracy for all citizens

<sup>40</sup> R. Lee, *supra* note 14, especially pp. 46-48.

<sup>41</sup> Although not nearly as severe, a similar concern exists in Great Britain. "Party loyalty explains why government consistently wins votes in the House of Commons...Laws are described as Acts of Parliament, but it would be more accurate if they were stamped: Made in Whitehall." Rose R, *Politics in England*, London: The McMillan Press Ltd., Fifth ed., 1989 p.112. For a study of decreasing party discipline in Britain see: Norton P, "Behavioural Changes: Backbench Independence in the 1980s," in Norton ed., *Parliament in the 1980s*, Oxford: Blackwell, 1985.

<sup>42</sup> Two studies have shown independently that in Britain at least, individual MPs can add or subtract no more than 5% of the votes a party would get regardless who won the nomination. *Supra* note 19 p.12. This suggests people vote for the leader or party, not for the candidate. In the 1986 BC provincial election candidates of the same party in each of the 12 dual-member ridings had less than 4% spread in popular vote, including Richmond where the Premier received only 3.9 % more votes than his relatively unknown running mate.

<sup>43</sup> Waltz K, *The Theory of International Politics*, Reading, Mass: Addison-Wesley Publishing Co. 1979 pp. 83-84. I support going back to that system. It would correct, somewhat, the imbalance of power between the Premier and caucus; it would help maintain an appropriate separation between the party and legislative leader; and it would likely elect more competent leaders. Neither Vander Zalm nor Johnston would have been Premier. Also, see: J.C. Courtney, "Leadership, Conventions and the Development of the National Political Community in Canada" in Carty R.K, and Ward W.P, *National Politics and Community in Canada*, Vancouver: University of BC Press 1986 pp. 92-111.

is frustrated in the legislature.

Finally, not only is the legislature weak, but increasingly it is completely by-passed. Examples include the following:

**PUBLIC POLICY** Important public policy decisions are made, and commitments entered into long before coming to the legislature. Examples include the present government's decision to recognise inherent Aboriginal land title, and its policy to mortgage road construction. Both are a first in our province's history and carry profound, long-term effects.

**ADMINISTRATIVE LAW**<sup>44</sup> This continues to grow at an alarming rate. We are moving in the direction from which the former Soviet Union is retreating. We do not have public ownership of the means of production, but the multiplicity of regulations that have the force of law, made by faceless bureaucrats, has the same end result. The public sphere unduly intrudes on the private. And it is a form of largely unaccountable law-making outside of the legislature.

**CROWN CORPORATIONS** These, too, are growing at a rate that should be of concern, and similarly remove increasingly larger chunks of government operations beyond the reach of the legislature.<sup>45</sup>

**"EMPTY SHELL" LAWS** These are Bills which empower the cabinet to retain wide-ranging authority to draft regulations and other provisions which often form the

---

<sup>44</sup> This refers to powers of bodies such as the Workers Compensation Board, the BC Utilities Commission, the Labour Relations Board, the Motor Carrier Commission, etc. For a full discussion see: Keyes J. M, *Cabinet Legislation* Toronto: Butterworth 1992; Bowers J. R, *Regulating the Regulators*, New York: Praeger, 1990; Puttick K, *Challenging Delegated Legislation*, London: Waterlow Publishers, 1988.

<sup>45</sup> Vaughn Palmer describes Crown corporations as follows: "They are less accountable to the legislature than any government ministry. They can borrow and spend large sums of money without it ever showing up as part of the provincial deficit. And they make an excellent repository for party hacks." Four more were created in early 1994 alone. Vancouver Sun, May 13, 1994.

substance of the legislation.<sup>46</sup> Also, most legislation include clauses by which cabinet retains the power to give effect to statutes or particular chapters of statutes at a time of its choosing, perhaps never. Again, the legislature is powerless. We have government by order-in-council, including Special Warrants. The latter, allows cabinet to spent money we don't have, and the legislature has not approved.

By-passing the legislature in these ways renders the institution increasingly less relevant. Recall, that on Pitkin's view representation requires institutional arrangements to facilitate citizen's input, that citizens expect this, and that the courts see the legislature as the avenue by which citizens exercise their slice of sovereignty. The notion of responsible government is usually described as fundamental to making the parliamentary system democratic; without it, the system is undemocratic.<sup>47</sup> The conclusion is unmistakable: we do not have a democracy. The legislature is either controlled by the cabinet or it is by-passed.<sup>48</sup> In view of this obvious truth, it is remarkable that the present system is still referred to as responsible government.<sup>49</sup> Perhaps, describing our present system as responsible government is one of Plato's 'noble lies'. But it is a lie, and needs to be debunked.

---

<sup>46</sup> Examples include: Environmental Assessment Act 1994, it gives the Minister and cabinet powers to enforce environmental protection at their discretion. The Build BC Act 1993 gives cabinet unlimited spending power for any type of capital construction without approval of the legislature, except that a financial report must be tabled once a year. It also gives unlimited power to tax the sale of gasoline, car rentals, and place tolls on highways. The Residential Tenancy Act 1994 allows cabinet to set limits to rents. Also, see: Seens G. L., "Awesome, Sweeping Powers: The Land Commission Act, 1973; The Mineral Royalties Act 1974, and other 'Blank Cheque' Legislation: the NDP Years, 1972-75", Victoria: Political Science, BC Project, University of Victoria 1983.

<sup>47</sup> For example, the MacDonald Commission. Canada, Royal Commission on the Economic Union and Development Prospects for Canada, *Report* (3 volumes), Ottawa, Supply and Services Canada, 1985, V.3, part 4, p.36.

<sup>48</sup> A comparative study of Canadian legislatures to determine how democratic they are concludes, "In all provinces, institutional factors currently inhibit the ability of legislators to represent effectively the policy demands and needs of their constituents." Kornberg A, et al., *Representative Democracy in the Canadian Provinces*, Scarborough: Prentice-Hall Canada Ltd., 1982 p. 267.

<sup>49</sup> For a brief overview of the history of the idea of responsible government see: Dunn C, "The Meaning of Responsible Government" in *Canadian Parliamentary Review*, Ottawa: Vol.11, No.3, 1988 pp.12-3.



The MacDonald Royal Commission, in 1985, identified two essential requirements for responsible government: that the cabinet has *control* of government and is *accountable* to Parliament.<sup>50</sup> Can both these conditions be fulfilled? How can the cabinet be in control of government and not also be in control of Parliament, and if in control of Parliament, still be accountable to it? In the present system responsible government means the cabinet controls the operations of government and the legislature. Accountability is not to the legislature, but on election day, about every four years, to the voters. If that is deemed acceptable, we should say so, drop the pretence that citizens participate in government through the legislature, and tell the courts, the people, and the theorists they have gotten it all wrong. Alternatively, we could try to bring practise in line with theory.

The 19th century saw the end of the long and arduous struggle to establish the authority of Parliament in the name of the people rather than that of the Crown. Locke identified the legislative function as supreme over the executive and judicial. For him representative government meant popular control of the legislative function.<sup>51</sup> In Canada, this struggle for popular control culminated in "responsible government". This device to maintain the authority of the legislature over the cabinet is failing, and with it the Lockean concept of representative government. We have substituted cabinet for the Crown. The organization and effectiveness of large political parties have rendered the concept of responsible government void and empty. Our theories, intellectual justification, and institutional arrangements have been overtaken by political realities unforeseen when the parliamentary system began to evolve.<sup>52</sup> Edmund Burke could meaningfully debate whether to follow his

---

<sup>50</sup> Supra note 47 p.36.

<sup>51</sup> Uhr J, "Cabinet - Legislative Relations: Learning from Locke", *Canadian Parliamentary Review*, v.10:1 Spring 1987, Ottawa pp. 9-11.

<sup>52</sup> For a discussion on how political parties replaced independent notables, and the affect of this on responsible government see: March R. R, *The Myth of Parliament*, Scarborough: Prentice-Hall of Canada Ltd., 1974.

own conscience and judgment, or that of his constituents. Today's practitioners have no such choice. They take direction neither from their own beliefs or the wishes of those they are reputed to represent; they are party partisans throughout. The struggle today is not against the Crown, but against the organisations, and institutions that position themselves between the people and the exercise of governmental power. Large-scale organization tends to be anti-democratic; by design it entrusts power to the few. This is true of churches, labour unions, professional organizations, and business corporations, but especially political parties. Our tyranny is not that of the Crown; our oppressor is the tyranny of organization. The power of organizations, such as political parties, deprives representative and represented alike of independent judgment.

Without MLAs who have independence, responsible government cannot work, and the legislature's legislative role is an empty formality. Chapters One and Two gave two reasons why MLAs have lost their independence. First, SMP generates majorities in the legislature where there are none among the voters. Second, political parties have wide-spread power over the voter's representatives. These two combined, allow a cabinet to control the legislature. As a result, the proper relationship between cabinet and the legislature, for responsible government to function, has been inverted. The Single Transferable Vote (STV) has the potential to stop unearned majorities and lessen the power of political parties.<sup>53</sup> Before advancing STV, chapter 3 will first consider other remedies popularly proposed. This will be useful to sharpen understanding about both the problems and possible solutions.

---

<sup>53</sup> Westell A, *The New Society*, Toronto: McClelland and Stewart, 1977 "If a major change were made in the electoral system to introduce some form of proportional representation, the powers of the prime minister and the cabinet would probably be reduced..." p. 30.

### CHAPTER THREE: DEMOCRATIC REFORMS

*The problem with reform lies not in the lack of recognition that change is necessary; rather the dilemma in Canada is change which will respect the tradition of representative responsible government in Canada with the current need for greater democratisation and accountability.<sup>1</sup>*

The search for more democratic participation, for effective representation, and for institutional arrangements so as to govern in a manner responsive to the people, has produced many and varied suggestions. This study looks to Europe for an answer, and suggests a form of proportional representation. Most proposals for reform look to the United States and suggest measures of direct democracy, such as referendum, initiative and recall. The US, from its inception was a democracy – a polity ruled from the ground up. Not so Canada. Unlike the American and French, our history is void of any revolution establishing the rights of the people.<sup>2</sup> We have no blueprint of democracy to go back to. Hence, whenever we feel our governments and institutions are particularly autocratic, we look southward to see how a modern democracy works. In spite of many attempts to graft American solutions to the British parliamentary system, none have been successful.<sup>3</sup> The two systems are too different; there is no easy fit. However, neither a history of failure, nor the theoretical difficulties, have prevented yet another round of popular demands for US-style direct democracy.<sup>4</sup> Referendum, initiative, and recall result from the search for greater personal involvement and popular participation in government. They emanate from the belief that sovereignty rests not with parliament, but with the people. In addition,

<sup>1</sup> Dyck J. H. A, "Representative Recall and Initiative Legislation: Two Forms of Direct Democracy", University College of Cariboo, Paper prepared for Select Standing Committee on Parliamentary Reform, September 29, 1992 p. 3.

<sup>2</sup> For one among many discussions of this theme see: Resnick P, *Parliament vs. People*, Vancouver: New Star Books, 1984 chapter 1.

<sup>3</sup> For a detailed history of direct democracy in Canada see: Boyer P. J, *Lawmaking by the People*, Toronto: Butterworth 1982; and for BC see: Ruff N. J, "Institutionalizing Populism in British Columbia," *Canadian Parliamentary Review*, Ottawa: Winter 1993/94 pp 24-32.

<sup>4</sup> In October 1991 the BC electorate accepted the principle of recall and initiative with 73% of those who voted in the Referendum. As a result the Recall and Initiative Act, Bill 36, was introduced on June 16, 1994, received Royal Assent on July 8, 1994, and was proclaimed February 24, 1995. Federally, on December 10, 1992 Reform Party of Canada's Deborah Grey introduced Bill C-392, "The Recall Act" in the House of Commons, following the adoption of Recall as Reform Party policy (Blue Book 1991); she repeated this on February 2, 1994 as Bill C-210.

the last decade has spawned a flood of proposals for parliamentary reform. These aim to make the parliamentary system more accountable and open to public participation, to lessen party discipline, and strengthen the role of private members. This chapter asks if direct democracy and parliamentary reforms are sufficient to rehabilitate responsible government.

### 3.1 Direct Democracy

Referendum and initiative, the first two measures of direct democracy, provide for direct law-making by the people. In 1919, BC followed the example of the other three most westerly provinces, and passed *An Act To Provide for the Initiation and Approval of Legislation by the Electors*. Since similar Manitoba legislation was found *ultra vires* by the Judicial Committee of the Privy Council, the BC legislation was never proclaimed. Referenda have been part of the BC system of government from the beginning.<sup>5</sup> Constitutional authority Eugene Forsey reportedly said of referendum, "It is subversive of the parliamentary system."<sup>6</sup> Proponents, such as Patrick Boyer, see direct democracy as a complement to, not a substitute for, parliament.<sup>7</sup> Since referendum and initiative, unlike recall, do not aim to affect the relationship between the legislature and cabinet, their bearing on this thesis is peripheral, except that the popular demand for these measures underscores the unresponsiveness of our system.

Recall, the third element of direct democracy, is the "power of a defined percentage of constituents to recall, or unseat, a representative"<sup>8</sup>, or "...a legal provision for the

<sup>5</sup> Since 1871 there have been 9 provincial referenda. The first held in 1873 asked eligible voters to approve a pay increase for MLAs from five to seven dollars per day. It was defeated. Never again have MLAs asked the voters to approve a pay increase. Source: *Electoral History of BC* p. 409. T. Jefferson had a better idea. He thought Congress could vote themselves a pay raise provided that it would not take effect until after a subsequent election.

<sup>6</sup> Quoted in Canadian Study of Parliament Group, *Proceedings*, Year 7: A Review of the McGrath Committee Report on the Reform of the House of Commons, December 2, 1992.

<sup>7</sup> Boyer P, *The People's Mandate*, Toronto: Dundurn Press, 1992.

<sup>8</sup> Morton W. L, *The Progressive Party in Canada*, Toronto: University of Toronto Press, 1950, p. 16.

retirement of a public officer before his term of office expires, if he has forfeited the confidence of the voters."<sup>9</sup> Usually recall requires a petition signed by a percentage of eligible voters, which if successful, triggers a by-election. It is a method for removing a representative in mid-term. Conceptually, recall is similar to impeachment, but it lacks the overtones of legal impropriety. Therefore, the person recalled may be a candidate in the by-election. Typically, one is recalled for failing to respond to the wishes or preferences of the electors. Recall is based on the delegate view of representation: representatives should do as they are told. Its purpose is to weaken the link between representative and party, and to strengthen the link between representative and electors.

Recall fits the congressional system better than the parliamentary system. Recall presupposes that representatives can be judged on individual performance, which is true under the American system of separation of powers, but is much less true in a parliamentary system. In the parliamentary system recall can be misapplied. For example, Ministers fill two roles. In their role as representative of a constituency they are more like agents for their voters. Their second role is quite different. As Ministers of the Crown they must be true to the oath of office and serve the wider provincial and federal interests in a disinterested and non-partisan way.<sup>10</sup> They are elected to the first role, and responsible for that to the electors in their own constituency. They are appointed to the second role, and responsible for that to the Crown through the legislature. Recall is designed to test performance in the first role, but in practice will be used to pronounce judgment on performance in the second role.

<sup>9</sup> Phelps E. M, *Selected Articles on The Recall*, New York: The H. W. Wilson Co., 1915, p.1.

<sup>10</sup> For an insightful understanding of the difference in functions between the cabinet and the private representative see: Lippman W, *The Public Philosophy*, New York: Mentor Books, 1955, pp. 47-8. After defining the cabinet role he writes: "When we move over to the representative assembly, the image is different. The representative is in some very considerable degree an agent, and the image of his virtue is rather more like that of a lawyer than of the judge. In the general run of the mundane business which comes before the assembly, he is entitled -- indeed he is duty-bound -- to keep close to the interests and sentiments of his constituents and, within reasonable limits, to do what he can to support them...But representation must not be confused with governing."

The presence of highly organized, well funded special interest groups makes it possible, even likely, that a perceived lack of responsiveness as Minister of the Crown will trigger the recall, not in the legislature, or among all electors province-wide, but within that Minister's own constituency.<sup>11</sup> Such use constitutes a misapplication of recall, and if done frequently would impair the possibility of responsible government. Such misuse of recall is particularly tempting to an Opposition bent on removing a Premier.<sup>12</sup> Hence, recall may be used, not to restore responsible government, but to deform it. The role of the various actors and their relationship becomes even more clouded.

Also, under a parliamentary system, recall of even one MLA may bring down a government. Again, the repercussions go far beyond the immediate relationship of one MLA and that Member's electors. Proponents dismiss such objections as unnecessary scaremongering, because it is claimed, the history of recall shows it is seldom used successfully.<sup>13</sup> However, such a defence is dishonest. For example, recall could be used more frequently if the number of votes required to "recall" a member were lowered.<sup>14</sup> But more importantly, if recall is a meaningful solution to real problems, the promise that it will be rigged so as to come into force rarely, say once

---

<sup>11</sup> The Lortie Commission found that increased use of the recall in the US during the 1980s is partly due to the strength and prominence of special interest groups. Canada, *Reforming Electoral Democracy*, vol. 2, Ottawa: Canada Communication Group-Publishing, 1991 p. 243.

<sup>12</sup> This is precisely what caused Premier W. Aberhart of Alberta in 1937 to abandon Canada's only, so far, experiment with recall.

<sup>13</sup> McCormick P, "Provision for the Recall of Elected Officials", in Cassidy M, *Democratic Rights and Electoral Reform in Canada*, Toronto: Dundurn Press, 1991 p. 270; p. 288.

<sup>14</sup> For example, critics charge that the BC legislation has a threshold so high as to make it virtually impossible to be used. It requires that within 60 days 40% of voters eligible in the previous election must sign the petition. This compares to 25% in most US jurisdictions, even that level is seldom attained. Considering that average voter turnout in general elections is about 70%, it would require almost 60% of those who voted in the previous election for recall to even get off the ground. However, it is equally true that the vagaries of SMP will sometimes elect members with 30% or less of the popular vote, in which case a large majority of voters have a bias against the member from the start. Also, in the only historical example in Canada, the threshold was much higher, and attained. "By the fall of 1937 they had the necessary 66.66% of the voters supporting the recall petition. In order to save Aberhart's seat, the government revoked the Recall Act retroactively to the date of its passage." Elliot D. R, and Miller I, *Bible Bill*, Edmonton: Reidmore Books, 1987 p. 273.

every 80 years, is a curious way of recommending it. Proponents then shift ground and suggest that the value of recall is not its use, but the possibility that it might be used. The possibility of recall now becomes a deterrent. A deterrent for MLAs tempted to submit to excessive party discipline. But surely, a deterrent with a near zero probability of ever causing any inconvenience to a particular MLA, is no deterrent to that MLA. Recall can be fashioned to be either a deterrent and a cause of instability, or neither. The first is unacceptable, and the second not worth having.

Peter McCormick, a proponent of recall, passionately pleads for the need to lessen party discipline, and dismisses any concern that less party discipline would mortally wound the ability to govern.<sup>15</sup> The abiding interest in, and popularity of, direct democracy underscores the need to attain McCormick's goals, but is recall the best means to that end? Party discipline is so deeply entrenched, to think that recall will make a significant difference is wishful thinking. A recent, extensive US study concludes:

...the recall device...has not significantly improved direct communication between leaders and led...Neither has it produced better qualified officeholders or noticeably enriched the quality of citizenship or democracy in those places permitting it. Whether it has strengthened representative government in any measurable way seems doubtful.<sup>16</sup>

Historically, in Canada, populist parties that promised direct democracy have invariably retracted, weakened, or conveniently forgotten their bold promises upon attaining power.<sup>17</sup> The US experience shows that even where the near absence of party discipline and the congressional system lend themselves to recall, it has been

---

<sup>15</sup> Supra note 13 pp. 288-92.

<sup>16</sup> Cronin T. E, *Direct Democracy: The Politics of Initiative, Referendum and Recall*, Cambridge: Harvard University Press, 1989 p.155.

<sup>17</sup> Supra note 11 pp. 230-33, and supra note 13 p. 274.

used very sparingly.<sup>18</sup>

Why does recall fail to live up to its promise? It is submitted that recall is misdirected, because it treats the symptom not the cause. Recall treats the relationship between electors and their representative. That relationship is distorted, not because of some perversity on the part of elected representatives, but because of structural forces such as SMP. The electoral process now gives parties and leaders power over representatives and causes voters on election day to discount the importance of the local candidate in favour of the party leader. The relationship between representative and elector does not sour sometime during a representative's term; that relationship is strained from its inception. In our system, political parties, their leaders, and the distortions of SMP stand between electors and the elected. Voters place an X behind a name while knowing little about the platform, principles, and competence of the person who carries that name. Voters are not particularly attentive to the person they vote for. An election selects a government, the local candidate is of little significance. What is the point in voting for a brilliant, highly qualified person of a party that can't win, it is better to vote for a nonentity of a winning party. Elections are foremost about parties, not persons. A 'letter to the editor' against recall expressed the issue with a delicious touch of sarcasm, "Since we vote for people without any reason to think they have merit, what point is there in recalling them when they turn out to have no merit?"<sup>19</sup>

Recall might be useful in limited instances, for instance, if a representative gets elected with a hidden agenda, fails to show up for work, or switches parties in mid-

---

<sup>18</sup> In the US 15 States have recall for State-wide elected positions, and 36 States for locally elected positions. Recall has successfully removed persons from office in the following instances. State-wide only once, North Dakota 1921; State legislators seven times, 2 in California in 1913, 2 in Idaho in 1971, 2 in Michigan in 1983, and 1 in Oregon in 1988. In Switzerland 3 cantons have recall, without ever being used. *Supra* note 11 pp. 242-43.

<sup>19</sup> Gail Bell, Letters to the Editor, *Vancouver Sun*, November 30, 1993.



term. But recall will not lessen party discipline, give representatives greater independence, or allow voters significant legislative input. Hence, recall does not get to the root of what ails present parliamentary government.<sup>20</sup> A more fundamental overhaul is needed.

The Royal Commission on Electoral Reform and Party Financing turned down recall, but for reasons that are not impressive.<sup>21</sup> First, the commission suggests that in the parliamentary system representatives are elected to a national assembly, not to be an agent for their constituents, but to participate in deliberation of national interests: "...the House of Commons is a collective decision-making and representative institution that must weigh the competing interests of citizens against the national interest." On the contrary, it is precisely because the House is neither a decision-making body, nor particularly representative, that recall has such appeal. Would people clamour for recall if the legislature were actually a deliberative body where competing interests are heard? Not every interest can have its way, but is it too much to expect that each significant interest has a say? If we had such an institution, there would be less need for recall. Under proportional systems there is little demand for recall.<sup>22</sup>

Second, the Commission points to the high legislative turnover in Canada as evidence of accountability, and that therefore recall is unnecessary: "The high turnover demonstrates Canadian voters are able to hold their MPs accountable for what they do...". Such accountability has no substance if there is no significant difference

---

<sup>20</sup> Graeme Bowbrick rejects recall and suggests the concerns of proponents is more effectively met by replacing SMP with PR. Bowbrick G, "Revisiting the Implications of Recall and Initiative and their Potential Implementation in British Columbia", unpublished paper, UBC faculty of law, April 24, 1992 p. 38.

<sup>21</sup> Supra note 11 pp. 244-47.

<sup>22</sup> Flanagan T, "Reform of Canada's Parliamentary Institutions", Unpublished paper for Reform Party of Canada, June 1991 p. 45, Flanagan also writes, "In my opinion, the recall would not really come into its own unless we restructure the Canadian parliamentary system more radically than the Reform Party has yet proposed." p. 47.

among the available candidates, and in one respect all candidates are alike – they are all subject to party discipline.<sup>23</sup> As a result, none of the candidates are answerable to their voters to the degree recall proponents look for. Accountability results when voters have genuine choice. Structural factors such as SMP work against small parties, thus inhibiting choice. Suggesting Canadians should be content because they enjoy frequent opportunity to throw out the “rascals” is misplaced when the only choice available is more “rascals”. As long as the structural factors that prevent a representative from being accountable to the electors remain, no amount of turnover in personnel will make accountability flow downward. Under our system, the relationship of the legislature to the cabinet, and hence the relationship between the elected and electors, remains unchanged regardless of who is in power. The problem is not people, but the system.

### 3.2 Parliamentary Reform

Frequently, students of direct democracy suggest (as does the Reform Party of Canada) that measures of direct democracy may not be necessary if only the legislature were made to work as it is supposed to.<sup>24</sup> In particular, they urge a lessening of party discipline and a greater role for private members. There have been numerous suggestions for parliamentary reform, from Trudeau’s promise of participatory democracy, to Kim Campbell’s call for the politics of inclusion. Former Premier Vander Zalm’s first Speech from the Throne promised, “As a priority my

---

<sup>23</sup> In spite of the rhetoric, it is doubtful the Reform Party will be different. Their interim policy states, “Until parliamentary reform is enacted, ... Reform MPs shall vote with the Reform Party majority in the House unless a Member is instructed to abstain or vote otherwise by his/her constituents.” Reform Party of Canada, *Principles and Policies*, 1991 p 10. Thomas Flanagan comments that while this is advanced as an interim policy, no relaxation of party discipline within the Reform Party is likely as long as the Westminster model remains. *Supra* note 22 p. 23. In addition, Manning’s concept of representation can accommodate many positions. It suggests party discipline, following constituent instructions, and following one’s own best judgment are all appropriate, depending on the circumstances. See, Manning P, *The New Canada*, Toronto: Macmillan, 1992, pp.321-22. For an additional voice skeptical about relaxing party discipline in the Reform Party of Canada, see, Laycock D, “Reforming Canadian Democracy? Institutions and Ideology in the Reform Party Project” *Canadian Journal of Political Science* 27:2 June 1994 pp. 213-48.

<sup>24</sup> For example, Dyck J. H. A, *supra* note 1 p. 6; Also, Lortie makes this point repeatedly.

government will expand the number and roles of the all-party committees of this assembly. I will ask members to become more involved in the business of our parliament.”<sup>25</sup> His successor Rita Johnston, promised a greater role for private members including more free votes and a much stronger committee system.<sup>26</sup> Premier Harcourt, must have inherited the same speech writer: “We will also take positive steps to more effectively include all members of the legislature in decision-making. We will seek to expand the role for committees of this House in areas such as the consideration of legislation, and the government spending estimates.”<sup>27</sup> The rhetoric, like everything else, remains unchanged. Despite limited changes, such as an elected Speaker, and increased resources for Members, power rests with the cabinet; in that dimension nothing has changed. The promise of Harcourt to involve committees in legislation and estimates, remains unfulfilled.<sup>28</sup> Committees cannot set their own agenda, but must be instructed by the legislature, ie., the cabinet, and the majority of committee members are government members. As for the Speaker being elected, both in Ottawa and Victoria it has made no difference. Speakers are still drawn from the government ranks, which only serves to underscore the subservience of the legislature to the cabinet.

Federally, the very substantial report of the Special Committee on the Reform of the House of Commons was tabled in June, 1985. Its goal was clearly stated:

The purpose of reform of the House of Commons is to restore to private members an effective legislative function and give them a meaningful role in the formation of public policy.<sup>29</sup>

---

<sup>25</sup> *Hansard*, March 9, 1987 p. 3.

<sup>26</sup> *The Province*, June 19, 1991; *Times Colonist*, August 16, 1991.

<sup>27</sup> Speech from the Throne, *Hansard*, March 17, 1992.

<sup>28</sup> Confirmed by Craig James, Clerk of Committees in conversation, November 25, 1994. In addition, about half the committees are not used. During the five years of the 34th Parliament (1986-91) there were 15 Select Standing, and Special Committees, 8 of those met 12 times or more, the balance would meet once a year to reconstitute itself. During the first 2 years of the 35th Parliament 9 out of a total of 18 Committees met 11 times or more, the balance were not used. Source: Clerk of Committees.

<sup>29</sup> *Supra* note 6, p. 6.

This report raised great expectations and many recommendations were implemented. Seven years later, some of the original committee members, parliamentarians, and academics studied and discussed its impact. Almost without exception, they expressed disappointment. For example, Question Period has not changed, Ministers need not answer questions,<sup>30</sup> image dominates over substance, private member's Bills still face almost insurmountable obstacles, review of estimates and supply continues to be a farce, committees have not shown the independence hoped for, government ignores their recommendations,<sup>31</sup> and party discipline is as firm as ever. Ned Franks, in assessing the results against the goal of restoring the legislative function as noted above, commented, "I must say on this there has been no change."<sup>32</sup> He suggests that the problems are not procedural, "They are deep down in the way our system operates." He identifies structural arrangements as the leading causes for the disturbing fact that legislators do not have a legislative function, that is, the power to veto, or amend legislation. Among such structural arrangements he includes party discipline, the rapid turnover of elected members, and the contradictions that result when the electorate votes primarily on the basis of party and leader, yet expecting to be listened to by the local member.<sup>33</sup>

The literature on parliamentary reform is vast, and the attempts at implementation many. In BC, Gerry Kristianson and Paul Nicholson, two senior observers, suggest nine specific recommendations which they think will "...enhance the ability of the

---

<sup>30</sup> The late Elwood Veitch, a master at obfuscation, would habitually get the Opposition in a rage of frustration, and meet their demands for an answer by saying, "Mr. Speaker, surely the Honorable Member has been in this House long enough to know that this is question period, not answer period."

<sup>31</sup> For a particularly chilling account of how Standing Committees can be used by a cabinet to 'manufacture consent' for decisions already made elsewhere see: Lee R. M., *One Hundred Monkeys*, Toronto: MacFarlane Walter and Ross, 1989 pp. 49-50.

<sup>32</sup> Supra note 6, p. 11.

<sup>33</sup> Supra note 6, p. 10.

province's MLAs to play an effective legislative role."<sup>34</sup> They, like many others, suggest a redefinition of what constitutes an issue of confidence to achieve weaker party discipline. All such proposals fail miserably. Members are beholden to their leaders and party through a whole network of institutional arrangements. They don't even have to be whipped in line; instinctively they know their political survival depends on being a team member. It is not a legal, or procedural problem. Contrary to what governments like us to believe, there is nothing, either in law or convention that forces a government to treat every vote as a motion of confidence. Eugene Forsey said in 1980: "Except in the case of a clear no-confidence motion, or a defeat of a measure the government has previously declared to be a matter of confidence, anything else is up to the government to decide."<sup>35</sup> Party discipline must be addressed, not by some parliamentary procedural changes, but through fundamental change to the electoral system. Since parliamentary reforms, like direct democracy, fail to touch the root of the problem, expectations will always be disappointed. Flanagan, in reviewing the many reforms that have been implemented concludes: "All these measures were successful, and yet the basic situation has not changed."<sup>36</sup> Political parties offering simplistic solutions to complex problems do a disservice to our people and will deservedly reap the wrath of the electorate.

### **3.3 Summary and Transition**

Direct democracy and parliamentary reforms are attempts to lessen party discipline, to have MLAs represent constituents instead of party, to shift power from cabinet to the legislature, and to thus restore responsible government. These proposals are misdirected in theory, fail in practice, and hold no hope for the future.

---

<sup>34</sup> Kristianson G, and Nicholson P, "Improving the Image and Operation of the British Columbia legislature", Brief to the Standing Committee on Standing Orders and Private Bills of the Legislative Assembly of British Columbia, 1984.

<sup>35</sup> Quoted in Flanagan, *supra* note 22 p. 12.

<sup>36</sup> *Supra* note 22 p. 16.

The next chapter aims to provide viable, positive alternatives. Comprehending the problem clearly is the first step to a solution. As has been noted, we think we are a democracy, and that this means more than periodic opportunities to vote, but we are not a democracy in that sense. We think the majority rules, but it doesn't. We think our electoral system is fair, and we send international observers around the world to monitor others, but our own system is far from fair. The courts talk about Charter rights, votes of equal value, and effective representation, but in the most recent federal election it took 1,093,211 votes for each seat the Progressive Conservatives obtained, while adherents of the Liberal party platform needed only 31,909 votes per seat.<sup>37</sup> The vote of many Canadians was 34 times less valuable than the vote of many other Canadians. The PCs received 16% of the vote. In fairness, they should have 47 seats, but received only 2.<sup>38</sup> We say our system is responsible, but effective accountability started to disintegrate over one hundred years ago, and is gone today. Ironically the people vote primarily for party and leader, yet resent the local member taking orders from the party and leader. Their support for the simplistic solutions offered by direct democracy proponents leaves them open to bitter disappointment.

We need substantial change, yet not a total departure from what we have. Change must satisfy the popular conceptions of democracy held by an increasingly better informed and educated populace. Politically significant diversities must be represented. Change must satisfy Pitkin's demand for responsive institutions, and the court's notion of effective representation.<sup>39</sup> People deserve maximum choice, and

---

<sup>37</sup> Chief Electoral Officer of Canada, *Official Voting Results for 35th General Election*, Ottawa, 1993

<sup>38</sup> Sometimes such unfairness is dismissed with the suggestion that parties, once in office, are all the same anyway. Not true, empiric studies show otherwise. See: Kornberg A, et al., *Representative Democracy in the Canadian Provinces*, Scarborough, Prentice-Hall Canada Inc. 1982 p. 266. Also, consider the impact on national unity, that the election of the Bloc Quebecois has. They obtained 54 seats with just 14% of the popular vote, making them the official Opposition.

<sup>39</sup> A comparative study into the conditions that help a legislature contribute to national integration found, all groups must be represented, they must be heard, and the structures must facilitate compromise. Eldridge A. F, ed., *legislatures in Plural Societies*, Durham: Duke University Press 1977, p. 267.

their participation must be meaningful.<sup>40</sup> Change must lead to greater civility in the legislature, decisions by consensus, and cooperation: a place where everyone's talents are utilized, minority positions are respected, dissent is tolerated, and debate is highly prized.

Moreover, the changes must respect our vast geography, and our history. It is a history shaped by, yet not wholly comfortable with, classical liberalism. Classical liberalism understood human rights as rights of individuals, and conceived the role of government as limited to the protection of private property. Our history reaches, via pre-revolutionary France and Britain, back into an older, European and classical tradition. That history precludes adopting the American congressional system in whole, while the congressional system's internal cohesiveness precludes adopting it in part. Both our sparsely populated geography, and unique history have cultivated governments that are more communitarian and interventionist than those south of the border. Changes to strengthen democracy in the operation of the legislature, must not overlook popular demands, our geography, and our history. Fortunately, PR comes in many forms; we must select one suitable to our needs.

---

<sup>40</sup> Participation in political decision-making contributes to human self-actualization. see: Walker J. L, *American Political Science Review*, 60:2 1966, pp. 285-95; Lipsitz L, "If, As Verba Says, The State Functions As A Religion, What Are We To Do Then To Save Our Souls?", *American Political Science Review*, 62:2 1968 pp. 527-35.

## CHAPTER FOUR: TOWARDS A SOLUTION

*Ultimately any form of democratic government must stand or fall not so much by its perfect subservience to majorities as by its just treatment of minorities -- a far more difficult condition to fulfil. That minorities must not rule is only the first canon of good government; the second is that they must not be ignored.<sup>1</sup>*

### 4.1 Proportional Representation

Proportional Representation (PR) is not, as is often thought, a single, particular electoral system. PR is the unifying principle among a family of electoral systems. The principle is that representation in the legislature of groups of like-minded voters is in proportion to that group's voting strength. This principle or ideal cannot be attained perfectly, but there are many different ways to approximate it. There are many PR systems, and therefore any serious discussion must specify which system is talked about. After noting features common to most PR systems, this chapter discusses one particular type of PR, the Single Transferable Vote (STV).

Many in North America and Great Britain consider PR a deviation from the norm – an eccentricity. In fact, many of the world's stable democracies use PR, and others such as Germany use a mixed system to compensate for the inequities the Single Member Plurality (SMP) system produces.<sup>2</sup> Among the most stable democratic regimes, Great Britain, Canada, and the US may well be the exceptions in their use of SMP.<sup>3</sup> The first applications of PR took place in Denmark (1856), Belgium (1899), Switzerland (1901), and during the early decades of this century many other countries adopted PR.<sup>4</sup> Furthermore, very few have abandoned it once it was

---

<sup>1</sup> Sharp C. D, "The Case Against the Referendum" Fabian Tract No.155 London: The Fabian Society, 1911 p. 10.

<sup>2</sup> For a crude classification see Appendix A.

<sup>3</sup> New Zealand's 1992 referendum to change SMP carried by 84%; and in 1993 53.8% favoured the Mixed Member Proportional system, which is similar to what (West) Germany has used since 1953. It should also be noted that in the US, because of their separation of powers, SMP does not have the negative impact on the relation of the executive to the legislative that is the subject of this study.

<sup>4</sup> Balinski M, and Young H. P, *Fair Representation*, New Haven: Yale University Press, 1982 p. 87.



adopted.<sup>5</sup> PR cannot be dismissed as an anomaly promoted by a misguided minority. If it is to be dismissed, it should at least be understood.

Why have so many democracies turned to PR, and why, for instance, would South Africa, in making a fresh start – in its first attempt at democracy, and while grappling with enormous inner diversity, opt for PR in both its national and state elections? Perhaps the answer is that the principle of PR, both in theory and practice most nearly embodies the essence of democracy. Vernon Bogdanor, who has studied PR extensively, writes:

To meet the canons of democracy, an electoral system should perform two functions. It should ensure, first, that the majority rules and, secondly, that significant minorities are heard.<sup>6</sup>

SMP fails on both counts. It produces rule by minority, and dissenting voices are eliminated from participation in government. PR differs from SMP most strikingly in how it treats minority values, opinions, and interests. SMP aims to create a two-party system, which presupposes that all public policy issues, and the answers to those issues, allow no more than two possibilities. Such an assumption does not correspond to reality. Answers to significant public policy issues are never just black and white. Supposing otherwise imposes a straightjacket suffocating the enormous diversity and creativity that drives a vibrant society. Out on the street, within society, there exists a rich diversity of principles, values, ideals, and ideas that people live by and pursue. PR provides a structure to capture that diversity, to bring it into the legislature, and to allow minority opinions to be heard.

Why is it important to allow space for minority opinions and interests? First, it is a matter of fairness. SMP produces majorities in the legislature by preventing many votes from making it to the legislature. This, to proponents of PR, is as wrong as

---

<sup>5</sup> Lakeman E, *How Democracies Vote*, London: Faber and Faber 1974 p. 168. Canadian experience at the municipal level is one of the exceptions; see chapter Five of this paper, pp. 109-110.

<sup>6</sup> Bogdanor V, *What is Proportional Representation?*, Oxford: Martin Robertson 1984 p.157.

dishonest weights and measurements, or winning an Olympic gold with the help of steroids. PR's concern with minority views arises, not from distrust of majorities, but to ensure that claims to majority status are justified and true. Proponents of PR do not question that someone voting with the majority should win, they protest winning without a majority. Majorities should be earned, not manufactured.<sup>7</sup> In brief, it is simply unfair to fix the rules so as to eliminate, or deny, a voice to significant minorities.

Beyond ensuring that majorities are arrived at fairly, the concern with minority rights has a second dimension. If democracy is rule by the people, it cannot be exclusively rule by the majority, for then a minority is consigned to the status of non-people. In a democracy everyone counts. Voltaire said, "I disapprove of what you say, but I'll defend to the death your right to say it." Such respect for the differences among people lies at the heart of the democratic spirit. Majority rule must be limited majority rule; it is to be restrained by the rights of the minority. Without such restraint, majority rule is a form of tyranny. The essence of democracy is to respect different views, and to seek unity of diversities; it is based on the worth of the individual, and the importance of respecting diversities. The opposite is to seek unity in uniformity, which is totalitarian and the enemy of freedom. Sartori forcefully argues this position, and quotes Lord Acton, "The most certain test by which we judge whether a country is really free is the amount of security enjoyed by minorities."<sup>8</sup> PR systems institutionalize such protection by preventing the ruthless elimination of minority views at the various levels of the electoral process as happens under SMP. For example, a voter under PR may still have some of his views represented even if just one of the candidates of his party's choice makes it to the legislature from that voter's district. In the event that the party of his choice does not gain a majority in

---

<sup>7</sup>All electoral systems, including PR, are capable of manufacturing majorities, but such an effect is far less likely under PR than SMP. See: Lijphart A, *Democracies*, New Haven: Yale University Press, 1984 p. 167.

<sup>8</sup> Sartori G, *The Theory of Democracy Revisited*, Chatham, New Jersey: Chatham House Publishers Inc., 1987 pp. 31-4.

the legislature, such a minority party is much more likely to still play a significant role in governing than would be the case under SMP.

Drafting the rules of an electoral system so as to include minority views is, third, important for making election campaigns more honest.<sup>9</sup> Under SMP, parties tend to aggregate diversities of interests, bridge differences, and reach compromise before appealing for voter support. The result is a stronger tendency to pragmatic, "catch-all" parties, and election campaigns driven by personalities, images, and hollow promises. Parties are driven to seek such a large base of support, that in the attempt to please all, they satisfy none.<sup>10</sup> Voters not wholly comfortable with any of the parties, are reduced to picking the best of a bad bunch. PR changes the dynamics in that minority status does not prevent participation in governing. Under PR, parties have the option to state their principles and platform more openly without risking total elimination. The aggregation of interests and compromises necessary to the governing of any polity, tends to occur after the election. In instances where two or three parties cannot honestly reflect all the plurality and diversity that exists in a given society, PR may lead to more parties. When this occurs the voter is given more choice, and the relationship between parties and their supporters is more authentic, and positive, in that it is based more on substance. After Belgium switched to PR one effect noted was that PR had "... introduced more sincerity into electoral platforms."<sup>11</sup> Parties can be honest about what they stand for, because their appeal is to fewer voters. As a result, PR, in as much as it allows for a greater range of diversities to be represented, can lead to a legislature whose make-up fulfils the requirements of

<sup>9</sup> Amy D. J. *Real Choices/New Voices*, New York: Columbia University Press 1993, chapter 3 pp. 55-75.

<sup>10</sup> As noted above, many observers have made this point. Former MP and cabinet minister Don Johnston writes about his experience as Leadership candidate: "The so-called policy sessions were well-chaired... but policy content was minimal... The dominant strategy seemed to be to play it safe and avoid broaching controversial subjects. In the hope of winning supporters over the longhaul, each tried to be the candidate to offend the fewest people." Johnston D, *On The Hill*, Montreal: Optimum Publishing International, 1986 pp.122-26.

<sup>11</sup> "The Crises in Party Politics", in *Westminster Review*, Vancouver: Westminster Review Publishing Office, September 1916 p.11.

descriptive representation as discussed in chapter One above.

#### 4.2 Objections Considered

Objections to PR are plentiful, and arise for a variety of reasons. Unfortunately, PR seems to provoke strong feelings. Proponents sometimes present PR as a panacea for all inequities, while opponents may also overstate their case. Proponents might credit PR for all that is good and positive, while opponents may blame PR for all the ills that beset government and society.<sup>12</sup> Such disputes usually draw on selective evidence, and therefore, are difficult to settle. Electoral systems are one component within a complex set of governmental institutions; institutions which themselves are deeply rooted in cultural, historical, social, and economic conditions, often unique to particular nation states. This presents two problems: first, statements that claim PR as the cause of electoral behavior, such as, party formation, or the presence or lack of political extremism, should be considered suspect.<sup>13</sup> and second, even where inferences about the effects of PR in one country or culture are reasonably justified, such inferences may not hold in another time and place. These difficulties, which beset all the social sciences, should inform any consideration of the claims and counter claims, even when supported by empirical research. In addition, disagreements about PR are not always disagreements about the facts. Often opponents of PR readily admit that PR is fairer, and will produce a more descriptively representative legislature than SMP, but to them other criteria and values are of equal or greater importance.

---

<sup>12</sup> For example, Hain supports his opposition to PR by observing that PR did not prevent the coming to power of Hitler in Germany and Mussolini in Italy. He forgets that historically most wars have been initiated by governments who attained power by means other than PR. Hains P, *Proportional Mis-Representation*, Haunts, England: Wildwood House Ltd., 1986 p 38. For a discussion about differences between Imperial and Weimar Germany that are more significant than the change in electoral system, see: Bogdanor V, and Butler D, eds., *Democracy and Elections*, Cambridge: Cambridge University Press, 1983, pp. 252-53.

<sup>13</sup> Bogdanor and Butler conclude their study with this, "It should be clear then, that any theory making the electoral system a fundamental causative factor in the development of party systems cannot be sustained." Ibid., p. 254.

A variety of objections will be noted in this chapter.<sup>14</sup> Some of these are based on factual claims that may or may not be true. Others arise from a difference in priorities; most consist of a mixture of both.

## PROLIFERATION OF PARTIES

There is a common perception that PR will naturally lead to an "Italian pizza parliament", a parliament fractured by a multiplicity of small, and perhaps extremist parties.<sup>15</sup> Shortly after the second world war, the French political theorist, Maurice Duverger, troubled by the instability of French politics, looked enviously at Britain's two-party system and postulated that SMP produces a two-party system, while PR leads to a multiplicity of parties.<sup>16</sup> Duverger and others saw the electoral system as determinative for the party system. However, the actual experience in many countries did not fit the model and defied the theory. Soon such theories came under attack. Turning Duverger's theory around, the critics postulated that electoral systems derive from party configurations which themselves are the product of historical and cultural factors.<sup>17</sup> In response, Duverger softened his position considerably, he then suggested that SMP favours a two-party system, and while PR always produces more than two parties, it usually does not lead to a multiplicity of parties.<sup>18</sup> He also wrote,

The relationship between electoral rules and party systems is not mechanical and automatic: a particular electoral regime does not necessarily produce a particular party system; it merely exerts pressure in the direction of this system, it is a force which acts among several

---

<sup>14</sup> The link between voter and MLA, and the merits of coalitions will be treated in other contexts below.

<sup>15</sup> This and the following objections can be found, among many others, in: Barker P, "Voting for Trouble", in Charlton M, and Barker P, ed., *Contemporary Political Issues* 2nd. ed., Scarborough: Nelson Canada, 1994, pp. 292-303.

<sup>16</sup> Duverger M, *Political Parties*, 2nd. ed., Toronto: Methuen 1959.

<sup>17</sup> Bogdanor, supra note #12, pp. 254-55. Bogdanor lists the following theorists: Grumm J. H, "Theories of Electoral Systems", *Mid-West Journal of Political Science*, 1958; Lipson L, "Party Systems in the United Kingdom and the Older Commonwealth: Causes, Resemblances and Variations", *Political Studies*, 1959; Lipson L, *The Democratic Civilization*, New York: 1964.

<sup>18</sup> Supra note 16, pp. 273-45.

other forces, some of which tend in the opposite direction.<sup>19</sup>

The theory that electoral systems determine party systems was eclipsed. Under the leadership of Lipset and Rokkan, social cleavages in society were now considered as significant determinants of party systems. Where social cleavages such as religion, and class are numerous, non-aligned, and pronounced, more parties will result.<sup>20</sup> Yet, such theories did not prove entirely satisfactory either. For example, what explains the strong correlation between electoral and party systems? Rae's research in the late 1960s concludes,

In 75 legislatures elected under PR formulae, the mean minimal majority was 1.96 parties. Typically, the support of the two largest parties was required for the formation of the majority. In the 45 legislatures elected under majority and plurality formulae, the mean minimal majority was only 1.5 parties, suggesting that one-party majorities were more common.<sup>21</sup>

Rae's findings were substantiated by Lijphart in the early 1980s. To measure the association between electoral systems and the number of parties, Lijphart studied 22 democratic regimes, and distinguished between three classifications of parties. The number of parties that contest elections is always greater than the number that gain parliamentary representation. The first he named electoral parties, and the second parliamentary parties. The latter requires a further subcategory, since some parties are much smaller in size, or carry less weight than others. Hence he devised a method to isolate "effective" parliamentary parties. Following Rae, he found that all electoral systems tend to reduce the number of effective parliamentary parties compared to the number of electoral parties, but PR systems tend to eliminate fewer parties than SMP. Lijphart found the weaker version of Duverger's sociological law to hold in all except two of the twenty-two democratic regimes studied. Because of the

---

<sup>19</sup> Quoted in: Grofman B, and Lijphart A, eds., *Electoral Laws and Their Political Consequences*, New York: Agathon 1986, p. 5.

<sup>20</sup> Lipset S. M, and Rokkan S, eds., *Party Systems and Voter Alignments: Cross-National Perspectives*, New York: Free Press 1967, Chapter One.

<sup>21</sup> Rae D, *The Political Consequences of Electoral Laws*, New Haven: Yale University Press, 1969 p. 99.

exceptions, he concludes, "...proportional representation should not be said to *cause*, but only to *allow* multipartism."<sup>22</sup> Yet, that seems excessively cautious. PR, plays a more active role than the word 'allow' indicates. PR, by design, eliminates fewer parties from attaining parliamentary status, and its correlation with the presence of a greater number of political parties is strong.

Why do some countries have many political parties, and others few? The answers are as complex as people and society itself. The mechanics of an electoral system play a role, but factors such as the number, and intensity of politically relevant diversities and issues within a given society also play a role. Lijphart measured and found a strong correlation between the number of issues and the number of parties. He writes, "The general rule is that the number of issue dimensions increases as the number of parties increases."<sup>23</sup> Taagepera and Grofman, inspired by Lijphart, suggest that the mechanics of an electoral system, together with the number of issues in a given society provide strong predictive power about the number of parties in that society. Recognizing the empirical presence of both electoral system influences and the power of social diversities, they offer a synthesis of the two, and even provide a mathematical formula to express the relationship.<sup>24</sup> Even though the formula does not hold in every instance, and the operational definitions require considerable qualification, it recognizes that at least two factors interact. It might explain why Austria, for example, has relatively few parties. That country's PR system's tendency for more parties is probably held in check by a political culture with few issues.

---

<sup>22</sup> Supra note 7, pp 158-59, Canada being one of the two. This confirms what Cairns showed in 1968, namely, that SMP does not always deliver a two-party system as promised.

<sup>23</sup> Supra note 7, pp. 149. This denotes a correlation, not a causal relation.

<sup>24</sup> Taagepera R, and Grofman B, "Rethinking Duverger's law: Predicting the Effective Number of Parties in Plurality and PR Systems -- Parties Minus Issues Equals One", *European Journal of Political Research*, 13 (1985) pp. 341-52.

Empirical research shows that PR usually goes together with more than two parties, particularly in societies with a greater number of political issues. But does PR lead to a proliferation of parties? Blais and Carty found the number of "effective" parliamentary parties to be 20% lower in SMP systems compared to PR systems.<sup>25</sup> Rae's study confirms that PR does not lead to fractionalization due to multiplicity of parties. He had speculated that ballots which allow a voter to favour more than one party with a mandate would lead to fractionalization, but concludes: "The reader will find that my theory is absolutely wrong."<sup>26</sup> Cassidy lists extensive evidence that PR does not lead, in most cases, to unmanageable multiplication of parties and concludes: "the differences between countries appear to be related more to the underlying political culture and cleavages than to the use of proportional representation."<sup>27</sup> Bogdanor, a proponent of PR, dismisses concerns about proliferation as fallacy.<sup>28</sup> Lakeman, also a proponent of PR, shows that European countries did not experience a marked increase in the number of parties after switching to PR.<sup>29</sup> In addition, most PR systems have minimum number of votes thresholds, ranging from 0.67% in the Netherlands to 5% in Germany; below such thresholds a party is denied parliamentary representation. Thresholds may be used to prevent excessive multipartism.<sup>30</sup>

In conclusion, comparative research shows, in most instances a correlation between PR, and an increased number of parties. But the increase is far from excessive and

---

<sup>25</sup> Blais A, and Carty K, "The Psychological Impact of Electoral Law: Measuring Duverger's Elusive Factor" *British Journal of Political Science*, 1991.

<sup>26</sup> Supra note 21 p.127.

<sup>27</sup> Cassidy M, *Fairness and Stability in Canadian Elections: The Case for an Alternative Electoral System*, Ottawa: Parliamentary Centre for Foreign Affairs and Foreign Trade, 1992 p. 35.

<sup>28</sup> Supra note 6 p. 148.

<sup>29</sup> Supra note 5 p.173.

<sup>30</sup> The Netherlands with the lowest threshold of all, experienced an increase in parliamentary parties to 12 following the May 1994 election. This compares to 9 parliamentary parties at dissolution. However, raising the threshold to 3.5 % would eliminate all but 4 of the current 12 parliamentary parties. Under Lijphart's classification there are only 4 effective parliamentary parties. It is not likely the Dutch will raise the threshold for that would be considered an unacceptable suppression of minority views.



does not substantiate the claim that PR leads to party proliferation. In addition, thresholds can effectively limit new party formation.

### UNSTABLE GOVERNMENT

Opponents of PR do not always specify what they mean by the charge that PR leads to unstable government. For example, it might mean more turnover, such as more elections, and more frequent changes of both government and cabinet. PR is clearly associated with more frequent turnovers in governments and cabinets. Lijphart's study of 20 democracies between 1945 and 1980 shows, "...two-party systems are associated with stable cabinets, and as multipartism increases, cabinet life tends to shorten."<sup>31</sup> Unstable government might also refer to incidences of extremism or wild swings in law-making. The two are related; frequent turnover is assumed to lead to abrupt changes in public policies. PR has been blamed for the failures of the Weimar Republic and the rise of Hitler. In 1941, Hermens wrote, "PR was an essential factor in the breakdown of German democracy."<sup>32</sup> This view is generally dismissed as exaggerated, yet it is feared PR may not exert the same moderating influence that the brokerage function of parties under SMP is credited with performing. By allowing a greater diversity into the legislature, PR gives status, recognition, and influence to minorities, some of whom will undoubtedly be extremist. Sartori described Italy's notorious instability – 48 governments between June 1945 and December 1988, an average of one for each 11 months – as 'polarized pluralism', with features that include extremism.<sup>33</sup> Sartori considered PR to contribute to instability and extremism by perpetuating social differences. He thought an electoral system should bridge differences.

---

<sup>31</sup>Supra note 7 p.110. Lijphart says this confirms analysis of others, even though everyone uses slightly different operational definitions. For a list of studies see: Blais A, "The Debate over Electoral Systems", *International Political Science Review*, 1991, Vol. 12, No. 3, pp. 239-60.

<sup>32</sup> Hermens F. A, *Democracy or Anarchy? A Study of Proportional Representation*, New York: Johnston Reprint Corporation, 1972, p. 293.

<sup>33</sup> Quoted in Furlong P, "Government Stability and Electoral Systems: The Italian Example", *Parliamentary Affairs*, Vol. 44 No.1, January, 1991, Oxford University Press pp. 50-60.

In response, first, there are many countries, including Scandinavian, that have not given extremists undue influence. Therefore, the presence or absence of extremism in public policy cannot be attributed solely to the electoral system.<sup>34</sup> Sartori's analysis may be valid for Italy, France, and Germany for the period he studied those countries, but it is invalid to generalize. Second, the competition is not doing so well itself. Two-party regimes are supposed to produce moderation since both parties are expected to converge on the center for the swing-vote in the middle. But this does not always happen according to script. BC is a counter example. Since the breakup of the war-time coalition, BC has enjoyed a virtual two-party system, yet provincial politics have been exceptionally polarized. A recent study concludes: "...party competition in British Columbia has a sharper left/right focus than in any other part of English-speaking North America."<sup>35</sup> Similarly, in Quebec, SMP gave government power to an extreme faction determined to destroy Canada as we know it today. Under PR the national unity crises would probably not exist. As Cairns has shown, and the recent Quebec election confirmed, SMP may exacerbate social and regional differences. On the matter of quick turnover, SMP does not guarantee unqualified stability. Far from it. The turnover in MPs and MLAs in Canada is among the highest world-wide.<sup>36</sup> The 1991 BC provincial election returned 25 incumbents, and 50 rookies.<sup>37</sup> The 1993 federal election returned 90 incumbents, and 205 rookies. People who defend that system should be cautious about presenting themselves as the guardians of stability. Cabinet might be stable, but is the governmental institution as a whole stable? Adding up the number of elections or cabinet changes under one electoral system as opposed to another reveals little about the inherent stability of the regime as a whole.

---

<sup>34</sup> For example, Bogdanor, *supra* note 13 p. 253.

<sup>35</sup> Blake D, et al., *Grassroots Politicians*, Vancouver: University of BC Press, 1991 p. 124.

<sup>36</sup> Franks considers this the most serious defect of the Canadian parliamentary system, and would for that reason consider PR, except that under list PR party discipline is too strong. He should consider STV. Canadian Study of Parliament Group, *Proceedings, Year 7: A Review of the McGrath Committee Report on the Reform of the House of Commons*, December 2, 1992 p. 13.

<sup>37</sup> Six seats were newly created, but still, this is unacceptably high.

Third, and perhaps most importantly, swings in public policy are more pronounced under two-party systems than under multiparty systems. It is easy to see why. Usually, successive governments and cabinets under PR are largely composed of the same parties and persons. Their relative influence may shift slightly, but the degree of continuity is greater than under the complete swings of two-party systems. A change in government under the SMP, Westminster, winner-take-all model makes a dramatic shift in public policy possible, and more likely than under the PR, coalition, consensual type of governing.<sup>38</sup> European experience shows that PR builds governing teams with staying power. Extremism, wild swings in policy, and abuse of political power is more likely when power is concentrated in the hands of the few, rather than in the hands of the many. Critics of PR confuse cabinet instability with regime instability. One student of the effect of PR on Belgian political stability observed, "cabinets had weaker majorities and shorter lives, but there was much less danger of permanent and irreconcilable divisions within the country."<sup>39</sup> If the goal is to provide stability in public policy, PR, to the extent electoral systems are responsible, is clearly the system of choice.<sup>40</sup> PR fosters consensus-building, harmony, and order. PR should not be blamed for instability caused by cultural and social conditions that may precipitate unrest or extremism under any electoral system.

## WEAK GOVERNMENT

Sartori labelled PR, in words that have been quoted often, a "feeble" system. He described it as such, because PR does not interpret or reassign electoral results. On

---

<sup>38</sup> Peter Hain objects to PR, in part, because he sees it as providing government that is too moderate, middle of the road, and supportive of the status quo. His political activism rebels against PR. Supra note 12 p. 45. Similar sentiments might explain why in Canada the CCF/NDP has seldom spoken in favour of PR, even though they, as the third party have suffered the unfairness of SMP more than any other party. It is doubtful Tommy Douglas or Dave Barrett could have implemented their programs under PR. It would have had to be more incremental.

<sup>39</sup> Quoted in Blais, supra note 31, p. 245.

<sup>40</sup> Tom Kent, long time federal senior civil servant supports PR precisely for this reason. Kent T, *Getting Ready For 1999*, Ottawa: the Institute for Research on Public Policy, 1989 p. 45.

his view, since PR faithfully reproduces in parliament all the diversity, divisions, and contradictions that exist in society, government leadership is frustrated.

Government should be able to lift itself above the petty partisanship and the fracturedness of society. Sartori does not hold PR responsible for generating "polarized pluralism", but thinks a more dynamic electoral system would break the chronic inability to take decisive action on creative, progressive ideas.<sup>41</sup> He considered PR's capacity to govern weak; agreement can be found only on the most mundane, harmless, lowest common denominator issues. With the Italian example in mind, some defenders of SMP hold that the purpose of an election is to produce a government with a workable majority.<sup>42</sup> On that view, we must choose between two values. We can have either a government with a strong capacity to govern, or we can have fairness of representation. Franks, for instance, argues against PR and a parliament-dominated executive for Canada, because our history and geography demand an activist, interventionist government capable of strong decisions.<sup>43</sup>

It need not be the case that PR leads to weak government. Rather than choose between fairness in representation and capable government, we should aim for both. There are many instances to prove both are possible. Were Franks to study western European, PR democracies, could it be maintained that such governments are not "activist and welfare-oriented", and unable to promote "equality, justice, economic development, and other collective goals"? Franks credits 'strong' government for Macdonald's national dream, the trans-Canada transportation systems, and our valued universal social programs. Is he also grateful that 'strong' government procured the Canada/US Free Trade Agreement, the Goods and Services Tax, a \$750 billion debt, and an artificially aggravated national-unity crisis? Where Franks sees

---

<sup>41</sup> Supra note 33, particularly p. 56.

<sup>42</sup> Taylor P. J. and Johnston R. J., *Geography of Elections*, New York: Holmes and Meier Publishers Inc., 1979 p. 469; Guy Lardeyret, quoted in supra note 9, p.162.

<sup>43</sup> Franks C.E.S., *The Parliament of Canada*, Toronto: University of Toronto Press 1987, p. 268.

the fulfilment of national aspirations, others see relentless squandering of opportunity. Some applauded Vander Zalm's abortion funding policy as "strong" government, others saw dangerous extremism. Government cannot be strong unless it is responsible, and in a democracy that means being accountable to the people. Bogdanor holds that in the long haul, "strong" government is impossible without reflecting the majority view.<sup>44</sup> In a democracy, the strength of government is a function of its representativeness.

Decision-making by consensus is cumbersome, but is it necessarily weak? Is government stronger when the sole purpose of nearly one-half of the representatives is to be as destructive as possible? Is confrontation better than cooperation? Whether consensus style of governing is considered weak depends on values and priorities, and often one's own political agenda. Even so, as skepticism about big government beneficence grows, appreciation for politics of inclusion based on decisions by consensus might increase. But if none of this seems persuasive, and doubts about getting anything done in a system where everyone must be consulted remain, consider this: Japan, Germany, the Low countries, and the Scandinavian countries each have educational systems and economies that out-performed, or did as well as, Canada's throughout the past 40 years.<sup>45</sup> In contrast, over the same time period, we have mortgaged our future to an unprecedented extent, just to keep up. Stubbornly insisting that decision-making by consensus is a form of weakness, in the face of so much contrary evidence, seems more dogmatic than reasonable.

#### VOTERS DO NOT SELECT GOVERNMENT<sup>46</sup>

---

<sup>44</sup> Supra note 6 p. 157.

<sup>45</sup> To document fully this assertion is beyond the scope of this study. Some evidence comes from the World Bank which ranks annual per capita income in most of these countries above that of Canada, even apart from considering Canada's per capita debt which is among the highest in the world. Source: Vancouver Sun, December 29, 1994 p.1.

<sup>46</sup> Blais lists a considerable number of scholars who have raised this objection. Supra note 31 p. 242.

This objection maintains that under SMP, two-party regimes, voters have a choice between two alternative sets of policies, and elections clearly establish what people favour. However, such a choice is more imagined than real. As already noted, in the case of Canada elections are seldom about policies, or won by majorities. Also, Lijphart observed that SMP, frequently, produces two parties who both seek to attract the swing-vote in the middle. In this pursuit they become so much alike, as to offer the voter no genuine choice at all.<sup>47</sup>

Objectors in this category also suggest that under PR, government formation is subject to deal-making behind closed doors, and thereby removes government formation from the direct influence of the voters. To counter such criticism most European parties announce before the election which partners they deem acceptable for coalition-building. In addition, their compromises must be publicly defended. Bognador considers this objection at length and concludes that such alleged secrecy is far from excessive and the objection itself a fallacy.<sup>48</sup> Finally, some forms of PR, such as STV, allow voters to determine what coalition they favour.

### UNDUE INFLUENCE OF SMALL PARTIES

This objection suggests that PR gives each vote equal weight, but not each party, because small parties may, under certain circumstances, have an undue influence. Lijphart reviews a number of studies that seek to measure which parties are "effective", or carry weight. His study confirms that usually the power of parties is commensurate to their numbers.<sup>49</sup>

The possibility for undue influence by minorities under PR must be evaluated against the alternative. Under SMP minorities have an undue influence on public policy in

---

<sup>47</sup> Supra note 7 p.113.

<sup>48</sup> Supra note 6 pp. 62-7, and pp.148-51.

<sup>49</sup> Supra note 7 pp.116-23.

two ways. First, it entrusts government power to minorities. Lakeman observes that seats decided by thin margins which decide the next government, mean the government is decided by a few voters acting in the secrecy of the ballot box. In contrast, small parties who participate in government formation do so under full public scrutiny, and are accountable for their actions to the voters in the next election.<sup>50</sup> If we must have a few decide the government, it is preferable to do so in public than in secret. Even in those few instances where SMP produces a party with more than 50% voter support, it must not be assumed that such voters identify wholly with that party. Particularly in two-party systems, many voters choose one party over another as the lesser of two evils, and not because they fully endorse that party's platform in every respect.

Second, a two-party system is poorly equipped to represent the increasing diversity of a modern society. Therefore, people turn to special interest groups to more effectively influence public policy. Since SMP places the levers of power in the Premier's office and cabinet, such groups quickly learn to by-pass political parties, MLAs, and the legislature to lobby directly those who can make quick and effective decisions behind closed doors. Some observers consider their influence so great as to speak of this as the "tyranny of minorities".<sup>51</sup> Therefore, if the concern is to minimize the occasions when power and influence fall into the hands of minorities, as opposed to the impossible goal of eliminating every such possibility, PR has the better record.

## UNACCOUNTABLE GOVERNMENT

In a two-party system responsibility is clearly placed with the governing party. If voters are dissatisfied with how their affairs are managed, they know who to blame. With a multi-party system, and a coalition, consensus-type of government,

---

<sup>50</sup> Lakeman E, *Power To Elect*, London: William Heineman Ltd., 1982, p.161-2.

<sup>51</sup> Flanagan T, "Reform of Canada's Parliamentary Institutions", Calgary: Reform Party of Canada, Unpublished paper, June 1991 p. 6.

responsibility is shared, making it more difficult for the voters to assign credit or blame to individual parties for government performance. Each party will fingerpoint, shift blame to others, and hope to leave voters confused. How seriously this will impair the electorate's judgment is a matter of speculation. A representative's vote on issues will be on the record. The congressional system shares power, and suffers potentially the same defect without much complaint. SMP is also capable of generating minority governments, which some observers have judged to be very productive.<sup>52</sup>

More importantly, accountability has many dimensions. This entire study is about accountability. Between elections, our system is not accountable, cabinet is not responsible to the people's representatives, and the make-up of the government is not representative. Presently elections are more about personalities, and perception, than platform, principles, and programs. Therefore, while we know clearly who is responsible, we hardly know what for. The question of accountability must be placed within the context of the larger enterprise, namely, how to provide responsible government in fact, as well as theory. Of all the different systems of PR, the most accountable is STV because it gives voters the most choice, and it establishes the closest possible link between the represented and the representative. Under STV, the representative is held directly accountable to the represented.

### **4.3 Single Transferable Vote (STV)**

Most proportional systems are list systems. The parties select a list of candidates; this list is ranked in order of preference either by the party before the election, or by the voters during the election. The number of seats a party secures is relative to the number of votes a party receives, but who fills those seats is largely up to the party. Even where voters are asked to rank candidates, their vote must stay within the

---

<sup>52</sup> See for example: Thompson R, *The House of Minorities*, Burlington, Ontario: Welch Pub. 1990.



same party.<sup>53</sup> Such electoral systems favour a strong party system, with parties playing a dominant role. In pure PR systems such as practised in the Netherlands or Israel, the vote is for the party, much more than for the individual candidate. As a result representation is focussed more on political program and interest, than neighbourhood or geographical area. The link or sense of identity between the citizen and their representative is weak, while the link between voter and party has the potential to be strong.

By contrast, STV personalizes voting and representation. Because the British SMP system purports to establish a personal relationship between the represented and their representative, STV has been referred to as the Anglo-Saxon form of PR, and also as personal PR.<sup>54</sup> Under STV parties have no formal role; as in SMP systems, votes are cast for candidates, not for parties. But in contrast to SMP, voters under STV have much more choice. STV functions with multi-member districts, usually five or more members.<sup>55</sup> Voters are given a ballot paper listing all candidates for that district, but instead of selecting one candidate with an X, voters rank candidates in order of preference by placing 1, 2, 3 etc. behind one or more names. The preferences on the ballot papers are counted, assigned, and interpreted to ensure that candidates are elected according to the expressed preferences of the electorate.<sup>56</sup> If a voter's higher preferences are not needed because those candidates have a surplus of votes, or those candidates are eliminated for having insufficient votes, that voter's ballot paper will be used to lend support to that voter's lower preference candidates. Hence, few votes are wasted, and most voters will assist in electing the winning

---

<sup>53</sup> Marsh M, "The Voters Decide?: Preferential voting in European List Systems", *European Journal of Political Research*, 13: 1964, Amsterdam: Elsevier Science Publishers pp. 365-78.

<sup>54</sup> Also, STV has been used only in Commonwealth related countries. It is used for the Irish and Tasmanian Lower Houses, the Irish and Australian Senate, and the Maltese legislature. Bogdanor and Butler, *supra* note 12 p. 2, and p. 8.

<sup>55</sup> Appendix B lists proposed electoral districts for British Columbia using STV. It suggests 15 multi-member districts to replace the existing 75 single member districts.

<sup>56</sup> For a detailed description of this procedure see Appendix C.

candidates. It should also be noted that lower preferences cannot hurt a voter's higher preferences, since the lower do not take effect until the higher preferences have either been elected or eliminated. There is no incentive to "plump" one's vote, although parties may persuade supporters to not rank candidates beyond those of its own party. The objective is to receive transfers from supporters of other parties without returning a similar benefit. Voters seldom follow such attempts at manipulation, and a party's rigid unwillingness to cooperate with others can be counter-productive at the ballot box<sup>57</sup>

STV is unique among PR systems in the amount of choice it gives to voters. Voters need not restrict their preferences to candidates of one party, and in addition, voters rank the candidates within the parties. STV provides a built-in primary election. Therefore, questions about whether elections should produce representation of geography, personal interest, or a mandate for a particular political program is left up to the voters to decide. In contrast, under SMP all such questions plus the wide diversity of policy positions on issues are largely decided for the voter by the parties; and they must all be expressed in one single choice. A voter's ability to express a choice over a range of issues is severely restricted. Voters must support a party's entire package of policy proposals or reject them all – a most unsatisfying choice. Seldom do voters approve a party's entire package; the result is a dilemma for the voter. STV allows the voter to select according to candidate and party positions on a number of different issues, local as well as province-wide, and according to the perceived competence, and past performance of both candidates and parties.

Because STV permits the voter to choose one or more of a party's candidates, while rejecting the others, it allows the voter to not only decide which party will govern, but also at the same time to influence the policies that party will follow. Parties are often

---

<sup>57</sup> Bogdanor V, *The People and the Party System*, Cambridge: Cambridge University Press 1981, p. 243.

coalitions aggregating under one umbrella a segment of the political spectrum. Voters decide which part of that segment will be represented in the legislature. It is not uncommon for incumbents to be defeated by a candidate of their own party. In the 1977 Irish election 13 of the 32 defeated incumbents suffered defeat at the hands of their running mates. In effect, voters participate in a party's nomination and candidate selection process. Particularly popular candidates might escape their party's poor performance at the polls during a down swing.<sup>58</sup> Party machines need not come between voter and candidates. All voters, not just paid up party members, get to select successful candidates. This feature encourages candidates to take positions of greater independence relative to their party, which in turn lessens the need for more parties, thus STV prevents party proliferation more successfully than list-PR systems.<sup>59</sup>

There is no doubt STV has the potential to offer more choice to the voters than any other electoral system including the German mixed system New Zealand has recently adopted, and which Michael Cassidy, among others, recommends for Canada. Taylor and Johnston conclude their study with these words: "If you want maximum choice for voters, then go for STV."<sup>60</sup> It is precisely this element of choice for voters that made J. S. Mill an early and enthusiastic supporter of STV. He clearly perceived and feared that the universal franchise would lead to mass political parties, and that such parties would radically change the relationship between the represented and their representative. The single member, riding-based electoral system, designed to make independent representatives accountable to a particular, geographically distinct group of voters, would be distorted by the new found influence and power of extra-

---

<sup>58</sup> Ibid., p.140.

<sup>59</sup> Ibid., p. 244; supra note 5, p.161 and pp.173-74. Also see, Wright J. F. H, "An Electoral Basis for Responsible Government: The Australian Experience", in Lijphart A, and Grofman B, *Choosing An Electoral System*, New York: Praeger, 1984 p.133.

<sup>60</sup> Taylor P. J, and Johnston R. J, *Geography of Elections*, New York: Holmes and Meier Publishers Inc., 1979 p. 486.

parliamentary parties. The independence of MPs would give way to party discipline; as a result, representation of territory would be replaced by representation of party. History has proven such fears amply justified. The vitally important direct link between voter and representative has been broken. For this reason Mill considered Hare's STV proposal brilliant, and uniquely suited to meet the need of the hour.<sup>61</sup> He wrote the following to Thomas Hare, the British inventor of STV: "You appear to me to have exactly, and for the first time, solved the difficulty of popular representation; and by doing so, to have raised up the cloud of gloom and uncertainty which hung over the futurity of representative government and therefore, of civilization."<sup>62</sup> Mill saw STV as the means to ensure that nearly every voter would have someone in government speaking for them, someone who shared their views and represented their interests. SMP is designed to represent a community, or territory, list-PR represents party and platform, while STV represents the opinions of individuals. Some of those individuals in expressing an opinion will opt for party and platform, others for community and a local representative, and still others will select both, in a variety of combinations. The genius of STV is that such choices are left for the voter to make.

## PROPORTIONALITY

STV has two essential features. It offers voters choice, and it prevents unearned majorities in the legislature. Both features have the potential to significantly diminish the power of political parties. Parties receive their strength from attaining majorities in the legislature; such majorities should result only when the voters are so minded, but not artificially. As noted above, all electoral systems over-reward the larger, stronger parties, but PR systems less than others. How effective is STV in preventing unearned majorities in the legislature? The answer requires a measure of

---

<sup>61</sup> Hare's original proposal was slightly different; it suggested one, nation-wide district, instead of multi-member districts.

<sup>62</sup> Bogdanor *supra* note 12 p. 9.

its proportionality. Complete proportionality is attained when seat-share is equal to vote-share. Rae's 1967 study found PR systems, not surprisingly, to have a greater degree of proportionality than SMP systems.<sup>63</sup> Lijphart presents a more refined study. He classifies all PR systems into three sub-categories and found STV to be within the intermediate range for proportionality among the three categories.<sup>64</sup> Katz adds a further refinement. He found STV to be less proportional than the average for all PR systems as determined by Rae, but suggests that proportionality relates to district-size. Since STV uses smaller district-size than most PR systems, Katz compares STV to PR systems that use similar district-size, and concludes, "Surprisingly, for comparably small districts, pure PR systems appear to be less proportional than STV."<sup>65</sup> Bogdanor reports: "The single transferable vote has been found to yield a high degree of proportionality, not as great as list systems, but far higher than plurality or majority systems."<sup>66</sup>

One reason STV does not attain a higher degree of proportionality relates to district-size. In each district some votes do not help to elect anyone, they are wasted. The more seats per district, the fewer the votes that are wasted. Districts beyond five seats attain only marginally greater proportionality. However, districts beyond five seats, except for densely populated areas, suffer a loss of local and community identification, thus cancelling the benefit of marginally improved proportionality. McLean concludes his comparative study of various electoral systems: "All are imperfect, but I think the least bad is STV...It compromises between proportionality and community representation."<sup>67</sup> Katz began his study to test whether STV could

---

<sup>63</sup>Supra note 21 p 89

<sup>64</sup> Lijphart A, *Electoral Systems and Party Systems*, New York: Oxford University Press, 1994 p 159

<sup>65</sup> Katz R. S, "The Single Transferable Vote and Proportional Representation" in Lijphart A, and Grofman B, *Choosing An Electoral System*, New York: Praeger, 1984 p 136

<sup>66</sup> Supra note 12 p. 10.

<sup>67</sup> McLean I, "Forms of Representation and Systems of Voting" in Held D, ed., *Political Theory Today*, Cambridge: Polity Press, 1991 p. 187.

claim to be a PR system and found that its degree of proportionality warrants inclusion among the PR family.

Measuring proportionality is not an exact science. Much depends on operational definitions. For example, what should count as a party? However, it seems safe to conclude that a relatively close approximation of proportionality can be attributed to STV, certainly much closer than under SMP.

### TRANSPARENCY

Finally, observers have noted that STV is particularly transparent; public opinion finds expression in governmental institutions relatively free of distortions. This is particularly evident in how STV responds to issues such as gender parity and representation of visible minorities. STV, like all PR systems, allows greater opportunity to historically disadvantaged groups. It does so naturally without the need for affirmative gerrymandering. However, the countries that use STV, the Irish Republic, Tasmania, and Malta, have not removed barriers to elected office for disadvantaged groups as effectively as countries using list-PR. Under list-PR political correctness can be enforced from a party's central head office, while under STV discrimination will end only when society as a whole is so minded, and expresses itself through a free, unrestrained exercise of its collective will.<sup>68</sup>

Similarly, many scholars note how a society's political culture, history, and traditional way of doing things are more determinative than the formal structure of STV.<sup>69</sup> For example, in a largely rural, tradition bound society such as Ireland, where politics have always been local, personal, and based on patronage, STV changes little. It merely reflects and perpetuates society's expectations. In such societies, STV's

---

<sup>68</sup> Castles F. G., "Female Legislative Representation and the Electoral System", *Polity*, Nov., 1981.

<sup>69</sup> Among others see, Carty R. K., *Party and Parish Pump*, Waterloo: Wilfrid Laurier University Press, 1981; and the contributions in Bogdanor V., *Representatives of the People?*, Haunts: Gower Publishing, 1985.

potential for cross-party voting, or a coalitionist, rather than a largely bipolar government, have not been used much.<sup>70</sup> Also, Carty considers PR and STV weak electoral systems.<sup>71</sup> Such systems faithfully reproduce in government the expectations, prejudices, and cleavages as they exist in society. This may be considered a weakness where a society is more tradition bound, or particularly fractured, as is the case in Northern Ireland, but the same transparency will provide dynamic government in a more progressive society. Complaints that STV has not significantly reduced the role of parties, or improved access to elected office for traditionally disadvantaged groups, in Ireland, may be less complaints about STV and more about the lack of dynamism in Irish society. Similarly, Sartori's characterization of PR as feeble, is really directed at Italian political culture. STV allows society to influence government, and has the potential to make government responsive, as prescribed by Pitkin and classical democracy. Whether it is so used is up to the people. Such responsiveness or transparency, in my view, is hardly a weakness. Government exists to serve society; society is prior to government.

.....

PR meets the test of fairness. More closely than most systems, it gives votes equal value, thus leading to descriptive representation. Society can reproduce itself in miniature in the legislature. All politically significant diversities will be represented in proportion to their vote-share. As a result, the court's demands for fairness and effective representation are best met by PR. In addition, PR is transparent. Social concerns, changing values, and people's expectations will quickly find representation in the legislature. The demand that government listen to the people can be met more effectively with PR. To meet the needs of our history, PR's transparency will make government to be more, or less interventionist, as the people are so minded. Finally, STV's compromise between representation of territory and other interests,

---

<sup>70</sup> Carty, *ibid.*, p. 27; p. 64.

<sup>71</sup> *Ibid.*, p. 100; p. 124; p. 150.

uniquely suits our vast and unevenly populated province. Of all the PR systems, STV suits both our geography and history best.

It remains to determine how STV is likely to affect the operation of the legislature. In particular, it must be established that STV can restore responsible government. And if it holds promise for responsible government, will it also provide institutional safeguards, such that representing people's interests will be conducted in a manner responsive to them, as Pitkin stipulated?



## CHAPTER FIVE: IMPLEMENTATION

*There is nothing more difficult to plan, more dubious of success nor more dangerous to manage than the creation of a new system. For the initiator has the enmity of all who would profit by the preservation of the old institutions and merely lukewarm defenders in those who would gain by the new ones.<sup>1</sup>*

Almost any comment and prediction about what might or might not happen, should we replace Single Member Plurality (SMP) with Single Transferable Vote (STV) as BC's electoral system, must consist largely of speculation. The interrelatedness and complexities of society, political culture, and the electoral system are manifold. STV has not been applied except in small, rural, traditional, agriculturally based, homogeneous societies. There are no living examples that readily apply to BC. We also know from comparative studies, that structural arrangements such as electoral systems, are less able to influence political behavior than social and historical factors.<sup>2</sup> Mill and other 19th century proponents of STV thought it would encourage legislators of exceptional talent; what has happened in fact, at least in Ireland, is almost the opposite.<sup>3</sup> STV, in theory, has no need of political parties; in practice, where STV exists political parties operate much the way they do in most places. Perhaps, STV is a necessary, but not a sufficient, condition for change. Even that is too strong; change could come, even under SMP, particularly if the next election produces a minority government. Party discipline need not be enforced, not every vote needs to be treated as a vote of confidence, a cabinet need not treat the legislature with contempt, power might be shared; change is possible. But how likely is that? It probably would take persons differently motivated from the kind that have been around for most of recorded history. This thesis asserts that change in the relationship between cabinet and the legislature is likely under STV. Incorporating

---

<sup>1</sup> Machiavelli N, *The Prince*, New York: Oxford University Press, 1952 pp. 49-50.

<sup>2</sup> Bogdanor V, and Butler D, eds., *Democracies and Elections*, Cambridge: Cambridge University, 1983 p. 251.

<sup>3</sup> Ibid., p. 10. Irish politics is so localized, that elected representatives are not well qualified for law-making, and parties are prevented from articulating a meaningful national political agenda. Confirmed by Carty in *Party and Parish Pump*, Waterloo, Ontario: Wilfrid Laurier University Press, 1981, pp. 140-43; p.146.

the finding of previous chapters, this final chapter suggests why this might be so, and considers, briefly, the probability of actually changing our electoral system given political and historical realities.

### **5.1 The legislature Revisited**

Cabinets and governing political parties derive their power from unearned majorities, compliments of SMP. Would STV end all unearned majorities? No, that possibility would be greater under a province-wide, one district, list-PR system. A list-PR system has a greater propensity for consensual, coalition-based government after the European model. Such government would attain the goal of involving more meaningfully the legislature in the development and implementation of public policy. Power would be shared, and cabinets would have shorter lives, but greater continuity. All members would have a more constructive role, everyone would have a say, and only in the end would the majority have its way.

There is one substantial drawback to a list-PR system: parties would still have too much power. MLAs need independence from parties to serve the interests of constituents. List-PR is able to restore power to the legislators in the legislature, but cannot guarantee that such power will be used, not only in the interest of the people, but also, in a manner responsive to them. Rendering our form of government more democratic requires both an end to unearned majorities, and a weaker party system. The appeal of STV is the potential to limit both unearned majorities, and party power. STV gives the voter choice, and through choice, power – power to demand accountability.

STV will not absolutely end all unearned majorities, but it will diminish their frequency, and end the worst abuses. Appendix D projects the 1991 BC election results over 15 STV districts. In 1991, SMP translated the NDP's 40.7% popular

vote into 51 seats, or 68% of seats, for a comfortable majority government. Assuming that STV does not alter voting behavior as it relates to party support, then under STV that same 40.7% popular vote would translate into 36 seats, or 48%, for a minority government. Both SMP and STV over-reward the largest party, and under-reward the smallest party, but STV less so than SMP. The middle party is slightly over-rewarded by STV, and slightly under-rewarded by SMP. The Index of Disproportionality for SMP is 8.7%, and for STV it is 2.5%.<sup>4</sup> While STV comes much closer to true proportionality than SMP, and therefore would have prevented an unearned majority in 1991, still, it would have placed the largest party within two seats of a majority government, with only 40.7% of the popular vote. The BC general elections between 1903 and 1986 inclusive, produced 17 unearned majority governments, and 6 of these with popular vote-share less than 41%. Therefore, it seems reasonable to assume STV would have prevented 6 unearned majorities since 1903, in addition to 1991.

Preventing 7 unearned majorities out of 18 is helpful, but far from satisfactory. However, these projections assume political behavior by voters will not change, or in any way be affected by the electoral structure itself. What if that assumption is wrong? Bogdanor found that electoral structure and social forces both influence political behavior.<sup>5</sup> For example, electoral structure affects voter turnout; it is 8% - 11.4% greater under PR, and the reason appears to be that people under PR think their vote counts.<sup>6</sup> Does the electoral system affect voting behavior other than in voter turnout? The political history of BC offers strong evidence that institutional structures affect voting behavior. In BC, provincial politics is more polarized than

---

<sup>4</sup> These results use Lijphart's Index. On that Index Ireland's disproportionality is 2.4%, and Canada's 8.1%. Lijphart A, *Democracies*, New Haven: Yale University Press, 1984 pp.160-65.

<sup>5</sup> "There is reciprocal interaction between social and electoral change." *Supra* note 2 p. VII.

<sup>6</sup> Blais A, and Carty K, "Does Proportional Representation Foster Voter Turnout?", *European Journal Of Political Research*, Dordrecht: Kluwer Academic Publisher, Vol. 18, No.2 (1990) pp.167-82; Lortie, Vol. 1 p. 19

federal politics. The study of Cairns and Wong attributes the more pronounced two-party provincial system to fears that splitting the right of centre vote would allow a CCF/NDP victory. For nearly forty years, Social Credit warned that on the provincial level a Liberal or Conservative vote is a vote for the socialists. The electoral system justified that warning, and is the reason that many BC voters vote strategically in provincial elections. The two structural systems of SMP, and a cabinet dominated legislature, distort the true wishes of the electorate. Federally it is different. BC voters know from experience that federally their vote will not determine the government. Federally, the structural systems are no cause to vote strategically.<sup>7</sup> Changing the electoral system will change voting behavior.

The extent to which people will vote their true wishes and stop voting strategically, depends on how easy it is for any group of like-minded citizens to elect a representative. As noted in chapter Four, new party formation is related to two factors: district-size and the number of politically relevant issues. District-size beyond 10 is unmanageable for STV because the ballot paper would have too many names. Also, where district-size is too large, STV's advantage of maintaining a local connection is lost. STV, as proposed in Appendix B, would reduce the present 75 districts to 15, thus significantly enlarging district-size. To measure the opportunity this creates for new party formation, we need to know the threshold, that is the minimum number of votes needed to elect a candidate. The threshold varies with district-size. In a 5-seat STV district, one-sixth of valid ballot papers cast will elect a candidate. The formula is: votes cast divided by N, add 1, where N equals number of seats for that district plus 1. In Vancouver every 36,030 votes will elect a candidate; or less, if voter turnout is lower than 83%. For Victoria, Okanagan, and Peace River, respectively, the numbers are: 32,750; 31,606; 19,390.<sup>8</sup> These numbers expressed as

---

<sup>7</sup> Cairns A, and Wong D, "Socialism, Federalism and the BC Party Systems 1933-1983" in Thornburn H. G, *Party Politics in Canada*, 6th. ed., Scarborough: Prentice-Hall Canada, 1991 pp. 468-506.

<sup>8</sup> See Appendix B.

a percentage of valid votes, are as follows: Vancouver 9%; Victoria 14%; Okanagan 17%; Peace River 25%. The rising threshold is a function of the increasingly smaller district-size. The average threshold for all STV districts in BC is 16.2%, plus 1, of valid votes cast. In contrast, under SMP, few candidates win with less than 30% of valid votes cast. Hence, the number of like-minded voters able to win a seat is considerably smaller under STV than SMP.<sup>9</sup>

The second factor in new party formation relates to the number of non-aligned, politically relevant issues. Would a change in the electoral system allow issues that are now suppressed, to come to the surface? STV is uniquely designed to represent interests, opinions, and political beliefs; in contrast, SMP represents territory. In this regard, SMP is out of step with the times. Increasingly, people's interests are not bound to any particular geographical place. The main provincial political issues are unrelated to where one lives within the province. For example, the economy, government overspending, the enormous debt, high taxation, health care, fighting crime, to fund or not fund abortions, protecting the environment, fighting the federal government, welfare benefits, ICBC, gas and electric rates, WCB, education; these, and more, are largely issues of province-wide concern. People have different views on these issues, but such differences are mostly unrelated to where one lives. Of course, other issues, such as land-claims, highway construction, logging, mining, and land-use questions generally, do have a much stronger local impact. It is also true that any issue, education for instance, does have a local dimension, but the big decisions are made in Victoria. What is relatively more important to citizens: province-wide issues, or local issues? The protest groups that converge on the lawns of the legislature are invariably drawn from anywhere in the province. They seldom come from one riding to represent an issue peculiar to that riding. The notion that each of the 75 present

---

<sup>9</sup> Threshold is the most important aspect of an electoral system's ability to influence political behavior. See: Chapt. 7 "Electoral Engineering: Limits and Possibilities" in Lijphart A, *Electoral Systems and Party Systems*, New York: Oxford University Press, 1994, pp. 139-52.

ridings embodies a unique community of interest with some level of relevancy for the people that live there, is a hold-over from the horse-and-buggy days.<sup>10</sup> Six of the eight electoral boundary Acts in Canada refer directly or indirectly to the importance of representing diverse communities of interest in the legislature. But for all that, actual definitions of what a community of interest consists of are elusive.<sup>11</sup> If it has meaning, why do we change the boundaries, and mingle the alleged communities of interest every 6 or 7 years without precipitating the least identity crises among the voters?<sup>12</sup>

Every Boundaries Commission receives strong emotional appeals about the absolute importance of maintaining, and not diluting the present local representation, and that access to one's own, local member is of the greatest importance and among the highest of all political goods. I agree with Henry Angus, who, when confronted with such appeals, while travelling the province as a Commissioner, concluded that in an impersonal, unresponsive system, where all the questions of real importance are decided once every four years on election night by a minority of the population, the only place where it remains possible for the individual to penetrate such a system is to ensure the local representative is around to help people, on a personal level, fight bureaucratic red tape. Angus concluded the people know their local member has no power to affect public policy; therefore, the only remaining useful function for MLAs, relative to their voters, is the ombudsman's role.<sup>13</sup> If the role of MLAs, outside of cabinet, is largely restricted to personal and constituency based service, and since the

---

<sup>10</sup> "Parliamentary constituencies as natural communities are a sociological myth and the British MP's electoral dependence on constituents rather than party is, of course, a political myth." so concludes a British study into the relationship of ridings, communities, and the MP - constituent link. Crewe I, "MPs and their Constituents in Britain: How Strong are the Links?" in Bognador V, *Representatives of the People?* Hants: Gower Publishing 1985, p. 62.

<sup>11</sup> Morton F. L, and Knopff R, "Does the Charter Mandate "One Person, One Vote"?, Calgary: University of Calgary, Occasional Papers Series, Research Study 7.1 1991 p.23.

<sup>12</sup> STV makes the task of boundary Commissions easier. Most shifts in population are accommodated by adding seats to existing districts. It saves money, and people will more readily know their district.

<sup>13</sup> Angus H, "Report of the Commission of Inquiry into Redefinition of Electoral Districts" 1966 pp.16-21.

people know that, it is not surprising everyone wants to have their own MLA close by. Boundary Commissions that continue pandering to such attitudes prevent the legislature coming into its own. Boundary Commissions concentrate on what happens on the way to the legislature; they stop at the door of the legislature. If they studied what happens inside the legislature, their comments about the essence of representation would be less influenced by the predictable pleadings they hear on the road. It is a vicious cycle: legislators have no legislative role, so people plead for a glorified ombudsman, and compliance with such requests reinforces the restriction on the legislators role. To break the cycle, people must be given choice. STV allows people to decide how important locally based interests are. Then we will know if voters prefer a politician who shares their neighbourhood, to one who shares their political views.

SMP assigns seats to place or geography, but issues are increasingly less geographically defined. Society is changing. Today, people living at a 300 km. distance, may well share interests more closely than persons three doors apart. Why not assign legislative seats on the basis of age, gender, ethnicity, level of education, religion, income, profession, wealth, class, employer, employees, and perhaps, a few seats for fish, fowl, and forests? SMP prevents voters from expressing an opinion along most of these dimensions at the ballot box. SMP frustrates the full diversity of issues that are present in BC society from finding expression in our present political choices. Again, the Cairns/Wong study shows that the BC electorate will choose a more diverse range of issues, and hence render BC politics less polarized, provided the threat of manufactured government majorities is removed.<sup>14</sup>

There are two reasons why STV will likely, not just diminish the frequency of unearned majorities, but perhaps prevent them completely. First, as noted, the

---

<sup>14</sup> Supra note 7.

threshold is much lower. Second, if given an opportunity, issues will assume a greater salience, and their diversity will be of greater relevance when citizens cast their vote. The issues are present in our society; we need a structure, such as STV, that will allow them to surface within the legislative process. If any group in Vancouver numbering 9% of the voters can secure a seat, the special interest groups will successfully capitalize on that opportunity. When people have more than one vote, they'll reserve lower ballot preferences for what may be deemed fringe candidates. Vancouver Councillor, Harry Rankin, left-wing and extreme in most of his views, virtually always topped the polls when running for one of ten council seats, but was twice unsuccessful as mayoralty candidate. If voters are given more than one vote, a Rankin-type candidate, environmentalists, and other special interest groups will get elected under STV.

Comparative studies show that list-PR systems respond quickly to social changes. In Europe, the Greens have been inside the doors of the legislature for over 20 years. In BC, they crash the doors of the legislature, clog the courts at legal-aid expense, and eventually are trundled off to jail. SMP excludes environmentalists, PR includes them. This vividly illustrates SMP's structural incapacity to deliver government in a manner responsive to the people. STV, like list-PR, is transparent; it reflects accurately the current concerns of the people, and responds quickly to changing social trends. People get what they want. If, as is the case in Ireland, voters expect their member to primarily deliver local and personal benefits, then the system will respond to that need. If the focus shifts to law-making, and public policy issues, STV will force the system to respond. New issues will be addressed through political channels, including the legislature; and the response will be quick.

A combination of low threshold and diversity of interests can break the strength of political parties; and the special interest groups are likely to initiate the process. I



welcome that, not because every special interest group should have their way, but they should have a say – not outside on the steps of the legislature, but inside. It may appear that STV is designed to give special status and undue prominence to minorities and special interest groups. In fact, the opposite is true. STV will give them clout, but only in proportion to their numbers. The current system allows special interests access to the levers of power out of proportion to their numbers. STV will make it easier for minorities, such as Aboriginals, to gain legislative representation, but not more than their percentage of the population warrants. Minorities would have less access to backroom deal-making than they do now. During the 10 years of constitutional debates following the patriation of 1982, both Aboriginals and representatives of women issues sat at the constitutional table, along with Premiers and the Prime Minister as equals. Recently, the Harcourt government has come under severe criticism for negotiating land-claim settlements behind closed doors. Minorities, special interests, and fringe parties, such as Christian Heritage, Natural Law, and Libertarians should be given their rightful, proportionate place. If not, they are either suppressed, or given favoured treatment. Both are unhealthy. Women groups lobby for PR, but from a tactical point of view it is a mistake, as some have recognized.<sup>15</sup>

Suppose the combined force of a lower threshold and the diversity of issues have resulted in the necessary structural changes and their intended effect. STV is in. Unearned legislative majorities are no more. The power of parties is diminished. Voters can use their ballot paper to express an opinion across a greater range of issues. MLA careers depend more on voters than parties. What effect will this have on the composition and functioning of the legislature? The details depend on particular circumstances, but comparative studies, based on long experience with PR in countries not much different from ours, suggest some general changes can be

---

<sup>15</sup>For example, Maille C, "Primed for Power: Women in Canadian Politics", Ottawa: Canadian Advisory Council on the Status of Women, 1990 p. 31.

predicted with considerable confidence.

For example, the composition of the legislature will be more descriptively representative. Aborigines, women, ethnics, racial minorities, and small political parties will be represented to the extent voters want them to be represented. It will happen without the coercion, which taints affirmative gerrymandering when imposed on society by politicians, the courts, or Boundary Commissions. A wider range of ideas, interests, and policy proposals will make it to the floor of the legislature. As in most European democracies, power will be shared, coalitions that last will be formed,<sup>16</sup> the Premier will consult, and not every Bill, budget, and ministerial estimates will automatically be approved. The legislature would have the power to meaningfully hold government responsible; responsible government could be practised. The legislature would help shape public policy; legislators would have a legislative function.<sup>17</sup> Cabinets will change frequently, but the continuity of their membership, and MLAs that last beyond their training period, will render public policy less open to short-term, politically driven goals, and more receptive to the long-term public interest. Our adversarial, confrontational process would be replaced by a more cooperative, consultative, consensual style.<sup>18</sup> Good manners would start as early as the campaign trail. The need to attract second-place support from voters whose first preference is for an opponent, is a powerful incentive to show considerable civility to that opponent. It might even become accepted that persons can differ on issues without being deemed guilty of bad faith, lying, deceit, and high treason. Good manners – the hallmark of a civilized society – might grace the legislature, and

---

<sup>16</sup>SMP invites coalitions of short duration, because a small shift in popular support translates into large shifts in the legislature. Electoral systems of high proportionality do not provide an incentive to force quick elections for political gain. It removes the electoral advantage for bringing a government down.

<sup>17</sup> German and Scandinavian legislatures have a more effective role in the scrutiny of legislation than the British House of Commons. Bogdanor V, *Coalition Government in Western Europe* ed., London: Heinemann Educational Books, 1983 p. 271.

<sup>18</sup> For a full comparison between the Westminster, adversarial and the consensual models of governing see, among others: Lijphart A, *Democracy in Plural Societies: A Comparative Exploration*, New Haven: Yale University Press, 1977, and also, supra note 4, chapters One and Two.

teachers will take their students into the public galleries without shame.<sup>19</sup>

Changing the electoral system will not guarantee such results, but it does provide opportunity for new patterns of behavior. Undue party discipline will always be a temptation. It is an instrument for control that leads to power. Governing demands groupings of some kind in the legislature. Not all party discipline, and coalition - building is subversive. Party discipline is destructive when it robs representatives of their independence. Loose, shifting, freely entered coalitions are possible only if legislators have independence. To achieve such independence, choice for voters is essential. That alone is capable of delivering the independence needed for responsible government based on the British parliamentary model. Such independence for the legislators from control by party and cabinet, is also the prerequisite to satisfy Pitkin's demand for government 'in a manner responsive' to the voters. The oligopolistic patterns of power must give way to the self-correcting mechanism of an open market, free of constraints. Society must assert its preeminence over government. The structure must allow voter's wishes to be heard. STV's low threshold and high transparency, in a dynamic society with a diversity of issues, will either make existing parties more responsive and diverse, or lead to more parties. In either case, the legislature will be fundamentally changed in composition, distribution of power, and its operation. Government will connect to people, citizens will become participants because their representatives speak for them, and Pitkin, J.S. Mill, and Aristotle will smile their approval. The need for direct democracy measures and parliamentary reforms will be diminished.

## **5.2 Would Turkeys Vote For An Early Thanksgiving?**

What are the possibilities of actually changing our electoral system? Alan Cairns

---

<sup>19</sup> STV's civilizing effect on legislators is well documented. Among others see, Amy D. J, *Real Choices/New Voices*, New York: Columbia University Press 1993 p. 74.

starts his influential critique of SMP with the warning that in Canada any suggestion of alternatives is "a fruitless exercise".<sup>20</sup> Cairns did not feel obliged to heed his own advice; therefore, he won't take it ill of me if I follow suit. William Irvine, a proponent of electoral reform, wrote in 1985 that "Election results in Canada are usually accepted, if only because few Canadians bother to think that the results could have been other than what they were."<sup>21</sup> Realistically, I do not foresee a change for a long time, but pointing the way to a better social order is never fruitless.

Technically, changing the system is entirely within the legislature's jurisdiction. As noted above, the Constitution Act is regularly amended by the legislature. The difficulty is not jurisdictional, but political. Under majority governments, the legislature is impotent to act except on instruction of the government. No majority government is likely to destroy the mechanism by which they obtained their majority. Until we have meaningful Initiative legislation, the only persons who can change the electoral system are those who benefit from not changing it. SMP, universal suffrage, and the resulting strength of mass political parties, have eroded the independence of political representatives and weakened the legislature. These developments have served the interests of political parties; within our present system there is no incentive for parties to do what is in the public interest; particularly, when serving the public interest entails political suicide. Even the smaller, and Opposition parties do not want the system changed. While in opposition, political leaders sometimes express a fondness for electoral reform, but as Kristianson has observed, such enthusiasm is quickly dampened when in power.<sup>22</sup> An example of such political opportunism is WAC Bennett's abandonment of the Alternative Vote after it won

---

<sup>20</sup> Cairns A, "The Electoral System and the Party System in Canada, 1921-1965" *Canadian Journal of Political Science* 1, March 1968 p. 56.

<sup>21</sup> Irvine W, "A Review and Evaluation of Electoral Reform Proposals", in Aucoin P, *Institutional Reforms for Representative Government*, Toronto: University of Toronto Press, 1986 p. 102.

<sup>22</sup> Kristianson G. L, "The Non-partisan Approach to BC Politics: The Search for a Unity Party - 1972-1975", *BC Studies*, Vancouver: UBC Press No. 33, Spring 1977 pp13-29

him government in the 1952 and 1953 elections.<sup>23</sup> For most smaller parties, the unfairness that works against them while out of power, is a guarantee that someday they will have power.<sup>24</sup>

Minority governments open the possibility for change; but as noted above, SMP provides an incentive to end coalitions quickly for political gain; thus the possibility for change is seldom seriously explored. Under a minority government the political actors expect the system to return to normal soon, and to the benefit of their own party.<sup>25</sup> Neither does a minority situation weaken a party's desire for self-preservation. STV has the potential to undermine parties<sup>26</sup>, therefore our history shows resistance to STV from political organizations.<sup>27</sup> Minority governments might have a positive effect if it illustrates that cooperation and decision-making by consensus works in peace-time as well as during war-time. Successful and sustained minorities would have a salutary psychological effect, but fundamental change must come from the people; it will not come from parties and party activists.

Is there popular demand for electoral reform? Unfortunately, most people are not interested, and are appallingly ignorant. Such ignorance is perpetuated by our educational system. An important text, widely used, since its publication in 1949 to

---

<sup>23</sup> Bennett had supported the Alternative Vote as early as 1947, and by his own admission, the Coalition government adopted it at his urgings. Mitchell D. J, *WAC Bennett*, Vancouver: Douglas and McIntyre 1983 p 88 and p 127. Also, Steeves D. G, *The Compassionate Rebel, E. Winch and His Times*, Vancouver: Evergreen Press 1960 p.181; and Elkins D. J, "Politics Makes Strange Bedfellows: The BC Party System in the 1952 and 1953 Provincial Elections", *BC Studies*, No. 30, Summer 1976 pp. 3-26. The Alternative Vote is not PR; it ensures candidates are elected by the majority of the votes cast in each riding, but it does not give government to candidates supported by the majority of provincial voters.

<sup>24</sup> J.S. Woodsworth supported PR in 1930, but some within the CCF opposed PR on the grounds that a system which now worked against them, would help them eventually, as was confirmed in the 1944 Saskatchewan election. Philips H, *Challenges to the Voting System in Canada, 1874-1974*, London, Ontario: University of Western Ontario 1976 p.198, and pp. 260-63.

<sup>25</sup> My experience suggests that political actors near the top are self confident optimists; no evidence to the contrary can shake their belief that they are the best, and that most people, deep down, agree.

<sup>26</sup>Blais A, "The Debate Over Electoral Systems", *International Political Science Review*, 1991, Vol. 12 No. 3, p. 248.

<sup>27</sup> This paper, pp. 107-09.

this day, instructs young Canadians about our form of government as follows:

"The first and most important characteristic of Canadian government is that it is a democracy, a government controlled directly, or indirectly by the greater part of the people. The second characteristic of Canadian government is that it is founded on the representation of the great bulk of the people".<sup>28</sup>

Canadian government is neither controlled by, nor representative of the majority, let alone the great bulk of the people. Lest we think such comfortable myths are the product of the more complacent, deferential, post-war era, a recent book for children by the wife of a former Prime Minister explains how Canada's democracy works:

Democracy is one way for a group of people to make decisions on what is best for the largest number of them – called the majority. ...If the people do not agree with the decision made by their elected representatives, they can tell them so. The majority (50 percent of the voters plus one) can vote any elected representative out of his or her job at any election.<sup>29</sup>

We believe this, because we have been taught to believe it. McTeer describes democracy, but not the kind Canada practises. The words of McTeer ring true until we force ourselves to consider their real meaning, and understand the actual workings of our governmental system. Even the academic community is not immune from the careless speech we place before school children. Goddard's study of the BC government, notes W.A.C. Bennett's near dictatorial control of the legislature, and then justifies it because, "Their (the people's) will for the past two decades has supported the Social Credit Party and the leadership of Premier Bennett."<sup>30</sup> Bennett's majorities were manufactured by SMP, they were not an expression of the will of the people. But, for writing this, Goddard was awarded his Ph. D. Change must start with awareness raising, from the streets to the universities. Until there is greater awareness, the people will not instigate electoral reform.

---

<sup>28</sup> Dawson R. MacGregor and Dawson W. F, Revised by N. Ward, *Democratic Government in Canada*, Toronto: University of Toronto Press, fifth ed., p 3, and p 5, first published in 1949.

<sup>29</sup> McTeer Maureen, *Parliament: Canada's Democracy and How it Works*, Toronto: Random House 1987 pp. 18-19.

<sup>30</sup> Goddard A.M, *Legislative Behavior in the British Columbia Legislative Assembly*, Ann Arbor: University Microfilms. 1973 p. 185.

There are some glimmers of hope. For example, demands for employment equity are based on the principle that a typical workplace should reflect the demographic diversity of society. If, by force of law, the workplace is made more representative, how long can the legislature be left unrepresentative? Society is increasingly more multicultural, the Charter of Rights and Freedoms has induced Canadians to think of themselves as citizens who possess rights, the Meech Lake process convinced Canadians that political leaders and parties do not represent them, while the 1992 Charlottetown Accord Referendum gave the people a taste for exercising the sovereignty they possess.<sup>31</sup> Others see hope in post-materialism's rejection of the politics of confrontation.<sup>32</sup> Perhaps these social trends, together with the desire for gender equity, inclusion for Aboriginals, and the greater diversity of interests in evidence among all citizens, are harbingers of public attitudes more open to electoral reform. The Lortie Commission found:

Our attitudinal survey showed that many Canadians want the electoral process to be made more accessible to the non-traditional parties, so that voters have a broader choice in the selection of their elected representatives.<sup>33</sup>

Sociologist Reginald Bibby, remarks in the conclusion of his influential book on current social trends in Canada:

The confrontational politics that have characterized our federal and provincial governments are increasingly out of touch with where the world is going. Tired by wars and tension that yield few winners, more and more people in this country and elsewhere are recognizing the need to choose peace and cooperation, then work to bring them about...<sup>34</sup>

---

<sup>31</sup> The Referendum was an attempt to avoid the Meech Lake process. Peter Russell notes that the excessive secrecy of the Meech Lake round engendered a loss of faith in the representative capacity of the Canadian legislatures, and then writes: "...the Meech Lake experience may well have made reform of executive/government party domination of the legislature the most popular constitutional cause of the future." Russell P, "Can the Canadians be a Sovereign People?" *Canadian Journal of Political Science*, XXIV:4 December 1991.

<sup>32</sup> Among others, Sigudson R, "Preston Manning and the Politics of Postmodernism in Canada", *Canadian Journal of Political Science*, XXVII:2. June 1994, p. 249.

<sup>33</sup> Lortie Vol. 1 p. 228.

<sup>34</sup> Bibby R, *Mosaic Madness*, Toronto: Stoddart, 1990 pp. 200-01.

Such positive trends would receive enormous stimulus from some form of PR. If we wish to be a country that regards diversity as an asset, where differences are respected, and the mosaic of cultures is encouraged, our governmental structures must be more flexible and responsive.

### 5.3 Lessons From History

Lastly, it is instructive to briefly consider the history of PR in our country. Today, occasional appeals to consider PR may be found in the scholarly journals that collect dust in university libraries, but it was not always so. During the early decades of this century, PR enjoyed substantial popular appeal. For example, the substance of the arguments made in this study can be found in a pamphlet of the Proportional Representation Society of Canada printed in 1916 in Vancouver.

...a popularly elected Representative Assembly...is the necessary organ for carrying into effect the Will of the People. If any "House" be, for any reason, not truly representative, legislation and the control of government ceases to be in harmony with the Will of the People. Self-government is replaced by an undemocratic and unrepresentative form of "cabinet control", and the "House" becomes merely an assembly for the registration of decisions, arrived at without its deliberative assistance.<sup>35</sup>

Alberta passed enabling legislation permitting cities and municipalities to adopt PR in 1916. BC followed in 1917, Saskatchewan and Manitoba in 1920. The thirteen BC local councils that switched to STV included: Vancouver, Victoria, West Vancouver, New Westminster, South Vancouver, Port Coquitlam, Mission, and Nelson. Most of these lasted no more than two or three elections. The reasons for abandoning STV include: the alleged complexity of the system, fears that extremists might be elected, and interference from political machines that jealously guarded their interests from the encroachment of too much democracy.

In Victoria...the abolition of the system after a single election in 1921 was due to a campaign against it by a local paper, which spread the false statement that ballots were transferred under PR to persons for

---

<sup>35</sup> PR Society of Canada, "The Crisis in Party Politics", Vancouver: Westminster Review Publishing Office, September 1916, p. 3.



whom those who cast them had not voted.<sup>36</sup>

Winnipeg, Calgary, and Edmonton changed to STV for both city and provincial elections. Winnipeg changed in 1920 to dispel, successfully, the bitterness left by the general strike of 1919. For the provincial elections, STV lasted in Edmonton and Calgary until 1956, and in Winnipeg until 1957, where the Liberals abandoned it for political reasons; which backfired badly.<sup>37</sup> In most places, enthusiasm for PR weakened after the early 20s. In 1923, a resolution was passed by the House of Commons favouring the Alternative Vote; and a Bill to effect this was given first reading on May 26, 1925; however, the constitutional crisis between MacKenzie King and Byng pushed electoral reform into the background.<sup>38</sup> Resistance from vested interests, and fear of extremism, seems to be the main reasons for PR's fading popular support.

More recently, a faint but renewed interest in PR can be detected. The motivation comes from two sources. In the late 70s and early 80s politicians and scholars turned to PR out of concern for national unity. Under Trudeau, the Liberals were unsuccessful in electing MPs west of Winnipeg even though their popular vote was about 27%. The Conservatives suffered the same disappointment in Quebec. PR, particularly some form of the mixed system, was seen to be a remedy necessary to

---

<sup>36</sup> Hoag C. G and Hallett H, *Proportional Representation*, New York: MacMillan, 1926, pp. 223-234, quoted in private correspondence from Enid Lakeman, Editorial Consultant for Electoral Reform Society of Great Britain, February 9, 1994. I have tried, but failed to locate a copy of this book. Also see,

<sup>37</sup> Contemporary newspapers in both Edmonton and Calgary also accused Social Credit of political motivation, but Social Credit, unlike the Liberals in Manitoba, largely escaped the voter's wrath.

<sup>38</sup> Much of this historical information is drawn from Harris J. P, "The Practical Workings of Proportional Representation in the United States and Canada", New York: National Municipal League, *Supplement to the National Municipal Review*, May, 1930, Vol. XIX, No. 5 pp. 365-67; Enid Lakeman's correspondence to me; and Lakeman E, *Power To Elect*, London: Heinemann, 1982, pp. 116-22; and H. Phillips, *supra* note 24. The first two of these works are by authors supportive of PR, the last author less so.

preserve national unity.<sup>39</sup> By 1984, the debate about electoral reform had slowed and the election put a virtual stop to it. The massive Conservative sweep assured government representation in caucus, cabinet, and Parliament from all regions and in particular, from both major language groups. In 1984 and 1988, the electoral system bridged the English/French division, and could no longer be blamed for contributing to the national unity crisis. This respite proved temporary.

A second source of concern with electoral reform is motivated, not by the goal of attaining national unity, but a fairer representation of groups such as women, Aboriginals, ethnic, and racial minorities.<sup>40</sup> The Charlottetown Accord of 1992 provided for an elected Senate. Such Senate elections would allow provincial and territorial flexibility to provide for gender equity in the composition of the Senate. Initially, at least three Premiers expressed a commitment to make such provisions, by means of PR. The Accord also called for additional, Aboriginal Senate seats.<sup>41</sup> The Accord did not enjoy approval by Referendum, but it did generate public discussion about electoral reform. Concern about national unity and group rights will undoubtedly continue to provoke the debate about a fair and just electoral system, particularly in view of the 1993 federal, and the 1994 Quebec elections results.

---

<sup>39</sup> Proponents include: Broadbent E, House of Commons Debates, Ottawa: Queens Printer of Canada, 1978 Vol. VI, p. 6974; Smiley D, "Federalism and the Legislative Process in Canada", in Neilson W, and MacPherson J, eds., *The Legislative Process in Canada: The Need for Reform*, Proceedings of Conference, March 31-April 1, 1978, Victoria: University of Victoria pp. 73-87; The Task Force on Canadian Unity (Pepin - Roberts), *A Future Together*, Ottawa: Minister of Supply and Services Canada, 1979 p.105; Irvine W, *Does Canada Need a New Electoral System?*, Kingston: Queens University 1979 pp. 53-4; Elton D, and Gibbens R, "Electoral Reform: The Need is Pressing, The Time is Now", Calgary: Canada West Foundation, 1980; Smiley D, and Watts R, *Intrastate Federalism in Canada*, Toronto: University of Toronto Press 1985 pp.113-14; Clyne J. V, "Electoral Reform", Address to the Chilliwack Rotary Club, January 16, 1976.

<sup>40</sup> Proponents include: Boyle C, "Home Rule for Women: Power -Sharing Between Men and Women", *The Dalhousie Law Journal*, October 1983 Vol. 7 No. 3, Halifax: Dalhousie Press; Maille C, "Primed for Power: Women in Canadian Politics", Ottawa: Canadian Advisory Council on the Status of Women, 1990; Young L, "Electoral systems and Representative legislatures: Consideration of Alternative Electoral Systems", Ottawa: Canadian Advisory Council on the Status of Women, July 1994; Marchand L, "Proportional Representation for the Native Peoples", *Canadian Parliamentary Review*, Ottawa: Vol. 13, No. 3, 1990 pp. 9-11.

<sup>41</sup> Consensus Report on the Constitution, Ottawa: Minister of Supply and Services Canada, August, 1992

In Canada, enthusiasm for PR could not be sustained beyond the early decades of this century. Twice this century, continental Europe caused war of global dimensions. While abroad Canadian blood drenched the soil that spawned PR, at home, support for PR understandably vanished. In contrast to the destructive forces unleashed in continental Europe, Britain and the United States offered a political order of security, stability, and hope to a world gripped by fear of political extremism. To this day, both in the scholarly literature and among the public, PR evokes images of excessive factionalism and dangerous extremism. That image is an undeserved, but enduring reality. As Canadians, we fear extremism and therefore, if we give it a thought at all, we fear PR. In contrast, our relationship to the US system of government is not one of fear, but ambivalence. Today, as during so much of our history, we are strangely fascinated by, and yet unsure about the dynamic, overwhelming presence of the United States. If our irrational fears of PR do not subside and the southern continental pull maintains its strength, we will continue to invest energy in direct democracy measures, and keep attempting to graft bits of the congressional onto the parliamentary system, and PR will not grip the popular imagination.

But it need not be so. Via United Empire Loyalist impulses, and links to pre-revolutionary France, our cultural taproots reach back into an older, European tradition that was inspired by the classical culture which first conceived concepts, such as, citizenship and democracy. Here, in British Columbia, nearing the end of the twentieth century, these impulses may seem particularly faint. But it is precisely here, far out on the edge of the Pacific, in a culture open to new beginnings, that the classical view of democracy might receive new impetus from the infusion of an even older, oriental tradition. This is a tradition of social order based not on the pursuit of individual happiness through competitive, adversarial relationships, but a social order anchored in tradition and aimed at preserving respect for family and community through relationships founded on co-operation and consensual decision-making. As

we open ourselves to the Pacific, the mixture of these ancient cultures might give birth to a politics as different from our present political practises as the Japanese corporate and industrial relations are different from their North American counterparts. Should the ancient far East, and a West formed by the classical and biblical near East, meet on these Pacific shores to shape our political future, governing will be more fully everyone's business, and citizenship will approximate Aristotle's vision, when he wrote:

The full and complete definition of a citizen is confined to those who participate in the governing power.<sup>42</sup>

---

<sup>42</sup> Bogdanor V, *The People and the Party System*, Cambridge: Cambridge University Press, 1981 p 67

## APPENDIX A

Classifying electoral systems is almost impossible since there are so many possibilities, permutations and mixtures. Different studies use different categories, for example, some classify STV as a proportional system, others as a mixed system. The following countries are categorized in the generally accepted broad categories of PR, Mixed, and SMP. The latter, it will be noted, are mostly countries that are or have been part of the British Commonwealth. To claim that most countries use PR would be false; to claim that most people live under PR is also false. It seems true that most democracies use PR. Such questions cannot even be approximated without rigid operational definitions of terms such as "country", "PR" and "democracy". The following list is not precise, nor exhaustive, but merely suggestive.

<u>PR</u>	<u>MIXED</u>	<u>SMP</u>
Angola	Chile	Bangladesh
Australia (Senate)	Croatia	Canada
Austria	Georgia	Congo
Belgium	Germany	Great Britain
Brazil	Hungary	India
Columbia	Lithuania	Jamaica
Costa Rica	Mexico	Jordan
Cyprus	Republic of Korea	Kenya
Czechoslovakia	Venezuela	Latvia
Denmark	Yugoslavia	Malaysia
Dominican Republic		Nigeria
Estonia		Pakistan
Finland		Philippines
Greece		United States
Guatemala		
Honduras		
Iceland		
Indonesia		
Ireland		
Israel		
Lebanon		
Malta		
Netherlands		
Nicaragua		
Norway		
Poland		
Portugal		
South Africa		
Spain		
Sweden		
Switzerland		
Turkey		

Source: Inter-parliamentary Union, *Electoral Systems*, Geneva: Inter-parliamentary Union, 1993.

APPENDIX B  
Suggested Electoral Districts for British Columbia  
using the Single Transferable Vote (STV) electoral system in  
comparison with the existing Single Member Plurality (SMP) electoral system

Existing Districts	Population (1991) <sup>1</sup>	STV Districts and number of seats <sup>2</sup>	Population per MLA	Deviation in % <sup>3</sup>
Esquimalt-Metchosin	49,920			
Oak Bay-GordonHead	45,750			
Saanich North/Islands	46,395			
Saanich South	44,005			
Victoria-Beacon Hill	42,095			
Victorial-Hillside	48,040			
		Victoria (6)	46,034	8.8
Alberni	31,090			(-26.5)
Comox Valley	54,585			(+29)
Cowichan-Ladysmith	46,025			
Malahat-Juan De Fuca	40,115			
Nanaimo	52,470			
North Island	43,710			
Parksville-Qualicum	46,825			
		Paradise (7)	44,940	6.2
Vancouver-Burrard	45,130			
Vancouver-Fraserview	47,655			
Vancouver-Hastings	49,570			
Vancouver-Kensington	51,600			
Vancouver-Kingsway	46,275			
Vancouver-Langara	48,070			
Vancouver-Little Mnt.	47,875			
Vancouver-Mnt. Pleasant	48,875			
Vancouver- Point Grey	47,035			
Vancouver-Quilchena	45,465			
		Vancouver (10)	47,755	12.8

<sup>1</sup> Prepared by CSB, Government Services, Victoria, using Statistics Canada data, and aggregated by provincial electoral district.

<sup>2</sup> The larger the district-size, the easier it is for minorities, or minority opinions to be represented. In a 3-seat district it takes 25% to obtain a seat, and in a 9-seat district just 10%.

<sup>3</sup> Percentage deviation from the provincial average or quota. Judge Thomas Fisher in his Report of the Royal Commission on Electoral Boundaries for British Columbia, December 1988, recommended a deviation in district population no greater than 25% plus or minus the provincial average. The Legislature adopted the Report in time for the 1991 general election, but intervening population shifts meant 10 districts exceeded the permitted deviation at the time the election was held. Bracketted percentages indicate which districts exceed the permitted deviation, and by how much, using 1991 census data. The 15 STV districts proposed here meet the 25% rule, except for 2 which are fractionally over.

Existing Districts	Population (1991)	STV Districts and number of seats	Population per MLA	Deviation in %
North Vanc.-Lonsdale	43,070			
North Vanc.-Seymour	48,355			
Powell River-Sunshine	38,940			
West Vanc.-Capilano	45,165			
West Vanc.-Garibaldi	40,225			
		North Shore (5)	43,151	1.9
Delta North	46,755			
Delta South	42,680			
Richmond Centre	43,175			
Richmond East	42,925			
Richmond Steveston	40,475			
		Delta (5)	43,202	2
Surrey-Cloverdale	54,275			(+28.2)
Surrey-Green Timbers	50,765			(+51.4)
Surrey-Newton	64,080			
Surrey-Whalley	40,835			
Surrey-White Rock	51,830			
		Surrey (5)	52,557	24.2
Burnaby-Edmonds	47,115			
Burnaby-North	44,945			
Burnaby-Willingdon	49,195			
New Westminster	43,535			
Port Moody-Burnaby Mtn.	47,915			
		Eastside (5)	46,541	9.9
Coquitlam-Maillardville	51,540			
Maple Ridge-Pitt Meadow	36,880			
Mission-Kent	39,075			
Port Coquitlam	57,895			
		Fraser Valley North (4)	46,347	9.5
Abbotsford	43,745			
Chilliwack	48,890			
Fort Langley-Aldergrove	44,625			
Langley	41,980			
Matsqui	49,405			
		Fraser Valley South (5)	45,657	7.9

Existing Districts	Population (1991)	STV Districts and number of seats	Population per MLA	Deviation in %
Kelowna East	52,245			
Kelowna West	55,270			(+30.6)
Okanagan-Boundary	37,070			
Okanagan-Penticton	44,400			
Okanagan-Vernon	48,750			
		Okanagan (5)	45,694	7.9
Kamloops	43,695			
Kamloops-North Thomp.	36,290			
Shuswap	44,266			
Yale-Lillooet	33,630			
		Kamloops (4)	39,470	-6.7
Columbia River-Revelsto.	31,025			(-26.6)
Kootenay	36,510			
Nelson-Creston	37,525			
Rossland-Trail	33,510			
		Kootenays (4)	34,642	-18.1
Cariboo North	30,215			(-26.2)
Cariboo South	32,420			
Prince George-Mt. Robs.	31,075			(-26.5)
		New Caledonia (3)	31,236	-26.1
Peace River North	30,025			(-29)
Peace River South	34,040			
Prince George North	29,380			
		Peace River (3)	31,148	-26.3
North Coast	37,355			
Prince George-Omenica	39,315			
Skeena	54,275			(28.2)
		Bulkley (3)	36,351	-14

Note: Vancouver could easily be split in two, 5-seat districts, without significantly affecting proportionality, but in my view it is not needed. As experience has shown, under STV, local or neighborhood interests will attract candidates who specialize in representing those interests. STV allows for representation of both political ideology and neighborhood, but if there is to be a choice between those two, the choice is made by the voter.

A second reason for objecting to a 10-seat district relates to the length of the ballot paper. However, it would be no longer than those currently used in civic elections.



APPENDIX C  
COUNTING PROCEDURE UNDER SINGLE TRANSFERABLE VOTE  
AS USED IN THE REPUBLIC OF IRELAND<sup>1</sup>

STEP 1 The ballot papers are sorted and counted according to first preferences.

STEP 2 A quota is calculated using the Droop formula: divide the number of valid ballot papers by N, and add 1, (where N is equal to the number of seats to be filled, plus 1).<sup>2</sup> Candidates whose number of first preference ballot papers meet or exceed the quota are declared elected.

STEP 3 If no candidate is elected the candidate with the least number of first preference ballots is removed, and those ballot papers are transferred to remaining candidates according to the preference instructions the voter left on the ballot paper.

STEP 4 Whenever a candidate meets the quota, surplus ballot papers for that candidate must be transferred to remaining candidates in proportion to the support those remaining candidates received within the total number of ballot papers for the just elected candidate. The formula is as follows: the surplus number is divided by the total number for the elected candidate, the resulting fraction is multiplied by the number of ballot papers indicating a preference for the unelected candidate.

STEP 5 Steps 3 and 4 are repeated until all seats except one are filled. At that point the candidate with the highest number of ballot papers among the remaining candidates is declared elected.

---

<sup>1</sup> Sources used: Rae D. W, *The Political Consequences of Electoral Laws*, New Haven: Yale University Press 1967 pp. 36-7; Lakeman E, *How Democracies Vote*, London: Faber and Faber, 1974, pp.146-47; pp. 289-90; Hain P, *Proportional Misrepresentation*, Harlow, England: Wildwood House 1986, pp. 99-107; Amy D. J, *Real Choices/New Voices*, New York: Columbia University Press 1993, pp. 237-38.

<sup>2</sup> The principle of the single transferable vote was first proposed in 1855 by Andrae in Denmark, and in 1857 by Hare in England. Hare's quota is a simple division of the number of valid ballot papers by the number of seats. Hence, the Hare quota is much larger than the Droop quota. Lakeman observes that the smaller Droop quota allows fewer votes to be surplus and thus lessens wasted votes. Also, the effect is to exclude the possibility of party manipulation. See Lakeman *ibid.*, p. 113; pp. 146-47.

APPENDIX D  
COMPARISON OF ACTUAL 1991 BC ELECTION RESULTS UNDER SMP TO  
PROJECTED RESULTS USING THE 15 STV DISTRICTS

		SMP	STV
No. of registered voters		1,989,054	1,989,054
No. of voters who voted		1,493,200	1,652,307 <sup>1</sup>
% of voters who voted		75.07	83.07
No. of voters who elected their choice		666,713 <sup>2</sup>	1,384,627 <sup>3</sup>
% of voters who elected their choice		44.65	83.8
No. of voters who did not elect their choice		826,487	267,680
% of voters who did not elect their choice		55.35	16.2
% of popular vote	NDP	40.71	40.71 <sup>4</sup>
	Lib.	33.25	33.25
	S.C.	24.05	24.05
No. and (%) of seats	NDP	51 (68)	36 (48)
	Lib.	17 (22.6)	26 (34.6)
	S.C.	7 (9.3)	13 (17.3)
Index of disproportionality, in % <sup>5</sup>	NDP	13.6	3.6
	Lib.	5.3	.67
	S.C.	7.3	3.3
Index of proportionality <sup>6</sup>	NDP	86	96
(Range is 0 - 100)	Lib.	94	99
	S.C.	92	96

<sup>1</sup> Blais and Carty studied voter turnout for 509 elections in 20 countries to verify whether claims of greater voter turnout under PR, made by proponents of PR such as Lakeman, are justified. Their findings confirm that voter turnout is 8% higher in PR systems than SMP systems, which is the number used here. Lortie places the increase at 11.4%. Blais A, and Carty K, "Does Proportional Representation Foster Voter Turnout?" *European Journal of Political Research*, Vol. 18, No. 2 (1990) Dordrecht: Kluwer Academic Publishers pp.167-182; and Lortie Vol. 1, p. 54.

<sup>2</sup> Source: *Report of the Chief Electoral Officer*, 35th Provincial General Election October 17, 1991. This is the total votes cast for the 75 winning candidates.

<sup>3</sup> This represents 83.8% of the total expected to vote. This percentage is the theoretical minimum number of voters who will elect the successful candidates, provided not more than 16.2% of ballot papers become non-transferable. 16.2% is the maximum number of votes that could be wasted, because they do not help to elect anyone, again with the same proviso. This percentage is the average of all 15 percentages determined by applying the formula (Total population, divided by N, where N equals number of seats, plus one) to each of the 15 STV districts, as per Appendix B, and expressing the resulting number as a percentage of the total population. These percentages correspond very closely to Lakeman's predictions and actual findings. Lakeman E, *How Democracies Vote*, London: Faber and Faber, 1974, pp.125-29, and Appendix II p. 281.

<sup>4</sup> Assuming the number of parties would not increase and their vote-share would remain constant.

<sup>5</sup> Based on Lijphart's formula, which is a refinement of those used by Rae and Loosemore-Hanby. The average under STV for the 3 parties is 2.5 %, which corresponds very closely to Lijphart's findings of 2.4% for Ireland. Lijphart A, *Democracies*, New Haven: Yale University Press, 1984, pp. 160-65.

<sup>6</sup> As used by Lortie, Vol. 1 p. 19.

## BIBLIOGRAPHY

Amy D. J, *Real Choices/New Voices*, New York: Columbia University Press, 1993.

Angus H. F, *Citizenship in BC*, Victoria: King's Printer, 1926.

\_\_\_\_\_, "Report of the Commission of Inquiry into Redefinition of Electoral Districts", Victoria: Queens Printer, 1966.

Aiken G, *The Backbencher*, Toronto: McClelland and Stewart Ltd., 1974.

Barker P, "Voting for Trouble", in Charlton M, and Barker P, ed., *Contemporary Political Issues* 2nd. ed., Scarborough: Nelson Canada, 1994.

Balinski M, and Young H. P, *Fair Representation*, New Haven: Yale University Press, 1982.

Birch A.H, *Representation*, London, Pall Mall Press Ltd., 1971.

\_\_\_\_\_, *Representative and Responsible Government*, London: George Allen and Unwin Ltd., 1964.

Blais A, and Carty K, "The Psychological Impact of Electoral Law: Measuring Duverger's Elusive Factor" *British Journal of Political Science*, 1991

\_\_\_\_\_, "Does Proportional Representation Foster Voter Turnout?", *European Journal Of Political Research*, Dordrecht: Kluwer Academic Publisher, Vol. 18, No.2 (1990).

\_\_\_\_\_, and Gidengil E, *Making Representative Democracy Work*, Toronto: Dundurn Press, 1991.

\_\_\_\_\_, "The Debate over Electoral Systems", *International Political Science Review*, 1991, Vol. 12, No. 3.

Blake D. E, *Two Political Worlds*, Vancouver: UBC Press, 1985.

\_\_\_\_\_, et al. *Grassroots Politicians: Party Activists in British Columbia*, Vancouver: UBC Press, 1991.

Bogdanor Vernon, *The People and the Party System*, London: Cambridge University

Press, 1981.

\_\_\_\_\_, *Coalition Government in Western Europe* ed., London: Heinemann Educational Books, 1983.

\_\_\_\_\_, and Butler D, eds., *Democracy and Elections*, Cambridge: Cambridge University, 1983.

\_\_\_\_\_, *What is Proportional Representation?* Oxford: Martin Robertson, 1984.

\_\_\_\_\_, *Representatives of the People?*, Haunts: Gower Publishing, 1985.

Bowers J. R, *Regulating the Regulators*, New York: Praeger, 1990.

Bowbrick G, "Revisiting the Implications of Recall and Initiative and their Potential Implementation in British Columbia", unpublished paper, UBC faculty of law, April 24, 1992

Boyle C, "Home Rule for Women: Power -Sharing Between Men and Women", *The Dalhousie Law Journal*, October 1983, Vol. 7 No. 3, Halifax: Dalhousie Press.

Boyle T. Patrick, *Elections British Columbia*, Vancouver: Lions Gate Press, 1982.

Boyer P. J, *Lawmaking by the People*, Toronto: Butterworth, 1982.

\_\_\_\_\_, *The People's Mandate*, Toronto: Dundurn Press, 1992.

British Columbia, *Electoral History of British Columbia 1871 - 1986*, Victoria: Elections BC, and Legislative Library, 1988.

Cairns A, "The Electoral System and the Party System in Canada, 1921-1965" *Canadian Journal of Political Science* 1, March, 1968.

\_\_\_\_\_, and Wong D, "Socialism, Federalism and the BC Party Systems 1933-1983" in Thornburn H. G, *Party Politics in Canada*, 6th. ed., Scarborough: Prentice-Hall Canada, 1991 pp. 468-506.

Canada, Royal Commission on the Economic Union and Development Prospects for Canada, *Report* (3 volumes), Ottawa, Supply and Services Canada, 1985, V.3, part 4.

- \_\_\_\_\_. *Royal Commission on Electoral Reform and Party Financing*, Vol. 1, 2, 1991, Ottawa: Minister of Supply and Services.
- Canada West Foundation, *Conference Report: Renewal of Canada -- Institutional Reform*, Calgary, 1992.
- Canadian Advisory Council on the Status of Women, "Women in Politics", *Issue Summary*, November, 1993, Ottawa: CACSW.
- Canadian Study of Parliament Group, *Proceedings*, Year 7: A Review of the McGrath Committee Report on the Reform of the House of Commons, December 2, 1992.
- Carty R.K, et al. eds., *Leaders and Parties in Canadian Politics*, Toronto: Harcourt Brace Jovanovich Canada Inc., 1992.
- \_\_\_\_\_. *Party and Parish Pump*, Waterloo: Wilfrid Laurier University Press, 1981
- Cassidy M, ed., *Democratic Rights and Electoral Reform in Canada*, Toronto: Dundrum Press Ltd., 1991.
- \_\_\_\_\_. *Fairness and Stability in Canadian Elections: The Case for an Alternative Electoral System*, Ottawa: Parliamentary Centre for Foreign Affairs and Foreign Trade, 1992.
- Castles F. G, "Female Legislative Representation and the Electoral System", *Polity*, Nov., 1981.
- Clarke H. D, et al. eds., *Parliament, Policy and Representation*, Toronto: Methuen, 1980.
- \_\_\_\_\_. *Absent Mandate*, Toronto: Gage Educational Publishing Company, 1991.
- Clyne J. V, "Electoral Reform", Address to the Chilliwack Rotary Club, January 16, 1976.
- Cohen Carl, *Democracy* Athens: University of Georgia Press, 1971.
- Courtney J. C, et al. eds., *Drawing Boundaries*, Saskatoon: Fifth House Publishers, 1992.

- \_\_\_\_\_, "Leadership, Conventions and the Development of the National Political Community in Canada" in Carty K. C and Ward P. W, *National Politics and Community in Canada*, Vancouver: U. of BC Press, 1986.
- Crewe I, "MPs and their Constituents in Britain: How Strong are the Links?" in Bognador V, *Representatives of the People?* Hants: Gower Publishing, 1985.
- Cronin T. E, *Direct Democracy: The Politics of Initiative, Referendum and Recall*, Cambridge: Harvard University Press, 1989.
- Dawson R. MacGregor and Dawson W. F, Revised by N. Ward, *Democratic Government in Canada*, Toronto: University of Toronto Press, fifth ed. First published in 1949.
- De Tocqueville A, *Democracy in America*, New York: Washington Square Press, 1964.
- Deverell J; Vezina G, *Democracy, Eh?* Montreal, Robert Davies Publishing, 1993.
- Dobell Peter, Berry Byron, "Anger at the System: Political Discontent in Canada". *Parliamentary Government*, No. 39, January, 1992, Ottawa: Parliamentary Centre for Foreign Affairs and Foreign Trade.
- Dunn C, "The Meaning of Responsible Government" in *Canadian Parliamentary Review*, Ottawa: Vol.11, No.3, 1988 pp.12-3.
- Duverger M, *Political Parties*, 2nd ed., Toronto: Methuen, 1959.
- Dyck J. H. A, "Representative Recall and Initiative Legislation: Two Forms of Direct Democracy", University College of Cariboo, Paper prepared for Select Standing Committee on Parliamentary Reform, September 29, 1992.
- Elkins D. J, *Manipulation and Consent*, Vancouver: UBC Press, 1993.
- \_\_\_\_\_, "Politics Makes Strange Bedfellows: The BC Party System in the 1952 and 1953 Provincial Elections", *BC Studies*, No. 30, Summer, 1976.
- Elliot D. R, and Miller I, *Bible Bill*, Edmonton: Reidmore Books, 1987.
- Elton D, and Gibbens R, "Electoral Reform: The Need is Pressing, The Time is Now", Calgary: Canada West Foundation, 1980.

- Fishkin James. S, *Democracy and Deliberation*, New Haven: Yale University Press, 1991.
- Flanagan T, "Reform of Canada's Parliamentary Institutions", Unpublished paper for Reform Party of Canada, June, 1991.
- Forsey E, *How Canadians Govern Themselves*, Ottawa: Publication Canada, 1980.
- Franks C.E. S, *The Parliament of Canada*, Toronto: University of Toronto Press, 1987.
- Freeman Michael, *Edmund Burke and the Critique of Political Radicalism*, Chicago: University of Chicago Press, 1980
- Furlong P, "Government Stability and Electoral Systems: The Italian Example", *Parliamentary Affairs*, Vol. 44, No.1, January, 1991, Oxford University Press.
- Gagnon G, and Rath D, *Not Without Cause*, Toronto: Harper Row, 1991.
- Goddard A.M, *Legislative Behavior in the British Columbia Legislative Assembly*, Ann Arbor: University Microfilms, 1973.
- Graham L, *Breach of Promise*, Madeira Park: Harbour Publishing, 1991.
- Grofman B, and Lijphart A, eds., *Electoral Laws and Their Political Consequences*, New York: Agathon, 1986.
- Grumm J. H, "Theories of Electoral Systems", *Mid-West Journal of Political Science*, 1958.
- Hains P, *Proportional Mis-Representation*, Haunts, England: Wildwood House Ltd., 1986.
- Harris J. P, "The Practical Workings of Proportional Representation in the United States and Canada", New York: National Municipal League, *Supplement to the National Municipal Review*, May, 1930, Vol. XIX, No. 5.
- Hermens F. A, *Democracy or Anarchy? A Study of Proportional Representation*, New York: Johnston Reprint Corporation, 1972.
- Hill A, and Whichelow A, *What's Wrong With Parliament*, London: Penguin Books Ltd., 1964.

- Hoag C. G and Hallett H, *Proportional Representation*, New York: MacMillan, 1926.
- Hochin T, A. ed., *Apex of Power*, 2nd ed., Scarborough: Prentice-Hall of Canada Ltd., 1977.
- Hogg P.W, *Constitutional Law of Canada*, 2nd ed., Toronto: The Carswell Co.Ltd., 1985.
- Howay F. W, and Scholefield E.O.S, *British Columbia*, Vancouver: S.J. Clark Company, 1914 Vol. II.
- Johnston Richard, *Public Opinion and Public Policy in Canada: Questions of Confidence*, Toronto, University of Toronto Press, 1986.
- Jackson Robert J, and Atkinson Michael M, *The Canadian Legislative System: Politicians and Policymaking*, Toronto: Gage Publishing Ltd., 1980.
- Johnston D, *On The Hill*, Montreal: Optimum Publishing International, 1986.
- Johnston P.J, and Pasis H.E, *Representation and Electoral Systems*, Scarborough: Prentice-Hall, 1990.
- Irvine W, *Does Canada Need a New Electoral System?*, Kingston: Queens University, 1979.
- \_\_\_\_\_, "A Review and Evaluation of Electoral Reform Proposals", in Aucoin P, *Institutional Reforms for Representative Government*, Toronto: University of Toronto Press, 1986.
- Kent Tom, *Getting Ready For 1999*, Ottawa: The Institute for Research on Public Policy, 1989.
- Keyes J. M, *Executive Legislation*, Toronto: Butterworth, 1992.
- Kilgour D, and Kirsner J, "Party Discipline and Canadian Democracy", *Canadian Parliamentary Review*, 1988, 11:10.
- Kornberg A, *Canadian Legislative Behavior*, New York: Holt, Rinehart, and Winston, 1967.



- \_\_\_\_\_, et al., *Representative Democracy in the Canadian Provinces*, Scarborough, Prentice-Hall Canada Inc., 1982.
- \_\_\_\_\_, and Mishler W, *Influence in Parliament*, Durham: Duke University Press, 1976.
- \_\_\_\_\_, and Musolf L. D, *Legislatures in Developmental Perspective*, Durham: Duke University Press, 1970.
- Kristianson G, and Nicholson P, "Improving the Image and Operation of the British Columbia Legislature", Brief to the Standing Committee on Standing Orders and Private Bills of the Legislative Assembly of British Columbia, 1984.
- \_\_\_\_\_, "The Non-partisan Approach to BC Politics: The Search for a Unity Party - 1972-1975", *BC Studies*, Vancouver: UBC Press, No. 33, Spring, 1977.
- Lakeman E, *How Democracies Vote*, London: Faber and Faber, 1974.
- \_\_\_\_\_, *Power To Elect*, London: William Heineman Ltd., 1982.
- Langstone R. W, *Responsible Government in Canada*, London: J.M. Dent and Sons Ltd., 1931.
- Laschinger J, *Leaders and Lesser Mortals: Backroom Politics in Canada*, Toronto: Key Porter Books Ltd., 1992.
- Laycock D, "Reforming Canadian Democracy? Institutions and Ideology in the Reform Party Project" *Canadian Journal of Political Science* 27:2 June 1994 pp. 213-48.
- Lee R. M, *One Hundred Monkeys*, Toronto: Macfarlane Walter and Ross, 1989.
- Lijphart A, *Democracy in Plural Societies: A Comparative Exploration*, New Haven: Yale University Press, 1977.
- \_\_\_\_\_, *Democracies*, New Haven: Yale University Press, 1984.
- \_\_\_\_\_, and Grofman B, eds., *Choosing an Electoral Sytem*, New York Praeger, 1984.
- \_\_\_\_\_, *Electoral Systems and Party Systems*, New York: Oxford University Press,

1994.

Lippman W, *The Public Philosophy*, New York: Mentor Books, 1955.

Lipset S. M, and Rokkan S, eds., *Party Systems and Voter Alignments: Cross-National Perspectives*, New York: the Free Press, 1967, Chapter One.

Lipson L, "Party Systems in the United Kingdom and the Older Commonwealth: Causes, Resemblances and Variations", *Political Studies*, 1959.

Lipson L, *The Democratic Civilization*, New York: 1964.

MacGregor Dawson R, *Democratic Government in Canada*, Toronto: University of Toronto Press, revised ed., 1963.

McTeer Maureen, *Parliament: Canada's Democracy and How it Works*, Toronto: Random House, 1987.

Maille C, "Primed for Power: Women in Canadian Politics", Ottawa: Canadian Advisory Council on the Status of Women, 1990.

Marsh M, "The Voters Decide?: Preferential voting in European List Systems", *European Journal of Political Research*, 13: 1964, Amsterdam: Elsevier Science Publishers.

March R. R, *The Myth of Parliament*, Scarborough: Prentice-Hall of Canada Ltd., 1974.

Matheson W, A. *The Prime Minister and the Cabinet*, Toronto: Methuen, 1976.

Mc Lean Iain, "Forms of Representation and Systems of Voting", in Held David, ed., *Political Theory Today*, Cambridge: Polity Press, 1991.

McLeod J, ed., *Agenda 1970: Proposals for a Creative Politics*, Toronto: U. of Toronto Press, 1970.

MacMinn G. E, *Parliamentary Practice in British Columbia*, 2nd ed., Victoria: BC Government, 1987.

Mill J.S, *Utilitarianism, Liberty, Representative Government*, London, J.M.Dent and Sons Ltd., 1957.

Miller W.E, and Stokes D.E, "Constituency Influence in Congress", *American Political*

- Science Review* 57, March 1963, pp. 45-56.
- Mitchell D. J, *WAC Bennett*, Vancouver: Douglas and McIntyre, 1983.
- Morley T. J, et al., *The Reins of Power*, Vancouver: Douglas and McIntyre, 1983.
- Morton W. L, *The Progressive Party in Canada*, Toronto: University of Toronto Press, 1950.
- Morton F. L, and Knopff R, "Does the Charter Mandate "One Person, One Vote"?", Calgary: University of Calgary, Occasional Papers Series, Research Study 7.1, 1991.
- Neilson W, and MacPherson J, eds., *The Legislative Process in Canada: The Need for Reform*, Proceedings of Conference, March 31-April 1, 1978, Victoria: University of Victoria.
- Norris P, "Women's Legislative Participation in Western Europe", *Western European Politics*, 1985, no. 4.
- Norton P, ed., *Parliament in the 1980s*, Oxford: Blackwell, 1985.
- Ornstein N, J. *The Role of the Legislature in Western Democracies*, Washington: American Institute for Public Policy Research, 1981.
- Phelps E. M, *Selected Articles on The Recall*, New York: The H. W. Wilson Co., 1915.
- Philips H, *Challenges to the Voting System in Canada, 1874-1974*, London, Ontario: University of Western Ontario, 1976.
- Pitkin F. Hanna, *The Concept of Representation*, Berkley, University of California Press, 1967.
- \_\_\_\_\_, *Representation*, New York: Atherton Press, 1969.
- Plant Raymond, "Criteria for Electoral Systems: The Labour Party and Electoral Reform", *Parliamentary Affairs* Vol. 44 No. 4, Oct. 1991, Oxford University Press.
- PR Society of Canada, "The Crisis in Party Politics", Vancouver: Westminster Review Publishing Office, September, 1916.

- Puttick K, *Challenging Delegated Legislation*, London: Waterlow Publishers, 1988.
- Rae D, *Political Consequences of Electoral Laws*, New Haven: Yale University Press, 1967.
- Resnick P, *Parliament vs. People*, Vancouver: New Star Books, 1984.
- Rose R, *Politics in England*, London: The McMillan Press Ltd., Fifth ed., 1989.
- Ruff N. J, "Institutionalizing Populism in British Columbia," *Canadian Parliamentary Review*, Ottawa: Winter 1993/94, pp. 24-32.
- Rule W, "Electoral Systems, Contextual Factors and Women's Opportunity for Election to Parliament in Twenty-Three Democracies", *Western Political Quarterly*. vol.40, no. 3 (1987).
- Russell B, *Power*, London: Unwin Books 1938, fifth printing 1967.
- Russell P, "Can the Canadians be a Sovereign People?" *Canadian Journal of Political Science*, XXIV:4 December, 1991.
- Sartori G, *The Theory of Democracy Revisited*, Chatham, New Jersey: Chatham House Publishers Inc., 1987.
- Saunders C, "Rethinking the Parliamentary System: Contributions From the Australian Debate", 29 *Alberta Law Review* (1991) pp. 336-50, Edmonton.
- Schmitt C, *The Crises of Parliamentary Democracy*, Ellen Kennedy tr., Cambridge, Massachusetts: MIT Press, 1985.
- Sharman C, "The Strange Case of a Provincial Constitution: The British Columbia Constitution Act" *Canadian Journal of Political Science*, March, 1984 pp.102-03.
- Sharp C. D, "The Case Against the Referendum" Fabian Tract No.155 London: The Fabian Society, 1911.
- Sigudson R, "Preston Manning and the Politics of Postmodernism in Canada", *Canadian Journal of Political Science*, XXVII:2. June, 1994.
- Smiley D, and Watts R, *Intrastate Federalism in Canada*, Toronto: University of

- Toronto Press, 1985.
- Smith L, and Wachtel E, " A Feminist Guide to the Canadian Constitution", Ottawa: CACSW, 1992.
- Steeves D. G, *The Compassionate Rebel, E. Winch and His Times*, Vancouver: Evergreen Press, 1960.
- Taagepera R, and Grofman B, "Rethinking Duverger's Law: Predicting the Effective Number of Parties In Plurality and PR Systems -- Parties Minus Issues Equals One", *European Journal of Political Research*, 13 (1985) pp.341-52.
- Taagepera R, and Shugart M. S, *Seats and Votes*, New Haven: Yale University Press, 1989.
- Taylor P. J, and Johnston R. J, *Geography of Elections*, New York: Holmes and Meier Publishers Inc., 1979.
- Thomas D, "Turning a Blind Eye: Constitutional Abeyances and the Canadian Experience", Calgary: Mount Royal College, 1992.
- Thompson R, *The House of Minorities*, Burlington, Ontario: Welch Pub., 1990.
- de Tocqueville A, *Democracy in America*, (H. Reeve translator) Boston: John Allyn Publisher, 1882, Vol. II.
- Uhr J, "Executive - Legislative Relations: Learning from Locke", *Canadian Parliamentary Review*, v.10:1 Spring, 1987, Ottawa pp.9-11.
- Ward N, "Confederation and Responsible Government" *Canadian Journal of Economics and Politics*, 24:1, February, 1958.
- Wahlke J, et al., *The Legislative System: Explorations in Legislative Behavior*, NewYork: John Wiley and Sons, 1962.
- Weller P, and Jaensch D, eds., *Responsible Government in Australia*, Victoria: Drummond Publishing, 1980.
- Westell A, *The New Society*, Toronto: McClelland and Stewart, 1977.

Wright J. F. H, "An Electoral Basis for Responsible Government: The Australian Experience", in Lijphart A, and Grofman B, *Choosing An Electoral System*, New York: Praeger, 1984.

Young L, "Electoral Systems and Representative Legislatures: Consideration of Alternative Electoral Systems", Ottawa: Canadian Advisory Council on the Status of Women, July, 1994.