PROPOSAL TO

CITIZENS' ASSEMBLY ON ELECTORAL REFORM

RE

ELECTION OF MEMBERS TO THE LEGISLATIVE ASSEMBLY

OF BRITISH COLUMBIA

submitted

by

David S. Dunaway

1644 Morden Road
Nanaimo, British Columbia
V9X 1T6

ph. (250) 753-2675

TABLE OF CONTENTS

PROPOSAL IN SUMMARY

In recognition of the flaws inherent to FPTP, Transferable Ballots and Proportional Representation, a hybrid of voting systems encompassing a two part ballot and a “none of the above” option. All of which are aimed to minimize the existing, undue influence of political parties.

A MIXED MEMBER PROPORTIONAL REPRESENTATION-STYLED LEGISLATURE.

A TWO PART BALLOT -

- TRANSFERABLE BALLOTS to elect “Constituency” candidates.
- “At Large” portion of the ballot conducted using OPEN LISTS and FPTP.
- With the exception of the “independent” list, the number of candidates on each affiliation’s “at large” list is limited by the number of the Legislature’s “at large” allocation of seats being contested.
- INDIRECT note of the affiliation of each voter’s first choice in constituency voting and that of their choice in the at large category is made to calculate which at large candidates have been ELECTED or DEEMED ELECTED.
- Percentages are ROUNDED DOWN to the nearest seat to facilitate the DEEMED ELECTED.

A “NONE OF THE ABOVE” OPTION (on both parts of the ballot)

- TRANSFERABLE BALLOTING to fill vacancies created by the election or deemed election of the “NOTA” option.
- NO CANDIDATE WHO CONTESTED AN ELECTION WHICH RESULTED IN A “NOTA” VACANCY IS ALLOWED TO CONTEST ANY SUBSEQUENT ELECTION TO FILL THAT VACANCY. No other prohibitions against a candidate’s ability to contest both constituency and at large elections.

PREFACE

Semble: ***democracy is about including more voices in the processes of government.***

Aristotle told us that it is no manner of democracy that will exclude even a MINORITY of its citizens from government; *"For if liberty and equality, as is thought by some, are chiefly to be found in democracy, they will be best attained when all persons alike share in the government to the utmost"*; because, *"the absolute exclusion of any class would be a step towards oligarchy."*[1]

Today, the constitutions of British Columbia and Canada do, quite definitely, exclude the MAJORITY of voices from a share in their own government. So, (to borrow in paraphrase from 1935) *"What we NEED is a new constitution"*[2]; because problems that do not have their roots in the electoral process can never be solved by electoral reforms.[3]

With that said, we must not waste the opportunity presented by this Assembly to undermine the party system's stranglehold on our political landscape – because the legislature does not belong to any one nor even any collection of political parties. **THE LEGISLATURE BELONGS TO ALL THE PEOPLES OF BRITISH COLUMBIA – AND ALL EQUALLY SO**. Hence, as democracy is about including more voices in all facets of the Legislature's business, it would be wrong-headed for any self-professed democratic society to adopt or preserve an electoral system which provides distinct advantage to those whose insular, networked and corporate nature are purposed solely to gain political advantage by excluding others.

More so when we reflect upon Edmund Burke's condemnation of Lord Bute's CABAL [the precursor to our modern party system and its so-called "Responsible Government"] – "This law of court cabal and party, *mens quaedam nullo perturbata affectu, this law of complexion, ought not to be endured for a moment in a country whose being depends upon the certainty, clearness, and stability of institutions*".

1 Politics
2 Dr. Arthur Beauchesne, KCMG, Clerk of the House of Commons, in testimony (April 16, 1935) to the House of Commons Special Committee Report on BNA Act 1935, at page 126 – "What we want is a new constitution".
3 See ADDITIONAL NOTES beginning on page 11 of this proposal.

THE PROPOSAL

A MIXED MEMBER PROPORTIONAL REPRESENTATION-STYLED LEGISLATURE

Granted, no system is perfect, but the platform of Mixed Member Pro-Rep (MMP) is a very workable compromise for those of us with a unicameral legislature; while still providing local representation for each constituency, it does well to accommodate modes for the inclusion of minority voices in the legislature — wherein minority voters will be more apt to find an ideological representative than from among those of the "mainstream" majority. And with further regard for the concern that "at large" MLAs might have trouble finding their role in the legislature, an echo from an earlier time insisted that no matter if one was elected to represent a rural borough in the Commons or held a seat in the Lords, the primary obligation is to represent England. So, too, it should be seen by all MLAs that their primary obligation is to represent all of British Columbia rather than their particular constituency or party.

A prerequisite for adoption of MMP is a Legislature that can be equally divided between "Constituency" and "At large" MLAs. Shrunk to seventy-eight, expanded to eighty, or any other even number will work.

A LINKED, TWO PART BALLOT

Part of the problem with our FPTP voting system is its simplicity. The lack of information required of voters on the ballots and the ease of counting such ballots results in the frequent distortion of voter intent. Hence, if the object is to better identify voter intent, more information must be required from voters; some level of complication must, necessarily, be part of electoral reform — but that complication must not be a confusion. Hence, building on the MMP concept, a two part ballot which contains more options and information for voters to choose from.

PART "A" — TRANSFERABLE BALLOT: The first portion of the ballot would be a transferable ballot devoted to choosing individuals to represent each constituency. As such, each constituency would have a different list of candidates for voters to choose from. THE FULL EXTENT OF COMPLICATION FACING VOTERS IS THE REQUEST THAT THEY SHOULD SIMPLY INDICATE THEIR PREFERENCES, IN DESCENDING ORDER, FROM AMONG THE LISTED CANDIDATES.

In standard manner, if none of the candidates garners a majority of the first choice votes, the last place finisher is dropped and his/her ballot's second choices are added to the other's total; a process that continues until one of the candidates secures a simple majority of the votes. That candidate

is, thereby, ELECTED.

The superiority of Transferable or Preferential balloting over FPTP is that it demands a majority before a candidate is elected – but that strength is also its flaw, for, with rare exceptions, that majority will be secured by essentially telling a majority of the electorate that their choice(s) is (are) invalid and that they must make another choice, one more in keeping with the choice of the others in the community. To overcome that deficiency, some remnant of each voter's initial choice must be reflected in the final outcome of the election. To that end, Part A of the ballots need only to contain each candidate's political affiliation (or lack thereof) and that that affiliation, IN THE CASE OF EACH VOTER'S FIRST CHOICE ONLY, be recorded in a separate tally. In selecting a candidate as a first choice, a voter would be making an indirect vote for that candidate's affiliation, and in so doing, adding a level of complication to the job of those tallying votes.

Each of those indirectly recorded, province-wide, Part A, affiliation tallies, when added to their like, province-wide, affiliation tallies from Parts B, would then need to be divided by two, and then divided again by the total number of ballots cast province-wide to determine the percentage of support for that affiliation.

PART "B" – OPEN LIST: The second portion of the ballot would be an Open List (Open Lists because voters, not parties, must be free to choose MLAs), FPTP ballot to determine which of the "At Large" candidates have been ELECTED or DEEMED ELECTED. Towards that end, on this part of the ballot, the province wide list of "at large" candidates would be grouped according to their affiliation and VOTERS WOULD BE ASKED TO INDICATE THEIR SINGLE PREFERENCE FROM AMONG ALL THE CANDIDATES listed.

Again, although voters would not be voting for an individual and not any party, INDIRECT NOTATION WOULD BE MADE OF THE POLITICAL AFFILIATION (OR LACK THEREOF) OF THE CHOSEN CANDIDATE by those tallying votes. THE ONLY COMPLICATION ON THIS PART OF THE BALLOT WOULD BE FOR THOSE TALLYING VOTES.

The retention of FPTP on this portion of the ballot is mitigated by two factors. The first being that the "horse race" is actually several races, each between contestants wearing the same colours. The second being that the object on this part of the ballot will frequently be to choose several candidates from each race.

THOSE "ELECTED" AND THOSE "DEEMED ELECTED": Delving deeper into the mechanics of entitlement and seat allocation, the election of MLAs with Part A (the constituency portion of the balloting

process) takes priority – without intending to ascribe any preeminence of status within the Legislature – over those subsequently elected or deemed elected through the processes of the Part B “at large” elections. Winning a constituency election wins a seat in the Legislature. If a party elects more “constituency” MLAs than its province-wide percentages would entitle it to, those elected at the constituency level do not surrender their seats – rather, the other affiliations must, necessarily, have their percentages adjusted down within the remaining allocation of seats accorded “at large”. The threshold for election would be that percentage of the popular vote that exactly equals one seat in the Legislature (1.25% of an eighty seat Legislature), if available.

Those candidates elected in the “at large”, Part B process would be those individuals who, not having been elected in a constituency election, received the highest vote total within those of their “at large” affiliation block and who, in doing so, also secured themselves a position amongst that number of candidates equal to the number of seats of that affiliation’s popular vote entitlement, less that number of their affiliation elected at the constituency level.

Further with regard to the “at large” lists of Part B: save for those running as Independents – who are, by definition, unaffiliated – I would limit each party’s list to the number of seats available. And I would make no other, initial provisions to limit a candidate’s ability to contest the election as both a constituency and an at large candidate. For emphasis: independent candidates must be accorded status at least equal to that which is accorded those with a party affiliation. So, not only am I proposing that voters be able to choose from among those who run independently, but that votes for independent candidates on Parts A and B be tallied exactly as those for candidates running under party affiliation. And this proposal is made with the acknowledgment that in not being bound by a limit on number of candidates listed on Part B, independents would have an improved chance of election compared to those on a “party” list. And from the party perspective, if a “party” affiliation chose to nominate its more prominent members as candidates for election on both Parts A and B of the ballot, in an effort to maximize the chances of those candidates being elected, that party would simultaneously risk foregoing entitlement to seats should they find themselves without enough candidates to fill their popular vote entitlement. In such circumstances, the unclaimed entitlements would be forfeited, singularly, to those most popular affiliations not as yet having candidates elected or deemed elected.

To paraphrase the opening semble, as democratic reforms should always intend themselves towards the greater inclusion of

public voices and opinions, I would also purposely "**round down**" the percentages of an affiliation's popular vote to the nearest exact seat. The purpose behind this rounding down is to accumulate the necessary percentages that would allow seats, as frequently as possible, to be allocated to those amongst the affiliations, in descending order of voter support, not otherwise having met the threshold for electing a candidate. In the process of allocating those freed up seats, **no party that has elected a candidate can have a candidate deemed elected** and **no party can have more than one candidate deemed elected**. The sole exception to the preceding rule would be in the rare (and unlikely) occurrence when all contesting parties had candidates elected or deemed elected and one or more seats still remained unallocated. In such situations, those next most popular candidates on the independent list would be deemed elected until no more seats remained available for allocation.

While at first glance this may seem like a distortion of voter preference in itself, it should be noted that in a plurality it is not uncommon for a collection of minor parties (the media's "others" in election night rhetoric — and the euphemistic "fringe parties" during election campaigns) to collectively receive more than nominal support: three or four parties, each polling approximately one percent of the popular vote — an amount that would not otherwise elect any candidates from their midst — would still, collectively, account for an equivalent to two full seats within the Legislature. And it is here that we begin to touch on the effort to undermine the influences of the party system with the necessary effort to be more inclusive; more inclusive because everyone deserves a sympathetic voice in the Legislature. No one should have to experience the frustration or humiliation of pleading their cause to an MLA holding conflicting allegiances or points of view. Thus, I find it fundamentally more important that five hundred otherwise disenfranchised voters might have one, solitary voice in the Legislature than it is that three quarters of a million concurring voters should add one more voice to their legislative chorus. The electoral bias should be against "recognized" parties, and to the benefit of the political fledglings.

And in the event of an absolute tie between candidates when determining allocation of a seat "deemed" to have been elected, I would defer first to the independent candidate, then to that party which has not before had an MLA, then to that party which has gone longest without an MLA, and, if still unresolved, to the drawing of lots supervised by Elections BC.

THE "NONE OF THE ABOVE" OPTION

Deeper towards solving the issue of "party influence": at

present, there is no means within our electoral process to discern what portion of those voters who choose to abstain are truly apathetic from those who, having recognized the futility inherent to FPTP or dislike the selection of candidates, or abstain out of disgust with the venality of a Constitution unchanged since its imposition by the Colonial Office. Thus, it is long past time for the addition of a “NONE OF THE ABOVE” option for voters – on both Parts A and B of ballots. And at whatever point a voter should choose to select the NOTA option, at that point the transferable quality of the ballot ceases; the ballot becomes locked as a None Of The Above vote.

With this option added, those who choose not to vote – in true keeping with the longstanding principles of abstention – would continue to affirm the decisions of those who do vote. But those who wished to express their dissatisfaction, with either the system or selection of candidates offered, could choose to vote the “NONE OF THE ABOVE” option to register their dissent. If the numbers of those doing so were sufficient (the threshold of one seat being 50%+1 at the “constituency” and 1.25% of the popular vote “at large”) they would elect a vacancy in the Legislature. And like all other affiliations, they could also have a seat “deemed elected”. Their dissenting votes would force a new election or elections to fill that vacancy or vacancies. And to further strengthen the ability of voters to register their dissent, I would prohibit any candidate who ran in an election that resulted in a vacancy from running in any subsequent election to fill that vacancy.

TRANSFERABLE BALLOTS TO FILL VACANCIES: Filling NOTA vacancies would be done via TRANSFERABLE BALLOTING except in the case of there being multiple vacancies “at large” — in which case FPTP would be more suited to the task of choosing the singularly most popular candidate from each of the most popular affiliations: Five vacancies — the five different and most popular affiliations each have their top candidate elected.

For a single “at large” vacancy this would almost certainly mean that the most popular party would end up filling the seat. But the “None of the above” faction would have had the satisfaction of having been able to change the offering of candidates — while the province as a whole would have been forced, institutionally, to acknowledge the NOTA faction’s dissatisfaction. No longer would it be possible for media spin doctors to lump the disgruntled in with the unconcerned and dismiss them as just part of an amorphous collection of the apathetic.

But at the constituency level the “None Of The above” faction would be able to hold sway until an acceptable candidate was presented to them. **How more empowered might voters be? How much less the party machinery?**

And if looking for a tangible effect, it should be remembered here that 29% of "**eligible voters**" did not cast ballots in British Columbia's last General Election and that that 29% represents a percentage of eligible voters very near the 42% of "**ballots cast**" that elected the Campbell Liberals to all but two of the Legislature's seventy-nine seats. It's therefore hard not to envision a rather dramatic impact on this province's political landscape if even ten percent of the Province's current abstentions were induced back to the voting habit simply by the power to register a meaningful protest vote. The effect might be even more dramatic if a portion of the Liberal's 42% came from those who voted Liberal merely because they perceived no other option, within the tired FPTP regime, to escape an NDP government in disfavour.

More information from more voters, though complicating the work of those asked to count votes, can only mean a truer reflection of voter aspirations.

And for those considering the legal ramifications of diminishing participation in British Columbia's electoral process, a thought from Jonathon Swift: "*Government without the consent of the governed is the very definition of slavery*."

DEALING WITH THE PAPER

Sample ballots are appended to this presentation to illustrate the relative simplicity that would still confront voters. However, from a logistics viewpoint, Part B presents the very real prospect of being extremely large; for although it asks voters to make only one choice, it asks that that choice be made from — what may well, routinely be — several hundreds of candidates. One solution that came to mind was the incorporation of "computer-aided", touch screen voting, whereby voters would indicate their choices on a series of computer dialogues screens. When satisfied that his or her choices have been accepted by the computer, the voter would then direct the computer to print out the physical, "hard copy" ballot. These "receipt-styled" printouts would be the ballots voters deposit in the ballot boxes. A sample of what these vastly shorter "receipt-styled ballots is also appended.

BUT UNDER NO CIRCUMSTANCES WOULD I ADVOCATE OR COUNTENANCE EMPLOYING COMPUTERS TO EITHER RECORD OR COUNT VOTES. THE PURPOSE OF THE PRINTOUT IS TO ENSURE THAT COUNTING REMAINS A "VERIFIABLE" HUMAN TASK, AND NOT ONE THAT'S SUBJECT TO ANY MANNER OF "INVISIBLE" SOFTWARE GLITCH.

ADDITIONAL NOTES

RE MINORITY GOVERNMENT

Attention needs to be paid to the misconceptions about "Responsible Government" and "The Westminster System" that permeate the Assembly's literature and reasoning. To wit:
The Assembly's Fact sheet #1, asks,

> "*Where should the balance of power lie between cabinet and the legislature?*"

And then begins the discussion with,

> "*In a parliamentary system, we elect members to a legislature who, in turn, choose the premier and cabinet, make the laws, and decide on taxes and spending. So, in effect, the premier and cabinet are accountable to the legislature*."

In that last sentence is the essence of the flawed reasoning underlying the concept of "Responsible Government": that the ministers are always available to the house for questioning, and that "available" to the legislature also means to be "accountable" to the legislature. This leap of logic is an irrationality that flies in the face of the caveat John Locke provided in Of Civil Government[1] where he told us that anytime the executive branch of government is constituted as a part of the legislative branch of government, the executive will only be accountable to the legislative to the degree to which it consents itself to be held accountable. Locke's prescience is confirmed by Prof. Harry Calvert:

> "*There is no effectively enforceable constitutional obligation on a Minister to answer a question*"[2];

And by Erskine May:

> "*Since the strength of the modern party discipline makes a Ministry largely invulnerable to direct attack in the House of Commons, the criticism of the Opposition is primarily directed towards the electorate, with a view to the next election, or with the aim of influencing government policy through the pressure of public opinion*"[3].

Furthermore, we must never forget that the primary function of the legislative branch is to control the executive branch. And ardour for the power of public opinion to provide a rein on "Responsible Government" should be tempered by John Stuart Mill's

observation,

> *"When the highest dignity of the State is to be conferred by popular election once in every few years, the whole intervening time is spent in what is virtually a canvass. Presidents, ministers, chiefs of parties, and their followers, are all electioneerers; the whole community is kept intent on the mere personalities of politics, and every public question is discussed and decided with less reference to its merits than to its expected bearing on the next presidential election. If a system had been devised to make party spirit the ruling principle of action in all public affairs and create an inducement not only to make every question a party question, but to raise questions for the purpose of founding parties upon them, it would have been difficult to contrive any means better adapted to the purpose".*[4]

It is more than apparent that the phrase, "Responsible Government", is a euphemism, a misnomer, used to explain a party contrived parliamentary convention which, rather than expedite a constitutional objective, fully annihilates the Constitution's explicit distinctions between its executive and legislative branches of government; hence, we now embrace an absurdity wherein we hold legislative elections and then sit idly by as the dominant members of the dominant party, by convention, impose upon the Crown that they be allowed to form a Government whose ensuing unanimity, combined with majority caucus disciplines, make the preceding legislative elections redundant; everything in deference to an office that has no mention anywhere in the Constitution; so that where once we had stability of government through the independence of the Crown, many now have earnest trepidations about embracing any electoral reform that might frequently saddle a premier with "minority government" instability. And where once the legislature's primary function was to control the executive, we've now a "Westminster System" wherein we're lectured by an irritated Government that, "*At the end of the day, the government has to get its agenda through*"[5] — and nary an eyebrow is raised.

If the balance of power is supposed to lie with Cabinet, what vanity are we to then ascribe to the Petition of Right? Or the subsequent Revolution?

No, in the realm of electoral reform, concern over the paralyzing effects of frequent minority governments is a non-sequitur, a red herring. The concept of minority or majority government stems solely from the conventions of "Responsible Government". If we wish to escape the fear of minority government instability, we need only stop using legislative elections to

determine our executive government. Free the Crown from its “enslavement”[6] to the counter-intuitiveness of “Responsible Government”; let the Crown appoint able men and women not sitting in the Legislature to Her Majesty’s Government, for a return to those founding terms of British constitutional law would even make British Columbia’s fixed election date legislation — which cannot prevent irregular elections arising from “Responsible Government” non-confidence votes — redundant. Or, as is common practice among republics, abolish the Crown and hold separate elections for the office of president. In either case, how might there be minority government instability when the Government is not a part of the legislature, and the legislature cannot therefore be dissolved by the whim of the Government leader?

So, as an opening salvo in response to those who insist that the “Westminster System” is sacrosanct — and therefore beyond the mandate of this Assembly — a few extracts from *Reference Re Amendment of the Constitution of Canada* [1982] 125 DLR(3rd) 1:

> *"The very nature of a convention, as political in inception and as depending on a consistent course of political recognition by those for whose benefit and to whose detriment (if any) the convention developed over a considerable time is inconsistent with its legal enforcement. The attempted assimilation of the growth of a convention to the growth of the common law is misconceived. The latter is the product of judicial effort, based on justiciable issues which have attained legal formulation and are subject to modification and even reversal by the Courts which gave them birth when acting within their role in the State in obedience to statutes or constitutional directives. No such parental role is played by the Courts with respect to conventions."*[7]
>
> *"Perhaps the main reason why conventional rules cannot be enforced by the Courts is that they are generally in conflict with the legal rules which they postulate and the Courts are bound to enforce the legal rules."*[8]
>
> *"This conflict between convention and law which prevents the Courts from enforcing conventions also prevents conventions from crystallizing into laws, unless it be by statutory adoption. It is because the sanctions of convention rest with institutions of government other than Courts, such as the Governor General or the Lieutenant-Governor, or the Houses of Parliament, or with public opinion and ultimately, with the electorate that it is generally said that they are political ."*[9]

And if there is still a reluctance to disturb the irrational conventions of “Responsible Government”, once more the quote from Edmund Burke [10] about the party system growing from the example of Lord Bute’s “CABAL”: “*This law of court cabal and of party, this mens quaedam nullo perturbata affectu* [11]*, this law of complexion, ought not to be endured for a moment in a country whose being depends upon the certainty, clearness, and stability of institutions*”.

And as an addendum to the above, an extract from Figueroa v Canada (A.G.) 2003, Iacobucci, J. writing at paragraph 37:

> *“Finally, although certain aspects of our current electoral system encourage the aggregation of political preferences, I do not believe that this aspect of the current electoral system is to be elevated to constitutional status. In his reasons, LeBel J. argues that first-past-the-post elections favour mainstream parties that have aggregated political preferences on a national basis. This might, indeed, be true. But the fact that our current electoral system reflects certain political values does not mean that those values are embedded in the Charter, or that it is appropriate to balance those values against the right of each citizen to play a meaningful role in the electoral process. After all, the Charter is entirely neutral as to the type of electoral system in which the right to vote or to run for office is to be exercised. This suggests that the purpose of s. 3 is not to protect the values or objectives that might be embedded in our current electoral system, but, rather, to protect the right of each citizen to play a meaningful role in the electoral process, whatever that process might be.”*

RE CAMPAIGN FINANCING

One aspect of electoral reform that needs to be addressed – but which may, indeed, be beyond the mandate of this Assembly, and which I’ll touch on only briefly – is the political inequity associated with campaign financing. To be entirely fair, some form of spending cap is required so that there is a means to ensure that all candidates are on an equal footing with all others. It’s an objective that may have to be met via public funding of election campaigns. As it stands now, the greatest barrier to election is that associated with the reality of “**out of sight, out of mind**”; the barrier of media access which only candidates with deep pocketed sponsors can purchase their way around. Those candidates best able to occupy the media’s attention become our primary voting

options (compounding the disadvantage of mainstream media's natural bias against "independent" and "fringe party" candidates). But money shouldn't be our measure of a candidate's worth. Nor should the media be in a position to limit voter choices. Just as our Legislature should not and must not be allowed to belong to any of the political parties, so too it should not and must not be allowed to belong to the media. To that end, there may need to be some form of legislative obligation put upon the media so that the entire spectrum of candidates has equal access to the voters of the province during elections. Perhaps greater emphasis on free time access and truly more inclusive formats for broadcast debates?

RE COMPLICATING THE COUNTING

If we can get over the media's need to know who's been elected within five minutes of the close of polls, the only reasons for not implementing the foregoing bit of electoral complication would be that there is no desire to undermine the distortions the party system has imposed on the Westminster model, and that that same consensus holds the people of British Columbia to be too stupid to make half a dozen or so choices on a piece of paper, or a few hours of calculation added to the ballot counting process to be too heavy a burden to bear in the quest for truly responsible and accountable representative government.

RE PANDERING TO THE CONTENTED

And if getting more voters out to the poles is an important objective for this Assembly, then addressing the above noted concerns of those of us who do not vote — who refuse to give tacit consent to a political and electoral structure designed to negate the voices of all but the largest block of voters — will be more important than pandering to the wishes of those parties who are still able to get their voters regularly out to the poles under FPTP. For if the this Assembly contents itself with reforms which merely reshuffle the distribution of seats among existing "mainstream" parties, those who do not now speak for the politically voiceless, the process of electoral reform will fail the objective.

1 Bk II, paragraph 152.
2 An Introduction to British Constitutional Law, at page 108.
3 Erskine May's Treatise on The Law, Privileges, Proceedings and Usage of Parliament, 19th Edition at page 243.
4 Considerations on Representative Government, at pages 201-202.
5 Gary Collins, MLA, House Leader and Minister of Finance, as quoted by Judith Lavoie in the Times-Colonist of May 13th, 2003, page A4, Utilities commission to set rates for ICBC, government decides.
6 *"When [Queen] Anne, who hated party government in every form as an enslavement of the crown, - whose personal influence she attempted to uphold by presiding to the last at every weekly meeting of the cabinet council, and by exercising for*

the last time the veto power, - was thus forced to bow to the Whigs, whom she regarded as but little better than republicans, she declared in her letters to Godolphin, when the entry of Sunderland into the ministry had become inevitable, that 'the appointment would be equivalent to throwing herself entirely into the hands of a party; that it was the object of her life to retain the faculty of appointing to her service honorable and useful men on either side; that if she placed the direction of affairs exclusively in the hands, either of Whigs or Tories, she would be entirely their slave, the quiet of her life would be at an end, and her sovereignty would be no more than a name.' " - Hannis Taylor, LL.D., *The Origin and Growth of the English Constitution:An Historical Treatise*, [1898] pt. II at p. 447.

7 At page 22.

8 At page 85.

9 At page 86.

10 Speech on the powers of juries in prosecutions for libels (March, 1774).

11 'Mens quaedam nullo perturbata affectu' roughly translates as 'that mindset that will allow nothing to disturb its intentions'.

ILLUSTRATING THE FORMULA AND PROCESS

Party F receives 650,000 affiliation votes from Parts A and 610,000 affiliation votes from Parts B; when divided by 2, the combined total of 1,260,000 votes becomes 630,000, which, when then divided by the total number of ballots cast (say 1,560,000) would yield us 40% — and the equivalent entitlement to thirty-two seats in an eighty seat Legislature...

If the totals for independent candidates mirrored the example of 40% for Party F above, the block of independent candidates, too, would have an entitlement to thirty-two of the Legislature's eighty seats...

If Party F elects forty "constituency" candidates with its forty percent of the vote, it would retain all forty of those constituency seats and Party G, with ten percent of the popular vote would become entitled to ten percent of the House's eighty seats, less the ten percent overage already garnered by Party F — reducing Party G's normal entitlement from eight to seven seats – via the equation (100%-10%) x 10% = 6 [alternately, 80 - 8 = 72 and 72 x .1 = 7.2]. Likewise, Party H, with six percent of the votes would have its entitlement reduced from four to three "at large" seats [72 x .06] ...

If Party F, with its 40%, were to elect only twenty-six MLAs on Part A, those six highest polling candidates on its Part B list of Part would then be elected; if twenty on Part A, then the top twelve from the Part B list...

With one seat in an eighty seat Legislature being equal

to approximately 1.25% of the popular vote, Party F’s 40% of the vote would elect thirty-two of its candidates, while 41.1% would still only provide the affiliation with an entitlement to thirty-two seats...

If the process of rounding down the percentages were to free up just 1.25% of the votes cast, Party I (being the most popular affiliation not to have elected a candidate) would have their most popular candidate on the Part B list “deemed elected”. It the process of rounding down percentages freed up three seats, Parties I, J & K, the three most popular parties or affiliations not having reached the 1.25% threshold for electing a candidate, would each have their single most popular candidate on the Part B list “deemed” elected...