

Craig Scott Testimony to Electoral Reform Committee

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Introduction

The Chair (Mr. Francis Scarpaleggia (Lac-Saint-Louis, Lib.)):

Good morning, colleagues. Welcome to our witnesses.

I would like to thank them for being here with us today to share their ideas and their views on this rather complex issue.

This morning we have three witnesses: David McLaughlin, Craig Scott and Graham Fox.

I would like to summarize their biographical notes,...

Craig Scott is a professor of law at the Osgoode Hall Law School of York University. He served as the Member of Parliament for Toronto—Danforth from 2012 to 2015. He attended Oxford University on a Rhodes Scholarship. He obtained his Masters of Law from the London School of Economics. His academic specialty is international law with a focus on human rights.

Craig Scott is editor of the *Hart Monographs in Transnational and International Law* series and founding editor of *Transnational Legal Theory*. In 2000, he became a member of the Faculty of Law at Osgoode Hall, and he was Osgoode Hall's Associate Dean of Research and Graduate Studies from 2001 to 2004. As an NDP MP, he was the opposition critic for democratic and parliamentary reform.

Welcome, Mr. Scott. It is a pleasure to see you again here on Parliament Hill.

Initial presentation

Professor Craig Scott (Professor of Law, Osgoode Hall Law School, York University, As an Individual):

Thank you so much, Mr. Chair. It's good to be back. If I'd known I was coming, I'd have baked a cake, which is to say, I would have sent a paper. But I haven't and I'll send one afterwards.

Just to situate you briefly, yes, I did work on this file when I was a parliamentarian. I think the culmination, in terms of what went on in Parliament, was an opposition day

motion in December 2014 specifically to test the waters on not continuing with winner-take-all electoral systems and specifically to endorse mixed member proportional representation adapted to Canada. The vote didn't pass, but it is noteworthy to know that 16 of the 31 Liberal MPs voting that day did vote with the motion. Therefore, I think we have the basis for the cross-partisan/pan-partisan discussion that this committee is clearly all about.

Let me start by explaining in brief several reasons mixed member proportional deserves to be at the top, or at the top along with one or two other proportional models.

The standard reason you've all heard is that it's the best of two worlds, which are the two principles from the committee's mandate. They are called effectiveness and legitimacy, but effectively it's the fair translation of the votes-into-seats principle and the local representation principle, which are both attended to by the model.

The second two reasons I want to point out are less commonly noted.

The first is one that I have been beating like a dead horse for the last three years, but others don't seem to talk about it as much. I think MMP takes local MPs and local candidates much more seriously than any other form of PR and more than first past the post. That's because of the potential for crossover voting. Voters can tick "local representative" and vote for candidate X, who happens to be from a certain party, and then go over to the regional MP lists and decide which party they want to support, and which person on the list if it's flexible. They don't have to be from the same party.

I think that has salutary impacts. In New Zealand, around 30% take up that option of cross-voting. It means that the local candidates are more likely to be able to attract votes for who they are, what they've done, what they can bring nationally from the local level, without having to worry about the strategic vote. I think this is an extremely important feature of MMP.

The second thing is almost heresy to say, but I think the idea of having a coterie of regional MPs alongside the purely local MP has a salutary impact on national politics. It already is taking a bunch of MPs away from the purely local. They're going to have to look a bit more broadly at the dynamics in a bigger area than a local riding. I believe, after three years on the Hill, that we have a deficit when it comes to a capacity to focus on national issues in our Parliament. It's far too localized by virtue of the system of 338 ridings set alongside each other, which somehow then has to generate a national politics. I think there would be some added benefit from MMP that way.

Some of the problems from the current system deserve to be highlighted because I think MMP does address them, as would any serious PR system. One is the "diversity of viewpoints" problem. When you have false majorities, you have less of a true diversity of the range of voters' opinions. You have a serious problem with lack of diversity of viewpoints coming from regions. Right now Atlantic Canada is represented by, albeit a fairly large-tent party but nonetheless, one party. Toronto has gone without

representatives other than one party. When the NDP swept in Quebec in 2011, we had 80% of the seats, with something like 42%, 43%, 44% of the vote. That was no fairer in our score than what's happened in many other contexts.

It exacerbates regionalism because people tend to start associating Alberta for example as nothing but Conservative, especially if that repeats itself over more than one election.

It also feeds into an unduly executive-dominated Westminster system of Parliament. The false majorities can give licence to that power dynamic. It can produce tunnel vision and ideological fixations in legislation, rather than forcing legislation to have to encounter the different points of view that the product of proportional representation elections tends to produce and our false majority system doesn't.

I also believe we have a system—and it can be exacerbated in different points in time—that tends away from consensus and collegiality, and toward adversarialism and hyper-partisanship, almost a gridiron style of politics that is tied a bit to the winner-take-all dynamic and the organizing for the next election on those same terms.

Alternative vote is a ranked ballot system within single-member districts that is on the table. The Liberal Party has put it on the table in its own policy book from some time ago. I just want to make sure that.... It is crucial that everybody know there is nothing about AV that would really counteract most, if any, of these problems.

The first thing is that, although it is unpredictable, it is almost always the case that, at least to some extent, AV will exacerbate the problem of disproportionality. Éric Grenier for CBC, using available data right after the last election, suggested that something like 224 Liberals would have been elected, instead of the 185 or so who were elected under the current system.

Beyond that, even on its own terms, AV is presented as a majoritarian system. I want to make sure everybody understands the limitations to that characterization.

First of all, it's not really majoritarian in the sense of a majority of first preferences. For many of the ridings, you have to add second preferences. That's the first thing that everybody has to note.

The second thing is that it doesn't even make sense of the notion of making every vote count, which was the top line in the government's platform in the last election.

For years, we all assumed that the expression of making every vote count really referred to proportional representation. But it's clear that if it was used in the Liberal platform, it had to be meant to possibly do service to keep open the possibility of alternative vote. However, that can't be the case when AV doesn't actually count every vote equally. It's not just that what happens is that when you count the second votes, you're only counting from the bottom up until somebody crosses the 50% threshold. You almost never get to counting the second votes of the first- and second-place candidates after the first round. It's actually a false presentation of making every vote count.

I would say that there's also a deceptive majority problem. I'll send you the chart where I've done the work on this. You can actually get candidates crossing the threshold of 50% plus one in the first plus second votes, while if you added up all of the first- and second-place votes, including those for the top two candidates, that candidate would not be the preference.

It's a system that has benefits, but you have to be very careful to know what they are and not falsely say this is about a majoritarian system. It's really not a majoritarian system of great consequence.

I'll end by saying that I spent three years as an official opposition critic for democratic reform making the case for PR, and the NDP's position was MMP. That was arrived at after the NDP studied it in the early 2000s. There have been various commissions across the country, including the one in New Brunswick that was really well outlined by Mr. McLaughlin, the positive experience abroad in Scotland and New Zealand, Germany, for example, and my own review. I do believe MMP is the ideal, but I want to emphasize that principled and respectful compromise can do the job too. It's central already to your work.

I would, for example, urge this committee to consider the U.K. Jenkins commission's idea of MMP, allowing ranked ballot voting on the local election side. You'd have to make sure that you don't have a split between local and regional seats that unduly favours the local election side, because the ranked ballot could produce greater distortions at that level. But if there are folks in the room who say there's an independent benefit to ranked ballot voting for local elections, it can be built in.

Similarly, I also believe you can design a single transferable vote system that would allow for a degree of local attention. You can divvy up multi-member district ridings for service functions. You can have a coordinated delivery of services even though all the MPs represent the entire riding, and you can approximate a form of local attention with STV.

There are ways to compromise and get to multiple goals.

There are many other institutional design features that I'm happy to take questions on, but I'd end by saying that I think this committee started extremely well. [Minister Monsef](#)'s introduction talked about two mischiefs, not one. She talked about the problem of false majority. She also talked about why an alternative vote style system might address another set of problems. She wasn't exclusive, and the composition of this committee has, I think, given a jump-start to something that many doubted would ever be possible.

There are lots of folks out there, nay-sayers, commentators, who are assuming that behind the scenes—not for the members of this committee but behind the scenes—one of the goals is for this to all end up as a big noble failure and that there will be a deadlock, an impasse, nothing will come out of it, and we'll keep the current system. I don't think that has to happen. I have a skeptical optimism that I believe we can do

much better, and I believe you're starting that because this very committee is formed in a way that proportional representation would form committees in the future. You guys can do it. It will itself be proof that a system can work like this in the future.

Questions and Answers from ERRE committee members

...

Mr. John Aldag (Cloverdale—Langley City, Lib.):

Great, thank you.

Thanks again to all of our witnesses for some wonderful testimony. There's lots to think about.

The three of you have provided some excellent additional insights, things that I'm mulling over, but I'm going to start by taking a step back. Part of it's triggered by a discussion from one of our panels yesterday about "is this the right time for change?" I'd like to pose that question to the three of you. We're not in a crisis situation right now. The comment was made that the crowd's not marching and protesting by torchlight. Do we need to wait for that kind of crisis in our system to do it or are we at the right time? I've heard some general support for continuing our discussion.

Mr. Fox, I think it goes to comments that you made about whether change is needed now.

Prof. Craig Scott:

I'll start by saying I think it's probably in general not great public policy to wait for a crisis.

Second, there's been a slow buildup to this. It's not as if it's coming out of the blue. Since the early 2000s till right now, we've had a number of different commissions and processes from different provinces, even at the federal level with the Law Commission of Canada. There's something to be said for the slow-boiling, cumulative politics that produced where we're at now, which is what can tend to happen a little in more consensual parliamentary processes. They might take a bit longer for the same reasons.

Third is something called electoral promises. If we take seriously the very fundamentals of our electoral democracy feeding into the parliamentary system, it was a pretty high-profile promise on the part of the government to start this kind of process. At least two other parties had more specific ideas but obviously were open to the bigger discussion about what kind of electoral reform, so I think there is a popular mandate. People vote for all kinds of reasons and all kinds of dynamics, but we would be throwing out the window the idea of party platforms and the worth of electoral promises if we didn't take this one quite seriously.

....

Mr. Scott Reid (Lanark—Frontenac—Kingston, CPC):

Thank you very much. All the presentations were excellent, but I have to focus my questions on one person, so it will be Professor Scott.

First of all, let me say, Craig, it's a pleasure having you back here.

Prof. Craig Scott:

It's good to see you too, Scott.

Mr. Scott Reid:

We sat on a committee together during Craig's entire period as a parliamentarian. I thought he was one of the most thoughtful people we had ever had on that committee. That's high praise, because among others Ed Broadbent had sat on that committee at one point.

Prof. Craig Scott:

Thank you.

Mr. Scott Reid:

I want to turn to substance. I agree with your analysis of alternative vote. I think you're entirely correct in how you describe it. I think it has an additional problem in Canada, and that is that, unlike most first past the post systems, where you tend to get a party of the right and a party of the left battling it out, and you get a government of the left or the right alternating, in Canada we've tended to have a party of the centre governing. The Liberals, therefore, have a systemic and predictable advantage under the AV system.

Harold Jansen who appeared before us pointed out that both in 2015, their best election in three decades, and in the 2000 election, the worst election ever for the Liberals, they'd get more seats under alternative vote than under the status quo. I asked about previous studies, previous elections. He said one had been done on 1997 that confirmed the same thing, and I've since looked up that study. It appears to be the case that, given our party structure, perhaps not forever but at least for the next election, this produces a predictable result. That is significant because you could get a smaller percentage of the vote than they got this time and still get a majority under AV, and therefore get 100% of the power. In fact, this is the opposite of the kind of proportionality that I think we're looking for.

Having said that, I'll now move on to your discussion of MMP. Again, my sense, from what we've heard from witnesses, is that MMP tends to work better in the Canadian

context than in the other proportional models for reasons I won't go into or else I'll do all the talking. You mentioned a model, which was recommended by the Jenkins commission, that involves proportionality through a list, and then has alternative vote at the riding level. You said you think it may have some merit.

I'll read the Jenkins commission's report in due time, but the concern I have under this system is that if we implemented it here, one party, the Liberals, would get all or the vast majority of the riding votes, and the list seats would therefore go to the other parties. This would produce, at the very least, an odd balance in Parliament. It might not be the end of the world, but I want to ask you if that strikes you as being a problem, given the nature of Canada.

Prof. Craig Scott:

Yes, it's definitely a problem. It's why I very hurriedly ended my comments by saying you'll have to be very careful about the distribution of local versus the regional list seats, because you'll get at least as much if not greater distortion of the number of seats won by a party that's favoured by AV at the front end. For example, if one said that the law reform commission, without recommending AV as the way to vote on the local side, just first past the post for the local elections, recommended 65:35, or roughly two-thirds and one-third, if you kept that proportion and went to AV, it wouldn't be good enough. You'd have to at least go down to 60% in order to account for that extra distortion, for the reasons that you're saying.

I'm offering it out there as a position that would still have to be fought for. People would still have to ask what is it about AV, other than what I'm calling relatively unclear and not entirely accurate claims about majoritarianism, that people think is fixing something? If that case is made, and somebody wants to go in that direction, you can still build it into MMP. That's really my only point. It's not the first place I would go, because I think it makes the proportionality side harder to achieve.

Mr. Scott Reid:

I have 20 seconds, so just quickly, we heard a very good presentation yesterday from some German professors suggesting we should have a fifty-fifty split, list seats versus riding seats. Given a choice of where you'd put the marker, what percentage would you pick?

Prof. Craig Scott:

I tend to use sixty-forty; it's almost a political guess, too. Proportionality is my first stop in terms of design. I think the German system comes much closer to ensuring it, and fifty-fifty is recommended for a reason by them, but sixty-forty I think would be the top that I would go to in terms of the split.

...

Mr. Nathan Cullen (Skeena—Bulkley Valley, NDP):

I'm a seventy-thirty guy myself, but we can have that argument later.

I don't know if any of you read the Andrew Coyne piece from yesterday. He talked about effectiveness of government. One of the things that government needs to be effective is predictability that they can have a two-, three-, or four-year mandate. In nine out of 20 of the last elections, Canadians have put forward a minority Parliament, which under first past the post is very unstable, because there's an incentive from somebody at any point to bring the government down. Yet when we've looked through the global experience of first past the post versus proportional governments, there is actually slightly more stability on the proportional government side, because there isn't that same incentive under that system to bring the government down.

Is anything I've said so far wrong in the analysis, Mr. Fox or Mr. Scott?

Mr. Nathan Cullen:

We looked at some OECD 60-year longitudinal study, that type of thing.

Prof. Craig Scott:

I think the bottom line is that the two systems, on the stability measures of length between elections and length of government, are actually quite similar. There's a tiny edge on these long-term longitudinal studies for PR systems, but it's not statistically significant. A lot of the studies that might have been taken into account back in the early 2000s were throwing Italy in. What were effectively cabinet shuffles—

Mr. Nathan Cullen:

Ah, Italy.

Prof. Craig Scott:

—were treated as government changes. That skewed some statistics.

Mr. Nathan Cullen:

When the cabinet would shift, it was recorded as a change of government.

Prof. Craig Scott:

Right.

Mr. Nathan Cullen:

Craig, you talked earlier about tunnel vision in policy. We had Mr. Broadbent here earlier suggesting that if you go back in time we've had many governments form in Canada with very poor representation from all the regions. Previous Liberal governments with almost no representation in the west, his contention was that it led to some bad energy policy. We've had Conservative governments with the opposite: a very strong western base, but virtually nothing in Quebec over much time. The balance of those interests and regional interests under a proportional system, some see that as a diffusion of focus for a government, a lessening of the strength of the policy that comes forward.

How would you argue against that?

Prof. Craig Scott:

I'll be very brief.

I think insight and legitimacy comes from diversity. If you have a serious interaction of diverse points of view in a good-faith climate, you come to better policy.

Mr. Luc Thériault (Montcalm, BQ):

Thank you very much, Mr. Chair. I would like to thank you, gentlemen, for these presentations.

The Bloc Québécois is in favour of open change, but not just any change in any way whatsoever. We are saying that we have to go beyond the inner circle, the experts, and especially the political parties. We are starting from the premise that this is a file dominated by partisanship. As balanced as it is, the committee is also dominated by partisanship.

That is why we believe that there must be a second step in the process. We must put citizens back at the centre of our desire for reform. I understand that you agree with that, Mr. McLaughlin.

Mr. Craig Scott:

As Mr. Fox said, I also believe that there is an educational aspect to this issue. It is not therefore necessarily a question of partisanship, but a question of knowing whether or not the men and women in politics represent Canadians.

Mr. Luc Thériault:

Do you not think, Mr. Scott, that when a government or political parties are responsible for reforms, the motivation for change is the extent to which it favours the party and partisan interests?

Mr. Craig Scott:

Yes.

Mr. Luc Thériault:

First of all, no one is going to forget that. Everyone recognizes that no system is perfect. There are advantages and disadvantages to every system.

Mr. Craig Scott:

That is not the same thing.

Mr. Luc Thériault:

The final decision must be the responsibility of the people; it must be up to them. What do you think, Mr. Fox?

....

Ms. Elizabeth May (Saanich—Gulf Islands, GP):

Thank you very much, Mr. Chair.

Thank you to all the witnesses, and again particularly, you said in your opening, Craig, that if you'd known you were coming.... For those who are watching who don't know, you were able to sub in at the last minute for a witness who suddenly cancelled. I don't know how many of you are in the same boat, but I'm very grateful to have this panel this morning.

I want to start with you, David, about the experience of the New Brunswick commission. I have a question from Twitter that came from Laurel Russwurm. She wants to know if you think New Brunswick should have implemented the recommendations. It's a tough question. You put a lot of work into it. Do you wish in hindsight that MMP had been brought in for New Brunswick?

Ms. Elizabeth May:

In terms of your focus, I'm very gratified by the focus that you've brought here, which you used in the commission, of a more citizen-led democracy. I've been trying to figure out how we, as parliamentarians, because I see us around this table first and foremost parliamentarians and not some sort of proxy unit for large political parties.... I think the way we'll come to a consensus here will be operating as parliamentarians, and we have

to somehow disengage the notion of a voting system that serves political parties and focus on a voting system that serves the interests of voters to feel their vote counts.

How in practice did that lead you to MMP? I'll ask the same question of Craig and Graham, if I may. How do we as parliamentarians dislodge ourselves or at least communicate to Canadians that our job here is to act in the interests of Canadian democracy and the voters?

Ms. Elizabeth May:

Craig, do you have a comment on this?

Prof. Craig Scott:

Yes. It may be a slightly tangential comment because I didn't get it in on my main comment. It is that if we are going to take Canadians seriously in the way you have outlined so well, we also have to bring into the discussion, at the institutional design level, a few other questions.

The question of gender has to be really quite central. For example, if you went to an MMP system, would the zippering of the list be that every second person on the list for any given party must, by legislation, be a woman? Would something along those lines make sense as well for aboriginal peoples, given where we are at in our collective understanding of 150-and-going years of relationships with aboriginal peoples? I think you have to somehow figure out those two factors, along with other, less representative communities. It is not the generic people only. You have to think about Canada as it is and figure out what elements can be built in that aren't overly complicating.

Mrs. Sherry Romanado:

Okay.

Mr. McLaughlin, you said the one value that wasn't included was the effective government, and my colleague mentioned it as well. In terms of prioritizing the values or principles, what are the things that Canadians may be willing to trade off? We have heard there is no perfect system to address all the issues that we have in our electoral reform mandate.

What should we be doing to make sure we capture the proper information to give us the idea of what is absolutely non-negotiable versus "Okay, I could live without that"? What would you recommend?

Mr. David McLaughlin:

I'm going to riff a bit off what Graham Fox said in terms of putting some stuff out there that people can react to. We did that in the New Brunswick commission. We had

an options paper. We had some draft recommendations. We put things out to try to narrow the debate in terms of getting people to respond to specific things, to help us come to conclusions and decisions. I do commend that, whatever the equivalent would be for you folks to do something similar.

An example of the trade-offs would be proportionality, pure proportionality versus effective government. A pure PR system, designed willy-nilly, will lead you to issues of stability and the rest of it. There is an example of it. How far are people prepared to go? They will list these things as their values and they will want to have them reflected as much as possible. That's the dilemma—as much as possible. So it's two words: design matters. The design of your system, in terms of what kinds of outcomes it produces, will have a real impact on how much of one value or principle is reflected or not.

I think Canadians would be willing to let a committee like this, hearing from experts, help shape that, as long as they see that the core principles are in there. Since there is no ideal system, there is no best system. It is by definition going to be a choice of trade-offs, but the sooner you are able to put out to people something about your thinking, something about shaping the conversation in a way that allows you to get a better handle on it, the more productive your work will be.

The short answer is that there are lots of specifics you can do in there, but something along those lines would be useful.

Mrs. Sherry Romanado:

Okay.

Mr. Scott, do you have any suggestions?

The Chair:

You have about 15 seconds.

Prof. Craig Scott:

I think what Mr. McLaughlin said was absolutely correct.

Voices: Oh, oh!

Mr. Blake Richards (Banff—Airdrie, CPC):

Thanks, Mr. Chair.

I appreciate everyone being here today.

Good to see you again, Mr. Scott. As Mr. Reid said earlier, you and I had this opportunity to sit on that committee together as well. I feel like we're playing musical chairs, because I think you sat right in this chair, exactly—

Prof. Craig Scott:

Exactly that chair..

Mr. Blake Richards:

—where I am. I was over there. I don't think either one of us ever thought we'd be sitting over there where you are, but welcome back.

Prof. Craig Scott:

Forced retirement has its virtues, by the way.

...

Mr. Matt DeCoursey (Fredericton, Lib.):

Thank you, Mr. Chair.

I would like to thank our three witnesses for their remarks and their wisdom.

[*English*]

Mr. McLaughlin, I appreciate the levity in answering Ms. May's question. I think it reminds us that we can't predict the outcomes of elections. I know that the election in 2006 was called early in New Brunswick, I assume with some thought of partisan advantage, which turned out the other way.

It gives me an opportunity to clarify the record for my friend Mr. Reid, who I believe adds a lot to this conversation as well, that Harold Jansen, yes, did opine that perhaps the AV system would lead to a certain result in perpetuity, but then came to this committee and essentially contradicted himself, saying, no, we can't predict the outcomes of elections not knowing what a different system will deliver to us and not knowing what other issues will be in play at that time.

I do have a question about the process, which I'll get to in my second question, but I want to talk to you, Mr. Scott, about a comment you made about the importance of campaign promises. I would say that this could be an arguable merit of the system now, that parties deliver platforms, visions for how they want to steer the country. Voters vote, hoping to see those commitments enacted. We've had some testimony that in different systems of PR, you muddle some of the campaign visioning or the platform visioning that takes place. That's one thing I'd ask you to comment on, where you see the relative trade-off there and how we should present that to Canadians.

The second question is about this idea of fairness and equality of the vote. I'll agree that elements of PR allow for votes to be counted in fair ways. Have you seen any of the testimony from Dr. Maskin, who presented to us the idea of the majority rule, where effectively each winning candidate is preferred to all the other candidates in a particular riding? Do you think it would be fair to present both an MMP system as a way of achieving fairness in the vote as well as this system when we speak to Canadians?

Prof. Craig Scott:

Yes, the last one was interesting. I'm not sure I will have a good answer.

On the first one, I think you've seized on a very important structural issue, but we also can't indulge in myths. So, yes, there are platforms and there are promises and people do vote hoping their party would generally, for those who know what are in the platforms...would like to see. But people do know minority governments can happen in our current system and we've already just briefly touched on how that can be a somewhat dysfunctional way of figuring out which campaign promises do get attended to and which don't and what kinds of compromises are made.

If you have a system where people know in advance that campaign platforms do have to end up in some kind of a more compromising collegial environment, it might not be a bad idea to start pushing parties to be a bit clearer on exactly what their top priorities are, in a way that basically tells people what might happen if this party and this party start talking about a coalition government. I think there is an issue of not knowing exactly what to count on when two parties start talking together who haven't indicated in advance that they would form a coalition. In most PR systems, you do know in advance what the likely coalitions are going to be—not always—and that can play itself out in how the platforms get presented.

I wrote something recently on this. I think it is an important issue and more generally we have to be more attentive to how easily we make promises and how many promises we make in campaign platforms. I actually think we have a kind of debased electoral process right now. The platforms are too huge and too unrealistic.

On the second one, if the two can fit together and produce proportionality and there's independent merit to the majoritarian model that was being discussed, then I would never rule it out.

....

Mr. Alexandre Boulerice (Rosemont—La Petite-Patrie, NDP):

Thank you very much, Mr. Chair.

I would like to thank our three witnesses for being here with us this morning for this fascinating study. In particular, I would like to thank Mr. Scott for returning to see us again. I have to say that I really wish he could be in my shoes.

...

Mr. Alexandre Boulerice:

Thank you.

The committee heard from Jean-Pierre Charbonneau. Once upon a time, he was involved in an attempt to reform Quebec's voting system. At the time, regional representatives in Quebec were concerned that they would be less represented or less well-represented in government. Mr. Charbonneau said that a mixed-member proportional system could produce the opposite effect if regional members worked together.

Mr. Scott, you talked about this earlier. Mr. Charbonneau said it would force members of both governing and opposition parties to work together in the interest of their region. What do you think of Mr. Charbonneau's idea?

Prof. Craig Scott:

I think, again, that political culture will be so important. Transition will take time, but yes, the idea of regional MPs from different parties working together is real in Germany, for example, although they have less of a service culture when it comes to their constituents than we do, so it is not tested the same way. Nothing precludes a very different way of interacting professionally as parliamentarians.

Mr. Alain Rayes (Richmond—Arthabaska, CPC):

Thank you, Mr. Chair.

I would like to start by thanking our three witnesses for being here with us today.

As my colleague mentioned earlier, those who want to change the voting system to a proportional system, mixed-member or otherwise, always talk about how people regularly tell them their vote doesn't count.

Yesterday, however, the Institut du Nouveau Monde representative talked about a survey that revealed the real reasons people gave for not voting. Survey respondents said that they were too busy, that they were dealing with a problem with voter registration, that they felt cynical or uninterested in politics, that none of the planks in the candidates' or parties' platforms interested them, that they did not trust the parties, that they were out of the riding, that they had health problems and so on.

I get the feeling that people saying their vote doesn't count has more to do with the fact that their political party didn't win the previous election. That frustration can carry over from one election to the next. Am I right about that?

Regardless of the voting system in place, voter turnout is down worldwide. That's why changing the voting system will not, in and of itself, motivate people to vote in greater

numbers or develop a greater interest in election issues. I think what we really need is a culture- and education-based change.

You said it well. The three young people who came to talk to us really emphasized the importance of civic education about politics. Is that right?

Would you please comment on that?

...

Prof. Craig Scott:

I would only add that I think it's important to understand that changing the electoral system and the 5% to 8% increase that creates for turnout, by most studies, isn't just about people knowing "my person can be elected more easily". It's associated with producing a better political process too. I think part of the outreach to Canadians needs to talk about the connections between the electoral system and what Parliament and the House of Commons could look like that you could reasonably project would be different. My experience in three and a half years as an MP was that I think we underestimate how much people care about the way Parliament works and parliamentarians act. It might not be at the top of their list, but they care.

Ms. Ruby Sahota (Brampton North, Lib.):

My mind is going in a hundred million directions right now, and which one I should take.

Mr. Fox, you had raised the point about the next step of our process. We should really go prepared to people with a main concern in mind. We feel a sense of urgency on this committee. The government feels a sense of urgency because they have made a commitment to look at this and to change it. How do we get people to feel that sense of urgency? We've been talking about this issue for years and years, and we know there are issues at stake that are important to people, but how do we get them to understand? What would you think is the main concern we should be addressing to people? I know you were talking about whether we've discussed and come up with a main concern. I think we have many concerns, but we can't figure out how to get people concerned about this issue.

...

Prof. Craig Scott:

All I would say is, get the Tragically Hip to do a bunch of town halls with this committee and then call the CBC, and you have your engagement right there. I am only half-joking. The CBC has started doing town halls outside of election cycles, for example with the Prime Minister and a minister or two. It is a completely legitimate thing to

approach a public broadcaster about a completely pan-partisan parliamentary process and whether or not they might be interested in that dimension of your work in terms of publicizing through town halls.

The Chair:

Thank you for that idea. It is a good one.

Mr. John Aldag:

Mr. McLaughlin, in your opening comments you made a statement about the model that was developed, that you couldn't have both the list MPs and the constituency MPs in the mixed member proportional model. I am curious about the reasons for that. We have heard from other witnesses, in other jurisdictions, that they allow that. It is interesting that you excluded it, and I am just wondering what the thinking was behind that.

Mr. David McLaughlin:

Let me take advantage of this to perhaps answer Mr. DeCoursey's question about the closed list as well. They all sort of come together.

Mr. John Aldag:

Yes.

Mr. David McLaughlin:

First, we chose the closed list because of the feeling that, if the lists were closed, then the parties would make a bigger effort to put more women in particular on the list. That was a concern of the commission at the time, to try to increase the number of female representatives in the legislature.

Second, we were concerned that open lists would result in real intra-party competition as candidates vied for share of voice relative to others to move up the list and get votes, and therefore this would put parties in a position of being overly competitive, and would demean the political process a bit.

Third, perhaps peculiar to New Brunswick, was the sense that large population centres could overpower smaller communities. If you had a list member from one city or bigger town within a community, then they would get more votes relative to others. There was a sense of unfairness. Those are the things that drove us there.

Again, with that process, it's not a far leap to say let's not allow the candidates to be on lists as well as local member candidates. We were concerned about two things.

One was this potential gaming of the system, that they would say that you got elected on the list. They saw you put your name there. Partly what was of concern to us was creating two-tier MLAs. It's not a guarantee, but how you arrive in office, or how you arrive in your legislature, your House of Commons, does have a bearing on how colleagues treat you and react to you, and potentially more importantly, how citizens or constituents would react to you. That was a feeling that it would be better from a non-gaming perspective, that the public would see the system as your choice, you won or you didn't win, end of story.

Remember, the systems, especially New Zealand's, were relatively new. We did hear evidence, from talking to New Zealand folks, about this sense of second-class or first-class MPs or MLAs. It was a way to try to address that.

Over time you guys work things out in your daily business, but that was what motivated us.

The Chair:

Mr. Scott.

Prof. Craig Scott:

Briefly, there's a politico-cultural dimension to it. In Wales there was that kind of resentment, to the point that they did try to have a rule along the lines of the New Brunswick proposal, and Westminster overrode it. In Germany they basically almost force everybody to be running locally as well as to be on the list. Apparently, a high percentage of German members of their legislature served in one or the other capacity over the course of their careers. One thing the German approach does is it actually gets people to understand that there isn't such a great difference between the two sets of MPs, and it produces more continuity.

Some people would say, in a "throw the bums out" culture, that's not a good thing. Obviously, I'm sitting on the wrong side of the table to be saying this, but in Canada we probably have too much turnover. We have, probably, the highest turnover in comparable legislative processes. We could benefit from, probably, having more continuity, especially in collegial, consensual legislative environments. If people who are completely new are constantly coming in high numbers, you do lose something. Germany has more continuity, and I think being able to be on both is part of it.

The Chair:

Thank you.
Mr. Reid.

Mr. Scott Reid:

Following up with that, I agree with Craig's observation about the high turnover here. It's striking. I've been here for 16 years, and I'm one of the 15 most senior people on Parliament Hill. If I were in the United States Senate, I would still be struggling to get—

Mr. Scott Reid:

—a junior chairmanship of a subcommittee on something nobody wants to do, and I'd be surrounded by octogenarians who've been there since President Truman or something—or McKinley, maybe. That is a realistic problem that exists, for sure. ...

....

Mr. Nathan Cullen:

We've also heard from elections officials that as the committee—or Parliament, more importantly—starts to narrow down, they begin their work as an elections commission. If they can tell Parliament is headed towards one of these models, then that whole idea of this being too rushed and then there's a panic, and then the next election doesn't come off coherently, if I can put it that way, is diminished if Elections Canada is given early signals. These are a couple of paths that were taken.

David, you would agree?

Mr. David McLaughlin:

Absolutely. They are the ones who administer the election and they're responsible for its proper administration at the end. So yes, they've got to get going.

Prof. Craig Scott:

Can I just—

Mr. Nathan Cullen:

Sure.

Prof. Craig Scott:

I'll make it two sentences. One is this that this goes back to that CBC suggestion. At some point, having this committee in a deliberative mode, with the institutional design choices of an MMP—there are 15 main institutional design choices and maybe seven are crucial—having the different models in play where you're all working through together in maybe a slightly hypothetical way, because you're not all committed to each of these or maybe any of them, in a well-moderated way, where you can possibly film it, it could possibly be done in public, you could consider something like that. I just taught it last term. Make yourselves like a mini citizens' assembly in the way you interact.

Mr. Luc Thériault:

Mr. Scott, on the subject of cultural change, you said that the transition would take a long time. I agree. Just changing the mechanism does not mean that, from one day to the next, people on the ground will start working together. If the proposed Quebec model had passed, then when I was elected in 2003, my rival would have been elected as well, but he would have been a list member. He would probably have become the Minister of Transport.

Imagine what collaboration would have looked like in that scenario. I think it would have led to—this was actually my experience—four years of partisanship. We would have had the government representative on one side and the opposition representative on the other.

Wouldn't the cultural change mean focusing more on the legislative branch, on how we decide who represents the people in the House and on the ideological plurality that's represented to ensure that every vote counts? If we want to push cultural change even further, why not elect the executive with a majority of two-thirds of the representatives in the House?

Mr. Craig Scott:

It's a very good suggestion. It might be a good idea, but we don't have time to comment.

Ms. Elizabeth May:

Thanks very much.

By a bit of preamble, when you were talking, Craig, about the fact that this has been an issue since 2000, going back through parliamentary records, it may interest you to know that the first parliamentary committee looking at electoral reform was in 1921, when Ireland had just gotten single transferable vote in order to protect minority rights in Ireland. It has been a topic that has come up, and it seems, as far as I can determine, when every commission, federal or provincial; every citizens' assembly; every law commission; every review of electoral reform since 1921 in Canada comes to a conclusion, it comes to a conclusion that we should move to some form of proportional representation. It does seem to me that the time is right and that this is a once in a generation opportunity.

But in my questions to you, I wanted to focus on the harms of first past the post, because you raised one that Professor Peter Russell identified. When you combine a Westminster parliamentary democracy such as Canada, where the executive has rather more power than even in other Westminster democracies around the world, and certainly more than in the U.S. where the executive has checks and balances, it's rather important to know that the majority of Canadians support the general direction of a majority government. You referenced this rather tangentially in your opening remarks. I

wondered if you wanted to revisit the question of the power of the executive and the harms that can be done when you have what Professor Russell calls a false majority. And I don't think it's partisan; I don't know how else you'd describe it.

Prof. Craig Scott:

Yes, we tend to address the false majority notion as in a party simply gets more seats in the legislature than their popular vote would warrant, and that seems unjust; and it's a voter-centred perspective and that's good, that's fine to say that's a problem. But the fact is you're giving the majority of seats to a single party in a system where there's a fused executive-legislative arrangement that in any Westminster system already gives a lot of power to the executive. In our—I wouldn't say political system—political culture, we have a much greater degree of internal party unity, party discipline. I think the localization pressures on our MPs, because of the size of the country and other things like that, also mean that the extent to which parliamentarians can be legislators, as opposed to members of a party, taking direction from good advice, etc.... We have a culture where once you give a majority to one party, you are partly at the mercy of how that government runs itself because you can have more and less willingness to engage with the rest. The rest could be not just the opposition but the 60% who didn't actually vote for the party that now has 100% of the power.

...

Mrs. Sherry Romanado:

Before the other two go, I'm just going to probe a little more on that. You mentioned that if what they value most is to know their MP and know where their MP lived—and trust me, I have people showing up on my lawn—that being said, why would we ever recommend a closed list? I'm just throwing it out there. If people want to know who they're voting for, the person, not just the party but the person, why would we ever put forward a closed list?

Prof. Craig Scott:

I will just answer briefly.

I think Dave was sort of predicting what might rise to the top. In terms of the closed list, keep in mind that there is a direct analogy. People are actually already faced with closed lists in our current system. It is a one-person list, but the party is the one that generates the only person you can vote for. If you are leaning toward a particular party

or a set of principles, you know who is on the list generated by the Conservative Party, the Liberal Party, the NDP, the Greens, etc. It is all transparent, and the ability to then tick is an added element.

You know who you are voting for on these lists, and then you can evaluate: “How did they produce that list? I am not going to vote for a party that produced the list this way. I am more inclined to vote for a party that produced it that way.” “Closed list” doesn't mean they are closed in all senses; it just means you can't go in and change them.

The last thing is that, when I went on a tour as official opposition critic—I think about 12 different sessions across the country—I started with a list of something like 10 or 11 different principles or variables. They had to be a lot more specific than the ones for the mandate of the committee. I got people to fill out at the beginning, before there was any discussion at all, where they were on that. It took about five to 10 minutes, then there was whatever the session was, and then I had them do it again.

This was slightly biased, because people were coming knowing I was NDP, knowing we are already in favour of PR, etc., so it didn't represent Canada, but it represented where people started—that was most valuable—and then it represented change. The change wasn't so great, but for your group the changes could be quite important.

Mr. Alexandre Boulerice:

Thank you, Mr. Chair.

Before I ask my question, I would like to point out that Mr. Cullen and I do not embody a great deal of diversity in many respects.

Yes, we are both men, and we are both white. One of us has a beard; the other is clean-shaven. However, we are very different in one very important respect that is typical of our electoral system. Mr. Cullen's riding covers 330,000 square kilometres. It is larger than Poland. Mine is 11 square kilometres. The circumstances governing our work as MPs are extremely different.

When we look at the systems in Germany, New Zealand, Denmark and the Netherlands, we see a number of very interesting things. However, we can't just copy-paste. That's why I like Jean-Pierre Kingsley's suggestion about being informed by what is happening elsewhere but coming up with a made-in-Canada system. I feel we should really think about that.

If we want to achieve proportionality, I think there are three ways to do that. We could have provincial lists, regional lists within provinces—some provinces are larger than others—or amalgamated ridings, which would result in multi-member ridings with three, four, five or six members representing the same small region.

Obviously, that would work well for Montreal, but it would not work as well in Mr. Cullen's riding or the Northwest Territories. We have discussed this with witnesses who expressed differing opinions on the subject.

Can we have a system with first-past-the-post ridings in some cases and amalgamated ridings in cities and suburbs allowing for a degree of proportionality?

I would like to hear from all three of you.

Mr. Craig Scott:

I think we could have a system like that, and I don't foresee any constitutional issues with it. There would really have to be exceptions for northern ridings and maybe for very large ridings closer to cities in the south.

Like the NDP, we considered a mixed corrective system designed for Canada. I think that Mr. Kingsley's suggestion has a lot of merit. However, I don't know that it's such a good idea for ridings with smaller populations to have just one member. They could be combined, except in the north, where they should remain as they are.

Ms. Ruby Sahota:

Thank you.

I want to move toward finding other ideas, a made-in-Canada solution, and then I think we could adopt a lot of these systems to perhaps fit into our country.

We have vast differences from a lot of other countries. Redrafting boundaries is going to be a big hurdle; it would be complex. Having ballots that have far too many options would be a problem. We've been talking about a lot of these different issues that we're facing, as well as the values that are important. I know fairness keeps coming up when we want to move toward PR.

And then there are also these other issues that we've been talking about throughout the week. I feel we haven't created a really concrete causal connection to PR, which is female representation, diversity, and other things. Because so many factors are in play when you look at those things I don't think any electoral system—and you can correct me if I'm wrong—but from all our witnesses we don't have a direct link at this point that gives cause and effect.

I would like to take a look at some slightly different options.

Mr. Scott, you had mentioned the Jenkins commission and an option that they proposed because they didn't want to increase the number of their members, and didn't want to perhaps redraft boundaries. They went beyond AV but tried to make it more proportional; I'm not quite sure. Could you lay out the differences between what they had come up with and MMP? Is it the same, or how does it differ?

Prof. Craig Scott:

Yes, some call it AV-plus, and some call it MMP-plus.

I call it MMP-plus because it's MMP but when you're electing on the local side, instead of using first past the post as we do, you use the ranked ballot, so you produce the locally elected MPs that way. That's the only difference.

But they also were quite fierce in their criticism of AV as a stand-alone reform where you just keep single member districts and use AV. I don't know what the compromise dynamics were whereby they must have seen a separate set of good reasons why having more general support—even if some of it is second preferences, it counts for something—and they embraced it. I can't quite remember their reasoning. That was the only difference from MMP.

Ms. Ruby Sahota:

Okay.

We saw from this panel we had from Scotland, and we've heard testimony, that once people go toward PR they don't go back. But I'm just a little perplexed why that referendum in the U.K. didn't work since so many regions and their municipalities have changed toward a different system, but—

Prof. Craig Scott:

I think their referendum was on alternative vote, not on PR.

Ms. Ruby Sahota:

So it was the question. It was the choice that was presented to people that they didn't like.

Prof. Craig Scott:

And it wasn't tied to the Jenkins commission report. It was separate. Alternative vote was the proposal, and it was voted down.

Mr. David McLaughlin:

It was the coalition agreement with the Liberal Democrats. I think, as part of the agreement to form a coalition, the Conservatives agreed to have a referendum on this preferred system. That was the price of a coalition. There are prices to be paid in forming coalition governments.