

Why Electoral Reform Failed in Ontario?

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On November 18, 2004 Dalton McGuinty, Premier of Ontario fulfilled a campaign promise by announcing the creation of the Ontario Citizens' Assembly on Electoral Reform. The purpose of the Citizens' Assembly was to examine and make recommendations for reforming Ontario's electoral system. After eight months of deliberation, the final report of the Citizens' Assembly recommended that Ontario adopt a Mixed Member Proportional (MMP) electoral system, instead of maintaining a Single Member Plurality (SMP) electoral system. As a result of this recommendation, a referendum was called concurrently with the province's general election to give Ontarians the opportunity to either adopt the Citizens' Assembly's proposal or maintain the status quo. On October 10, 2007 Ontarians decisively rejected the Citizens' Assembly's recommendation thereby defeating the attempt at reforming the province's electoral system.

Electoral reform failed in the province of Ontario due to apathy amongst the province's electorate, partisan self-interest and a lack of information regarding the referendum. To understand how these aspects form the basis for its defeat it is necessary to provide an overview of: (i) the climate in which electoral reform developed at the federal and provincial levels across Canada; (ii) the emergence of electoral reform in Ontario; and (iii) the work conducted by the Ontario Citizens' Assembly on Electoral Reform.

I. ELECTORAL REFORM IN CANADA

Electoral reform became a significant issue in the early part of the 1990s, as Canada was gripped with "a democratic malaise evidenced by decreasing levels of political trust, declining voter turnout, increasing

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cynicism towards politicians and traditional forms of political participation, and growing disengagement of young people from politics.”¹ Electoral results both federally and provincially began to trouble Canadians’ sense of fairness and legitimacy, as many felt the outcomes did not represent their choice. Instead of being acclaimed for its strengths of producing accountable and stable majority governments, the SMP electoral system was assailed for its inability to produce representative governments.

A. Federal Level

The 1993 federal election saw massive upheaval in the federal political sphere as “the virtual destruction of one of Canada’s two major political parties ushered in a period of effective one party dominance”² of the Liberal Party. Along with this dominance, regionalism grew as citizens in Western Canada and Quebec opted to support regionally based parties in the belief that they would be better represented in Ottawa. This included the Reform Party and its predecessor the Canadian Alliance in Western Canada and the Bloc Québécois in Quebec. As the decade progressed, it became evident that electoral results produced in 1993 were not extraordinary, but rather the new standard as they were largely replicated in the 1997 and 2000 elections. The electorate became increasingly frustrated with the SMP electoral system, as they felt the results no longer reflected the desires of Canadians.

One aspect that concerned the electorate was the SMP electoral system producing “artificially swollen legislative majorities”,³ which allowed the Liberal Party to dominate Canada’s political agenda for over a decade. Although the Liberal Party only received 41.30%, 38.50% and 40.80% of the popular vote in the 1993, 1997 and 2000 elections, they won 60%, 52%, and 57% of the seats in the House of Commons respectively.⁴

¹ Law Commission of Canada, *Voting Counts: Electoral Reform for Canada* (Ottawa: Minister of Public Works and Government Services, 2004) at xiii [Voting Counts].

² Lawrence Leduc, “The Failure of Electoral Reform Proposals in Canada” (2009) 61: 2 *Political Science* 21 at 22.

³ *Voting Counts*, *supra* note 1 at 9.

⁴ Elections Canada, *Thirty-fifth General Election 1993: Official Voting Results* (Ottawa: Chief Electoral Officer of Canada, 1993) [35th Election Results]; *Thirty-sixth General Election 1997: Official Voting Results: Synopsis* (Ottawa: Chief Electoral Officer of Canada, 1997) online: Elections Canada, <<http://www.elections.ca/>

Essentially, although the opposition parties on average received roughly 60% of the popular vote, they had no ability to influence the government's agenda.

Another aspect which frustrated the electorate was the SMP electoral system's propensity to divide Canadians along regional lines, by rewarding parties with concentrated regional support and penalizing parties with diffuse support across the country. For example, during this period even though the Bloc Québécois received roughly 11% percent of the national vote they continuously received an inflated number of seats due to their regionalized support in the province of Quebec.⁵ Whereas the Progressive Conservative Party and the New Democratic Party, who had a diffused support base across the country and a popular vote greater than the Bloc Québécois invariably received fewer seats.⁶ This was also reflected with the Reform/Canadian Alliance Party, as it earned seats through its concentrated support in Western Canada, but when the party decided to expand eastward votes were too broadly diffused to acquire many seats east of the Manitoba border.

Additionally, Canadians were discouraged by the SMP electoral system because they felt their vote was 'wasted' unless they supported the winning candidate. For example, in the 1993 Federal Election in the riding of Winnipeg - Transcona, although Liberal Party candidate Art Miki received 38.33% of the vote, New Democratic Party candidate Bill Blaikie was elected to represent the electoral district with 38.88% of the vote.⁷ As a result, even though almost the same number of individuals supported Miki as did Blaikie, the individuals that supported Miki did not end up

content.aspx?section=res&dir=rep/off/dec3097&document=index&lang=e> [36th Election Results]; Elections Canada, *Thirty-seventh General Election 2000: Official Voting Results: Synopsis* (Ottawa: Chief Electoral Officer of Canada, 2000) online: Elections Canada <<http://www.elections.ca/content.aspx?section=res&document=index&dir=rep/off/37g&lang=e>> [37th Election Results].

⁵ *Supra* note 4, the Bloc Québécois received 13.52, 10.6% and 10.7% respectively.

⁶ 36th Election Results, *supra* note 4, the Canadian Conservative Reform Alliance received 18.8% of the popular vote in 1997 yet only obtained 20 seats the equivalent of just over 6%. In the same year the Bloc gained 44 seats (14.6% of the House) though only having 10.7% of the popular vote in the country.

⁷ Canada, Parliament of Canada, *History of Federal Ridings Since 1867* (Ottawa: Library of Parliament, 2013) online: Parliament of Canada <<http://www.parl.gc.ca/About/Parliament/FederalRidingsHistory/hfer.asp?Language=E&Search=Det&rid=979&Include=>>>.

with a Member of Parliament that they felt would represent their views in Ottawa.

In response to these frustrations expressed by the electorate, in 2001 the federal government asked the Law Commission of Canada, a federal agency, to undertake a comprehensive review of Canada's electoral systems. After extensive consultation amongst ordinary Canadians, academics, grassroots movements and political parties the Law Commission of Canada published a report entitled, *Voting Counts: Electoral Reform in Canada*.⁸ It recommended that the best way to revitalize Canada electoral system was to add "an element of proportional representation to our electoral system... it has become apparent that the first-past-the-post electoral system no longer met the democratic aspiration of many Canadians."⁹

In spite of the effort put forth by the Law Commission of Canada to provide Canadians with a comprehensive overview of electoral reform and substantive recommendations, its work was largely ignored. This was generally because the electoral results that had produced such frustration amongst the electorate no longer existed. The Liberal Party that had dominated the federal agenda was defeated by the Conservative Party in the 2006 federal election and was subsequently relegated to the opposition benches. The merger between the Canadian Alliance and the Progressive Conservatives ended the existence of a regionally based party in Western Canada, while the New Democratic Party's routing of the Bloc Québécois in the 2011 federal election also removed this regionally based party from the federal scene.

B. Provincial Level

The demand for electoral reform at the provincial level in Canada was much different than that found in the federal debate, political regionalism was not found within the provinces.¹⁰ This is because provinces have smaller geographic areas and more homogeneous populations, whose experiences and concerns are often relatively similar. As a result, issues with electoral results at the provincial level have been dominated by the 'wrong winner' or a 'feeble opposition'.

⁸ *Voting Counts*, *supra* note 1.

⁹ *Voting Counts*, *supra* note 1.

¹⁰ Leduc, *supra* note 2 at 24.

A ‘wrong winner’ in the vernacular of electoral politics is where a political party forms the government by winning a plurality of the seats, but fails to receive the popular vote. This type of result has plagued a number of provinces in recent elections including: Quebec, British Columbia and New Brunswick. The most significant example of this was Quebec’s provincial election held in 1998, where the Parti Québécois led by Lucien Bouchard formed a majority government winning 76 seats in the National Assembly with 42.87% of the vote, whereas the Liberal Party of Jean Charest received the popular vote 44.55%, but only collected 48 seats.¹¹ Less pronounced examples include the 1996 British Columbia provincial election where the New Democratic Party formed a majority government with 39 seats and a popular vote of 39.45%, whereas the Liberal Party received 33 seats with 41.82% of the popular vote;¹² and in the 2006 provincial election in New Brunswick where the governing Progressive Conservatives were defeated by receiving 26 seats with a popular vote of 47.50%, whereas the Liberal Party obtained 29 seats with a popular vote of 47.10%.¹³

Another outcome of recent provincial elections is that they have produced a ‘feeble opposition’ to act as Her Majesty’s Loyal Opposition. This does not represent the quality of the opposition’s elected members, but rather their quantity. Although this has affected most provincial legislatures, noteworthy examples include: British Columbia, Prince Edward Island and New Brunswick. The 2001 provincial election held in British Columbia resulted in the Liberal Party winning 77 of 79 seats in the provincial legislature, and the New Democratic Party received a mere two seats.¹⁴ In Prince Edward Island, since the 1986 election, the Opposition has never comprised more than 30% of the seats in the

¹¹ “2008 General Election Results for Quebec”, online: Le Directeur Général Des Élection du Quebec <www.electionsquebec.qc.ca>.

¹² Elections BC, *Statement of Votes: 36th General Provincial Election* (Victoria: Elections BC, 1997) at 3-5 online: Elections BC <<http://www3.elections.bc.ca/index.php/resource-centre/reports/>>.

¹³ Elections New Brunswick, *Report of the Chief Electoral Officer of New Brunswick: 36th General Election* (Fredericton: Elections New Brunswick, 2006) at 24 online: Elections New Brunswick <<http://www.gnb.ca/elections/publications-e.asp>>.

¹⁴ Elections British Columbia, *Statement of Votes: 37th General Provincial Election* (Victoria: Elections BC, 2001) at 3 online: Elections BC <<http://www3.elections.bc.ca/index.php/resource-centre/reports/>>.

provincial legislature, with an average of approximately 13% or 3 seats in a provincial legislature of 27.¹⁵ Finally, perhaps the most dramatic example of the election of a ‘feeble opposition’ was in 1987 in New Brunswick. The Liberal Party led by Frank McKenna won every seat in the provincial legislature, not only removing the governing Progressive Conservatives from power, but excluding any opposition party from holding seats in the provincial legislature.¹⁶

A consequence of these electoral results was that several provinces started to pursue an agenda of electoral reform. The province of British Columbia led the way by establishing a Citizens’ Assembly comprised of ordinary citizens with the objective of providing a proposal on electoral reform. In the spring of 2004, the Citizens’ Assembly recommended that British Columbia adopt the Single Transferable Ballot electoral system, which it argued would provide voters with fair election results, effective local representation and greater choice. The government subsequently announced that a referendum would be held in conjunction with the next provincial election, where British Columbians would be asked, “Should British Columbia change to the BC-STV electoral system as recommended by the Citizen’s Assembly on Electoral Reform?”¹⁷

Ultimately, British Columbians narrowly defeated the recommended proposal on electoral reform in a province-wide referendum on 17 May 2005. The referendum threshold had demanded that 60% of voters support the proposed changes, along with majority support in 60% of the constituencies. While a 60% majority of constituencies ended up supporting electoral reform, only 57.69% of voters supported the initiative resulting in its failure.¹⁸ Due to the tremendous support the proposal received, the government vowed to hold another referendum and to address some of the concerns citizens had with the initial referendum, which included a lack of knowledge and awareness of the issues involved. On 12 May 2009, British Columbians were once again asked to if they

¹⁵ Elections PEI, *Provincial General Election Results*, online: Elections Prince Edward Island <<http://www.electionspei.ca/provincial/historical/results/files.php>>.

¹⁶ Elections New Brunswick, *Report of the Chief Electoral Officer of New Brunswick: 31st General Election* (Fredericton: Elections New Brunswick, 1987) online: Elections New Brunswick <<http://www.gnb.ca/elections/publications-e.asp>>.

¹⁷ Elections British Columbia, *2005 Referendum on Electoral Reform* (Victoria: Chief Electoral Officer, 2005) at 2.

¹⁸ *Ibid* at 9.

wish to change the electoral system, however, this time they strongly rejected any reform, with only 39.09% of voters supporting electoral reform and seven constituencies also agreeing.¹⁹

Prince Edward Island followed British Columbia lead by establishing The Commission on Prince Edward Island's Electoral Future to review potential replacements to the SMP electoral system. Following a number of internal meetings and public information sessions the Commission recommended that the province adopted MMP electoral system.²⁰ Analogous to British Columbia's referendum, 60% of Islanders and majority support in 60% of the ridings was needed in order for the MMP electoral system to be adopted. On November 28, 2005 the citizens of Prince Edward Island resolutely rejected the MMP electoral system with only 36% supporting the reform, along with majority support in only 2 of 27 constituencies.²¹ Pat Binns, then Premier of the province, stated shortly afterwards, "Islanders have quite clearly said they're not ready for a change at this particular time."²²

Two other provincial jurisdictions that have considered electoral reform are Quebec and New Brunswick. Quebec under the Parti Québécois government of Bernard Landry established the Estates General on the Reform of Democratic Institutions that recommended electoral reform.²³ Before a referendum could be held the Parti Québécois was defeated in a general election and replaced by Jean Charest and the Liberal Party, who quickly abandoned any notion of holding a referendum. In New Brunswick, the sequence of events largely reflected the undertakings in Quebec. The Progressive Conservative government

¹⁹ Elections British Columbia, *Statement of Votes Referendum on Electoral Reform – May 12, 2009* (Victoria: Chief Electoral Officer, 2009) at 17.

²⁰ Commission on Prince Edward Island's Electoral Future, *Final Report* (Charlottetown: Queen's Printer, 2004) (Chair: Leonard Russell).

²¹ Elections Prince Edward Island, *Plebiscite for the Provincial Mixed Member Proportional System*, online: Elections Prince Edward Island <<http://www.electionspei.ca/plebiscites/pr/results/index.php>>.

²² "Electoral Reform Rejected", *CBC News* (29 November 2005) online: CBC News <http://www.cbc.ca/news/canada/prince-edward-island/story/2005/11/29/pe_noplebiscite_20051128.html>.

²³ Québec, Organizing Committee of the Estates General on the Reform of Democratic Institutions, *Citizen Participation at the Heart of Québec's Democratic Institutions* (Québec City: Government of Québec, 2003) (Commissioner Claude Béland).

under Bernard Lord established the Commission on Legislative Democracy that too recommended reforming the province's electoral system.²⁴ Agreeing with the Commission's recommendation Premier Lord announced that a referendum would be held on 12 May 2008. Ironically, before the referendum could take place Premier Lord was defeated in the 2006 election, despite receiving the popular vote. The incoming Premier Shawn Graham of the Liberal Party subsequently chose not to hold the referendum.

II. ELECTORAL REFORM IN ONTARIO

Electoral reform emerged in the province of Ontario much less organically than it did in other jurisdictions across Canada. Instead of electoral reform emerging as a result of a disgruntled electorate, it was largely a result of policy development amongst the province's political parties. Although the Ontario branch of the New Democratic Party had been talking about electoral reform for years, it was the Liberal Party that embraced the notion following its defeat in the 1999 provincial election. At its policy convention in 2000, the party opened a spirited debate on how to improve democracy that led to the creation of a 'Democratic Charter,' which "included a pledge to foster public debate about the strengths and weaknesses of Ontario's voting system, and possibility to hold a referendum on replacing it with an alternative model."²⁵ Adopted as a significant part of the election platform,²⁶ the Liberal Party moved to implement the 'Democratic Charter' upon forming government after the 2003 provincial election and subsequently establishing the Citizens' Assembly on Electoral Reform.

A. Citizens' Assembly on Electoral Reform

The Citizens' Assembly on Electoral Reform was given a mandate "to assess Ontario's current electoral system and others, and to recommend

²⁴ New Brunswick, Commission on Legislative Democracy, *Final Report and Recommendations* (Fredericton: Commission on Legislative Democracy, 2004).

²⁵ Laura Stephenson and Brian Tanguay, "Ontario's Referendum on Proportional Representation: Why Citizens Said No" (2009) 15: 10 IRPP Choices at 8, online: Institute for Research on Public Policy < <http://www.irpp.org/en/research/strengthening-canadian-democracy/why-do-canadians-say-no-to-electoral-reform/>>.

²⁶ Ontario Liberal Party, *A Government that Works for You* (Platform), 2003 at 4-5.

whether the province should retain its current system or adopted a new one.”²⁷ In doing so, the government establish an all-party Select Committee on Electoral Reform comprised of current Members of the Provincial Parliament (MPPs), which would provide the Citizens’ Assembly a list of guiding principles to help achieve its mandate. These principles included: legitimacy, fairness of representation, voter choice, effective parties, stable and effective government, effective parliament, stronger voter participation, and accountability.²⁸

Elections Ontario was charged with selecting individuals from across the province to participate in the process. The Citizens’ Assembly’s composition resulted in a single member being selected from each of the province’s 103 electoral districts, along with an individual appointed as the Chair. Elections Ontario sought to ensure the Citizens’ Assembly reflected the diversity of the Ontario electorate rather than simply selecting politically interested or motivated individuals. Members selected represented the province’s demographic makeup along gender and cultural lines, as well as by age distribution. Additionally, the Citizens’ Assembly consisted of individuals with a wide variety of professional and occupational backgrounds.

The process by which the Citizen’s Assembly was to assess Ontario’s electoral system and the potential for reform mimicked British Columbia, as it too was divided into three distinct phases: learning, consulting and deliberating. The learning phase sought to provide an extensive overview of Ontario’s electoral system and provide detailed information about possible alternatives. Over the course of six weekends, members received lectures and information from national and international experts on electoral systems, as well as, former provincial politicians. Members also participated in several mock elections using different electoral systems to understand their mechanics and the different results each system produced.

The second phase was the consultative phase in which members of the Citizens’ Assembly reached out to other Ontarians to better understand their views on electoral reform. Not only did members participate in consultation meetings across the province, they also received submissions

²⁷ Ontario, Citizens’ Assembly on Electoral Reform, *One Ballot, Two Votes: A New Way to Vote in Ontario* (Ontario: Queen’s Printer, 2007) at 1 [Citizens’ Assembly Report].

²⁸ *Ibid* at 4-5.

from citizens that were unable to attend the meetings. Over a three-month period the Citizens' Assembly received approximately "1000 written submissions ... and over 500 individuals presented at 41 meetings."²⁹

During the deliberative phase the Citizens' Assembly reviewed and considered all the information they received during the learning and consultation phases in order to determine the appropriate recommendations for electoral reform. To help reach a decision, the Citizens' Assembly developed three objectives against which the major electoral systems would be evaluated:

- Voter Choice: Voters should be able to indicate both the preferred candidate and their preferred party.
- Fair Election Results: The number of seats a party wins should more closely reflect its share of the party vote.
- Strong Local Representation: Each geographic area of the province should have at least one representative.³⁰

Upon evaluating the different electoral systems that would meet these objectives, the Citizens' Assembly determined that either Mixed Member Proportional or Single Transferable Vote best fulfilled these requirements. After further review of these two choices, members were asked to vote on three questions to establish the Citizens' Assembly's decision with regards to electoral reform:

What is the best alternative system for Ontario: Mixed Member Proportional or Single Transferable Vote?

75 for Mixed Member Proportional
25 for Single Transferable Vote
1 for Spoiled Vote

Should Ontario keep its current system or adopt the Assembly's Mixed Member Proportional system?

86 for Mixed Member Proportional
16 for Single Member Plurality

²⁹ Jonathan Rose, "Putting the Public Back in Policy: The Ontario Citizens' Assembly on Electoral Reform" (2007) 3 Canadian Parliamentary Review 9 at 13.

³⁰ Citizens' Assembly Report, *supra* note 27 at 10.

Do you want to recommend the Assembly's Mixed Member Proportional system to the people of Ontario?

94 Yes
8 No³¹

B. Recommendation: Mixed Member Proportional

To understand how the MMP electoral system best reflected the three objectives the Citizens' Assembly set forth, it is necessary to have a basic understanding of how the system works. The underlying principle of the MMP electoral system is that the percentage of votes each party receives should proportionally translate into seats in the legislature. Under the procedures of the MMP electoral system voters are required cast two ballots. The first ballot is to elect a certain number of candidates using the SMP electoral system who represent an electoral district in the provincial legislature. The Citizens' Assembly recommended 90 seats be award under this ballot.³² On the second ballot each voter would select a political party he or she would wish to support. Each party would be awarded seats based on the percentage of votes received on the second ballot in combination with seats already gained on the first ballot. The number of seats the Citizens' Assembly recommended for this ballot was 39.³³ Individuals would be taken from a numerically ordered list drawn up by each party before the election to fill the seats awarded on this ballot. The Citizens' Assembly also recommended that any party that did not receive at least three percent of the provincial popular vote would be ineligible to receive seats under the list system.³⁴

For example, if Party A were to elect 50 MMPs on the first ballot, that would represent 39 per cent of all the seats in the provincial legislature. However, if they gained 45 per cent of the popular vote on the second ballot they should proportionally receive 58 seats. In order for Party A to be proportionally represented in the legislature, it would be allowed to add 8 individuals from their list to the 50 seats they received on the first ballot for a total of 58 seats.

³¹ Citizens' Assembly Report, *supra* note 27 at 19.

³² *Ibid* at 10.

³³ *Ibid*.

³⁴ *Ibid* at 9.

With regards to the objective of “voter choice”, the Citizens’ Assembly believed that Ontarians would have greater choice under the MMP electoral system than under the current SMP electoral system. The electorate would have the opportunity to vote not only for a local candidate to represent their riding, but also for the party they prefer. Voters would no longer be “faced with the dilemma of wanting to support a local candidate but not his or her party, or wanting to support a party but not its local candidate.”³⁵ It is important to note, although voters would have the choice of party, they would not have the opportunity to directly select a member from the list, as the political parties would establish the lists prior to the election.

The objective of “fair election results” was proposed to be met by the MMP electoral system by ensuring that the number of seats each party receives is relatively proportional to the popular vote. No longer would political parties receive an inflated majority in comparison to the percentage of the vote they received, nor would political parties be underrepresented based on percentage of the vote. The choices Ontarians made during a provincial election would ultimately be reflected in their provincial legislature.

Finally, in terms of “strong local representation”, MPPs would still be elected to represent a specific geographic area ensuring effective representation and someone that was accountable at the local level. Ontarians would also have the opportunity to elect individuals from smaller parties that did not have the strength to get elected in an electoral district, but would receive seats under the list system by attaining the 3% threshold. Moreover, citizens that have been historically underrepresented would have the opportunity to be more fully represented, as parties would place members of these communities on their electoral list to entice support.

C. Referendum and Results

The referendum question in which the Ontario electorate voted on asked:

Which electoral system should Ontario use to elect members to the provincial legislature?

- The existing electoral system (First-Past-the-Post).

³⁵ *Ibid* at 6.

- The alternative electoral system proposed by the Citizens' Assembly (Mixed Member Proportional).³⁶

To be successful, the recommendation put forth by the Citizens' Assembly would need to meet two thresholds. Firstly, 60% of Ontarians voting in favor of the proposal; and secondly a majority of voters in 60% of the province's 107 electoral districts voting in favor of the proposal. If one or both of the thresholds were not obtained, the recommendation would be rejected. Of the 4.3 million electors to cast a ballot in the referendum, 63.1% of them voted to reject the proposed MMP electoral system, whereas only 36.9% voted in favor.³⁷ Out of the 107 electoral districts, only 5 returned a majority vote in favor on the recommendation – all of which were in Toronto proper.³⁸

III. EXPLAINING ELECTORAL REFORM FAILURE IN ONTARIO

A. Lack of Interest Amongst Ontarians

Ontarians, like Canadians by and large, think “about issues involving elections mainly at election time, but not on any continuing basis.”³⁹ They largely accept that fact that the government they elect is going to have quasi-dictatorial powers until the next election. However, every so often voters are awoken abruptly from their mid-electoral apathy angered by a current government's actions to the point that they will not rest until the situation is resolved either by the government or at the ballot box. Essentially, Canadians are creatures of habit that generally seek to maintain the status quo unless they feel that the political climate requires immediate attention. It should not be surprising that Ontarians would treat the issue of electoral reform any differently.

One of the reasons electoral reform failed in the province of Ontario is that the “underlying climate of opinion that would necessarily facilitate

³⁶ Evan Wilson, “Picking Winners: Provincial Electoral Reform Efforts, 2003-2009” (2009) 3 CanadaWest Foundation at 11.

³⁷ *Ibid* at 12.

³⁸ *Ibid*.

³⁹ Lawrence Leduc, Heather Bastedo and Catherine Baquero, “The Quiet Referendum: Why Electoral Reform Failed in Ontario” (Paper delivered at the Annual Meeting of the Canadian Political Science Association, University of British Columbia, 2-6 June, 2008) at 26.

the passage of a reform proposal”⁴⁰ did not exist at the time of the referendum. Opinion polling conducted by Léger Marketing following the referendum found that 74.04% of Ontarians polled were “satisfied with the way democracy work[ed] in Ontario”⁴¹ and by extension the province’s current electoral system. Moreover, the poll found that less than a majority of Ontarians, 43.46% of those polled, found “it unacceptable that a party can win a majority of seats without winning a majority of votes.”⁴²

Unlike the federal government or other provincial jurisdictions that had contemplated electoral reform, there was a “substantial contextual difference between the setting in Ontario and the forces that had been driving the electoral reform debate elsewhere.”⁴³ Although opponents of the SMP electoral system deplored its typical downsides such as artificial majorities, wasted votes and unrepresentative governments, the anomalies that were being experienced elsewhere were much less significant in Ontario. The province was not dominated by one political party nor was its citizens divided along regional lines. With the exception of the 1985 election, Ontario had never experienced a ‘wrong winner’ forming the government and even in that circumstance, although the Progressive Conservatives obtained a plurality of seats the Liberal and NDP parties formed a Liberal led coalition government. Furthermore, the Ontario electorate has consistently returned a significant number of opposition members, with the average size of the Opposition consisting of 37% of the Members of Provincial Parliament elected, subsequently negating the argument of a ‘feeble opposition’ that has preoccupied other jurisdictions.⁴⁴

Opponents of the SMP electoral system attempted to engage Ontarians by highlighting the controversial governments of Bob Rae and Mike Harris, as a reason Ontario should adopt electoral reform. Both governments had instituted substantial policy changes, which opponents charged, “lacked a sufficient democratic mandate to justify their bold

⁴⁰ *Ibid* at 26.

⁴¹ Stephenson and Tanguay, *supra* note 25 at 10.

⁴² *Ibid* at 11.

⁴³ Leduc, Bastedo and Baquero, *supra* note 39 at 5.

⁴⁴ Elections Ontario, *Past Elections Results*, online: Elections Ontario <<http://www.elections.on.ca/en-CA/Tools/PastResults.htm>>.

policy actions.”⁴⁵ However, this argument received very little traction amongst the Ontario electorate, as it could be equally argued that the SMP electoral system was operating on its strengths rather than its weaknesses.

In both instances, the SMP electoral system produced majority governments that allowed Rae and Harris to “exercise energetic and innovative leadership throughout their mandate...[as well as] take bold, and at times unpopular individual measures.”⁴⁶ At the same time the SMP electoral system was displaying another of its strengths in its accountability, as no one living in Ontario at the time could doubt who was responsible for the implementation of these policies. As a result, “it was easy for voters to know who [was] accountable for public policy, and to vote to remove them from office,”⁴⁷ which ultimately happened as Rae was evicted after only one term and the Harris Progressive Conservatives after two terms.

In summation, electoral reform failed in part in the province of Ontario because the political climate did not exist to mobilize enough of the electorate to seek change. Ontarians “may have often been frustrated at the choices presented to them in a given election, but when the election was over there [was] little lingering desire to engage in a continuing debate”.⁴⁸ Ontario was simply not experiencing the necessary conditions that would put electoral reform on the political radar. It should also come as no surprise that if electoral reform failed in the province of British Columbia, with significant anomalies produced by the SMP electoral system, the likelihood that it would garner support in Ontario seems remote.

B. Partisan Self-Interest

Another reason electoral reform failed in the province of Ontario was due to partisan self-interest. Experience has shown “that political parties often tend to favor institutional reforms when in opposition, but

⁴⁵ Leduc, *supra* note 2 at 26.

⁴⁶ Bryan Schwartz and Darla Rettie, *Valuing Canadians: The Options for Voting System Reform in Canada* (Winnipeg: Asper Chair of International Business and Trade Law, 2003) at 52; Bryan P Schwartz, “Proportional Representation in Canada” (2001) 28:2 *Man LJ* 133.

⁴⁷ *Ibid.*

⁴⁸ Leduc, Bastedo and Baquero, *supra* note 39 at 26.

lose their enthusiasm for them when in government.”⁴⁹ This proposition can certainly be applied to the matter of electoral reform, as many political parties have become strong advocates of reform during their time in opposition, only to have that enthusiasm wane once they have obtained a majority, as they become preoccupied with governing and less willing to share power. Often, even if they are relegated back to the opposition benches, they are confident that it is only temporary and that the electorate will reinstate them in the next election.

Though electoral reform was a significant feature of the Liberal Party’s electoral platform in 2003 there seemed to be little pressing need to pursue the reform upon forming government. It was not until halfway through the government’s first mandate that Premier McGuinty finally established the Citizens’ Assembly on Electoral Reform, thus failing to give the Citizens’ Assembly the necessary time to complete its work and properly educate the public of the proposed reforms before the electorate returned to the polls. The government also structured the referendum in a way that almost guaranteed its failure. Not only would 60% of Ontarians need to approve the proposed reform, but 60% of all constituencies in the province would also need to be supportive. Had the Liberal government been truly interested in seeing the electoral system reformed, they would not have established such an arduous standard.

Additionally, had the Liberal Party been interested in electoral reform they would have provided greater public support for the Citizens’ Assembly and its recommendation. Premier McGuinty quickly distanced himself from the efforts undertaken by the Citizens’ Assembly and declared his neutrality during the referendum campaign and most “cabinet ministers and backbenchers grumbled that the whole thing was an albatross around their necks.”⁵⁰ Consequently, it seemed to many in the provincial political sphere that “the Ontario Liberals decided that their losing streak [was] over”⁵¹ and electoral reform was no longer a priority or beneficial to their aims.

⁴⁹ *Ibid* at 1.

⁵⁰ Dennis Pilon, “Against All Odds: Winning Electoral Reform in Ontario,” (2007) 63 *The Bullet: The Socialist Project* online: Socialist Project <<http://www.socialistproject.ca/bullet/bullet063.html>>.

⁵¹ *Ibid*.

The proposed reform was not in the political self-interest of the Progressive Conservatives either. Although the Progressive Conservatives did not announce an official position on the proposed referendum question, their leader John Tory had hinted his opposition to reforming Ontario's electoral system, signaling to MPPs and the party faithful that it was not in the party's best interests.⁵² After all, no party in Ontario's political history has dominated the political landscape as the Progressive Conservatives have. They have been at the helm of the Ontario government over 50 percent of the time since Confederation and almost 70 of the past 100 years.⁵³ To the Progressive Conservatives, it seemed all too probable that they would not remain in opposition for any serious length of time. It is important to note that they probably also viewed themselves as the odd party out under any electoral system that could produce coalition governments which would be a likely outcome of any shift to a MMP system.

The New Democratic Party was the only established political party that supported the recommendation put forth by the Citizens' Assembly. Having consistently been relegated to third party status by the Ontario electorate, the party saw this as an opportunity to transform the electoral process and adopt an electoral system that would provide them greater political clout. Although the NDP's political self-interest cannot be doubted, certainly their political wisdom can, as they had the opportunity to reform the electoral system and fundamentally alter the political landscape after winning the 1990 provincial election. Undoubtedly, the NDP felt that their popularity was growing and may in fact benefit from the SMP in the next election.

It is clear from an examination of the political response the Citizens' Assembly and the referendum campaign that the political parties had little political self-interest in reforming the electoral system. It can be argued that the electorate could have supported the referendum proposal irrespective of the political parties' positions or interests. However, voters often "look for heuristics, cues or shortcuts in order to make their decision at the polls,"⁵⁴ which often involves taking into consideration the

⁵² "Tory Signals He'll Vote No In Referendum", *The National Post* (15 September 2007) online: The National Post <<http://www.canada.com/nationalpost/news/story.html?id=8fcb2fb0-608e-4291-9e8-6-81b7e84f3ca0>>.

⁵³ *Supra* note 44.

⁵⁴ Holly Ann Garnett, "Referendum Resource Officers in the 2007 Ontario

opinions and perspectives of their political leaders. Without an outward expression of support from most of the political parties, few Ontarians came to the conclusion of supporting electoral reform on their own.

C. Knowledge of the Electorate

Electoral reform in Ontario also failed due to the public's lack of information regarding the proposed recommendations. Ontarians polled shortly before the release of the Citizens' Assembly report indicated that the most compelling reason to reject the MMP electoral system was due to a lack of information, as "it is too important a change to make to [the] voting system without knowing more about it."⁵⁵ This assertion by the Ontarians ultimately held true, as 75 percent of Ontarians indicated they knew 'a little' or 'nothing' about the proposed changes to Ontario's electoral system on the eve of the referendum.⁵⁶ This lack of knowledge is especially poignant as Ontarians that were informed on the logistics of the MMP electoral system were supportive of the proposed change.⁵⁷

One reason that the electorate lacked information regarding the proposed recommendation was due to the insignificant media coverage the Citizens' Assembly received upon its establishment. The McGuinty government quickly distanced itself from the process and the Citizens' Assembly had no public relations campaign beyond the public consultation phase with the result that it operated in complete obscurity. This is reflected in the fact that shortly following the release of its recommendation a poll showed that four out of five Ontarians knew 'little to nothing' of the Assembly or the recommendations it produced.⁵⁸

Another reason Ontarians lacked information regarding the proposed recommendations was because the Citizens' Assembly had not completed its final report until May 15, 2007, nor had the provincial government passed the requisite legislation to formally establish the referendum until June 4, 2007. This gave Elections Ontario, the body charged with implementing an informational campaign, only four months to do so.

Referendum on Electoral Reform" (Paper prepared for presentation at a meeting of the Canadian Political Science Association, Edmonton, Alberta, 2012) at 3.

⁵⁵ Leduc, Bastedo and Baquero, *supra* note 39 at 30.

⁵⁶ *Ibid* at 28.

⁵⁷ *Ibid* at 27-32.

⁵⁸ *Ibid* at 29.

Elections Ontario therefore confronted several challenges; the inability to employ and educate enough employees, develop suitable print and online educational material, or even rent space to hold interactive presentations of electoral reform. Consequently, instead of mounting an informational campaign directed at the important choices Ontarians faced, Elections Ontario was largely forced to restrict the campaign to informing the electorate a referendum was to occur.

Due to the obscurity of the Citizens' Assembly and the inability of Elections Ontario to mount an effective informational campaign, the meager information the electorate received on the proposed changes came from mainstream media, which appeared to vociferously oppose the concept of electoral reform from the inception of the Assembly to the referendum.⁵⁹ Mainstream media regarded the Citizens' Assembly as a process driven by special interest groups attempting to amend the province's electoral system to meet their own ends; often instead of

being afforded respect, Assembly members were considered a 'fringe' and their value priorities were ignored or dismissed; they were derided...for holding what were considered deviant or contrary views which placed too much emphasis on proportionality.⁶⁰

Mainstream media argued that the MMP electoral system would lead to significant instability in the political process. The *Toronto Star* wrote an alarming editorial which questioned, "how far would weak premiers go, making obnoxious deals to keep their struggling in power?"⁶¹ It finished the editorial by stating "the system Ontario has enjoyed since Confederation...has proved its worth...[by] delivering strong, stable government that works."⁶² Likewise, *The National Post* published an article arguing that MMP would "create a legislature composed of many parties preoccupied with power-bargaining and gaining short-term advantage."⁶³ It

⁵⁹ *Ibid* at 31- 40.

⁶⁰ *Ibid* at 41.

⁶¹ "Electoral Reform Fraught with Risks", *The Toronto Star* (9 October 2007) online: The Toronto Star <http://www.thestar.com/opinion/2007/10/09/electoral_reform_fraught_with_risk.html>.

⁶² *Ibid*.

⁶³ Peter Woolstencroft, Rob Leone and Mark Yaniszewski, "MMP Only Creates More Problems", *The National Post* (29 September 2007) online: The National Post <<http://www.nationalpost.com/story.html?id=d9016584-9c4e-43c7-be65-7e746afec6df&p=2>>.

concluded, by stating that SMP has provided Ontarians “stable, effective and accountable government since before Confederation.”⁶⁴

IV. CONCLUSION

Electoral reform emerged in Ontario not as a result of the electorate’s dissatisfaction with the current electoral process within the province, but rather due to the Liberal Party’s belief that electoral reform could be a quick shortcut to power and influence. Once in power though, the party “overcame past misgivings and appreciated that only a plurality system gave them the advantage they now enjoyed”.⁶⁵ Inevitably, this resulted in, the Citizens’ Assembly and Elections Ontario not receiving the required time or resources to adequately educate Ontarians about electoral reform. Given these events, it can be stated that electoral reform failed in Ontario due to apathy amongst province’s electorate, partisan self-interest and a lack of information.

⁶⁴ *Ibid.*

⁶⁵ Louis Massicotte, “Bound to Fail? Electoral System Reform in Canada” (Paper delivered at the Duty and Choice: Participation and Preference in Democratic Elections Conference held in honour of André Blais, Montreal, 20-21 January 2012) at 5.