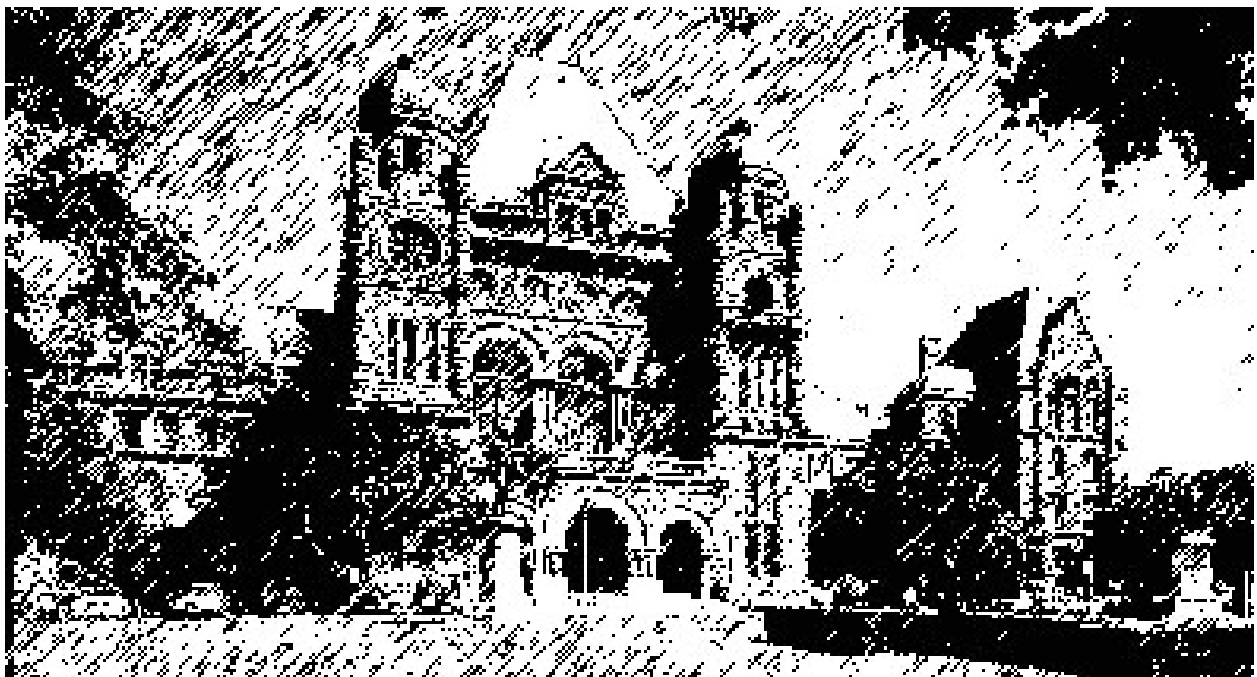


Submission to the
Citizens' Assembly on Electoral Reform



Mad River Institute for Political Studies
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NB: We realize that we are not following the apparent format set out on the Citizens' Assembly website, and that our treatise may be somewhat repetitive regarding information on electoral systems. However, this discourse was written in 2002, prior to the existence of the Assembly. It has been updated for the purposes of this discussion, but is designed in such a way that removing points would damage the intent. The system principles and questions asked by the Assembly are dealt with more indirectly in the text.



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34 Caroline Street East, Creemore, Ontario L0M 1G0

Tel/Fax: (705) 466-2832 or e-mail: madriver@sympatico.ca

Electoral Reform

Public participation in our democratic system of government in Ontario is in decline. Over time, voter turn-out is dropping. In the 1950s and '60s, it was typical to see 65-70% of eligible voters cast ballots in an Ontario election. Unfortunately, there hasn't been a turn-out of 70% since 1971, which was 73.5%. The best turn-out in the last two decades was 64.4% in 1990. In the last three contests, turn-out has been 62.9%, 58.3%, and 56.9%, respectively. It is also well down in federal elections, with the 2004 election having the lowest turn-out ever. As well, fewer people are members of political parties or appear to participate in the political process. More people show apathy, or even antipathy, toward government and politics in general.

First-Past-The-Post or Plurality

The reasons for this vary. One is our *first-past-the-post* electoral system, which sees the candidate with the most votes win a riding. It is described as such because it is essentially the same as a horse race. It doesn't matter if you win by five furlongs or a nose. Its design permits a minority of those turning out to vote to cause the election of a party with a majority of the seats. As a result, the intent of the majority of voters is stymied, and they lose the instinctive connection between their ballot and their government. All citizens of age have the right to vote, but each voter must believe that their ballot can make a difference. If, election after election, they do not see their attitudes and desires reflected in the policies of government, people become complacent, concluding their vote does not matter. As a result, they see no reason to participate in the process. Over time, apathy may actually turn into alienation from the democratic system. This means that citizens do not hold their government to a high standard, and settle for a mediocrity that guarantees even further disaffection and decline.

Our first-past-the-post election system basically comes out of the idea that whoever gets the most votes wins. It's a simple, and rather unsophisticated, method that ignores majority rule. Of course, it comes from the 18th and 19th centuries, when the majority was not permitted to rule and the elite considered the average person as too ignorant to understand anything more complicated. While many individual ridings are won by a candidate receiving a majority of the vote, many others are won by far less. In 1990, for example, one constituency was won with 30.9%. And general elections are seldom won by a party with the support of a majority of the voters. In Ontario, it hasn't happened since 1937, when there were only two parties, the Liberals and Conservatives.

The problem with plurality decisions is that they usually result in majority governments. That means that the *majority will* is actually stymied, as the majority votes against the party that controls the parliament. For example, these are the numbers for the last five Ontario elections, each of which resulted in a majority government.

Table 1

Year	Conservative			Liberal			NDP		
	Seats	Seat %	Vote %	Seats	Seat %	Vote %	Seats	Seat %	Vote %
2003	24	23.3	34.7	72	69.9	46.5	7	6.8	14.7
1999	59	57.3	45.1	35	34	39.9	9	8.7	12.6
1995	82	63.1	44.8	30	23.1	31.1	17	13.1	20.6
1990	20	15.4	23.5	36	27.7	32.4	74	56.9	37.6
1987	16	12.3	24.7	95	73.1	47.3	19	14.6	25.7

Table 2

	Government			Opposition		
	Seats	Seat %	Vote %	Seats	Seat %	Vote %
2003	72	69.9	46.5	31	30.1	53.5
1999	59	57.3	45.1	44	42.7	54.9
1995	82	63.1	44.8	48	36.9	55.2
1990	74	56.9	37.6	56	43.1	62.4
1987	95	73.1	47.3	35	26.9	52.7

The only reasonable conclusion is that the first-past-the-post system is fundamentally flawed, as the winning party is always over-represented and the defeated are always under-represented. There are those who believe it is the best, given the flaws of other systems, but we think that is simply the view of those who benefit from the one we have now. After all, picking up a majority government from a plurality of the vote is quite convenient for the winners. It is one of the basic reasons the losers tend not to propose a different electoral system. They believe, one day, they will win based on this flaw.

Potential Changes

Dalton McGuinty, as Opposition Leader, suggested keeping our present system but using a *preferential*, also called an *alternative*, ballot. This is used by the Ontario Liberals, and was part of federal Canadian Alliance leadership and riding nomination campaigns. It allows voters to rank those running in their riding according to preference. For example, John Smith might prefer the Liberal candidate #1, then the New Democrat 2, then the Tory 3. If none of these won a majority after the first count, the third-place person would drop off. If that was the Liberal, then his vote would go to the New Democratic candidate, even if this person was running second. Then, one of the two would be declared victor,

as one or the other would now have a majority of the vote. The advantage of this is that, generally, a majority of voters will get their second choice, and it is almost as efficient as first-past-the-post, as all voting occurs just once.

The disadvantages are twofold. First, people do not always want to vote for everyone. If Smith disliked the New Democrat and the Tory enough, he wouldn't want to vote for either of them. If he chose the Liberal 1, and no one else, then (s)he dropped off the ballot, Smith would effectively be disenfranchised (admittedly by choice). Though Liberal nomination elections are secret, we are told many have a significant percentage of voters, perhaps as high as 50%, who do not make choices beyond Number 1. This is far too high to legitimately claim that the winner will have a majority.

The bigger difficulty with the preferential ballot is that it can exacerbate already substantial wins. A preferential ballot immediately turns voting into results. It can mean that trends of election day run even stronger than they might otherwise. In any election where there has been a substantial majority, such as 1987, 1990, 1995, and 2003, many who did not choose the winner might well have selected them number 2. Had this occurred, the new government might have gained an even greater majority, making the opposition even weaker and less in a position to hold it accountable.

The first-past-the-post system must be replaced with one that better mirrors the will of the majority. Given our parliamentary system, there are really only three possible alternatives: *proportional representation* (PR), a *run-off* or two-round system, or one that mixes systems.

Proportional Representation

The one element that makes PR very popular with those uninspired by the present electoral system is the exactness in which it permits the popular will to be translated into representation. That is, a party that gets 25% of the vote gets 25% of the seats. Given the results of the 1999 provincial election, had a PR system been in place, our calculations suggest the Tories would have received 46 seats, not 59, the Liberals 41, not 35, and the NDP 13, not 9. One can see here the clear over-representation of the winner in the first-past-the-post system, at the expense of the defeated. PR appears to be the one system that is eminently fair through this virtually exact translation of votes into seats.

PR is much more widespread than many think. About 75 countries actually use it as a method of electing at least one chamber of government, though their rules tend to vary. Three examples would be in Israel, Italy, and Germany. Israel elects representatives to a unicameral legislature, the *Knesset*, for parties that receive at least 1.5% of the popular vote. In Italy, the system is made up of two chambers, each of which consists of about 75% first-past-the-post constituencies and 25% PR, the latter with a cut-off at 4%. In Germany, only one of the two chambers of parliament – the *Bundesrat* – is elected by PR, with a cut-off of 5%. Each requires the minimum cut-off in popular vote to keep out extremist and marginal parties, though Israel's fails to do so because their cut-off number

is so low.

The difficulties with PR, however, are irrevocable. First, PR is a party-based system that does not allow for non-affiliated candidates. Each party runs a slate of names, one to assume each seat should that party receive 100% of the vote. For example, if Ontario had PR, for a party with 25% of the vote, the top 26 people on their list would be elected to the 103-seat Legislature. The only way an individual could run and get elected would be for he or she to receive almost 1% of the entire vote in the whole province, assuming no cut-off. That would be extremely expensive to manage and would undoubtedly take significant coordination. If there was a low-end cut-off of, say, 5%, it would be next-to impossible.

Given that PR cannot work on an individual riding basis, a party slate means that present ridings would have to cease to exist, so when people vote, it would simply be to compile popular numbers province-wide. People would vote explicitly on party platforms and leaders, given that they would have no say as to whose names are on the parties' lists. The problem with this, if experience from PR jurisdictions can be considered, is that the parties tend to be run by the same people whose names are on the lists. As a result, the voters usually get more-or-less the same people in government and opposition election after election, sometimes for decades on end. And, of course, representation and accountability would cease to be local. No longer would people have an MPP chosen to explicitly represent their area, and be answerable to them.

PR has been used in what one might term regional constituencies, where party vote is compiled by region rather than right across the province. In this way, each major party, unless it is extremely weak in one area, would elect someone in each mega-riding. The problem with this is that constituencies must be enormous, a particular geographic problem in rural areas. As well, regionalism can become a concern, even on a provincial basis.

And there are other general problems, as well. Since it is the exceptional PR election that results in majority support for one party, government is almost always by coalition. This is usually fine on some issues, but continuous support is difficult to maintain, and these coalitions tend to fall apart quite often. Italy, as the most explicit example, has had 60 governments since WWII. And while coalitions do tend to get things done in their early days, it becomes progressively harder to keep this up, as parties try to hold their coalitions together. This can mean government becomes enslaved to the *status quo*. Also, as is seen in Israel, tiny parties can have influence far beyond their support, as they often insist on extreme measures to be passed in exchange for their continued support of a coalition. While short term accords may work well, as was seen in the 1985-1987 government in Ontario, the benefits of coalitions tend to become increasingly questionable over time.

Run-Offs

Run-off, or two-round, campaigns are a different matter. They are not based on an exact

representation of the voters' wishes but on creating majorities on the basis of compromise. That is, in individual ridings, if a candidate fails to get 50%+1 of the vote, he or she is not considered elected, and a run-off election is held sometime later. Typically, the top two candidates from the first ballot run off against each other, and the voters choose from one or the other. In this way, the winner will always be no worse than a majority of the electorate's second choice, and will be determined by those whose votes would have been effectively disenfranchised in a first-past-the-post system.

In the 1999 Ontario election, just 63 of the 103 ridings were won by clear majorities – 41 Conservative, 21 Liberal, and only one NDP. In 2003, there were even fewer, just 47: 40 Liberals, 5 PCs, and 2 New Democrats. Had a run-off system been in place in 1999, 40 ridings would have been contested in a second vote, including 18 Conservative, 14 Liberal, and 8 NDP. In 2003, 56 ridings would have gone to a run-off vote, with 32 Liberal, 19 PC, and 5 NDP. On the surface, this would appear to give the advantage to the party coming in first with this initial vote, given that it needs so few wins in the second ballot to form a majority. In 2003, the Liberals would have held their majority, with perhaps a gain of 3 or 4 seats at the expense of the Conservatives. However, being first is not necessarily an advantage to a bigger victory. Given a second round of voting in 1999, it is likely the Tories would still have come in first, but not with a majority government.

It is quite likely the Harris candidates would have been defeated in between 8 and 11 of the 18 run-offs where they had led after the first vote. The Liberals would likely have gained between 7 and 10 of these seats, with the NDP taking one more. As well, it is quite possible the Liberals would have lost one to the NDP. This would have created an outcome of 48-51 Tories, 41-45 Liberals, and 9-11 New Democrats. How did we come up with these numbers? A few examples:

In the riding of Algoma-Manitoulin, Liberal Mike Brown won with 44.5% of the vote, NDPer Lynn Watson came second with 27.3%, Conservative Keith Currie third with 26.8%, and finally Libertarian Graham Hearn with 1.3%. With a run-off, Currie and Hearn would drop off, leaving Brown and Watson to fight it out. Logically, some Tory supporters would go NDP, in hopes of keeping the Liberals from winning the riding, some would vote Liberal because they agree with their policies more readily than the NDP's, and some would stay home. Now it's a mug's game to guess how many would make up each of these groups, however, if 25% did not vote and 10% of those remaining voted Liberal, Mike Brown would still have won the seat.

On the other hand, Tory Marcel Beaubien of Lambton-Kent-Middlesex might well have lost his seat, despite his polling 45.0% of the vote. Liberal Larry O'Neill ran second with 42.9%, New Democrat Jim Lee was third with 9.6%, and Freedom Party candidate Wayne Forbes fourth with 2.5%. Given that New Democrats were firmly against the government, it is likely most of their votes would have gone Liberal. Again, assuming 25% of them did not vote, but the rest went Liberal, even if Forbes' total went entirely to the Tory, O'Neill would have won.

In fact, under a run-off, one of the more high-profile races might well have seen Cabinet minister Dianne Cunningham lose to former NDP Cabinet minister Marion Boyd, the opposite of what did happen. Cunningham got 40.2% to Boyd's 36.5%. However, given Liberal Roger Caranci's 20.9%, it is likely much of this Liberal support would have gone to Boyd. Even if half the Liberal vote had stayed home, Boyd would have won in a run-off.

Given that the Conservatives were a government vociferously disliked by their opponents, it is unlikely they would have challenged to win many seats coming from behind. The one that might have been possible in a run-off system was in Prince Edward-Hastings where Liberal Ernie Parsons defeated incumbent Tory Gary Fox by just 56 votes. However, given the NDP's Bev Campbell received 7.2%, it is unlikely Fox could have won. However, if a good portion of the NDP supporters did not vote, felt Fox was the better candidate, or just voted for the greater name recognition of the incumbent, he would have had a second chance for victory. This might also have been helped by the plethora of fringe candidates who had 2.7%.

Regardless, there is no question that run-off campaigns can have a significant effect on the final outcome of elections. While first-past-the-post or preferential balloting establishes winners immediately, a run-off system permits people time to see and judge the strength of possible governments. It is for this reason some people don't care for it. It is possible that the result of the second election night might vary considerably from the first. A party that does surprisingly well during the initial vote might lose much of its headway in a run-off, simply because those who vote a second time change their minds. We suspect that had there been a run-off in 1990, Bob Rae's NDP would have been the Official Opposition again, not the government.

And while some suggest that run-offs suffer a similar trouble to the preferential ballot, with the possibility of high numbers of voters dropping off for the second count, this has not been the experience in France. In fact, in the 1997 National Assembly elections, turn-out was up for the second round to 71.4% from 68.3% in the first. At any rate, turn-out numbers tend to be higher for both rounds than what one finds in Canadian and Ontario elections.

There are those who might see a run-off election system as a benefit to moderate parties, such as the Liberals. One could hypothesize that, under normal conditions, it might be better to be the middle party, placed between the other two, as the compromise position for voters would likely be to move toward the centre, rather than the other extreme. However, even if that is so, it does not mean this party will win a general election. We have already hypothesized the Tories would have won in 1999. (How long they would have remained in office as a minority is anybody's guess.) In fact, we would suggest it is still likely the Tories would have been victorious in 1995. They took majorities in only 40 of their 82 winning ridings on election night, but we have little doubt that, even if a couple of weeks had intervened, there was sufficient momentum to see they would have won most of the 42 minorities, in the end.

As well, any benefit to a moderate party assumes people vote left-to-right, right-to-left on the political spectrum. Yet that is clearly no longer the case, especially in Ontario, where, for example, long-time NDP supporters can, and do, switch to right-wing Conservatives. In the riding which takes in Oakville, a heavily-unionized area which was NDP for many years, voters switched allegiance mostly to Conservatives, federally and provincially.

However, we have no doubt that run-offs in Ontario would result in fewer majority governments. So what, may you ask, is the point of a run-off system? What is the advantage if minority governments are created? Isn't this much the same as PR?

Not really. First, minorities would probably happen far less often than majorities, just more often than now. PR will mean virtually guaranteed minorities, as long as we have a multi-party system. Second, run-offs will tend to even out some of the distortions, such as the Tories' majority in 1995, which would probably have been smaller than the 82 seats they received through first-past-the-post. And while this doesn't stop *The Common Sense Revolution*, it might mean more moderation in policy. At least a two-vote system would likely see fewer government members seek re-election because they faced defeat and, thus, fewer people with the advantages of incumbency. Perhaps this would demand more responsibility while in government.

The other thing that a run-off system might help bring back to people is a greater sense of democratic participation and representation. If it is true that the stifling of *majority will*, over and over again, alienates many, then insisting that a majority select the winner could well re-affirm people's sense of their vote having meaning. If one believes they make a difference, then the entire electoral system gains legitimacy.

The biggest potential problem with run-offs is that there is no guarantee we will continue to have a functional three-party system. For example, if the NDP was to collapse, or just remain very weak, leaving the Tories and Liberals in a dominant position, a two-round system might assure majority government after majority government. This is quite damaging if these parties are also somewhat extreme in their views. For example, in the post-war Britain of Labour and Conservative governments, each spent enormous time, effort, and financial resources simply undoing what the other had done while in office. Not only is it counter-productive, but it is wasteful and divisive. Of course, this was a first-past-the-post system, so the criticism is shared.

Another concern expressed over run-offs is the delay between the first and second ballots, as well as the extra costs associated with the succeeding vote. Some feel that the voters' intentions on "election day" can be spoiled by a second vote, as *sober second thought* can be altered or even reversed by advertising and campaigning. In fact, that's why these things must be strictly limited in the interim period. (The reality is that advance polling already causes this possibility.) It should be asked, though, how is a bit of second thought a bad thing?

As to the extra cost, it would be reduced by only having to do second counts in a minority

of ridings. However, there is no way around some extra expense. Of course, democracy is an expensive system to have.

Mixed Systems

The other possibility is a combination of systems. Many countries or constituent governments elect some members by proportional representation and others by first-past-the-post. This is most effective in a bicameral system where the membership of each legislature can be elected by a different method, such as occurs in Germany. Unfortunately, Ontario has only one chamber, and that's where this mixed system fails. In a unicameral system, it is difficult to elect representatives by different methods with each having the same level of legitimacy. Someone elected across the province by PR, thus representing all the people might be seen as more legitimate to act on province-wide issues than someone elected over a small area. On the other hand, this same person doesn't have the legitimacy of having been selected by people directly, and doesn't have to answer to them directly. Where there are regional PR ridings, legitimacy is even more questionable. This amorphous accountability is one of the biggest problems with PR and using it in mixed systems.

Our Recommendation

To us, a run-off system seems the best compromise for democracy in Ontario. If we were promoting change for the Canadian government, we would go with a mixed system that retains first-past-the-post for the House of Commons but uses PR for a refurbished Senate. However, short of creating a Senate for Ontario, a run-off arrangement would permit a majority of the people to select, through compromise, the make-up of their government. This is the only electoral system that really considers the will of the majority and, given that majority will has been denied in Ontario for about 70 years, it might be about time.