

Electoral Reform Proposal

By Daniel Grice, JD, U of Manitoba 2013.

- Co-Author of *Establishing a Legal Framework for E-voting*¹, with Dr. Bryan Schwartz of the University of Manitoba and published by Elections Canada;
- Organizer for the 2005 and 2009 BC Provincial Referendum on Electoral Reform;
- Lawyer practicing in Abbotsford, BC.

SUMMARY: In this short proposal, I suggest a two election rollout of electoral reform is desirable, with an incremental mix of technological advances and electoral reforms.

a) **The October 2019 Federal Election** would focus on switching to a ranked ballot (known as the alternative vote) and introduce a supplementary system of online voting. Duplicate paper copies of online votes could be retained.

b) **The October 2023 Federal Election** would involve moving towards small multi-member ridings using the single transferable votes (STV), a proportional system which would use a similar ranked ballot to that used in 2019, which would require a combination of online voting and vote tabulation devices to deliver accurate voting results. The multimember districts would be small, with many only consisting of 2-3 seats. Some ridings, such as the most rural areas, may still have single member ranked ballots.

One of the reasons for spreading the changes out over two elections is to ensure that many of the more substantial changes are given adequate time to be implemented in way that can secure the confidence of Canadians while providing electoral authorities time to ensure there is a stable and secure electoral framework in place. Independent by-partisan oversight should accompany the entire process.

Because of the drastic changes (substantial redistricting and potentially fully automated vote counting) required to properly introduce proportional representation systems like the single transferable vote, Parliament may consider holding a referendum alongside the vote in 2019. In electoral districts where support for a multimember riding is substantially low, single member districts with a ranked ballot would be maintained for the next election.

This proposal assumes the Special Committee on Electoral Reform's familiarity with voting systems such as STV, AV, and proportional systems in general.

¹ Schwartz, Bryan and Daniel Grice, *Establishing a legal framework for E-voting in Canada* [Ottawa: Elections Canada, 2013; http://www.elections.ca/res/rec/tech/elfec/pdf/elfec_e.pdf]

The Process of Electoral Reform.

The Special Committee on Electoral Reform will be exposed to a wide range of proposals on electoral reform. In reviewing the proposals, it is important to recognize certain fundamental considerations for the committee. The first is there is no perfect electoral system and that each change will involve tradeoffs. The second is that no change will satisfy all voters, since different systems involve different values. The third is that while solving problems with electoral systems are important and delivering fairer results is a worthy objective, confidence in changes and the results should be a paramount consideration. I campaigned extensively in the two referendums on electoral reform in BC, and the biggest challenge was not convincing individuals of the need to change, most people realized the system was broken, rather it was getting them used to too many changes simultaneously.

Changing the Act of Voting - 2019 Election

The first steps that we should modify is the act of voting. This has two purposes, the first is to improve the electoral systems' ability to allow voters to express their opinions without having to risk 'splitting the vote' and having to make strategic rather than genuine voting choice. The second is to use technology to both make it easier to vote, but more importantly make it easier to accommodate more modern voting systems such as the single transferable vote for future elections by allowing near instant election results.

A. Preferential Ballots.

Canada has a long history with the preferential vote, having been used successfully in many of the western Provinces. The switch from a single "x" to a ranked ballot is a significant change in that it allows some voters who may support a niche candidate or be torn between multiple candidates with similar ideological or policy stances to exercise a freer choice in that selecting a candidate without fearing that vote splitting may result in a least favourite choice being elected. It is also more familiar to voters in that it retains the current single MP per electoral district.

The ranked ballot is notable in that it is also a foundation for more proportional systems. A ranked ballot with multimember electoral districts voting can provide proportionality through a single transferable vote. Even if Canada was to move to a mixed member hybrid list system, the local candidates could still be selected by a ranked ballot and ranked ballot placing could be used to determine additional.

B. Online voting.

In *Establishing a Legal Framework for E-voting*, the author helped examine the necessary framework to implement a supplementary online voting system. While the focus was on designing a secure system and improving accessibility, one area that was not canvassed was the benefits of an online system to alternative voting systems.

Online voting not only can improve the access to voting, but could also prove vital in ensuring quick

results under more complex voting systems. For instance, consider an election involving either single member ranked ballots or multimember STV. Under paper only systems both would take time to count runoff ballots and provide results. However, by combining paper ballots with online votes, many ridings would quickly predict a statistically accurate winner early on election evening even as the paper ballots were being counted and transferred from lower placing candidates. As a result, even if some electoral districts are close enough to require a judicial recount potentially taking extra time for some candidates to get elected, as a whole Canadians would be far more likely to get their election results instantly.

In *Establishing a Legal Framework for E-voting*, Dr. Bryan Schwartz and myself detailed the following attributes of introducing technology into our electoral system:

- facilitated accessibility and reasonable accommodation
- voter anonymity
- fairness
- accurate and prompt results
- comprehensible and transparent processes
- system security and risk assessment
- detection of problems and remedial contingencies
- legislative certainty and finality
- effective and independent oversight
- cost justification and efficiency

The paper, published by Elections Canada, canvasses the legal issues extensively. In short, online voting systems would require a set of technological and legislative steps to bring it in properly. By putting in place proper redundancies, for instance the system could be designed to allow online votes to be stored electronically with a paper ballot printed simultaneously, voters could be confident in the system by allowing fully manual recounts. Online voting dates could also be staggered to close before the final voting day to avoid last minute complications.

Canada's information technology system is already highly effective and the electronic system could piggy back on current authentication technology. The release of the online votes would also coincide with some time after all of the polls being closed nationally so as to reduce the election results being announced prior to Western votes being cast.

Changing the Nature of Representation - 2023 Election

The Special Committee on Electoral Reform will certainly hear from many Canadians who are dissatisfied with the way in that the current electoral system does not deliver election results where the seat counts for parties matches the aggregate total of votes for the parties.

On one hand, it is clear that in many elections, there are problems with a party receiving a minority of national support can pursue a majority legislative agenda or whereby smaller political parties often receive few or no representation despite receiving a substantial regional or national vote count.

On the other hand, there are reasons for voters to be suspect of electoral systems that further entrench party leaders, that dilute local representation, or that change the fundamental nature of elections.

There are multiple ways to achieve fairer votes, and most will involve tradeoffs. Many systems such as mixed member proportional rely on party lists or top off seats to compensate parties for aggregate support. If we assume that most parliamentarian vote the party line anyways under the current system, then whether candidates are elected by constituency or based on overall party support is unlikely to make a huge change in the operations of parliament.

I would suggest however, that a single transferable vote may be preferable for a population that is skeptical of voting reform.

Use of a Referendum.

As discussed earlier, alongside the election in 2019, a referendum could be held to bring in more proportional representation. This is not legally necessary but may be desirable to gain legitimacy for a chosen electoral system requiring substantial changes. A simple yes or no referendum on a single electoral system is likely to provide a decisive result as we found in previously referendums in British Columbia and Ontario. A referendum may very well be designed to ask two questions:

- 1) Would you be in favour of proportional system designed to move to a nation wide proportional representation system?
- 2) Would you be in favour of your local region's seats being distributed more proportionally?

If a clear desire to see proportionality is expressed nation wide, then a list based system may be implemented. The government could also use the first preferences under an alternative vote system to award extra seats to compensate for proportionality. On the other hand, parliament may choose to keep it simple and only propose a single transferable vote system by relying on the second question alone. The author suggests moving to STV is a preferred route but is sensitive to other electoral reform groups focus on bringing in electoral reform.

Why Single Transferable Vote For Canada?

There are substantial academic articles on the benefits of STV in fostering strong local representation, increasing competition, and delivering fairer results. The author wishes to focus on the procedural benefits for STV and some specific choices in implementing it.

1. **Allows incremental introduction.** STV introduces some or full proportionality, but unlike other systems can be introduced incrementally. For instance, the system could deliver a high level of proportionality in urban areas by having multiple member ridings, but could also co-exist with territories or rural areas that may be better served by a single seat riding. Whereas many other systems require local seats to be reduced and proportionality rolled out in every riding instantly. If some electoral districts clearly reject STV in a referendum, the system could still be used in those areas ready to change. While this may maintain barriers for smaller parties in certain areas, urban areas tend to have a more diverse population than rural communities and may be more willing to experiment with an alternative political system.
2. **Low proportionality is okay.** When STV was proposed in BC, a choice was made to keep as many ridings with 5-7 members as possible. As a result many ridings became unwieldy. The reason for a high number of members was to make it as easy as possible for a smaller party candidate to get elected and increase proportionality in these riding districts. However, having smaller ridings (ie 3 MPs) are fully adequate under STV since they will increase regional diversity and produce less distorted results. While it is possible under STV for a party to receive 10% of the vote nationally and no seats, it is likely that many parties that can get 5-10% of the votes nationally can also achieve 25% of votes in some regions. The goal with electoral reform should be to increase some diversity and better translate voting intentions into representation, not to deliver it perfectly. The electoral boundaries commission will have to draw up new ridings for STV. Dense cities may very well support 3-5 members in a city, but for much of the country, there may very well be many one and two seat ridings in areas that are geographically distinct. Proportionality in electoral systems is often an abstract concept. For instance, we can only speculate on how many voters voted for a political party, versus how many voters voted for their local candidate. In countries with full proportional representation, smaller parties often tend to be break offs of larger parties resulting from personality differences and will often have higher regional vote concentrations.
3. **Allow single votes.** In some jurisdiction, such as Australia, votes must rank dozens of candidate under a preferential system. Voters in Canada should still be permitted to vote for a single candidate, even if they lose out on the benefits of local proportionality.
4. **Technology required.** The big challenge with STV is that the vote counting is more complex than other systems and time consuming. Likely a fully automated vote counting system is required,

however, if substantial numbers of people vote online the result could still be delivered instantly, vote results could be delivered quickly, while final results and auditing procedures could occur in the weeks following an election.

A full mixed member PR system for Canada?

If Canada goes with a mixed member system, it should still look at ways to make the system as open as possible. In order to ensure effective local representation does not get diminished, using alternative vote for local seats should be strongly considered. Otherwise, you still get many of the problems associated with vote splitting on a local level, without necessarily ensuring the local interests are better served based on the added PR seats.

The other thing Parliament could consider is using the first preferences to determine extra seats. One of the problems with many mixed member systems is that smaller parties will not run local candidates, and vote trading may occur between larger parties who run to win local seats and smaller parties who only try and win list seats. This makes it harder for PR systems to fairly distribute seats without overly watering down if voters are able to vote separately for a party and for a candidate.

Once again, moving to an alternative vote for a single election to see how votes would likely fall under a PR system would be a good way to properly design a PR system to work for Canada's specific needs.

Summary

The author recommends moving forward with electoral reform over two elections. The first election would involve changes to the ballot by bringing in a ranked ballot and allowing online voting. The second election would use some form of proportional representation. Because the changes would occur over two elections, with the possibility for a change of government between elections, a referendum would ensure that the form of proportional representation gets legitimized by the popular support of the voters.