

*Report on the Constitution of the*  
Citizens' Assembly on  
Electoral Reform

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*December 23, 2002*

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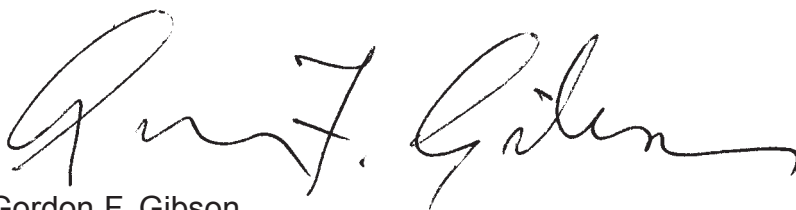
Hon. P. Geoffrey Plant  
Attorney General

Dear Mr. Plant,

I have the honour of transmitting herewith a report on constituting the Citizens' Assembly on Electoral Reform.

Thank you for the opportunity to be of service.

Sincerely,

A handwritten signature in black ink, appearing to read "Gordon F. Gibson". The signature is written in a cursive, flowing style with a large initial "G" and a long, sweeping underline.

Gordon F. Gibson

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**Citizens' Assembly on Electoral Reform**

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# Acknowledgements

This report has benefited greatly from the advice of practitioners, experts and interested British Columbians. It is proper to acknowledge these contributions, without implying any necessary support or responsibility for the conclusions herein.

First and foremost should be mentioned the politicians who toil on the front line of our democratic system and gave generously of their time and advice. From the government caucus, meetings were held with Hon. Greg Halsey-Brandt, and MLAs William Bennett, Richard Lee, Patty Sihota and Ralph Sultan. Leader Joy MacPhail of the New Democratic Party and aide David Perry provided valuable time and insights, as did leaders Adriane Carr of the Green Party and Chris Delaney of the Unity Party. Without burdening any of the above with responsibility for the details of this report, they were unanimously supportive of the concept of the Citizens' Assembly. Ron Gamble of the B.C. Reform Party gave written supportive advice as well.

Mayors Gerry Furney of Port MacNeil, Jack Talstra of Terrace, Steve Wallace of Quesnel, Coun. Barry Clark of Kelowna and Coun. Val George of Terrace responded to requests for meetings.

Quebec is involved in an extensive examination of democratic reform, and gratitude for an insight into this work during a visit to that province is due to Minister Jean Pierre Charbonneau; Deputy Minister André Larocque; Chair of the Committee on Institutions Claude Lachance, MNA; Liberal critic Jacques Chagnon, MNA; Guy Laforest, chief policy advisor to Mario Dumont; and Claude Béland, Chair of the Steering Committee of the Estates General charged with these topics.

Herb George, Executive Member of the First Nations Summit and Stewart Philip, President of the Union of B.C. Indian Chiefs, gave extensively of their time and advice.

Members of the judiciary are not expected to take part in the political process, but in view of the analogy between a randomly chosen Citizens' Assembly and randomly chosen juries, Chief Justice Don Brenner, Justice Mary Humphries and Justice John Bouck kindly furnished insights into jury selections and outcomes.

A number of public servants gave very useful assistance. Among others I would list Chief Electoral Officer Harry Neufeld and his Deputy, Linda Johnson; Lee Herrin and Steve Miller of B.C. Statistics; and Regional Director John Watson of Indian and Northern Affairs Canada. David McGee, Clerk of the New Zealand Legislature, and Paul Harris, Chief Electoral Officer of New Zealand, were most helpful.

Expert academics were important contributors. Among those I would list in particular are members of the U.B.C. Department of Political Science, including professors Richard Johnston, Ken Carty, Paul Tennant and visiting scholar Campbell Sharman of Australia (and a former member of the West Australia Commission on Government), as well as Prof. William Stanbury (Emeritus). From the University of Victoria, advice came from professors Andrew Petter, Norman Ruff and Avigail Eisenberg. Advice from the University of Northern B.C. came from department head Greg Poelzer, Boris DeWeil and adjunct professor Paul Ramsey. Professors John Richards and Herb Grubel (Emeritus) and Dr. Gordon Rose of Simon Fraser University provided comment, as did Senior Fellow Martin Collacott of the Fraser Institute. Professor Barry Cooper of the University of Calgary gave advice. Jeannie Lee of the P.E.I. Institute of Island Studies assisted with information on the electoral reform process in that province.

Vice-Chairman David Elton of the Canada West Foundation gave of his extensive experience with randomly chosen "deliberative democracy" panels, a comparable example for the Assembly. A similar thanks is due to Prof. James Fishkin of the University of Texas, the United States leader in this technique.

Several leading B.C. organizations gave considerable help. Notably among these were Jim Sinclair and his colleagues at the B.C. Federation of Labour, and the Board of Directors of the B.C. Chamber of Commerce, meeting in their quarterly session. The chief advocacy group for electoral reform in the province, Fair Voting B.C. gave extensive advice both as a board and from individual directors, including in particular founding member Nick Loenen.

Mr. Angus Reid, the former owner of Ipsos-Reid Canada, provided invaluable insights into focus groups and small deliberative panels. Jake Kerr, former Co-Chair of the Unity Panel which consulted British Columbians on the Calgary Declaration (1997–98) was able to provide guidance on the public hearing process. Bruce Rozenhart and Bob Ransford of Counterpoint Communications gave similar advice. Larry Gordon, President of Fair Voting Canada was helpful, as was journalist and long time democratic reformer William Johnson of Quebec. President Nathalie Des Rosiers of the Law Commission of Canada described the work of her organization in holding hearings on electoral reform. Frank Murphy, Q.C. gave helpful advice. Tara Shirley of the UBC Political Science Students Association included this topic in a day-long seminar that produced useful suggestions from the faculty and students in attendance.

A special appreciation is due to the many print and electronic journalists who took the time to cover this story and write articles or host open line shows on the topic, including most of the "household names" in talk radio in this province.

This publicity was extremely important in obtaining the feedback of over two hundred ordinary citizens of B.C. who sent mail or e-mail with their views. All of these were acknowledged and many led to a continuing exchange of views on this or that aspect of Assembly design. Gratitude is due to all of these contributors.

Daniel Savas and Peter Weylie of Ipsos-Reid organized and facilitated two valuable focus groups to test certain assumptions regarding the Assembly selection process.

And finally, members of the Ministry of Attorney General gave much-appreciated support, including especially Communications Director Curt Albertson for media arrangements, Neil Reimer for administrative support, research and budget development, and both for their wise advice.

All of the above contributed considerably to this report, and it could not have been completed without them.

# Executive Summary

For a complete understanding the following summary, given here for convenience, should be read in the context of the entire report.

1. The Government of British Columbia has undertaken to appoint a Citizens' Assembly on Electoral Reform to consider such change and, if thought fit, propose a new model to the voters in a referendum to be held on May 17, 2005. The Assembly is to be appointed by a random selection method.
2. This carries with it an obligation on the Assembly to consider the impact of such change on the total political system of the province, and this should be made clear in the mandate.
3. In keeping with the importance of the subject matter, the Assembly should be established by a specific action of the Legislature and table its report with the Speaker of the Legislature.
4. The basic list for random sampling to select the Assembly should be the provincial Voters List.
5. A program of publicity encouraging sign-up for those not already on the Voters List should be mounted in advance of the selection process.
6. The sampling structure should be stratified to ensure appropriate representativeness in the selection process in terms of geographic location, gender and age.
7. The appropriate basis for geographic stratification is the current division of the province into electoral constituencies. This represents a settled political compromise between urban and rural British Columbia.
8. Fluency in English and the meeting of certain other basic tests should be required of Assembly members.
9. Membership on the Assembly should not be compulsory for those chosen at random (unlike jurors) and there should be an assisted formal process of self-screening for potential members.
10. Three generic selection mechanisms are studied, being self-screening only, or the addition of screening by Eminent Persons, or peer screening in local meetings. The recommended technique is peer screening in multi-riding meetings.
11. If required to meet certain representativeness tests, the Chair should have the power to add up to four members drawn from specialized lists.
12. The Assembly should be made up of 79 members, to reflect the number of ridings in the province. A "top up" mechanism for increasing representativeness is described but not recommended.
13. Expenses of members should be reimbursed to a good standard, and special needs (e.g. child care) should be accommodated. Communications needs should be met.
14. Members should be paid an honorarium of \$150 per day.

15. The Chair of the Assembly will be of great importance to its success. This individual should be appointed by unanimous recommendation of a special all-party committee of the Legislature. The committee should be kept in being for consultation or budgetary variation.
16. The Chair should be non-voting, with a tie-breaking exception. Compensation should be equivalent to that of the Chief Provincial Court Judge. The Chair should be empowered to recruit staff.
17. The Assembly should report not earlier than October, 2004, nor later than mid-December, 2004.
18. The work of the Assembly will fall naturally into three phases—education, public hearings and deliberation—to take place beginning in January, 2004. The Chair should be appointed by late spring of 2003, staff should be in place by September, 2003, and Members should be fully selected by early December, 2003.
19. The Assembly should emerge from its first phase with agreement on three or four main electoral system options for the public hearings. There should be a householder distribution to all British Columbians describing these options.
20. Vice-Chairs should be chosen from among the Assembly members to assist with the public hearing process, which would be done by sub-panels of the Assembly.
21. The Assembly should have charge of its own governance, within its mandate. The Chair should be empowered to make decisions on procedure.
22. The Assembly should be required to provide public access to all sessions in the education and hearing phases. They may choose to deliberate in private in the third phase, but in such case daily accounts of progress should be given by the Chair.
23. The Assembly should provide for extensive communication with the public, as this should be a learning opportunity for the entire province.
24. The Assembly should have the power to expel a Member for cause by a two-thirds majority.
25. The Assembly should have the power to submit interim reports of requests to the legislative committee.
26. No replacements should be made in respect of deaths and withdrawals unless and until such vacancies reach 25 percent of the membership.
27. The Assembly should have standard indemnities and protections afforded bodies of public inquiry.
28. Where decisions of the Assembly are required they should desirably be by consensus, but as required will be determinative by a majority of those present and voting with proper notice given.
29. The recommendations of the Assembly must be compatible with the Westminster system and the Constitution of Canada.

30. The Assembly should have access to independent legal advice on the above or other topics.
31. If the Assembly chooses to recommend a new electoral system it must recommend only one such for a straight "Yes" or "No" vote.
32. The recommendation for change, if any, should be clear and specific as to details.
33. The work of the Assembly should be limited strictly to that part of the electoral system that provides for the translation of citizen ballots into legislative seats.
34. The Assembly should disband upon the adoption of its report. If a new electoral system is recommended, the Assembly should also approve a neutral description of the current electoral system and the new option, for public guidance, to be drafted by staff to the satisfaction of the Assembly. This document should be distributed to all British Columbia households.
35. There is no need for formal "Yes" and "No" committees for the referendum.
36. To provide for the above, a budget of about \$4.5 million will be required.



# Introduction

As a part of its campaign platform in 2001 the current government of British Columbia promised to:

- "Appoint a Citizens' Assembly on Electoral Reform to assess all possible models for electing MLAs, including preferential ballots, proportional representation, and our current electoral system"; and
- "Give the Citizens' Assembly a mandate to hold public hearings throughout B.C., and if it recommends changes to the current electoral system, that option will be put to a province-wide referendum."

Note that the Assembly may recommend change, but also may decide that the continuation of the current electoral system is the most appropriate in the circumstances. In that case there would be no referendum held as a result of the Assembly process.

As a part of carrying out that promise the government commissioned this study, which is to "develop recommendations for the appointment, size, composition and administrative structure of the Citizens' Assembly", including:

- ensuring that the Assembly is representative of the province as a whole, can operate effectively and is affordable;
- recommending a governance model for the Assembly;
- developing guidelines to ensure its recommendations will be compatible with the Constitution of Canada and with the Westminster parliamentary system;
- developing guidelines and a timetable to ensure that any recommendation for change will be made in sufficient time to allow consideration at a referendum held at the same time as the next provincial general election on May 17, 2005;
- developing guidelines on the wording of questions; and
- developing a budget for the above.

It is explicitly mandated that "the Assembly is to be appointed by a random selection process."

The full **Terms of Reference** are attached as Appendix I.

# Task and Requirements of the Assembly

The mandate of the Assembly is to consider electoral systems, which is to say, how citizens' votes are to be translated into legislative seats. However, this carries with it an inescapable obligation to simultaneously consider the potential impacts of changed electoral systems on the operations of the Legislature and political parties. **This should be made explicit in the Assembly's terms of reference.**

It is essential that the Assembly be credible in the sense of being accepted as an effective and legitimate process by the citizens, political parties and media of British Columbia. Only through such credibility will the recommendations for change (if any) be properly considered by the referendum voters.

"Credibility" in this context requires, among other things, initial support for the process by the main political actors in the province, a commitment to transparency in its operations, a structure which guarantees the Assembly is not subject to manipulation by particular interests, and a composition which satisfies citizens that the Assembly is reasonably representative of the citizenry of the province.

This last requirement places emphasis on the importance of the "representativeness" part of the study mandate. Given the constraints of a random selection process, the best guarantee of representativeness is sheer size. However, this factor may well work against the other desiderata of "effectiveness" and "affordability". Measures will be proposed to reconcile these differing goals.

## Nature and Importance of the Assembly

The Assembly is to be independent. That is a common characteristic of such bodies.

Much less usual, however, the Assembly is also to be plenary and conclusive. Should it decide on a new electoral system to be proposed to the voters, the Assembly would be the sole master of that decision, in its principle and details. If it recommends change, the government has undertaken that that proposal is to go directly to the people in a referendum without modification by the government or Legislature.

Usual practice around the world and throughout history has been for bodies considering electoral reform to be merely advisory (Royal Commissions or panels of experts), or else elected (as in legislatures, made up of politicians, or even Constituent Assemblies, normally made up of a mix of politicians and experts.)

In ancient Athens randomly chosen citizens were assigned important executive and legislative tasks, but since then such a practice for important constitutional purposes has been rarely if ever used. We will therefore be breaking new ground in British Columbia, not so much in terms of electoral systems, for many types are in operation around the world, but in terms of the way we make that choice.

It is important to carefully consider the machinery, because the opportunity to open up such fundamental democratic rules as the electoral system is a rare and precious moment.

There are a few useful comparisons available for study. One is the jury system, which has operated for centuries and is well trusted by the public. Inquiries of senior judges in this province have yielded the

opinion that juries of ordinary people are capable of dealing with very complicated evidence in a competent way. (On the other hand, some studies have indicated that juries sometimes don't understand what they hear, and make their decisions based on other considerations. This underlines the importance of an adequate support structure of expertise and education for the Assembly.)

Of course juries have only to choose between two reasonably understandable options, and if they make a mistake the consequences may be serious for the plaintiff and defendant but will have little further impact. By contrast, the recommendations of the Citizens' Assembly on a complex sub-system of democracy will be of great importance to everyone.

A second comparison is with the recent use of "deliberative democracy", which employs randomly selected citizens' panels to give policy advice on matters as diverse as crime, zoning, utility pricing, foreign affairs and even constitutional issues. In our country, the Canada West Foundation has run several such experiments. In the United States, the Centre for Deliberative Democracy at the University of Texas is a leading authority. But again, these panels are only advisory, and normally relatively large (up to 500) and of short duration (usually a day or two). Nevertheless, we can learn from this experience.

## On the Random Method

Before proceeding to the details of the Assembly it may be useful to briefly note a frequent proposal that has emerged in my consultations, and which stands in opposition to the proposed random method. Many people in this province have generously volunteered their own time to serve on a Citizens' Assembly. Others have suggested that if the Assembly is to be randomly chosen, then the pool should be limited to experts or, alternately, to anyone who shows enough interest to volunteer for the process.

The problem with these ideas is that volunteers or experts are quite likely to have a definite point of view as to the right solution for electoral reform. The Assembly thus could easily be dominated by whichever group could organize the largest group of volunteers to enter the pool. This would quite possibly lead to less than fair consideration of other solutions, especially the option of staying with the current electoral model.

To put this concept in perspective, for obvious reasons it would not be practical to have people volunteer for jury duty on a high profile and emotional trial. The goal of objectivity would be compromised.

Another imaginative proposal has been that the right "pool" from which to select the Assembly would be retired provincial and municipal politicians, who after all have experience with the subject matter. There are two problems here. Many retired politicians still retain partisan instincts, and there are some partisan views on which would be the best sort of electoral reform. The other problem is that, as with the volunteer proposal immediately above, this group might not have the "representativeness" of the ordinary citizen necessary for credibility of the Assembly.

Interestingly, very few persons have recommended electing the Assembly, which process would produce an Assembly that might arguably be representative but would almost certainly be partisan. The general lack of interest in such a route may be an implicit recognition of the polarized nature of our

politics, and a wish to keep partisan considerations out of the consideration of this most basic question.

A random selection technique should guarantee a body that would be both representative and non-partisan. Of course random choice will also yield a non-expert body, and the time and support afforded to the Assembly will have to compensate for that.

The balance of this report will deal with the following matters:

- formal constitution of the Assembly
- determining the sample pool
- manner of selection
- compensation
- infrastructure, governance and support
- time table and work plan
- powers of the Assembly
- constraints on the Assembly
- post-recommendation activity
- budget

## Formal Constitution of the Assembly

I begin with the manner of establishing the Assembly, which is important to its credibility. **I recommend that the Assembly be established by a specific action of the Legislature.** This could be by way of a statute providing for the Assembly, or by way of a Resolution recommending an Order in Council. In the latter case the exact terms of the Order in Council should be tabled in the Legislature with the Resolution. It is most desirable that this process have cross-party support, as could be evidenced by such action.

The legislative action should be taken as soon as is feasible in the Spring 2003 session in order that staffing can begin.

**The Report of the Citizens' Assembly should be tabled with the Speaker of the Legislature when completed.**

## The Sample Pool

According to the Census of Canada, British Columbia has a population of slightly over 4 million. Of these, approximately 3 million are citizens and of voting age.

The Census list is not available for non-census purposes. The closest thing we have is voters' lists. The federal voters' list is not available to the province. (Negotiations are underway between the authorities to at least compare lists for completeness, currency and accuracy.)

The provincial voters' list is therefore the most comprehensive sample universe available for the random selection of a Citizens' Assembly. This list gives a precise indication of every voter's place of residence at the time of their last registration update, a strong indication (in about 90% of the cases) of age, and a fairly good indication of gender.

However, the list is incomplete. With only 2.2 million names, some 800,000 British Columbians eligible to be voters are not on the list. The advice of Elections B.C. is that the group most under-represented is young people between the ages of 18 and 24. Others have not joined the list because of lack of interest, religious reasons, unwillingness to be called for jury duty (for which this list is used), and so on. Elections B.C. has not done research as to whether there is particular under-representation of any ethnic or cultural group. They do advise, however, that in co-operation with the First Nations Summit and other organizations, there has been a process underway to encourage the addition of aboriginal persons to the list.

Some argue that the people who are not on the list may not be there because of dissatisfaction with the existing system, and therefore a special effort should be made to seek them out. Others argue that persons who don't care to be on the list shouldn't have a role in deciding on the electoral system.

In any event, as a practical matter **the provincial Voters List, which is fully digitized and amenable to random sampling, is the appropriate list to use.**

That said, **it is recommended that a program of publicity encouraging sign-up should be mounted for a period of two or three months prior to the choosing of the Assembly so that anyone not currently on the Voters List will have an appropriate opportunity.**

## On Stratification

Once a list is settled on, the next question that arises is that of *stratification*, meaning the division of the list into categories to increase the likelihood that the sample selected will indeed be representative. This reduces the size of the Assembly necessary to give a particular degree of representativeness.

For example, one way to ensure geographical representation would be to take a very large sample at complete random throughout the province. A more efficient way would be to divide the province into appropriate geographic areas and select one or more persons from each.

What stratification characteristics should be invoked? One can imagine candidates as being stratified by geography, age, gender, ethnicity, religion, socio-economic status, trade union membership, education, and so on.

There are two principles at work here, somewhat contradictory in effect. On the one hand I received frequent and vigorous representations that members of the Assembly should not be chosen as to represent special interests, but rather they should represent the common good. On the other hand there was near unanimity that certain very broad special interests—gender, for example—should be recognized.

To seek guidance on this, one may refer first of all to our current system of counting votes. We make no distinction whatsoever among citizens as to how their votes will be counted except by riding (i.e. geography) and by age (i.e. are they aged 18 or over).

The preponderance of advice I have received is as follows. Geographic representativeness for the Assembly is essential. Gender balance is highly desirable. Age representativeness is desirable as well. Stratification of the sample pool can assist in achieving these goals.

The same preponderance of advice suggests that there should not be stratification or quotas on any other basis. That said, most of the advice I have received also holds that it is essential that representativeness must include aboriginal British Columbians.

In the matter of stratifying by geography, there are three approaches.

One is that each provincial (or, in some views, federal) riding or constituency in British Columbia should receive one or two members.

A second approach is that riding variations are not that important for this purpose, and the appropriate way to proceed is to stratify by region. Thus for example the "Northern B.C." region, which contains 5 per cent of the votes would receive 5 per cent of the Assembly members.

Finally, and as an elaboration and justification of the regional approach, there are those who note that the existing riding distribution for electing the Legislature significantly over-represents rural areas. That may be fine for the Legislature, goes this line of argument, but surely an electoral system is equally the property of every British Columbian, and the geographical stratification should recognize that by using the information on the Voters List to establish (say) 100 equal population groupings in the province (and the list could do this) and then randomly selecting one person from each.

My conclusion is that the latter method will not respond to traditional views of representativeness, while either the "riding" or "region" approach would.

In arguing for the "riding" approach, one notes that the existing distribution of legislative seats is a settled political compromise among British Columbians, and the Assembly ought to reflect that.

In arguing for the "region" approach, one notes that regions are composed of ridings so the identity factor is not lost, but regions would allow the Assembly to better reflect the actual distribution of population in the province. Thus as the Thompson-Okanagan region has 11 per cent of the population, it might be assigned 11 per cent of the seats in the Assembly.

The choice between the "riding" and "region" approaches is also influenced by technical factors. "Regions" being larger than "ridings" will have a number of representatives in the Assembly. A riding might only have one. It is easier to provide for diversity (i.e. "representativeness") from a multi-member geographical area. But this can also be addressed by grouping a number of ridings together, which bloc would then have multiple representation as well.

There is an interesting additional option, based on trade union delegation practices, which blends the "riding" and "region" approach. This would select one delegate per riding, and then add to that an element based on population. Thus one might say, for every geographic group of 200,000 British Columbians (and one would allow a little latitude to suit regional boundaries) another delegate would be chosen at random. In a population of 4 million this would provide for the selection of another 20 delegates, and blend the influence of distribution based on riding boundaries, and on straight population. It could also provide a "top up" pool for Option 3, see below.

After considering the various options, I recommend that **the appropriate geographical base for constituting the Assembly is the existing riding structure, which represents a settled political compromise between urban and rural British Columbia.**



In the matter of stratifying by age, my recommendation is that **the population be divided into three equal pools for this purpose, roughly described as younger, middle aged and older, with each pool having approximately the same influence in selecting Assembly members.** Based on probable willingness to interrupt one's current life to become involved in this process, that may well require more sample attempts from the younger and middle age pools than from the older pool in order to achieve proportionate numbers.

In the matter of stratifying by gender, the laws of probability for a completely random sample ensure that any reasonably sized Assembly will be very close to balance. Either of two potential modified random processes (generic options 2 and 3, see following) would require positive balancing efforts.

## Method of Selection

I have grouped the selection options suggested to me into three generic classes. The essential question to be considered and the difference between the methods relates to degree of screening.

Screening is used for jury selection. Jurors are selected from random pools, but a person actually becomes a juror only once having passed the screening of prosecution and defence counsel. In Canada minimal questioning is allowed in this process. In the United States it can be extensive.

The *philosophical* essence of random selection for a panel such as a jury or the Assembly lies in seeking the goal of objectivity. Objectivity, i.e. a presumption of no bias in approaching its task, is an essential element of Assembly credibility. As noted above, no one can volunteer under such a process, for even though volunteers might well bring superior skills or attitudes to the task at hand, they may also (indeed, probably will) have an agenda of some sort, an axe to grind.

On the other hand a *practical* fact of random selection for an important task such as the Citizens' Assembly is that the technique will propose as members at least some persons, and possibly a number of them (it is, after all, the "luck of the draw") that the great majority of British Columbians would simply not want designing their electoral system.

The purpose of the instruction in my mandate to utilize random selection is, as I interpret it, to ensure that all nominees for membership in the Assembly are selected with complete objectivity, in order that the Assembly commence its work free of any particular ideological or political bias, except insofar as such views are an ordinary part of our society.

As long as the nominees are indeed randomly chosen, it is in my opinion permissible and indeed desirable to screen them for suitability for service—as indeed is the practice for juries, more vigorously in some jurisdictions than in others. *However*, to preserve the random virtue, the screening process must in no way be capable of manipulating the membership in such a way as to bias its conclusions. "Suitability" for this purpose can have nothing to do with viewpoint on the task of the Assembly, but rather only with ability to do the work at hand and the absence of characteristics which would clearly bring the Assembly into disrepute.

I conclude then that some screening is essential. Indeed, it is inevitable, for what I will refer to as "self-screening"—the individual decision of randomly chosen candidates as to whether they wish to serve or not—is unavoidable for this purpose. "Self-screening" is not in theory permitted in jury selection. If you are called, then unless excused you must serve. However, in the Assembly case it

would in practice be unthinkable to try to force an unwilling participant to contribute their diligent effort over many months to an exercise in designing an important piece of public policy.

But even self-screening will introduce an element of bias in the eventual panel. For example, presumably the more confident, or the more public-spirited, or persons with more discretionary time, or people either with no need for extra money or desperately needing even what the Assembly might pay, or persons used to working on committees, or the articulate and so on will be more likely to "opt in". This effect predominantly (though not exclusively) will likely mitigate towards an Assembly of somewhat higher education and income levels than the provincial average.

This discussion inevitably brings us to the impact of screening on "representativeness", one of the instructions in my mandate. Any large group of randomly selected people will, with a mathematically high probability, be representative. Once a screening process of any kind is imposed on the system, representativeness is inevitably compromised. To what extent is this permissible?

The guiding principle, I think, must be the one articulated above: no screening technique that could reasonably be feared to allow the manipulation or bias of Assembly membership toward a given end—i.e. the status quo, or this or that new electoral system—would be permissible. Any screening system discussed in this report will pass that test.

A second principle is that the screening system should not too much distort the "representativeness" inherent in the random pool being screened. But some characteristics of "representativeness" are far more important here than others.

For example, there is some reason to believe that residence in a rural as opposed to an urban area might affect views of the electoral system. This element of representativeness must be preserved.

On the other hand, there is no reason to believe that left or right handedness would have any relevance at all. Age and gender would probably lie somewhere in between. Age might be closer to the "no effect" end of the spectrum, and gender would arguably tend the other way as some electoral systems purportedly favour a more equal gender balance in legislatures than others.

Might income and educational status bias an Assembly person one way or another? Would lower educational attainment lead one to favour a system more easily understood (as is our current system for example), even if other systems might deliver better governance outcomes?

My assessment and the great majority of advice I have received is that most of the dimensions of variation beyond geography and gender are not of central importance for the important but narrow task of considering whether and how our electoral system should be changed. As long as the deviation in representativeness introduced by the screening process is not massive, in my opinion some imbalance is permissible, as appropriate screening for suitability facilitates another very important goal of my mandate, namely "effectiveness".

The representation or not of one dimension of diversity, namely ethnicity, is especially controversial. For example, I have received submissions that suggest recent immigrant citizen populations may be less likely to be able to read and write English. Would it therefore be an impermissible bias to screen for English fluency as a condition of service in an exercise that will, after all, call for an intensive study of English language documents and public hearings and ongoing debate in the English language. Might the persons thereby excluded have a natural tendency to (say) some form of Proportional Representation?



The argument can be made, but life is a series of tradeoffs and in my opinion the proper tradeoff here is to require fluency in English.

Another argument for setting up ethnic quotas as a part of the "representativeness" mandate is that arguably some electoral systems more sensitively reflect ethnic diversity. On the other hand, a fundamental value of most Canadians is that our democracy is resolutely colour-blind.

My conclusion is that any such representations in respect of ethnic sensitivity of various electoral systems should properly be made to the Assembly itself, rather than building this value into its makeup. Therefore in general I advise against screening for ethnicity.

## Common Elements in Selection

The three systems that will be outlined have certain common characteristics. In each case names would be selected by computer by applying random numbers to the Voters List, with whatever stratification criteria might be imposed. (For example, the computer might be instructed: "Find at random a person between the ages of 35 and 55 in Prince George South".)

The person would then be contacted, probably by a staff member or reputable polling firm engaged for the purpose and acting under the instructions of the Assembly Chair, to first of all establish that the candidate was still alive and living at the Voters List address, or at least in the geographical area concerned. The person would then be asked certain prior screening questions. My recommendation on this is as follows:

- **has the candidate a sufficient fluency in English to understand and take part in the briefing and debates of the Assembly?**

and

- **would the candidate be rendered ineligible by reason of any of the considerations outlined in Appendix II (which are essentially some of those now used for prior jury screening, plus certain close political associations such as MLA, provincial candidate, or their immediate family members)?**

The person would then be asked if they would like to consider participation in the Citizens' Assembly (with no undertakings from either side at this point) following which a detailed description of the work of an Assembly member would be delivered to them.

The description would be so designed as to assist the process of *self-screening* (it being assumed that unlike jurors, there would be no element of compulsion in this process). The person would be asked to consider:

- the timetable and time commitments (see below)
- the importance and complexity of the work
- the necessity of reasonably committing to faithful attendance
- assessing their own ability to deal with the learning process and interacting with their fellow Members
- the compensation (including support for special needs—see below)
- any personal problems that might make them unsuitable

- the fact that Members will inevitably become known in their communities and receive attention from the media as to their history, etc.
- the fact that at the end of the process they would be required to make a possibly difficult decision.

Each potential candidate should receive assistance from the Assembly staff or professional facilitators working under their guidance in exploring these questions, for they are central to determining suitability and commitment.

There is no way of knowing in advance what the uptake rate might be on this offer. To a certain extent that will depend upon the compensation and working conditions, but many of those I have consulted guessed that two out of three might still decline whatever the conditions. Some have suggested to me that the decline rate might be as high as 9 out of 10, for personal sacrifice is involved. This question is important, both for the numerical parameters of random sampling and the screening process.

To obtain evidence on this point, the firm of Ipsos-Reid was engaged to hold two focus groups to test this and other aspects of the random selection process. The results were gratifying, in that a strong majority of each group expressed interest in serving on such an Assembly after the tasks and working conditions were described in detail.

In conclusion on this topic, **I recommend a formal process of assisted self-screening as a part of the selection process.**

## Three Selection Options

The three generic selection methods follow. I note by way of introduction that the first option has little in the way of enthusiastic support or opposition among the people I have heard from on this, though it is broadly considered an acceptable route. The second has more of each of support and opposition, and the third attracts the most of both enthusiasm and concern.

### 1. *Self-screening only.*

In this model, the first person in each stratified geographic/age/gender cell to accept after their self-screening process would be a Member of the Assembly. For example, if we were using ridings (if using regions a modified version would apply) the riding order itself would be drawn by lot. Then in the first riding the computer would be instructed to seek out a young female. In the second riding the instruction would be for a young male, then middle aged persons, and so on. This would continue until the required number of names had been drawn.

In terms of advantages, this model is fully random. There are no judgmental factors by third parties involved in the choice. As a fully random stratified technique it is guaranteed to produce the sought-after balances of geography, age and gender.

Given adequate numbers, this approach should produce an Assembly about as ordinary as ordinary could be.

A potential disadvantage is that the self-screening process might not have eliminated all of the persons whose inclusion might detract from the credibility of the Assembly.

If one accepts the fully random process one must accept these consequences. It would be very difficult to give interviewers the power to reject candidates on the basis of "unsuitability". My own view is that self-screening would in fact handle most of these cases, and the in extremis expulsion power of the Assembly (see below) could handle any real problems.

2. *Screening by "Eminent Persons"*.

In this model there would be a significant over-sampling, yielding perhaps five or six times the number of willing candidates actually required from each riding or region to make up the Assembly. Each person would then be asked to fill out a questionnaire designed to measure suitability without at the same time giving any information which would allow a third party assessor to manipulate the composition of the Assembly to produce any given result. (For example, one would not ask if the respondent was in favour of electoral reform.)

The questionnaire might measure some of the things that would be useful to the Assembly. For example, a question asking about the practicality of such a process would provide insights. One might ask if the respondent had given any thought to these kinds of issues. Routine questions about matters already answered—commitment to attending meetings, comfort with working with a group of strangers on an important project, ability to absorb complicated issues and discuss them, etc.—all would at a minimum give some evidence of ability to marshal and articulate thoughts. Much consideration would have to be given to the exact form of the questionnaire. Tests for basic skills and knowledge are available as used by government and business employers.

The documents would then be forwarded to a small committee of eminent and professionally neutral persons - two or three retired judges, for example - to screen out manifestly unsuited persons. This might not be many, but it could be valuable. And of course, the very fact of having to enter a competition under this model would probably enhance the earlier described self-screening process.

(Alternatively, the Eminent Persons could be asked to select the person who impressed them the most, but this would likely be a decision based on rather shallow evidence for the purpose, and would increase the judgemental character of the eventual result.)

The pool of remaining names after the disallowance of some would then be used for the final random draw, and again there would be no problem in ensuring appropriate geographic, age and gender balance, given the size of the over-sample.

The cost of this process would be higher and the execution somewhat slower.

The advantage would be a probable upgrade in the talent pool of the Assembly. The disadvantage would be scepticism as to the "Eminent Persons" (who would probably be rather conservative in the nature of things) and the inevitable charges of elitism or lack of transparency in the process.

3. *Peer selection*.

In this model the screening judgement to be exercised would be supplied not by "Eminent Persons" examining disembodied evidence, but rather by peer evaluation of real people on the basis of detailed and in-person dialogue.

As with the previous option, the precise design of the peer screening process is best left to the Chair of the Assembly based on professional sampling advice, and further field trials than it has been possible to undertake for this report. However, for the guidance of that work, the general concept is clear.

In each riding or group of ridings, a meeting would be convened of a randomly selected group of citizens, stratified as noted above, who had agreed to gather for the purpose of selecting a representative or representatives from among their number.

The meeting should be closed to the public, as are jury deliberations. Having such a meeting open would be too great a discouragement to participation or putting one's name or views forward. Most ordinary people do not have the politician's willingness to suffer public scrutiny and embarrassment.

There might well be public interest in these meetings, and unlike jury proceedings, there is no reason why the participants should not feel free to discuss the process afterwards.

The meeting would be convened by a facilitator. He or she would arrange for introductions, and give a detailed description of the work and necessary commitments of an Assembly member. This would reinforce the self-screening function.

A certain number of persons would agree to put their names forward as possible Assembly members.

(It is not impossible that no one would do so. The process would then need to be repeated. If there were only one volunteer for each position to be filled, that person would become the member if after questioning he or she received a majority of votes in a secret ballot of those present. However, I note again that our field tests indicated that there will a sufficiency of volunteers.)

The meeting would engage in discussion as to the work of the Assembly, the desirable characteristics of members, the need for those chosen to be representative of the province, and so on.

After sufficient discussion for people to feel comfortable with their knowledge of the candidates and the characteristics required on an Assembly member, an election process would then take place. In our field tests we used a form of preferential ballot, which worked well and is particularly useful where more than one person is to be selected (see below).

At the end of the process the information as to ranking of the candidates could be retained by the facilitator, though only the winner(s) would be announced. The names of the other candidates, identified as to age and gender, would then be available for possible future use for "top up" purposes.

## Impact on Representativeness

This reference to "future use" of ballot rankings is directed at one way solving a potential problem of peer review. One cannot know in advance, but it is at least arguable that peer groups would tend to choose traditional authority figures—older men in particular. If so, this would produce an Assembly that was not balanced as to age and gender. There is nothing intrinsically wrong with this perhaps—it describes the profile of most Legislatures, after all—but it would violate the general advice as to "balance" of age and gender that has been received. (The regional balance would already have been achieved by the geographic stratification.)

There are three possible responses to this. The first is to say, well, that's the way this random local group of people wanted to be represented, so it is legitimate. The output might not be totally random and representative, but certainly the input was, and the Assembly thus produced would not likely contain any more strong political partisans than one chosen by the wholly random approach. Active politicians would have been already ruled out and very few British Columbians are active members of political parties, so few (if any) peer evaluations would be driven by that consideration.

If that answer was not deemed satisfactory, a second response would be to use the pools of runners up—who after all could easily be sorted by age and gender—and draw a number of names from the appropriate pool at random to "top up" the under-represented categories. This would imply a somewhat larger Assembly if the geographical base were by riding. The "top up" number might be something like 20, leaving an Assembly of about 100 rather than 79. On the other hand if the geographical basis were region, there is no magic about the number 79, and a smaller first-choice cohort could be used.

Before proceeding to a third response—i.e. a specific process to meet the representativeness issue—I note that this peer selection option has the attractions of adding a democratic element to the random method, and (probably) significantly upgrading the experience and communication skills of Assembly members, those being important selection characteristics. The option does have the drawback of third party judgement rather than complete randomness, but at least the "third parties" are themselves randomly drawn.

The disadvantages of this option are that it is more complicated than the others, and (at least in small communities) there might be problems of personalities complicating the selection meeting or later relationships.

Without wishing in any way to bind the Chair and its advisors on precise administrative details, I will put forward the particulars of one method—an example of what I call the "third response"—to demonstrate the feasibility of the peer selection option.

To begin the process, a large number of letters might be sent to randomly chosen persons around the province—say 20,000 such letters, or about 250 per riding. (The exact numerical details of this process should be determined by further field testing.) The names and addresses would be supplied by Elections B.C., stratified geographically (which can be done precisely), and by age (which can be done to a ninety percent confidence level). With a sample this size, gender need not be stratified at this stage. The numbers would be very close to actual.

The letter might describe the importance of the Assembly, give a description of the work of a member, provide the "self-screening" questions referred to above, and invite replies as to whether the person contacted would be interested in either actually being a member of the Assembly, or at least attending a small meeting to help choose the local representative. Based on the Ipsos Reid field trials, one would expect a reasonably good proportion of affirmative returns. These returns would supply a pre-screened sample pool for each geographic area, with gender information added. From this sample pool a stratified random draw would be made to constitute local meetings of perhaps thirty persons.

Ridings would be grouped into sets of four on average (in practice from three to five in each group) to provide for the selection of several candidates from each meeting. This grouping technique markedly increases the opportunity for recognizing diversity among those selected. This would particularly be the case where as a part of the dialogue leading up to the vote, the meeting was asked to discuss the need for representativeness in the Assembly, and the value of diversity emerging from the meeting.

To illustrate this further: if a meeting is forced to choose one representative only, the choice may well be the older, articulate authority figure. With four representatives to be chosen, the chance of a mix is much better and the field tests demonstrated this.

The meeting should be long enough to allow people to get to know each other reasonably well in this context—probably a morning and afternoon session with a social time in between. With discussion ranging over such questions as the work and organization of the Assembly (as presented in considerable detail by the facilitator), the merits of electoral systems, the importance of rural/urban, gender and age representation, desirable characteristics of members and other such matters, I am satisfied on the basis of the two field tests that sufficient candidates for the Assembly will emerge from this process, as well as an adequate basis for assessment of these candidates by the group as a whole. Indeed, one of the most gratifying findings of our test panels was the interest in potentially serving in the Assembly.

Voting should be by way of a preferential system, either on a single ballot (ranking candidates) or a "run-off" plan.

## Conclusion on Selection

Taking all of the above into account, my recommendation is in favour of the third generic option, peer selection, using multiple riding groupings. The precise techniques for this process should be developed by the Chair working with professional advisors based on further field tests to ensure the proper size, constitution and organization of selection meetings.

The reader will recall that concerns about lesser representativeness caused by this selection process could be addressed by using a "top up" system which would supply under-represented gender or age cohorts from runners-up in the selection process.

I do not recommend the "top up" option to redress gender or age imbalance as a result of the peer selections. On the other hand it is a perfectly legitimate "add on" if there is a great concern about precise age and gender balance. My concerns include the increased complexity, and the fear that the "top up" group might be seen as in some way second class.

## A Further Consideration

In any of the above processes, being driven essentially by random numbers, it is possible that in some way or other the Assembly as thus constituted would be considered lacking in some essential component of representation by most reasonable people. For example (and there may be other examples) it would be unacceptable if the "luck of the draw" and the selection process turned up no aboriginal member of the Assembly.

To meet that objection without moving to ethnic stratification (which cannot be done directly from the Voters List in any event) **it is my recommendation that the Chair of the Assembly be given the power (but not the requirement) to add up to four additional members of the Assembly, randomly drawn from a category or categories of persons selected by the Chair**, with the names of all members of the Assembly including any additions being officially announced at the same time.



(The "random draw" aspect for such additions is important here. It would not be appropriate to appoint persons recommended by organizations, say, for such persons would almost certainly be skilled advocates, unlike the rest of the Assembly members. )

## Number of Members

While much of the above discussion has been cast in terms of electoral ridings, of which there are 79, there is in principle no reason why the Assembly could not be constituted on a regional basis—even using ridings for that purpose. For example, if the groups of ridings referred to above, averaging four each, selected one representative, one would have an Assembly of twenty members.

The number of members impacts on all desiderata of representativeness, effectiveness and affordability. I have received considerable advice to the effect that any working committee in excess of 15 or 20 members becomes unwieldy. On the other hand I am satisfied that 15 or 20 persons could not effectively represent this province, in the sense of most people seeing their sort of person as a part of the Assembly.

I have received further advice from those with experience in "deliberative democracy" that after a certain critical mass —around 50 persons, say—there is a likelihood of the emergence of natural leaders from among the group who will serve an organizing function as the dialogue unfolds. With larger groups as well, there is also the option of doing work in subcommittees, and getting around "large group" problems in that way. Indeed, for some of the work of the Assembly, public hearings in particular, attendance of the entire Assembly would not be practical.

I have also received advice from others experienced in deliberative democracy that one really should have at least 250 in such a group. I do not believe that large a number to be practical for this purpose, and believe as well that the stratification techniques used in the random selection should render that number unnecessary.

**My recommendation is that the Assembly be made up of between 79 to 100 voting members** (as adjusted by the previous section as required), depending upon which selection technique is employed, i.e. whether "top up" is used or not. In terms of representativeness this should be sufficient that most British Columbians will be able to see on the Assembly at least one person rather like themselves. In view of my recommendation above that 79 is the appropriate size, that number has been used in the budgetary calculations.

## Compensation

There are two aspects to compensation. One is the usual sense of the word—per diem rate—but I think the matter of expenses is even more important.

Members of the Assembly will be asked to put up with a considerable disruption in their lives. Not only will a good deal of travel and around 15 weekends away from home be required, but they will also have to study documents at home and communicate with their colleagues.

**I recommend that good business class food and lodging be provided for the meetings of the Assembly, and naturally that all transportation expenses be covered.**

Beyond that, some prospective Members will have special expense needs, which should not be allowed to deter them from accepting a role on the Assembly. For example, a single mother offered the opportunity must also be offered child care expenses. A similar comment applies to a person with elderly dependents. Some prospective delegates may have special needs of other kinds. **The rule should be that as far as reasonably possible, such needs should not be an impediment to serving.**

In addition, Members will have continuous communication needs, with each other and with Assembly staff. Questions will be asked, reminders of this or that bit of evidence needed, "have you thought of this?" messages, routine logistical notices and the like will constantly be required. Many people today are on the internet, but many are not. **Any member of the Assembly who requires and so wishes should be loaned the necessary equipment for e-mail and training in its use.**

Beyond the expense and support portion is the matter of compensation. I have received three generic sorts of advice. The compensation should be zero, for it is an honour to serve. Or, the compensation should be \$100—or \$200—per meeting day. Or finally, the compensation should be geared to current earnings, with a floor.

I reject the first option. These people will be doing hard and useful work, and should be compensated.

The last option I believe is too complicated and does not recognize the idea of equal pay for equal work. In addition, to the extent that most of the work will be on weekends (which has been the consistent advice I have received) there is no "replacement" factor. Though in our "24/7" world work on weekends is not uncommon, it is still not the norm.

Of the remaining options **I recommend an honorarium of \$150 per sitting day.** This is a respectable amount of money, but still less than usual for comparably important work.

## Support Services and Infrastructure

The first meeting of a randomly chosen Citizens' Assembly will be quite unusual. There will be a room full of strangers, probably none of whom has ever met any of the others except by remote chance. Those assembled to recommend (or not) a new electoral system for the province will probably, with the exception of some who may have taken a related political science course, know little of the topic. And yet these people will be expected to produce wisdom on this matter just a few months later.

Clearly, support and assistance will be required in this task. The Assembly will have to learn, take public input, deliberate and decide. How best to support this? That is the topic of this section.

The Assembly will need a Chair, and that person will be an important part of the process. He or she will have multiple duties—to be the public face of the Assembly, to manage the budget voted by the Legislature for the purpose, to see to the employment and general guidance of other staff, to exercise discretionary powers conferred by the mandate and, most importantly, to assist in guiding the work of the Assembly by facilitating relationships among the Members and securing adequate outside advice.

The Chair will need great credibility to assure the public of the integrity of the process. In part that will stem from his or her reputation and qualities. In part that will depend on the mandate. To



further underline cross-party support **I recommend that the Chair be appointed in the same manner of other offices of high trust such as the Auditor General or Chief Electoral Officer, namely by way of a unanimous recommendation by an all-party Committee of the Legislature.** This process has in the past taken some months, and gives additional reason for early action to constitute the Assembly, as the Chair should be in place by the beginning of the summer of 2003.

**The Committee should be kept in being in the event the Chair should need to consult it or make application for variations of the budget or other matters.**

The Chair should keep the Committee posted as a matter of information on important discretionary matters, and in particular, on the precise details of the peer review selection process (if that is what is approved) as it is designed with the assistance of polling firms and further field tests.

**The Chair should be non-voting with one tie-breaking exception (see below).**

**The Chair should receive a compensation package equivalent to that of the Chief Provincial Court Judge.**

**The Chair should be empowered to recruit staff for the Assembly** with a view to having the essential support group, especially the Director of Research, in place by no later than September, 2003. Under the guidance of the Chair, the Director of Research should immediately begin planning for the education phase of the Assembly's work, arranging for presentations from local and international experts on the operation of the main forms of electoral system, and generally considering the best ways and means of teaching a group of ordinary citizens, mostly well beyond school years, the basics of what they will need to know for their deliberations.

Staff should include a Director of Administration to manage logistics and the budget. The Director of Administration should serve as a Chief Operations Officer for the Assembly.

A Director of Communications will serve an important role. He or she should develop a plan whereby the expertise afforded the Assembly is made widely available to interested citizens in order that the work of the Assembly can itself constitute a primer in what citizens will need to know if faced with a referendum on electoral reform. Additional tasks include an overall media plan, a web site, publicity to ensure good knowledge of public hearings, and coordination of the production of educational material for the public.

The staff should be ready to provide briefing materials to Assembly members upon their appointment, and have other support services ready according to the timetable outlined in the following section on the work of the Assembly.

The staff should be responsible for drafting the householder information document for the approval of the Assembly prior to the public hearing phase.

The staff should also be responsible for dissemination of the final report of the Assembly. If that final report recommends a new electoral system to go to referendum, the staff should draft a neutral description of the strengths and weaknesses of both the proposed electoral system and the existing one for approval by the Assembly and eventual distribution to all voters.

# Timetable and Work-plan for the Assembly

Work on selection of the Assembly should commence at a time recommended by the sampling consultants sufficient to produce a final list by not later than mid-December, 2003. Members should be given briefing documents upon selection, with provision of various support services (communication, etc.) put in place. The Chair should, to the extent practicable, establish personal contact with each member prior to the first session of the Assembly.

The timing of the work of the Assembly will be influenced by the timing of the date set for their final report. **I recommend that be not earlier than October, 2004, nor later than mid-December, 2004.** The logic is that the report should not be so close to the scheduled election date of May 17, 2005 as to be submerged in the usual intense partisan campaign period, nor so early that it is but a distant memory for most voters on referendum day. The report date must provide a suitable time for reflection and public debate, and to allow election officials to make their own preparations. The window described suits those criteria.

At this point it is convenient to speak of the general work pattern. While I think it is proper that the final decisions in this matter be subject to the approval of the Assembly itself, prospective Members will want to have an idea of what they are getting into, so we have to consider this topic in advance. The virtually unanimous recommendation I have had is that to increase the chance of ordinary people being willing to serve on this body, meetings should normally be on weekends. Moreover I have received strong advice, which I accept, that if possible this should not exceed two weekends per month, both to minimize disruption of personal lives and to give ample time for study and reflection. Fortunately this pattern fits within the time available.

In my opinion the work of the Assembly will naturally fall into three phases. (A sample timetable for the Assembly is attached as Appendix III.) The first will be the work necessary to learn about various options for electoral reform, how those systems actually operate in other parts of the world, and how each option might impact on our legislative and political system. This latter aspect is both complex and crucial. As electoral systems acquire greater degrees of proportionality (and there is a whole family of so called "PR" to be considered, varying widely in characteristics) they shift from routinely producing majority governments to routinely producing minorities. They also may have major impacts on political parties, and on the relative independence of MLAs. Understanding these interactions will take time.

Consultations with several university political science faculties have convinced me that this first, or educational phase can probably be done over five or six weekends. The education process arranged by staff (and responding as well to any specific Assembly requests) should provide for an overview of electoral systems and their impact on the political process by selected Canadian political scientists. The Assembly might want to provide for a "panel of experts" to give such initial advice, and to be available for consultation during the Assembly mandate.

Experts from other countries would presumably be invited to explain the actual results of (say) MMP in New Zealand or Germany, the "run off" system in France, the STV system in Ireland or the Australian Senate, full Proportional Representation as in the Netherlands or Israel or the Alternative Vote system used in the Australian lower house (and similar to the system used in B.C. for the elections of 1952 and 1953.) In terms of administrative practicalities it would be useful to maintain a liaison with Elections B.C. (see further comment in the "Budget" section).

After the "basic training" this period could include a one-day session at the end to hear from "champions" for various systems.

To elaborate, one of the things that makes highly complex cases manageable for juries is that they have the advantage of listening to skilled counsel advance their own cases and tear away at those of the opposition. It is often easier to choose between well-articulated and concrete alternatives than to abstractly decide what is "best" or "right". If the Assembly so wishes, it could be useful to provide a budget for "champions" of each of the half-dozen or so generic electoral systems, and have them engage in an illuminating debate at the conclusion of the first phase.

As an assistance to its work, and for the conceptual information of the public, the Assembly may wish to develop a set of criteria for judging voting systems. This could serve as a check list for testing the various options.

**I recommend it be a target of the Assembly to emerge from the first phase with the options for main consideration reduced to three or four, to make the public hearing process more manageable.** The options should be articulated by staff and approved by the Assembly in plain language.

In addition the Assembly should, by the end of the first phase, have chosen from among its number Vice-Chairs to assist with the holding of public hearings and to perform, with the Chair, a "steering" function for the Assembly. **There should be up to four Vice-Chairs, as determined by the Assembly on the advice of the Chair. Regional representation—e.g. members from Vancouver Island, the Northern Interior, the Southern Interior, or the Lower Mainland—should be kept in mind for this purpose.**

**The Vice-Chairs should be paid \$300 per day while working in that capacity, in the sense of managing public hearings.**

This first phase should be concluded around the end of March, 2004.

The Assembly might then go into recess for four weeks or so while public information was distributed on the three or four options. Of course extensive and detailed information would be posted on the Assembly web site, but **I would recommend as well that a tabloid be prepared for householder distribution describing the main options and their strengths and weakness, including probable impact on our version of the Westminster system.** Among other things, this publication would begin the public education process leading up to a possible referendum.

A schedule of public hearings on weekends and/or evenings should then be scheduled for May through June. The Assembly should divide itself into small sub-committees for this purpose. Wherever possible, membership at any given hearing should include a mix of members from within the region and those from elsewhere. It would not be necessary for all Assembly Members to take part in all of this process, but it should be a condition of the job for each Member to attend at least one or two meetings in order to get the flavour of public input.

It turns out to be relatively affordable to arrange for the recording and transcription of hearings, and these should be made available to all Members and posted on the web. In addition, staff should provide an executive summary of each hearing, highlighting new concepts.

It is difficult to predict at this time how much public interest there will be. Consultation with one of the Co-Chairs of the Unity Panel (1997–98) and study of the schedule of the Legislative Committee on

Aboriginal Affairs that examined the Nisga'a agreement-in-principle suggests interest could be considerable. The budget provides for up to 30 public hearing sessions. It has been suggested to me that it might be possible to use the good offices of the Union of B.C. Municipalities to facilitate the logistics of the public hearing process.

Providing for the chairing function of so many hearings, particularly concentrated on weekends over such a short period, will require additional resources. **It is recommended that the Vice-Chairs of the Assembly (see above) assist with this task.**

At the conclusion of the public hearings the Assembly might recess for the summer to reflect on what it had learned thus far.

The Assembly might then be recalled for mid-September for the deliberation and decision stage. It is very difficult to forecast how long this phase might last. On the one hand, it would not be surprising if a consensus had gradually formed in favour of one option over the course of the education and hearing phases. On the other hand, it might be that strong factions could develop within the Assembly around this or that system that could lead to a considerable time of debate.

In any event, this timetable provides a good deal of flexibility in meeting the mid-December deadline, and if absolutely necessary continuous sessions could be scheduled to reach agreement.

Most desirably, the Assembly should make its recommendation for specific change (if any) by consensus, but it may be that it will come down to a majoritarian decision. What should be the procedure in such an event?

The Assembly will be master of its own procedures, but to demonstrate that at least one process exists, the following is one approach.

Suppose there are half a dozen electoral systems with at least some support among Assembly members, but no system with a majority. A useful path might be to proceed by way of elimination. In other words, the least popular system would be identified and dropped.

The least popular might be identified by a vote on exactly that question. The process would continue until only two options remained, at which point one of them would likely obtain a majority. This would be similar to a series of run-off elections. In case of final deadlock, the casting vote of the Chair could be used to break it.

There is no reason why the Assembly should not be able to avail itself of means of consulting the public informally on these topics as a supplement to public hearings or to test particular options. Accordingly a small amount for polling has been provided in the budget.

In consultations, the question of protecting the members of the Assembly from lobbying has been raised. I do not think this is normally practical or necessary. Indeed, feedback from others is something the members should take into account. Of course, should any member feel undesirable pressure they could report this to the Chair for appropriate action, though no special powers are advised in this regard.

# Powers of the Assembly

**The Assembly should have charge of its own governance, within the parameters set by its Terms of Reference.**

**The Chair should be empowered to make decisions on procedure.** While it is anticipated the sessions of the Assembly would normally be highly informal, a set of basic rules of procedure should be developed, perhaps with the assistance of the office of the Clerk of the Legislative Assembly.

On the main question of which new electoral system (if any) is to be recommended, in the unlikely event there is a tie the Chair should have a casting vote.

**The Assembly should be required to provide for public access to all sessions of Phase I (education) and Phase II (public hearings), but should have the power to deliberate in private in Phase III.** Members of the Assembly will mostly not be used to the spotlight of controversial public debate, and in-camera sessions may be required to elicit participation from many members.

In the event that deliberations are closed, the media should, at a minimum, be afforded a statement by the Chair, at the conclusion of each session, giving a detailed recount of the work of the day with any Member free to supplement the statement.

Wherever possible, televised coverage of the sessions of the Assembly should be encouraged, and the budget should include funds to facilitate the setup of cameras, etc. as an inducement to such coverage.

**The Assembly should provide for extensive communications with the public.** The information made available to Assembly members during the education and public hearing phases will be of great interest to many members of the public. The Assembly should consider its communications role as one of the most important of its responsibilities, especially as the general public will have the final word (at a referendum) on any advice the Assembly produces for electoral change. It is important that the public understand the issues. The staffing and budget of the Assembly should reflect this responsibility.

**The Assembly should have the power to expel any Member for cause as defined by the Assembly upon a two-thirds majority.**

**The Assembly should have the power to submit interim reports or requests to the Legislative Committee charged with the appointment of the Chair.**

**In the event of the death or withdrawal of any Member, no replacements should be made until the strength of the Assembly is reduced by a full 25 percent (as is the case with civil juries), and then the replacement members shall be selected on the same basis as were the withdrawn members.** Should this unlikely eventuality occur, the timetable would have to be rearranged to bring the new members up to speed.

**The Assembly should have standard indemnities and protections afforded bodies of public inquiry.**

**Where decisions of the Assembly are required, they should desirably be by consensus, but as required will be determinative by a majority of those present and voting with proper notice given.**



# Constraints on the Assembly

**The recommendations of the Assembly must be compatible with the Westminster system and the Constitution of Canada.**

**The Assembly should have access to independent legal advice on this topic or other matters requiring counsel**, and that has been proposed in the budget.

If the Assembly chooses to recommend a new electoral system for British Columbia it should be **constrained to recommending one such system**, rather than offering a choice. By contrast, New Zealand ten years ago dealt with this issue by holding two referendums. The first was a non-binding assessment on four different new systems. The second was a binding choice among the most popular of the options and the traditional system. We are to have only one referendum, and the selection of which alternate system (if any) is best for the circumstances of B.C. is a job for the Assembly.

If the Assembly chooses to recommend a new electoral system, **it should be clear and specific as to details**, almost to the level of draft legislation. Outside counsel may be useful in this drafting as well. The details of electoral systems are extremely important, and small technical variations can lead to large changes in actual practice.

**With the system clearly described, the ballot question should then be "Yes" or "No" as to support for the new system.**

It is to be noted as a matter of history that failure to be very specific about the meaning of and thresholds for "recall" and "initiative" in the overwhelmingly supported referendum on those topics in 1991 led to great controversy and arguably ineffective legislation. This problem can be avoided by detailed recommendations.

**The work and recommendations of the Assembly should be limited strictly to that part of the electoral system that provides for the translation of citizen ballots into legislative seats.** Other aspects of the election process such as electoral boundaries, election finance, specially reserved seats, compulsory voting and the like are all of great importance but should not be included in this mandate. Each of these are severable debates, and the Assembly will have enough to do without further complexity.

Compulsory voting is the law in Australia. Special Maori seats have been a feature of New Zealand's electoral law for 130 years. Election boundaries and election finance are topics of debate across Canada today. But adding any of these topics to the mandate of the Assembly in the view of the undersigned would not only complicate the Assembly's work. More importantly, the mixed issues would muddy the waters of any referendum and thereby endanger the rendering of a clear public verdict on a matter of great importance. If these ancillary questions are to be considered, it should be done at another time.

Nothing in the preceding is intended to suggest that the recommendations of the Assembly might not have necessary implications for boundaries, but the Assembly should not be taxed with specifying what any new boundaries might be.

Finally in this section, New Zealand in its electoral reform process provided for a parliamentary review of the function of its new system after two elections had been held thereunder. The Assembly might wish to consider whether such a recommendation would be useful in the B.C. case.

## Post-recommendation Activity

The Assembly should disband with the adoption of its report.

The staff group should disband upon dissemination of the neutral description of options referred to above.

There is no need for "Yes" and "No" committees and all of the concomitant control and regulation as practiced in the Quebec sovereignty referendum. Political parties, academics and pundits will no doubt provide for all of the debate required.

I have on several occasions received advice that no government funds should be employed for the purpose of influencing the referendum vote one way or another, beyond the distribution of the Assembly statement.

That said, New Zealand provided for independent commissions to provide for neutral dissemination of information with respect to their two referendums on electoral reform, and should the Assembly fail to adequately provide for this, some similar approach might be considered for British Columbia.

Frequently during my consultations I was asked whether the referendum result would be implemented upon the attainment of a favourable vote of 50 per cent plus one of those voting. Usually the question was asked because of a considerable scepticism in our society in respect of our political process and politicians generally.

The response of course must be that there is no legal requirement that the referendum result be implemented as a result of *any* majority, no matter how great. Under our constitution the public cannot bind the Legislature in any matter whatsoever save determining its membership. (However under the Referendum Act, if that is the vehicle employed, the voters can bind the *government* of the day.)

That said, the effective response is that one would expect each of the political parties contesting the next election would make quite specific statements as a part of its campaign as to whether it would implement the advice of a referendum, and what majority it would require to be so bound.

# Budget

The following draft budget was prepared based on estimates of the number of meeting days required for the Citizens' Assembly to complete each phase of its task. The budget also makes assumptions as to several budget items, which are described in the notes. Any appropriations for the operation of the Citizens' Assembly must be approved by Treasury Board.

Finally, it is noted that there are at least two "off budget" implications of this report.

The recommendation for a "sign up" campaign for the Voters List in advance of member selection would have to be financed by some agency, if approved.

In addition, it is recommended that the Chief Electoral Officer be requested to provide a formal liaison between his office and the Citizens' Assembly for the purpose of advising on the administrative and cost implications associated with any alternate electoral system being considered.

The costs associated with fulfilling the administrative requirements of B.C.'s current electoral arrangements are a minimum of \$50 million per electoral cycle. This includes \$20 million in administrative costs for each election and about \$7.5 million per year for ongoing costs associated with voter registration, electoral mapping, political financing regulation and preparation for by-elections, referendums and recall or initiative petitions.

The administrative requirements of some alternative systems may imply significantly different delivery costs. It would be useful for the Assembly to be advised on these matters.

The Chief Electoral Officer has estimated that this liaison role would require the equivalent of half-time involvement of a senior staff member for the duration of the Assembly's deliberations.

Respectfully submitted,

GFG.



<b>SELECTION/SCREENING</b>	<b># Members</b>	<b>Daily/ Unit Cost</b>	<b># Days/ Meetings</b>	<b>Item Total</b>	<b>Category Sub-Total</b>
Advertising				\$10,000	
Initial mail-out	20,000	\$1.00		\$20,000	
Journal voucher EBC for name search				\$3,000	
Journal voucher BC Stats for sampling advice				\$5,000	
Facilitators & staff		\$2,000	20	\$40,000	
Facilitators' travel/accomm				\$15,000	
Prospective members' travel/accom.	600	\$2,500	20	\$50,000	
					<b>\$143,000</b>

<b>EDUCATION PHASE</b>	<b># Members</b>	<b>Daily/ Unit Cost</b>	<b># Days/ Meetings</b>	<b>Item Total</b>	<b>Category Sub-Total</b>
Members' honorarium	79	\$150	12	\$142,200	
Members' per diem	79	\$44.50	12	\$42,186	
Members' accomm.	61	\$100	13	\$79,300	
Members' travel (prov.): return trips	61	\$400	6	\$146,400	
Members' travel (Van.): return trips	18	\$30	6	\$3,240	
Staff per diem	4	\$44.50	12	\$2,136	
Staff accommodation	4	\$100	13	\$5,200	
Staff travel	4	\$200	6	\$4,800	
External advisors	10	\$2,000		\$20,000	
External advisors' travel & accommodation	10	\$8,000		\$80,000	
Meeting room & sundry		\$1,000	12	\$12,000	
Meeting transcription		\$1,000	12	\$12,000	
					<b>\$549,462</b>

<b>PUBLIC HEARING PHASE</b>	<b># Members</b>	<b>Daily/ Unit Cost</b>	<b># Days/ Meetings</b>	<b>Item Total</b>	<b>Category Sub-Total</b>
Members' honorarium	20	\$150	30	\$90,000	
Members' per diem	20	\$44.50	30	\$26,700	
Members' accomm.	20	\$100	30	\$60,000	
Members' travel: return trips	20	\$400	20	\$160,000	
Staff per diem	4	\$44.50	30	\$5,340	
Staff accommodation	4	\$100	30	\$12,000	
Staff travel	4	\$400	20	\$32,000	
Deputy Chairs	4	\$300	15	\$4,500	
Meeting room & sundry		\$1,000	30	\$30,000	
Advertising				\$50,000	
Meeting transcription		\$1,500	30	\$45,000	
					<b>\$515,540</b>

<b>DELIBERATIONS PHASE</b>	<b># Members</b>	<b>Daily/ Unit Cost</b>	<b># Days/ Meetings</b>	<b>Item Total</b>	<b>Category Sub-Total</b>
Members' honorarium	79	\$150	10	\$118,500	
Members' per diem	79	\$44.50	10	\$35,155	
Members' accomm.	61	\$100	11	\$67,100	
Members' travel (prov.): return trips	61	\$400	2	\$48,800	
Members' travel (Van.): return trips	18	\$30	5	\$2,700	
Staff per diem	4	\$44.50	10	\$1,780	
Staff accommodation	4	\$100	11	\$4,400	
Staff travel	4	\$200	2	\$1,200	
Meeting room & sundry		\$1000	10	\$10,000	
Polling				\$50,000	
					<b>\$339,635</b>

<b>CITIZENS' ASSEMBLY STAFF</b>	<b># FTEs</b>	<b>Classification</b>	<b>Annual Salary</b>	<b>Item Total (est. 16 mos.)</b>	<b>Category Sub-Total</b>
Chairperson	1	Chief Prov Judge	\$172,100	\$229,400	
Director, Research	1	ML 5	\$73,900	\$98,500	
Director, Communications	1	ML 5	\$73,900	\$98,500	
Director, Fin/Admin	1	ML 4	\$69,000	\$92,000	
Research Officers	2	RO 24	\$56,400	\$150,400	
Communications Officer	1	CO 24	\$56,400	\$75,200	
Admin. Support	2	Clerk 9	\$35,000	\$93,300	
<b>Total Salary</b>	<b>9</b>		<b>\$628,100</b>	<b>\$837,300</b>	
<b>Total Benefits (22.6% of salary)</b>			<b>\$141,950</b>	<b>\$189,229</b>	
<b>TOTAL SALARY/BENEFITS</b>					<b>\$1,026,529</b>

<b>OFFICE/COMMUNICATIONS</b>	<b>Item Total</b>	<b>Category Sub-Total</b>
Office space	\$160,000	
Furniture/office supplies	\$35,000	
Computers (incl. e-mai for CA members), phone, fax	\$105,000	
Communications (brochure, Web site, printing/mailling report)	\$1,200,000	
		<b>\$1,500,000</b>

Contingency (~10%)	\$400,000	<b>\$400,000</b>
<b>TOTAL</b>		<b>\$4,474,166</b>

## Notes to Budget:

1. Selection/screening of C.A. members: budget assumes two facilitators and staff contracted to facilitate a total of 20 selection meetings around the province (one facilitator/one support staff per meeting).
2. Budget assumes 79 members are appointed to the Citizens' Assembly and are paid an honorarium of \$150 per meeting day.
3. Members' per diem is set at provincial government's Group II level.
4. Budget assumes that all members will be together for the education phase and for final deliberations, but that public hearings will be conducted in panels of up to 20 members each.
5. Thirty public hearing days are estimated, including 4–5 days in Lower Mainland, 2–3 in Victoria, and 1 in other B.C. communities.
6. Suitable Vice-Chair(s) will be appointed from among members of the Assembly to chair some public hearings.
7. Retention of ten expert advisors is assumed, to provide information and advice to the Assembly on various electoral models. Some will likely be from other countries that have recently changed electoral systems, e.g. New Zealand.
8. Staffing costs assume staff will be employed for 16 months.
9. Communications budget includes printing and distribution of an information brochure at the beginning of the process, and widespread mailout of a second brochure at the end that outlines the Assembly's recommendation. Also includes printing/distribution of Assembly's report and creation and maintenance of a web site.
10. Office space assumes 220m<sup>2</sup> total area at \$350/m<sup>2</sup>. Also includes fees for set-up, move and assumes some leasehold improvements.

# Appendix I - Consultant's Terms of Reference

## **Preamble**

A Citizens' Assembly is to be appointed to examine and make recommendations on electoral models for British Columbia. The Assembly must report in time for Cabinet and caucus to consider its recommendations and, if a new electoral model is proposed, to undertake planning, organization and public education for a referendum to be held in conjunction with the May 2005 general election.

## **Terms of Reference**

Develop a strategy for the appointment, structure and mandate of a Citizens' Assembly to fulfil government's New Era Commitments (Page 30 New Era Document) to:

- Appoint a Citizens' Assembly on Electoral Reform to assess all possible models for electing MLAs, including preferential ballots, proportional representation, and our current electoral system;
- Give the Citizens' Assembly a mandate to hold public hearings throughout B.C., and if it recommends changes to the current electoral system, that option will be put to a province-wide referendum.

In developing this strategy, note that the Assembly is to be appointed by a random selection process.

As part of the strategy, develop recommendations for the appointment, size, composition, administrative structure and mandate of the Citizens' Assembly, including:

- Design of a random selection process for appointing a maximum number of members of the Assembly, ensuring that the Assembly is representative of the interests of the province as a whole, can operate effectively and is affordable;
- Recommending a governance model for the Assembly, including how the Assembly should be chaired and staffed;
- Developing guidelines and constraints for the operation of the Assembly to ensure its recommendations will be compatible with the Constitution of Canada and with the Westminster parliamentary system;
- Developing guidelines and a timetable for the operation of the Assembly to ensure that its work on electoral models can be conducted and reported to the Attorney General with sufficient time for preparations to be made for a referendum question to accompany the general election of May 2005 if a new electoral model is recommended;
- Developing guidelines on the wording of questions on an alternative electoral model if so recommended, to assist in the framing of a referendum to be put to the electorate.

As part of the strategy, develop a proposed budget for the Assembly that takes into account all associated costs, including:

- Financial implications of any compensation for members of the Assembly, including differential rates depending on varying responsibilities;
- Overhead and expenses related to establishment of an office to support the operation of the Assembly; dissemination of information on the work of the Assembly and receipt of submissions both electronically through a web-site and through surface mail and facsimile; arrangement of travel schedules; public consultations and meetings of the Assembly;
- Travel and accommodation costs related to a public consultation process, based on a recommended consultation structure, and any transcription or other recording costs related to the public consultation process;
- Costs related to the preparation of the report and recommendation(s) of the Assembly.

## Appendix II - Ineligibility

It is recommended that the following be ineligible for membership on the Citizens' Assembly:

As per portions of Section 3(1) of the Jury Act:

- (a) not a Canadian citizen,
- (b) not resident in British Columbia,
- (c) under the age of majority,
- (d) a member or officer of the Parliament of Canada or of the Privy Council of Canada,
- (e) a member or officer of the Legislature or of the Executive Council,
- (f) a judge, justice or court referee,

.....

- (p) a person convicted within the previous 5 years of an offence for which the punishment could be a fine of more than \$2,000 or imprisonment for one year or more, unless the person has been pardoned, or
- (q) under charge for an offence for which the punishment could be a fine of more than \$2,000 or imprisonment of one year or more.

In addition, it is recommended that the following categories of persons closely now or previously involved in the partisan affairs of British Columbia politics not be eligible:

- candidates for membership in the Legislative Assembly at the last general election, or
- immediate family members of such candidates, or of sitting MLAs.

## Appendix III - Recommended Timetable

This schedule is exemplary only, to illustrate feasibility of timing. The initial actions are under the control of the Legislature, the intermediate timetable is under the control of the Chair, and the Assembly phase will be governed by its own decisions.

<b><u>DATE</u></b>	<b><u>TASK</u></b>
<b>March 2003</b>	Formal constitution of Assembly; Commencement of recruitment of Chair
<b>June 2003</b>	Appointment of Chair; Commencement of recruitment of senior staff
<b>Sept 2003</b>	Senior staff at work
<b>Oct/Nov 2003</b>	Selection of Assembly members
<b>Dec 2003</b>	Selection completed; Provision of initial briefing documents.
<b>Jan-March 2004</b>	Education phase Day 1 - orientation; the Westminster system Day 2 - overview of electoral systems Day 3 - detail of First Past The Post system Day 4 - majoritarian systems (Alternative Vote, run-off) Day 5 - introduction to Proportional Representation Day 6 - Mixed Member Proportional; the German and New Zealand experience. Day 7 - full Proportional Representation; the Israeli and Netherlands experience Day 8 - Single Transferable Vote; Ireland and Australian Senate Day 9 - other systems; and administrative costs Day 10 - review and implications for Westminster parliamentary system Day 11 - "Champions" of various systems Day 12 - Agreement on 3 or 4 basic consultation options; agreement on text of householder.
<b>April 2004</b>	Recess; Mailing of householder
<b>May-June 2004</b>	Public hearings (30 proposed) by sub-panels of Assembly and Vice-Chairs
<b>July-Aug 2004</b>	Recess
<b>Sept-Nov 2004</b> (as required)	Deliberation
<b>Nov 2004</b>	Final recommendation; Approval of final report; Approval of explanatory householder (if required)
<b>January 2005</b>	Mailing of final householder

