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**Submission to the Citizens Assembly for Election Reform
by Don Moses, Party Leader
All Nations Party of British Columbia**

This submission focuses on the need for the creation of the Aboriginal Electoral Districts.

Introduction

When BC joined Confederation in 1872, one of the early acts of the Legislature was to deny “Indians and Chinamen” the right to vote. This right was not returned to Aboriginal citizens until 1949. This sad history has meant that there has not been a tradition of political participation in Aboriginal communities compared to the rest of the province.

There have only been 2 Native Indian MLAs ever elected to the Legislature. Frank Calder was elected in 1949 and served 9 terms as the MLA for the Electoral District of Atlin until 1982. Larry Guno was elected in Atlin in 1986 for 1 term.

The lack of Aboriginal representation is a serious problem. First Nations exert a strong and growing influence over the economic future of the province through their aboriginal rights and title that are being asserted and confirmed through the legal system up to the Supreme Court of Canada. Everyday it seems there is an Aboriginal issue in the news. We must have Aboriginal MLAs in our Legislature.

The Past

The issue of Aboriginal participation in the federal democratic process was researched extensively and documented in 1991 in the report of the Committee for Aboriginal Electoral Reform, chaired by Senator Len Marchand, titled *The Path to Electoral Equality* and in the report of the Royal Commission on Electoral Reform and Party Financing, chaired by Pierre Lortie, titled *Reforming Electoral Democracy*. The conclusions of these reports are relevant to the deliberations of the Citizens Assembly.

The Committee for Aboriginal Electoral Reform report gives a succinct summary of the reasons for lack of Aboriginal presence in Parliament and, equally, within the Legislature of our province, in part:

1. The failure of the existing electoral system to provide for equal and effective Aboriginal representation in Parliament is clear. Since Confederation, only 12 self-identifying Aboriginal people have occupied seats in Parliament, out of approximately 11,000 available seats. (P. 8)

2. The arguments advanced in parliamentary debate to deny the franchise to Indians from Confederation until 1960 provide valuable insight into the treatment of Aboriginal people in the electoral system. Parliamentarians took aim at four elements of aboriginal distinctiveness:
 - Aboriginal socio-economic conditions were cited as a reason for denying the franchise to Aboriginal people. This included arguments that Aboriginal people were not “civilized” or “literate”, that they were “wards” of the government and susceptible to voter manipulation by the government in power and thus not worthy of the right to vote.
 - The distinct legal status of Indian people under the Indian Act and the treaties were also cited as reason for withholding fundamental citizenship rights. In particular, treaty payments and annuities, exemption from taxation, and the prohibitions on Indians entering into contracts or buying and selling were all used to deny Aboriginal people the right to vote.
 - The distinct land tenure system on reserves was a concern in the early part of the century, particularly when the franchise was viewed as an incident of proprietary ownership (reserve lands were designated as federal lands).
 - Finally, the distinct political consciousness of Aboriginals were used by non-Aboriginal politicians to deny Aboriginals the right to vote on the self-serving grounds that Indian sovereignty was inconsistent with any Aboriginal participation in Parliament.

The problems with the electoral system cannot be viewed in isolation from the historical difficulties that Aboriginal people have had with Canadian political institutions. (P. 9)

Some of the key observations from the Royal Commission report follow. These also apply directly to the situation in BC:

1. Indians on reserves did not receive the federal vote until 1960. Traditions of political participation, accordingly, did not develop in these communities in parallel with the rest of Canadian society. On the contrary, the denial of the vote to Indians until 1960 reinforced the idea they were “distinct” from other Canadians at both the practical and symbolic level. Political participation is unlikely to be enhanced if changes are not made to secure effective representation for Aboriginal people. Our past is replete with symbols of their exclusion from the Canadian polity. Elimination of discrimination based on law is not sufficient: symbols of inclusion are also needed. (Vol. 1, p. 170)

2. Canada's electoral system is based upon a consent of citizens to be governed. The design of the electoral system must always respect the fact that Parliament is the central institution of governance in the country. Its legitimacy will be strengthened if, over time, its composition reflects the importance of the various communities in the polity. (Vol. 1 p. 174)
3. For the concept of Aboriginal constituencies to be acceptable, three conditions must be fulfilled. First, there must exist a consensus among Aboriginal peoples in favour of the measure. Second, the practical form the concept will take must be compatible with Canadian traditions and parliamentary system. Third, there must exist compelling reasons for non-Aboriginals to adopt legislation giving Aboriginal peoples the right to a guaranteed process to chose to create Aboriginal constituencies. (Vol. 1, p. 175)
4. The creation of Aboriginal constituencies would build upon the Canadian tradition of accommodating both individual and collective rights. The Canadian political system has always recognized that there must be a reconciliation of individual rights and membership in the national political community on one hand and the legitimate interests of citizens for the preservation and promotion of diverse and separate communities within Canada on the other. As Charles Taylor has succinctly put it, "Accommodating difference is what Canada is all about." (Vol. 1, p. 184)
5. In view of the facts, therefore, that Aboriginal peoples constitute distinct peoples in Canada and desire to be directly represented in Parliament by MPs elected by them, that their interests as distinct communities and the First Nations of Canada cannot be adequately recognized within the existing system of drawing constituency boundaries, that Aboriginal constituencies could be created while respecting the equality of the vote of all Canadians, and that consultations with Aboriginal people indicate solid support for the establishment of Aboriginal constituencies, we recommend a process whereby Aboriginal constituencies be created. (Vol. 1, p. 187)

Recommendations

We support a Mixed Member Proportional representation model for the election of the Legislature of British Columbia. Many of our recommendations are in line with the rationale and procedures defined in the position paper dated 13 August 04 presented to the Citizens Assembly by the BC Democratic Alliance. We specifically recommend:

- We would retain the 79 seat legislature as this number is adequate to govern our population.

- The province would be divided into 48 conventional Single Member Plurality Electoral Districts, 6 regional Proportional Representation Electoral Districts comprising 4 seats each, 4 regional Aboriginal Single Member Plurality Electoral Districts plus 3 Provincial Proportional Representation seats to provide this structure:

48 Single Member Plurality
 24 Regional Proportional Representation
 4 Regional Aboriginal Single Member Plurality
 3 Provincial Proportional Representation

- The 48:27:4 breakdown should provide adequate protection for majority government, unless this is clearly not the wish of the electorate.
- The Proportional Representation seats would be filled by candidates who have run as candidates in the Single Member Plurality seats. We are opposed to any election process using political party lists. One seat for an independent or party not otherwise represented in the house could be drawn from the 3 Provincial Proportional Representation seats.

We propose four Aboriginal Electoral Districts since this number closely reflects the fact that the Aboriginal population of the province is about 4% of the total based on the 2001 Census figures. So 4% of the 79 seats would equate to 3.2 Aboriginal Electoral Districts, rounded up to 4 given the remoteness of a significant portion of the Aboriginal population. These would be Single Member Plurality Electoral Districts encompassing from 8 to 42 of the present Electoral Districts. The attached table was prepared by using information from BC Statistics based on 2001 Census data. The Aboriginal population is defined as those people who self-identify as being Indian, Metis or Inuit.

The proposed Aboriginal Electoral Districts have 2001 populations that reasonably conform to the size of current Electoral Districts:

Suggested Name		Total Population	Aboriginal Population
Raven	Lower Mainland	2,214,550	47,985
Orca	Vancouver Island/Coastal	647,565	34,710
Grizzly	Northern	258,330	40,850
Coyote	Southern Interior	<u>679,745</u>	<u>39,125</u>
		3,800,180	152,670

Our proposal requires a major effort to prepare the voters lists for the four Aboriginal Electoral Districts and to organize the voting process. The voters would be those who:

1. identify themselves as Aboriginal (Indian, Metis, Inuit), and
2. chose to be on the Aboriginal voters list (some may chose to be on the general list)

The Future

We recognize that it will take time to build up Aboriginal participation in the provincial election process. And initially a smaller number of voters will elect the members from the four Aboriginal Districts. However the urban/rural disparity in population and participation is a reality of BC elections now.

To the same extent that the Canadian government system protects the political influence of Quebec and the Atlantic Region established at Confederation, we strongly recommend that the Aboriginal peoples be assured a place in the government system of British Columbia.

We do not want to dwell on past injustice and discrimination. Rather we want to emphasize the benefits that will come from a direct aboriginal voice in the Legislature. There are many important issues facing British Columbia that must accommodate Aboriginal rights and title. We need Aboriginal MLAs speaking on the floor of the Legislature and in committee when legislation is drafted, debated and enacted. Better Aboriginal voices be heard on the floor during the drafting of good legislation than in protest on the lawn after the enactment of bad legislation.

All Nations Party of BC encourages the Citizens Assembly to take the initiative to ensure an Aboriginal voice in the Legislature. The creation of the four Aboriginal Electoral Districts will go a long way to meet that objective.