

ELECTORAL REFORM FOR PRINCE EDWARD ISLAND: A Discussion Paper

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The Author's Acknowledgements

This paper grew out of an idea Institute of Island Studies director Harry Baglole has bandied about for years. Several drafts fell under the eagle-eyed scrutiny of a team of reviewers that included the Maltese scholar Godfrey Baldacchino, Peter Hay in Tasmania, and John Crossley, Jeannie Lea and Edward MacDonald at UPEI. Their contributions have been invaluable. The mistakes lurking within remain, of course, my own. At the Institute of Island Studies, Jane Ledwell and Anne McCallum deserve credit for making space for an itinerant law student, as does Laurie Brinklow, without whom chaos reigns, nothing gets published, and researchers don't get paid.

J. Andrew Cousins

PREFACE

The one-sided results of the 2000 provincial election have served to nullify, at least for the present, one of the principal reforms brought in by the Progressive Conservative government in 1996. The PCs campaigned on a promise to strengthen the role of the Legislative Assembly in Island political life. To this end, they introduced a second annual sitting of the Legislature, in the fall, along with other reforms. The election results in 1996 were relatively close — nineteen PCs, eight Liberals, one New Democrat; this, in conjunction with the extra sitting, resulted in an unusually feisty and productive Legislature. The public obviously enjoyed this; for the first time in many years, legislation was being amended on the floor of the House, in response to an informed public will. One could argue that the result of this was better government; such, at least, was the verdict of the people in the election of April 2000. Unfortunately for the forces of the Opposition in the House, only one Liberal was elected, and the sole member of the New Democrats lost his seat.

Lopsided electoral results have become something of a trend in Prince Edward Island politics. In three of the last four provincial elections, the Opposition has been reduced to two or fewer members. It is difficult for a democracy to function well on this basis. One should also consider the matter of *representation*: in these three elections, Opposition parties won roughly 40 per cent of the votes but only about 5 per cent of the seats. While the people of Prince Edward Island obviously wished to strengthen the government in the 2000 election, they may have appreciated the option of doing so without risking the elimination of the Opposition.

There is good reason to believe that one-sided elections will continue to be the norm. This is largely due to the increasing influence of the media and political advertising, so that people tend to vote across the Island as one constituency. Another contributing factor is the decline in traditional party loyalties.

With these considerations in mind, more and more Islanders, in Letters to the Editor of local newspapers and through other means, have begun to suggest the possibility of some rather fundamental changes to our electoral system. In particular, it has been proposed that the Island should give thought to adopting some form of Proportional Representation, a method of election that has become the norm in democratic societies in Europe, and most recently also in New Zealand and Scotland.

In response to this public dialogue, the Institute of Island Studies commissioned a research paper to look at possible alternative electoral systems for Prince Edward Island. This was written during the summer of 2000 by Andrew Cousins, a Law student with degrees in History and Journalism. We requested that Mr. Cousins give particular attention to reforms which would 1) make the composition of the Legislative Assembly more representative of the wishes of the electorate, in proportion to the number of votes cast for each party, and 2) assure, to the extent possible, a strong and vital Opposition.

You hold the results of this initiative in your hands — a thoroughly researched and cogently written document. We highly commend this report to anyone concerned about the future of our democratic culture in Prince Edward Island.

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I **Introduction**

An electoral system is the set of rules by which a democracy conducts its elections.¹ A scholar of electoral systems has written that the electoral system is "the most fundamental element of representative democracy."² The electoral system used in a jurisdiction can be as influential as the voters themselves in deciding the shape of the government and legislature.³

Prince Edward Island bases its electoral system on the British model, often referred to as the "single-member plurality" (SMP) system.⁴ Each of the Island's 27 electoral districts is represented by a single Member of the Legislative Assembly (MLA). An MLA is elected by gaining a plurality of votes — that is, more votes than any other single candidate in the district — in an election. A government is formed by the party winning a majority of seats in the legislature; if no party wins a majority, the party winning the greatest number of seats governs as a minority, or several parties that collectively hold a majority of the seats may govern in coalition.⁵

These are the essentials of the plurality system. The tenacity with which North American jurisdictions cling to first-past-the-post might lead some citizens to assume that it is the only way to conduct democratic elections. This is not the case. Only a few ex-British colonies — principally Canada, the United States and India — remain wedded to the plurality system. A cursory examination of electoral systems throughout the world reveals that systems of proportional representation (PR) are the norm in advanced democracies such as those of northern and western Europe. Proportional representation systems are those "by which political parties hold a percentage of seats in the legislature that approximates their percentage of the popular vote in the election."⁶

Proportional representation is being introduced or considered even in traditional bastions of plurality. New Zealand has adopted a mixed-member proportional representation (MMP) system combining plurality-style single-member constituencies with proportional representation. Britain has adopted mixed-member proportional representation for the new Scottish and Welsh assemblies, uses the single transferable vote form of proportional representation in Northern Ireland, and is contemplating a change to a partially proportional system for the Westminster parliament in London. Australia, an ex-British colony like Canada and New Zealand, has used a mixture of majoritarian and proportional systems for most of the past century.

Proportional representation, it is widely believed (and will be argued here), can remedy many flaws of the plurality system. For instance, under plurality, the number of seats a party holds in the legislature often bears little relation to its share of the popular vote. The plurality system exaggerates the electoral support for the leading party and minimizes the representation of other parties, leading to election results that are disproportional to the popular vote. On Prince Edward Island the most obvious effect of this disproportionality is the frequent decimation of opposition parties in the Legislature. Island elections tend to be winner-take-all affairs that produce exaggerated majorities for the leading party.

The plurality system allows minor shifts in the popular vote to rearrange drastically the face of the government and the legislature. The "landslides" to which the press often refer are often created by these relatively small shifts. The Liberals carried the 1943 PEI provincial election by winning 20 of 30 seats; a shift of fewer than 100 votes across the province would have given the Conservatives a majority.⁷

This paper will describe the disproportionalities and inequities of the plurality system and suggest that Prince Edward Island would benefit from applying an element of proportional representation to its electoral system. Such a change would make the Legislature more representative of the way Islanders actually vote than do the distortions produced by the existing system. It would ensure that PEI's democracy is not weakened by the long-term absence of an effective opposition in the Legislature — a state of affairs that has become the rule, rather than the exception, since the late 1980s. It would also dampen the disproportional effects of small shifts in the popular vote, while allowing PEI's political culture to respond to long-term changes in politics and society, such as the development of new political parties. And, finally, it would allow PEI to set an example by reforming a plurality system that, like many others in North America, is seriously flawed.

II Electoral Politics on Prince Edward Island

I. The Legislative Assembly

Prince Edward Island's first Assembly met, according to legend, in a Charlottetown tavern in 1773.⁸ The 18 members, elected by the male protestant residents of the colony, were called "a damned queer parliament" by the Sergeant-at-arms, who was reportedly fined five shillings for the comment.⁹ The Assembly grew to 24 members by the *Election Act* of 1838, and to 30, elected from 15 dual constituencies, in 1856.¹⁰ Meanwhile the upper house, known as the Legislative Council, became elective in 1862, with six dual-member constituencies and one single-member district.¹¹

The two houses were merged by the *Legislature Act* of 1893, creating a Legislative Assembly with 15 dual-member districts, each electing an assemblyman and a councillor (the latter on a property-based franchise).¹² The function of the Legislative Assembly, as Frank MacKinnon wrote in his seminal 1951 book *The Government of Prince Edward Island*, was (and is) "to enable the representatives of the people to make the laws by which the province is governed, to express ideas and opinions upon public business, and to praise and criticize the actions of the executive."¹³

The Legislative Assembly retained its 1893 complexion until the Royal Commission on Electoral Reform's 1962 report¹⁴ led to a revision of the voting system, including abolition of the property-based franchise for electing councillors¹⁵ and an increase in the size of the Assembly to 16 dual-member districts.¹⁶

The system changed again after the Election Act and Electoral Boundaries Commission reported in 1994.¹⁷ The Commission recommended the adoption of a new electoral map, with 30 single-member districts, to remedy the serious variations in the population of constituencies which had led to the declaration that the sections of the *Election Act* dealing with electoral boundaries were unconstitutional.¹⁸ Instead, the Legislature opted for an alternative map proposed in a private member's bill. There are now 27 single-member constituencies, their representatives elected, as they have always been, by the plurality system.¹⁹

II. The Political Culture

Prince Edward Island's political culture has been marked by strong partisanship and party loyalty, and close relationships between representatives and their constituents. Partisanship was traditionally strong enough that "changing one's party politics was akin to treachery or betrayal, an act of dishonour almost like changing one's religion."²⁰ The small size of the Island has helped shape this culture; close links between voters and their representatives are encouraged by the low ratio of residents to MLAs, presently providing a population of about 140,000 with 27 representatives (nearly one MLA for every 5,000 people). Constituents generally feel little compunction about phoning their MLA, and are likely to get through. MLAs, for their part, cultivate durable personal links with constituents.

The Island has been referred to as possessing, between the federal Parliament, the provincial Legislature, and local governments, "perhaps more formal government than anywhere else in the world."²¹ The population is both small — it has barely doubled since the 1850s and represents less than one-half of one per cent of the Canadian population²² — and fairly homogeneous.²³ Post-Confederation Island politics have not, for the most part, been driven by ethnic or linguistic rivalries — even if such conflicts existed beneath the surface — and the old dual-member electoral system was maintained into the 1990s partly in order to accommodate religious differences.²⁴

Island elections have always been marked by disproportionality between the distribution of legislative seats and that of the popular vote.²⁵ This was not a serious challenge to effective democratic government until recently, when the traditional tiny differences in popular vote between the winner and loser brought broader and more unpredictable swings, and a viable third party, the New Democratic Party, became competitive with the Liberals and Progressive Conservatives. In 1996, for only the second time since 1923, the winning party did not win a majority of the popular vote; the Progressive Conservatives held only 47.7 per cent of the votes.²⁶

The emergence of a third party, and the ever larger swings in the popular vote from election to election, suggest that the old Island political culture is weakening. This makes the flaws in the plurality electoral system more visible, and more troublesome for the functioning of democracy, than ever before.

III Electoral Systems

I. Choosing an Electoral System A. Introduction

It is a mistake to consider an electoral system a technical expedient without influence upon day-to-day political life. The electoral system influences the outcome of every election, often decisively. Vernon Bogdanor points out that there is "nothing automatic about the way in which votes are converted into seats, and different electoral systems will perform this function in different ways."²⁷ The electoral system will influence "the political colour of a country's Government, the relative strength of the various parties in the legislature, as well possibly as the identity of the Prime Minister."²⁸

As well as affecting the way votes are translated into seats, the electoral system can substantively influence the way people vote. The plurality system used in Canada, for instance, may encourage electors to vote "strategically," for the candidate who seems to have the best chance of winning, in order to ensure the defeat of another candidate whom they oppose. When voters do this, they often do not vote for the candidate they actually support, if that person seems unlikely to win.²⁹ A proportional representation system, on the other hand, may encourage people to vote for small parties that are more likely to gain representation under such a system than under a first-past-the-post plurality system.³⁰ It is important to be mindful of the influence wielded by an electoral system when deciding which one is most appropriate to the circumstances of a particular jurisdiction.

B. Designing an Electoral System

Developing an electoral system requires the designer to account for several important considerations. Among the most significant of these factors is the *electoral formula*, or the method of counting votes. Votes may be counted by plurality (as in the first-past-the-post system), where the candidate with the most votes is elected; by majority, where the winning candidate must poll more than half the votes; or by proportionality, where several members are elected proportionally to their parties' respective shares of the popular vote.

The designer must also consider the *district magnitude*, or the number of members elected from each constituency. In plurality and majoritarian systems, as a rule, a constituency has a single member; proportional representation systems require districts with several members (the more the better, in fact, since more proportionality is possible with more members). Other considerations include the extent of choice between candidates of the same party (in proportional systems) and the form of the ballot.³¹

Choices regarding one criterion affect other criteria; for instance, proportional electoral formulae require multi-member constituencies (i.e., high district magnitude) and considerable choice among candidates of the same party.³²

II. Varieties of Electoral Systems

A. Single-Member Plurality (SMP), or First-Past-the-Post (FPTP) In a single-member plurality electoral system of the kind used on Prince Edward Island, a jurisdiction is divided into constituencies, each of which elects one member of the legislature. To be elected, a candidate need not poll a majority of the votes, only a plurality (more than any other single candidate). It is common in such systems for members to be elected without the support of a majority of the voters. The legislature is composed of the winners of the electoral contests in each of the districts. Whichever party elects a majority of the members forms the government; if no party wins a majority, the party with the largest plurality of seats typically governs as a minority or in coalition with a smaller party. It is important to note that majorities are created by winning the most *seats*, not the most *votes*. It is surprisingly common for the party polling the most votes to lose the election as a result of distortions created by the plurality system.³³

The plurality system exaggerates the strength of the strongest party, awarding it a number of seats out of proportion to its share of the popular vote. This can happen under any electoral system, but it is most pronounced under SMP.³⁴ In the 1993 federal general election, the Liberals won 177 of 295 seats in the House of Commons — about 60 per cent of the total — with a popular vote of just 41 per cent. They repeated this dubious feat in 1997. Their share of the popular vote fell to 38 per cent, but the party still held a majority in the 301-seat house, with 155 seats (about 51.5 per cent).³⁵

Where the leading party polls a majority of the popular vote, not just a plurality, the magnifying effect may be grotesque. In the 1987 New Brunswick provincial election, the Liberal Party, with about 60 per cent of the popular vote, won all 58 seats in the Legislature.³⁶ The Prince Edward Island Liberals won every seat in 1935 with 58 per cent of the vote.³⁷

This magnifying effect has been decisive in allocating seats in most Prince Edward Island elections of the past decade. In 1989, the Liberals won 30 seats of 32 (almost 94 per cent) on 61 per cent of the vote³⁸, and 31 seats of 32 (about 97 per cent) with 55 per cent of the vote in 1993.³⁹ In April 2000 the incumbent Progressive Conservatives won just over 95 per cent of the seats (26 of 27) with about 58 per cent of the vote.⁴⁰

Supporters of the first-past-the-post system argue that it provides stable government by manufacturing majority governments out of minorities of the popular vote.⁴¹ This reflects electoral values; specifically, the conviction that creating majority governments — if necessary artificially — is more important to a polity than representing the choices of the voters. This is a choice which every democracy needs to make, but one that is not often made consciously. More often, electoral systems become institutionalized until it seems that they are somehow natural phenomena; this dampens any discussion of reform. The Canadian and PEI electorates have never actually been *asked* to choose an electoral system that systematically distorts their choices.

Government stability is often assumed to be an effect of the plurality system. The evidence, however, suggests no such direct link between the electoral system and political stability. The Independent Commission on the Voting System, often called the Jenkins Commission,⁴² pointed out about the British parliament that "in only 64 of the past 150 years has there prevailed the alleged principal benefit of the FPTP system, the production of single-party government with an undisputed command over the House of Commons."⁴³ The record in Canadian federal elections is somewhat better, but the system is hardly efficient at manufacturing majorities; it did so on only half the occasions between 1921 and 1965 when the winning party did not have a majority of the popular vote.⁴⁴ Charlie Jeffery argues that the political tradition of a state is a more important determinant of strength and stability in government than is the form of the electoral system.⁴⁵

Another benefit of plurality is said to be its simplicity.⁴⁶ In pursuing this argument, there is a danger of assuming that voters are not intelligent enough to comprehend a different system than the one to which they are accustomed, and of ignoring the fact that more complex systems are used all over the world, apparently without bewildering voters.⁴⁷

Plurality supposedly encourages parties to compromise and discourages extremism.⁴⁸ But again, such moderation seems likely to be as much or more a product of political tradition and culture than of the electoral system. Further, the freezing out of smaller parties is not necessarily synonymous with discouraging "extremism." But keeping small parties out of the legislature can serve the interests of large established parties, which is one reason parties in power are often reluctant to tamper with the plurality system that brought them to power.⁴⁹ Maintaining the plurality system despite the rise of smaller parties only makes matters worse, of course, since a plurality system with more than two parties has effects even more distorting than it does when dividing seats between two parties.

Finally, proponents of plurality extol the benefits of maintaining a strong link between the representative and a specific geographical constituency. This is the most convincing defence of the plurality system. No one is eager to dispense entirely with the geographical link between the representative and the electors.⁵⁰ Where plurality systems are reformed to be more proportional

(as in New Zealand), constituency representation is usually maintained by creating a mixed-member proportional system. A suggestion to eliminate geographic constituency representatives would be considered particularly outrageous on Prince Edward Island, with its strong tradition of intimacy between MLAs and their constituents, and the emphasis MLAs place on constituency service.⁵¹ It is important to consider, however, that "there is a deep-seated conflict between the notion of territorial representation and the representation of parties"⁵²: it is not always clear whether a representative's first loyalty is to the party or the district.

B. Majoritarian Systems

Majority-based electoral systems are designed to ensure that candidates are not elected without majority support.⁵³ "The essential point about the rule of majorities," writes Douglas Rae, "is that the winning party has defeated the entire field of opposition; no combination of opponents can match its numerical strength."⁵⁴ It is important to avoid confusing majoritarianism, which makes no promise of proportionality, with proportional representation.

There are two chief methods of creating majorities: the alternative vote and the second ballot. Both have a district magnitude of one, like the plurality system, but their electoral formulas differ.

(i) Alternative Vote

In an alternative vote (AV) system, electors rank their preferred candidates numerically on the ballot. The ballot is valid as long as one candidate is selected with the number "1." If no one wins a majority of the votes, the candidate with the fewest first-choice votes is dropped from the ballot and the second choices indicated on his/her ballots are distributed among the other candidates. In some systems, candidates not attaining a given percentage of the first-choice votes are dropped after the first ballot. This process continues until one candidate has a majority of the vote.⁵⁵

While it is usually associated with Australia (sometimes under the name "preferential voting")⁵⁶, the alternative vote has also been used in Canada. The British Columbia elections of 1952 and 1953 were conducted under an AV system, while rural MLAs in Alberta (between 1926 and 1959) and Manitoba (1927 to 1936) were elected by AV.⁵⁷

(ii) Second Ballot

In a second ballot system of the type used for elections to the French National Assembly, if no candidate attains a majority, the weaker candidates withdraw (either by requirement, for those candidates not attracting a given minimum of the vote, or voluntarily, depending upon the particular electoral system). The remaining (usually two) candidates compete on a second ballot. The candidate who leads the second vote (by majority or plurality) is declared elected.⁵⁸ An alternative run-off system is used in French presidential elections, where only the two leading candidates from the first round of voting are entered in the second round, to ensure that no president is elected without majority popular support.⁵⁹

The second ballot system has been criticized for being very disproportional — even more so than the plurality system — and expensive and time-consuming to operate.⁶⁰

C. Proportional Representation Systems

(i) Introduction

Electoral systems based on proportional representation (PR) differ from the systems considered above in that they focus first on "the principle of representation, seeking to effect the return of assemblies which, in party, social, gender, and ethnic composition, closely mirror the profile and wishes of the electorate."⁶¹ By returning legislators in rough proportion to parties' share of the popular vote, PR prevents the sort of disproportional, winner-take-all election results that the plurality system allows.

Proportional representation makes it easier for small parties to elect members where they are unable to attract enough geographically concentrated support to win a seat in a constituency, yet have support throughout the jurisdiction. Thus PR is often advocated by third parties trying to break into two-party systems.⁶² The first PR system went into effect in Belgium in 1899 "because the development of a three-party system made the future relationship between votes and seats unpredictable."⁶³

A side effect of accurately representing the electorate's wishes is that PR produces coalition and minority governments more often than does the plurality system. Some commentators suggest that "representation versus effectiveness" is a necessary dichotomy, that stable governments and accurate representation cannot coexist. According to Maurice Duverger, by "dispersing the voters among numerous independent parties, PR prevents the citizens from expressing a clear choice for a governmental team."⁶⁴ Critics of PR commonly cite the example of Italy, charging that in that country PR helped create a parliament with more than 40 parties and frequent changes of government until the electoral reforms of 1993.⁶⁵ Those critics often neglect to mention that in 1993 Italy replaced its pure party list PR system with mixed-member PR, rather than first-past-the-post.⁶⁶ PR's supporters point out that virtually all of the stable governments of northern and western Europe are elected by some form of PR. As Henry Milner writes, "recent experience in European countries shows that allocating seats to parties based on their popular vote need not lead to instability."⁶⁷ The key is to guard against an onslaught of "small, one-issue or narrowly-based parties."⁶⁸ This can be accomplished by setting a "threshold" — a stated percentage of the popular vote necessary for a party to be proportionally represented in the legislature.

It has been demonstrated that PR, particularly in its party list form, tends to bring a much higher percentage of women and minority members into legislatures than SMP or majoritarian systems do.⁶⁹ Indeed, one of the functions of Prince Edward Island's dual-member system was to allow parties to put forward candidates of different social or professional backgrounds (e.g., religious) in the same district.⁷⁰

Canadian experience with PR is limited, but there is a thriving lobby among some academics, journalists and political parties for changes to the present electoral system. PR

was used on a limited basis in some of the western provinces earlier in this century, and Quebec made an abortive move toward PR in the 1970s and 1980s.⁷¹ Canadians tend to agitate for PR after particularly appalling distortions, such as the outcome of the 1980 federal election that left the liberal majority government without a seat in the western provinces, despite a healthy share of the popular vote there.⁷² The discontented political culture of the 1990s has spurred another surge of interest in electoral reform; in May 2000, Members of Parliament began the first debate on PR since 1923, on a motion sponsored by New Democrat Lorne Nystrom calling for the introduction of an element of PR into the federal electoral system.⁷³ In July 2000, the Institute for Research on Public Policy reported that 49 per cent of Canadians find the current electoral system unacceptable, although it did not suggest a specific alternative.⁷⁴

(ii) Types of Proportional Representation

(a) Single Transferable Vote

The single transferable vote is the PR system most often used or advocated in Britain and its former colonies; it is in use in Ireland, Australia and Malta.⁷⁵ The STV voting procedure resembles that of the alternative vote. Like the AV, the STV requires the voter to rank the candidates in numerical order. But, unlike AV districts, STV constituencies have several members, and each party usually puts forward as many candidates as there are seats to be filled. An "electoral quota" of votes needed for election is calculated, roughly by dividing the number of votes cast by the number of seats available. Any candidate whose first-preference votes equal or exceed the electoral quota is declared elected. If seats are left unfilled, the second preferences of those ballots that elected the first member are distributed, a process that continues until all the seats are filled.

The single transferable vote's chief advantages are the considerable degree of proportionality it allows and the choice it grants to the voters between different candidates of the same party, rather than presenting them with a single candidate or list selected by the party brass. STV also allows a high proportion of the votes cast to contribute to the election of a representative; fewer votes are wasted. For instance, in the Irish elections of November 1982, 83 per cent of the votes cast helped to elect a candidate; Vernon Bogdanor contrasts this figure to the nearly 70 per cent of votes that were wasted in the British constituency of Barking in 1983.⁷⁶

STV is the only PR system to have been used in Canada. Some urban members of the Alberta Legislature were elected by STV between 1926 and 1959, as were Winnipeg members of the Manitoba Legislature between 1920 and 1953.⁷⁷

(b) Party Lists

The Party List system has been called "potentially, the most truly representative form of proportional representation, ... being designed to return members

reflecting the broadest possible spectrum of public opinion."⁷⁸ The Party List system requires large multi-member constituencies. In every electoral district, each party presents a list of candidates, and seats are allocated in proportion to popular vote. Thus, if party A gains 40 per cent of the vote in a ten-seat district, it is entitled to four seats, and the first four candidates on Party A's list are declared elected.

There may be a minimum percentage, or threshold, of the popular vote necessary to be entitled to representation in a list system. This threshold is designed to minimize the influence of small extremist and splinter parties. Where such thresholds are very low or do not exist, as in Israel and Italy (before it scaled back the proportionality of its system), minor parties have the potential to dominate parliaments. This is a common criticism of list PR. Opponents also say the list system breeds coalition government, since, like any PR system, it makes majorities hard to attain. They argue further that list PR weakens the link between representatives and constituents, since constituencies are geographically large and have several representatives. Finally, they argue that list PR leaves too much power in the hands of party hierarchies, since they usually decide who goes on the list and in what order.⁷⁹

D. Mixed Electoral Systems

An electoral system need not be wholly based on PR or entirely based on plurality. There are also systems that mix elements of proportionality with elements of plurality or majoritarianism. As the Jenkins Commission noted, a mixed system has the great benefit of flexibility; according to the proportions between plurality and proportional seats, and their respective distributions, "varying degrees of priority can be given to proportionality on the one hand and to the constituency link on the other."⁸⁰ The most common form of mixed system is the mixed-member proportional (MMP) system, examples of which are used in Germany, New Zealand, Scotland and Wales (sometimes called the additional-member system, or AMS).

Under an MMP/AMS system, each voter marks two ballots: one for a constituency member, just as in a plurality system, and one for a party list that covers a larger district or the entire jurisdiction (in Germany, each *Land*, or state, has lists). Each party's seat entitlement is calculated according to its proportional list vote; the number of constituency seats the party wins is subtracted from this total, and the result is the number of list seats to which the party is entitled. If the party wins more constituency seats than its popular vote entitles it to as a total, it keeps the surplus and the assembly is temporarily expanded. As in pure list PR systems, there is normally a threshold of popular vote or constituency seats required to entitle a party to proportional representation in the legislature.

IV Electoral Systems: Case Studies

Australia

Australia belies the myth that former British colonies inevitably develop Westminster-type electoral systems. Like Canada, Australia is a federal state; unlike Canada, Australia and its component states use a mix of majoritarian and proportional electoral systems. The federal Senate and House of Representatives have been elected by alternative vote since 1918.⁸¹

More interesting from PEI's perspective is the electoral system of the Australian state of Tasmania. Like PEI, Tasmania is a small island (with a population of about 472,000 spread across 68,000 square kilometres).⁸² Tasmania uses STV for elections to its House of Assembly, electing 25 members from five electorates. Unlike PEI's unicameral system, Tasmania has a bicameral parliament; the upper house, known as the Legislative Council, is elected from 19 (soon to be reduced to 15) single-member electoral divisions by alternative vote.⁸³ This gives Tasmania a total of 44 members of parliament, which will drop to 40 with the reduction in numbers on the Legislative Council. Until 1998 the House had 35 members in 7 electorates; the reduction was made over the objections of the Green Party, which argued that Labour and the Liberals were trying to rig the system to diminish the parliamentary strength of smaller parties (like the Greens).⁸⁴

Germany

The electoral system used for elections to the German lower house (the *Bundestag*) combines elements of the constituency-based plurality system (for half the seats) with a list PR system for the remainder. Voters cast one vote for a constituency candidate and a second vote for a regional party list (there is a separate list for each *land*, or state). Parties may only be represented in the *Bundestag* if they gain three constituency seats or five per cent of the popular vote nationally.⁸⁵

Votes are counted in a three-step process: (i) the second (list) votes are counted, and this count is used to calculate the national proportional distribution of seats. (ii) The seats are allocated between parties on a state-by-state basis. (iii) In each state, the number of constituency seats won by each party is subtracted from the party's total seat entitlement as calculated in step (ii). The resulting figure is the number of list seats to which the party is entitled. If the party has won more constituency seats than the total number of seats to which its proportional popular vote entitles it, it keeps the extra seats (which are temporarily added to the *Bundestag*).⁸⁶

The German system is the one usually favoured by advocates of greater proportionality in Commonwealth countries. New Zealand modeled its mixed electoral system on the German system, and the electoral system for the new Scottish and Welsh parliaments follows the German pattern. Advocates of electoral reform in Canada have usually preferred some form of the German model as well.⁸⁷

Iceland

Iceland uses a list proportional representation system. The Icelandic parliament (the *Althingi*) includes 63 members in eight constituencies, with a minimum of five seats in each district. Most of the seats in each constituency are divided among parties proportionally to their popular vote in the constituency; one quarter are distributed according to the popular vote nationwide.⁸⁸ The electoral districts are skewed against Reykjavík, the capital and largest city, which contains

about 60 per cent of the population, but less than half the seats. The Icelandic system is also noted for its low threshold; in some constituencies a candidate can be elected with 750 votes.⁸⁹

Malta

Malta, with a population of about 400,000, has a House of Representatives with 65 members elected by STV in 13 five-seat constituencies. Malta adopted STV in 1921,⁹⁰ with the support of British governor George Strickland, who had been impressed with its operation in Tasmania, where he had been governor from 1904 to 1909.⁹¹

The Maltese electoral system presents several interesting features. Malta has a strong two-party system, contrary to PR's reputation for breeding third parties. There has been no serious third-party competition in Malta since 1966. Maltese politics are highly partisan and support is very evenly divided between the two major parties. The extremely thin majorities common in Maltese elections have illustrated STV's potential to give an election victory to the party with fewer votes (just as plurality sometimes does). After this happened in 1981, Malta amended its constitution to provide that in a situation where a party with a majority of the popular vote fails to win a majority of seats, it will have its parliamentary seat total supplemented by as many additional seats as are necessary to give it a parliamentary majority.⁹²

New Zealand

New Zealand used the first-past-the-post system for 140 years, with a detour into the second ballot in 1908 and 1911. In 1993, after two referendums, New Zealand adopted a "Mixed Member Proportional" (MMP)⁹³ system based on the German model, with each elector casting two votes, one for a constituency MP and one for a party list. To ensure representation in parliament, a party must secure one constituency seat or five per cent of the popular vote. Five seats are set aside for Maori MPs. The first MMP parliament had 65 constituency MPs (including the five reserved Maori seats) and 55 list MPs.⁹⁴

The new MMP system came under fire after the 1996 election (the first under the new system), when there seemed to be no reduction in the acrimony of New Zealand politics as proponents of MMP had hoped there would be. The behaviour of the New Zealand First Party, which spent two months behind closed doors deciding which party to join in a coalition, also angered voters, as did the fact that parliament's size had increased.⁹⁵

At the same time, the composition of the New Zealand parliament became more representative than at any time in history, with 30 per cent of MPs being women and seats set aside for Maori. There was evidence that voters took advantage of the tactical opportunity to split their ballots, and it seemed that they were not confused by the new system.⁹⁶ But there was also evidence of disillusionment when the new system created "growing pains in the body politic."⁹⁷ Nevertheless, a delegation sent to New Zealand by the Jenkins Commission concluded that even if another referendum were held, New Zealanders would be unlikely to return to first-past-the-post, but would more likely modify the MMP system.⁹⁸

New Zealand held its second MMP election in November 1999.⁹⁹

Scotland

The Scottish Parliament, created by the *Scotland Act 1998*, uses a German-style additional-member system (AMS). Of the 129 Members of the Scottish Parliament (MSPs), 73 are elected in constituencies by the first-past-the-post method on one ballot. The remaining 56 are drawn from regional lists (each region comprising several constituencies) in proportion to the parties' respective votes on another ballot.¹⁰⁰ The first elections were held in May 1999, returning MSPs from seven parties (three with one MSP each).¹⁰¹

Iain McLean suggests that the introduction of PR into the Scottish parliament was eased by the fact that it was a newly created assembly; the forces of conservatism and inertia that might have been expected to play the spoiler in a change to PR in an established legislature were not present.¹⁰²

The United Kingdom

Britain is usually thought of as the bastion of the first-past-the-post system, but in fact FPTP as we know it did not become the dominant British electoral system until the Third Reform Act of 1884–1885. In 1917, Britain came close to introducing a combined AV/STV system for the House of Commons. In 1976 the Hansard Commission on Electoral Reform recommended the adoption of an MMP system.¹⁰³ Presently, aside from the Scottish (and Welsh) AMS experiments and the STV system in Northern Ireland¹⁰⁴, the United Kingdom uses a regional list PR system for elections to the European Parliament.¹⁰⁵ More radical, though, is the proposal of the Independent Commission on the Voting System (the Jenkins Commission), appointed by the new Labour government in 1997 and reporting in 1998. Surveying the electoral landscape of the Westminster Parliament, the Commission concluded that Britain would be better served by "a two-vote mixed system which can be described as either limited AMS or AV top-up. The majority of MPs (80 to 85 per cent) would continue to be elected on an individual constituency basis, with the remainder elected on a corrective top-up basis Within this mixed system the constituency members should be elected by the Alternative Vote."¹⁰⁶

The current discussion in British political circles focuses on whether, and when, a referendum ought to be held on electoral reform.¹⁰⁷

V

Electoral Reform and PEI I. Changing Voting Patterns

Since the 1960s, and especially since the 1980s, traditional voting patterns on Prince Edward Island (and, indeed, throughout Canada) have weakened. This is evident in the rise of a third party on the Island, the New Democratic Party, which has attracted five, eight and eight per cent of the popular vote respectively over the last three elections. It is also evident in the greater shifts in the popular vote that are becoming a regular part of Island elections. For instance, between 1923 and 1986, the popular vote for the Liberal Party was always between 45.3 and 58 per cent. In the four elections beginning in 1989, however, Liberal support has veered from a high of 61 per cent in 1989 to a low of 34 per cent in 2000. The Conservatives have seen a similar pattern of

swings in their popular vote, which ranged from 40.3 to 53.9 per cent in the 1923–1986 period, but since 1989 has dropped as low as 36 per cent and climbed as high as 58 per cent.

There is no reason to think that PEI politics will return to its old two-party mold any time soon. Three of the last four elections have had results more lopsided than any since the 1935 Liberal sweep. Also, Prince Edward Island is one of only two provinces (the other being Nova Scotia, which has also seen drastic changes to traditional election patterns) where membership in the provincial NDP grew between 1989 and 1995; in every other province, NDP membership declined, often drastically.¹⁰⁸

What are we to make of the weakening of "the purest example" of a two-party system¹⁰⁹ among the Canadian provinces? Aside from the broader social and political significance of such a shift, there are implications for the electoral system.

The plurality system functions best in a two-party system.¹¹⁰ Third parties are consistently underrepresented, particularly if their support is spread throughout the jurisdiction rather than being regionally centred. This tendency has been the bane of the British Liberals and Social Democrats, as well as of the NDP in Canada and, more recently, the Progressive Conservatives, whose national support has been no match for the regional concentration of the Reform and *Bloc Quebecois* parties. The failure of the PEI NDP, with more than eight per cent of the vote, to win a seat in the 2000 election is another example.

In addition to the complications posed by the development of a three-party system, PEI voters appear less fixed in voting for their traditional parties. The difference between the popular vote of the two largest parties is now likely to be in the order of 10 to 20 percentage points, rather than the traditional 1 to 10 points. This gap is large enough that, working with the peculiarities of the plurality system, it produces huge shifts in the numbers of seats parties hold in the Legislature — shifts that in no way reflect the actual change in the popular vote.

II. The Disappearance of the Opposition

The distortions innate in the plurality system can (and frequently do, on PEI) force a democratic legislature to attempt to function with an opposition of one or two members. Experience suggests that where a party on PEI attracts more than about 53 per cent of the popular vote, there is likely to be a disproportionately small number of opposition members elected. We have seen how 60 per cent of the popular vote was enough to leave New Brunswick with no opposition members at all in 1987.

This tendency of the plurality system raises a fundamental democratic issue. The absence of an effective opposition hampers the functioning of the legislature. According to Sir Kenneth Wheare, "in so far as one of the functions of a legislature is to make the government behave, the chief part in performing that function falls to the opposition and its leader."¹¹¹ He goes on to point out that the opposition carries out its functions through "questions to ministers in the House, through motions of censure and no confidence, through the debates that accompany the passing of financial legislation and so on..."¹¹² These duties are fundamental to the operation of any democratic legislature.

The opposition makes itself effective not only by criticizing and scrutinizing the actions of the government, but also by presenting itself as a government-in-waiting. It "criticizes upon the understanding that, given the opportunity, it could do better itself."¹¹³ But an opposition reduced to one or two members out of 27 (or 32) is deprived of sufficient parliamentary grooming or apprenticeship and therefore cannot realistically present itself as a government-in-waiting. Nor can such a phantom opposition be expected to perform an effective critical function, even with the help of the media and non-governmental interest groups. In such a situation, the assembly becomes "little more than a formal gathering of the government caucus...."¹¹⁴ It would be one thing if the voters chose this state of affairs; elections in the Soviet Union, dubious exercises in democracy that they were, routinely returned better than 99 per cent of the "popular vote" for the Communist Party list. Instead, the 42 per cent of PEI voters who voted against the government in 2000 are represented by a single MLA.

III. Legitimacy and Representation

The tendency of the plurality system to misrepresent the outcome of the popular vote, and its ability to wipe out entire parties (and oppositions) that have substantial electoral support, raises questions about the democratic legitimacy of the system. Equality of voting power — "one person, one vote" — is a bedrock principle of democracy.¹¹⁵ Prince Edward Island recognized this by eliminating the property encumbrance on the councillor franchise in the 1960s. This principle was also reflected in the electoral boundary and system reform which followed the ruling by the Prince Edward Island Supreme Court Trial Division that the 16 dual-constituencies violated the right to vote as guaranteed in s.3 of the *Charter of Rights and Freedoms*. Mr. Justice DesRoches concluded that the boundaries provided "inadequate representation to a large percentage of the voters because of the significant variances in population in the electoral districts."¹¹⁶

Judicial considerations of electoral issues have generally been restricted to this narrow focus on electoral boundaries. But, as a matter of principle, if not of law, the decision of the Supreme Court of Canada in *Reference Re Provincial Electoral Boundaries* suggests that more is required of the electoral system than the mere production of majority governments. Writing for the majority of the court, Madame Justice (as she then was) McLachlin pointed out that ours "is a representative democracy. Each citizen is entitled to be *represented*"¹¹⁷ in government. Representation comprehends the idea of having a voice in the deliberations of government as well as the idea of the right to bring one's grievances and concerns to the attention of one's government representatives...."¹¹⁸

The debate on effective representation has focused on the issue of electoral boundaries. But well-mapped electoral boundaries are no remedy for an electoral system that routinely and systematically distorts the form of representation the voters demand.

IV. The Size of the Legislative Assembly

During the public consultations conducted by the Election Act and Electoral Boundary Commission, some presenters suggested that the number of MLAs ought to be reduced, perhaps to as few as 21.¹¹⁹ The reasons for the reduction revolved around vague statements about PEI

being "overgoverned at all levels of government" and unable to afford the inefficiency supposedly caused by a Legislature of 32 seats.¹²⁰ At the same time, rural Islanders feared that a smaller legislature would dilute their representation in favour of the urban areas around Charlottetown and Summerside. They argued against a strict application of the principle of representation by population in formulating the new electoral boundaries.¹²¹

The Commission, suggesting a less drastic cut to 30 seats, pointed out that the Legislative Assembly's budget was "less than one-third of one per cent of the total Provincial Government Budget."¹²² The Commission also explained that the very maintenance of responsible government required the Legislature to be kept at a certain minimum size. This reasoning echoed that of Frank MacKinnon, who wrote (in 1951, an era of much less active government) that regardless "of the extent of its influence and material wealth, the Island is a province and a partner in Confederation with rights and responsibilities of its own. Nature has seen fit to give it its location and characteristics which in turn have led to a separate government and a distinctive public life; like Rhode Island and Tasmania, it must make the best of what it has in a large and complicated federal system."¹²³

In the end, the Legislative Assembly opted to reduce its own membership by five, from 32 to 27, adopting an electoral map proposed in a private member's bill. This still failed to please everyone; a number of municipalities challenged the new map in court, to no avail, protesting that it favoured rural parts of the province.¹²⁴

It is far too simplistic to assume that Prince Edward Island's small population requires an equally small relative number of legislators. Applied to the federal House of Commons, this strict application of the principle of representation by population would rob the Island of all but one or two of its Members of Parliament.¹²⁵ For Prince Edward Island voluntarily to reduce the number of its own provincial legislators only supplies fuel to those who argue, with Tom Kent, that "one person, one vote can only be effective if Prince Edward Island can be convinced to give up its constitutionally guaranteed four MPs", and that such "acquiescence ... could surely be bought without great additional cost" because "Prince Edward Island ... is already so much of a client of the federal system...."¹²⁶

It should be noted that the Prince Edward Island cabinet is required by statute to have between seven and ten members in addition to the premier.¹²⁷ The Executive Council currently includes the premier and nine cabinet ministers.¹²⁸ This number is quite manageable when drawn from a caucus of 26 MLAs. But a smaller government caucus would cause an uncomfortable number of government MLAs to be cabinet members. As the Election Act and Electoral Boundaries Commission pointed out, a "legislature with a small number of members could limit the capacity of the Legislative Assembly and its caucuses to serve as a check on actions and decisions of the Cabinet. This potential problem could come to the forefront if nearly all members of the government caucus were members of the cabinet."¹²⁹

The accountability of elected legislators is another argument against diluting their numbers in relation to the size of the government bureaucracy; as one submission to the Election Act and Electoral Boundaries Commission put it, "unlike bureaucrats, [MLAs] are held accountable for their activities — every four years at election time."¹³⁰

Most small jurisdictions maintain relatively large legislatures. New Hampshire, with a population of about 1.1 million, has a lower house of 400 members and an upper house of 24.¹³¹ This amounts to about 38.5 legislators for every 100,000 residents. The *Lagtinget* of Åland (a Finnish dependency) has 30 members for a population of 25,000.¹³² The Faroese *Løgting*, representing a population of 47,000, has between 27 and 32 members, depending on the number of people voting.¹³³ And Iceland, with a population (280,000) almost precisely twice that of PEI, has 63 members of the *Althingi*,¹³⁴ a number almost exactly proportional to PEI's 32 MLAs before the most recent electoral reform.

Until the nineteenth century, most political thinkers believed that a democracy had to be small, based on the model of Athenian direct democracy. In this context, "small" meant that everyone knew each other;¹³⁵ but in any case, "smallness, it was thought, enhanced the opportunities for participation in and control of the government...."¹³⁶ This argument lost credence with the development of large nation-states.¹³⁷ This does not, however, make it invalid. A small jurisdiction such as PEI has latitude to develop a responsive Legislature that is denied to larger jurisdictions in which a single member may represent 100,000 people or more.

The combination of a reduction in the number of MLAs in the PEI Legislature and the reduction of district magnitude from two to one is likely to make election results still less proportional. The greater the number of seats to be distributed — that is, the higher the district magnitude — the more proportionality is possible. Herein lies the significance of the size of the Legislative Assembly to the debate over proportional representation. Any move to a PR or mixed-member PR system on PEI would be made more effective by increasing the size of the Legislative Assembly. This does not mean a drastic increase, but it might mean restoring the Assembly to 30 or 32 members for the sake of making the reform more effective.

VI

Electoral Reform for PEI: Scenarios

I. A Proposal

First, a disclaimer: what follows is only a set of suggestions. Neither the proposals nor the mathematics that illustrate them represent the precise shape of any possible electoral system, but only a rough outline. This proposal seeks to make the case for a modification of the Prince Edward Island electoral system to include an element of proportional representation. It does not claim to be a mathematically exact portrayal of how such a system would function, or would have functioned in the past.

The disproportional results of recent Prince Edward Island elections provide a strong rationale for systemic electoral reform. Taking the 2000 general election as an example, the Progressive Conservatives' 57.9 per cent of the popular vote entitled the party to a healthy majority, but the first-past-the-post system outdid itself and awarded the winner 97 per cent of the seats. The two opposition parties, supported by 42.1 per cent of the voters, were left with a single seat between them.

A purely proportional result would have given the PCs 16 seats and a comfortable five-seat majority, the Liberals 9 seats, and the New Democrats 2. This outcome would have provided a healthier Legislature both for the governors and the governed. The opposition's numbers would have been more than negligible, and the distribution of seats in the Assembly would have more closely resembled that of the popular vote. Such facts provide a good basis from which to argue that the electoral system needs modification.

Designing a new electoral system, or altering an existing one, requires us, first of all, to ask what we want elections to accomplish. If we demand majority governments at any cost, the current system should work admirably (in the PEI context, that is). But if we seek a system that reflects the choices of the voters, rather than using ballots as vague suggestions, it is worth considering at least an element of proportionality. The latter is the conclusion for which this paper argues. That said, such a reform need not be radical; in the relatively traditionalist and conservative context of PEI society and political culture, radical reforms are likely to be rejected out of hand.

A system of pure proportional representation, *à la* Israel, the Netherlands, or Ireland, then, is unlikely to be acceptable to most Islanders. Due to the high district magnitude necessary for proportionality, list PR would require a small number of ridings. At the most extreme, this could mean turning the entire Island into a single electoral district; more likely, there would be four or five districts, each with five or six members. These might be aligned with county lines or the boundaries of the four federal electoral districts. But such a proposal would undoubtedly mean eliminating the single-member constituencies, and for that reason it is probably unacceptable. No proposal that would dispense entirely with the representation of districts by individual MLAs is likely to be taken seriously. Even the most radical reforms proposed to the Election Act and Electoral Boundaries Commission did not contemplate eliminating or reducing geographical districts in this manner.¹³⁸ The same consideration faced Britain's Jenkins Commission, whose mandate was to devise an electoral system that would be more proportional than first-past-the-post without severing the MP-constituency link.¹³⁹ For this reason above all, a pure list system seems inappropriate for PEI.

The single transferable vote presents its own set of problems. It, too, requires a district magnitude of three, four, five or more before it can be effective as a proportional system. Most Irish STV ridings have three or four seats, with an average of 3.75;¹⁴⁰ Maltese¹⁴¹ and Tasmanian¹⁴² districts have five members each. PEI could sustain no more than five or six five-member STV districts. This looks like an unacceptable deviation from the one-MLA, one-riding principle. STV is also burdened by a nightmarishly complex vote-counting procedure, and the *War and Peace* of electoral ballots: if three parties run candidates in a five-seat district, the voter is presented with up to fifteen names to rank. At the same time, STV allows a measure of flexibility that is difficult to achieve in a list system, permitting voters to choose among different candidates of the same party, rather than voting for an unchangeable single-party list (although it should be noted that there are "open-ballot" list systems that allow voters to change the order of names on a party's list). Properly considered, though, STV's high district magnitude and complexity make it an unattractive prospect for PEI.

Reforming the PEI electoral system will require preserving the single-member constituency system while injecting an element of proportionality. For this reason, the best choice for a new

system would seem to be a mixed-member system roughly based on the models used in Germany, New Zealand, Scotland and Wales.

Such a system might be constructed by splitting the Legislative Assembly between a reduced number of single-member constituency seats and a remainder of proportionally apportioned seats, drawn from party lists, which might be considered "top-up" seats, helping to remedy the disproportional results of the single-member constituency contests. One published proposal suggests a Legislature of 30 members, of which 20 would be elected in single-member constituencies and 10 elected from party lists according to the parties' share of the popular vote.¹⁴³ Several presenters to the Election Act and Electoral Boundaries Commission advocated variations on this approach.¹⁴⁴ It seems safe to conclude that a mixed system, combining the preservation of the single-member constituency with enough proportionality to ensure that a respectable number of opposition members are elected, is the most likely option to be accepted on PEI. At a minimum, any reform must ensure that a viable opposition will exist after every election, except in the unlikely event that one party actually attracts 80 or 90 per cent of the vote.

There are still technical issues to resolve. It would be necessary to decide whether to use one ballot or two. If two ballots are used, one would be for a constituency candidate and one for a party list. A single ballot would have the advantage of not requiring a change in procedure. Everyone would vote for a constituency representative and the popular vote would be calculated, probably on an Island-wide basis, from the vote across all the ridings. The list seats would then be distributed according to the popular vote across the province.

It would also be necessary to establish an electoral threshold, the minimum percentage of the popular vote necessary for a party to be entitled to take its proportionally apportioned seats. In pure list PR systems, thresholds range from .67 per cent in the Netherlands to 10 per cent in the Seychelles.¹⁴⁵ In the MMP systems of Germany and New Zealand, the threshold is 5 per cent, with a "back door," whereby a party gets proportional representation if it elects a given number of constituency members (three in Germany, one in New Zealand). Given PEI's small size and general lack of internal cleavages, the "back-door" could be dispensed with; its usual *raison d'être* is to allow regionally based parties (as in the former East Germany) to have a fair chance to sit in parliament.¹⁴⁶ A threshold in the 5 to 10 per cent range might be appropriate for Prince Edward Island; the third party now has about 8 per cent support, and there is no indication of more parties appearing.

By making a series of assumptions, we can roughly estimate how such a system would have functioned in the 2000 provincial election. We will assume, for simplicity's sake, that the Legislative Assembly was enlarged to 30 seats, 20 of them single-member constituency seats and 10 drawn from province-wide party lists. We will also assume that the threshold for proportional representation is set at 8 per cent (about the level of NDP support in the last two provincial elections). If the percentages of constituency seats won by each party remained as they were in the actual election, the PCs' 97 per cent would translate into 19 of the 20 constituency seats; the Liberals would hold one. As for the party list seats, the PCs' 57.9 per cent of the popular vote would probably entitle them to six seats, while the Liberals' 33.7 per cent would give them three, and the NDP would pick up the final seat on the strength of its eight per cent of the vote. In total,

we can imagine a current Legislative Assembly composed of 25 Progressive Conservatives (83.3 per cent), four Liberals (13.3 per cent), and one New Democrat (3.3 per cent).

While still a disproportional outcome, this is a much more balanced result than the plurality system provided. Furthermore, in designing the system it would be possible to adjust the degree of proportionality by increasing or decreasing the number of list seats (and redistributing the single-member constituencies accordingly). More list seats would mean more proportionality. For instance, if half the seats (15 of 30) were distributed by proportional representation, the PCs would win 9 list seats and 14 constituency seats¹⁴⁷, for a total of 23 (76.7 per cent); the Liberals would hold one constituency and five list seats, for a total of six (20 per cent); and the New Democrats would win a single list seat (3.3 per cent).

We might also consider emulating the German system more closely. A point that is sometimes overlooked in discussions of the MMP system is that, despite its "mixed" nature, it actually functions with nearly perfect proportionality. This is because the votes for party lists actually determine the number of seats to which each party is entitled. The list members simply make up the difference between that total and the number of constituency seats each party wins. If a party wins more constituency seats than its popular vote would entitle it to, it keeps the extra seats, and the legislature is temporarily enlarged. Applied to PEI, and assuming that there were 15 list seats and 15 constituencies, the most recent election would have had roughly the following result: the PCs' 57.9 per cent of the vote would entitle them to 17 out of 30 seats. If they had already won 97 per cent of the constituency seats (i.e., 14 of 15), the extra 3 seats would come from the list. The Liberals 33.7 per cent of the popular vote would entitle them to 10 seats; if they held one constituency seat, this would mean they would name nine MLAs off their list. Finally, the New Democrats' 8.4 per cent would give them 3 list seats. Of the three options considered here, this is by far the most proportional.

It is clear that an element of proportionality — even as a relatively small portion of the total number of seats — could ensure a more representative balance of parties in the Legislative Assembly, and enough opposition members to prevent a continuation of the pattern of virtual single-party legislatures seen over the past decade.

II. Process Issues

No government can modify something as central to the democratic process as the electoral system without public consultation and support. This means referenda or plebiscites, as were held in New Zealand, would be necessary to decide whether change is desirable, and what form it should take. New Zealand also had a Royal Commission address the issue of electoral reform.¹⁴⁸ The most important point to be considered in such a debate is the necessity of providing information to the public in a non-partisan manner, especially when the time comes to vote on a reform proposal.

VII

Conclusion: The Prospects for Change

All the suggestions in the world mean very little if the government does not act on an idea. This is the single biggest stumbling block for electoral reform. Parties out of power and small parties are often great supporters of reform; this has often been the case with the NDP. But politicians are naturally reluctant to change the system that elected them or their government. The authors of the Jenkins Report wrote that this prompted "the cynical thought that there has been an element of 'The devil was sick, the devil a monk would be, the devil was well, the devil a devil he'd be' about the attitude of all parties to electoral reform. Their desire to improve the electoral system has tended to vary in inverse proportion to their ability to do anything about it."¹⁴⁹

The idea of PR has been occasionally considered and rejected on Prince Edward Island. The Election Act and Electoral Boundaries Commission rejected a mixed-member proportional system, reasoning that this would be too drastic a change from the British tradition and that, while some features of proportional representation were commendable, "its implementation in this jurisdiction would not be appropriate at this time."¹⁵⁰ This was slightly more charitable than *The Guardian's* comment after the lopsided 1993 election that "daydreams of a system that more accurately reflects the wishes of all voters" were "unworkable," since it would be difficult to decide which constituencies the proportionally elected MLAs should represent.¹⁵¹

The goal of this paper has been to make the case that reform to create a more proportional electoral system for Prince Edward Island is realistic, consistent with the Island's political traditions, and necessary in the public interest in order for the Legislative Assembly to function effectively. The present plurality system can be democratically dysfunctional, producing election results that bear little resemblance to the popular vote. The problem is compounded on PEI by the small size of the Legislature combined with the tendency of Islanders to vote in a fairly uniform way across the province, making it quite conceivable that the Island faces a future of alternating "monarchies," with the major parties taking turns flooding the Legislative Assembly. This has been the case for most of the past decade, through no fault of the parties themselves; it is, rather, a function of the electoral system. Avoiding this fate should concern Islanders, both within and outside the walls of government.

Notes

1. Arend Lijphart, *Electoral Systems and Party Systems: A Study of Twenty-Seven Democracies* (Oxford: Oxford University Press, 1994), 13. Hereafter Lijphart, *Electoral Systems*.

2. Lijphart, *Electoral Systems*, 1.

3. A note on terminology: throughout this paper, the word "legislature" will be used to describe parliaments and assemblies in general; specific parliaments will be named, e.g., the PEI Legislative Assembly or the Icelandic *Althingi*; and "Legislature" with an upper case "L" will refer to the PEI Legislature.

4. For the purpose of this discussion, "single-member plurality," "SMP," "plurality," and "first-past-the-post" are synonymous.

5. PEI had a coalition government between 1876 and 1879, but every other PEI cabinet since Confederation in 1873 has been formed entirely from one party; see Frank MacKinnon, *The Government of Prince Edward Island* (Toronto: University of Toronto Press, 1951), 169, 187–188 (hereafter MacKinnon, *Government of PEI*). There have been occasional short-lived minority governments, as occurred after the 1890 election, and a series of subsequent byelections resulted in a 15–15 tie; see Wayne E. MacKinnon, *The Life of the Party: A History of the Liberal Party in Prince Edward Island* (Summerside: Prince Edward Island Liberal Party, 1973), 67 (hereafter W. MacKinnon, *Life of the Party*).

6. John McMenemy, *The Language of Canadian Politics: A Guide to Important Terms and Concepts* (Wilfrid Laurier University Press, 1995), 234.

7. Marlene-Russell Clark, "Island Politics," *Canada's Smallest Province: A History of P.E.I.*, F. W. P. Bolger, ed. (Prince Edward Island 1973 Centennial Commission, 1973), 305–306. Hereafter Clark, *Politics*; book hereafter cited as Bolger. In this article Clark repeats the apparently apocryphal story that the hundred-vote shift would have created an identical 20–10 majority for the Conservatives. Other research suggests that the Conservative majority might not have been quite so large; see Clark's thesis *The Franchise in Prince Edward Island and its Relation to Island Politics and other Political Institutions* (Unpublished; MA Thesis, Dalhousie University, August 28, 1968), 47. Hereafter Clark, *Franchise*.

8. It seems more likely that the Assembly met at the home of James Richardson, the brother of a future tavern-keeper; see F.W.P. Bolger, "The Beginnings of Independence, 1767–1787," in Bolger, 49–50; W. MacKinnon, *Life of the Party*, 6.

9. MacKinnon, *Government of PEI*, 41–42.

10. *Ibid.*, 52.

11. *Ibid.*, 102–103.

12. *Ibid.*, 215–216.

13. *Ibid.*, 210.

14. *Report of the Royal Commission on Electoral Reform* (Charlottetown, March 1962). Hereafter *Royal Commission on Electoral Reform*.

15. Although the Commission had recommended that the property-based franchise be retained; see *Ibid.*, 10.

16. Clark, *Politics*, 308–311.

17. Prince Edward Island, Election Act and Electoral Boundaries Commission, *Changing the Political Landscape: Report of the Election Act and Electoral Boundaries Commission* (March 1994). Hereafter *Political Landscape*.

18. Ibid., 20.

19. Elections Prince Edward Island, *Prince Edward Island: Polling Divisions/Descriptions/27 Electoral Districts* (Charlottetown, Nov. 30, 1995; rev. Jan. 16, 1996).

20. Jean Halliday MacKay, *The Home Place: Life in Rural Prince Edward Island in the 1920s and 30s* (Charlottetown: The Acorn Press, 1999), 128. See also Wayne E. MacKinnon, "Island Politics and Government," Harry Baglole, ed., *Exploring Island History: A Guide to the Historical Resources of Prince Edward Island* (Belfast, PEI: Ragweed Press, 1977), 68–69; Clark, *Franchise*, 2–3.

21. Clark, *Politics*, 290; Frank MacKinnon, "Big Engine, Little Body," Martin Robin, ed., *Canadian Provincial Politics: The Party Systems of the Ten Provinces* (Scarborough, Ont.: Prentice-Hall of Canada, 1978), 222–247.

22. Wendy MacDonald, "Population and Demographic Trends on Prince Edward Island," *A Place to Stay? The Report of the Prince Edward Island Population Strategy '99 Panel* (Charlottetown: Institute of Island Studies, March 2000), 121, 123–124.

23. Ibid., 135.

24. Clark, *Politics*, 300; Clark, *Franchise*, 6.

25. The most extreme case being the 1935 election, when the Liberals won every seat with 58 per cent of the popular vote.

26. In 1947 the Liberals won with 49.8 per cent of the vote — a figure that can be rounded up to 50 per cent.

27. Vernon Bogdanor, *What Is Proportional Representation? A Guide to the Issues* (Oxford: Martin Robertson, 1984), 13. Hereafter Bogdanor, *What Is Proportional Representation?*

28. Ibid., 13.

29. For example, during the 1999 Ontario provincial election campaign, a coalition of unions encouraged voters who opposed the ruling Progressive Conservatives to vote for the opposition Liberals or New Democrats who seemed more likely to win in selected ridings, in the hopes of combining the Liberal and NDP votes behind single candidates who could defeat the PC candidates; see Patrick J. Monahan, "Was strategic voting really such a bust?," *Toronto Globe and Mail*, metro edn., July 14, 1999, A9. Scottish voters in British general elections have done likewise since the 1970s, voting for whichever candidates seemed most likely to defeat Conservative candidates; see William L. Miller, "Modified Rapture All Round: The First Elections to the Scottish Parliament," *Government and Opposition* 34:3 (1999), 302. Hereafter Miller.

30. Bogdanor, *What Is Proportional Representation?*, 6–7.

31. Bogdanor, Vernon, "electoral system," *The Blackwell Encyclopaedia of Political Institutions*, ed. Vernon Bogdanor (Blackwell Reference, 1987), 194–195. Hereafter Bogdanor, "electoral system"; Douglas W. Rae, *The Political Consequences of Electoral Laws* (New Haven and London: Yale University Press, 1967; rev. 1971), 15–39. Hereafter Rae.
32. Rae, 14.
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50. *Ibid.*, para. 19.
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53. Bogdanor, *What is Proportional Representation?*, 31.
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Appendix 1

Prince Edward Island Election Results, 1923–2000

Year	Liberals		PCs		NDP/CCF	
	% seats	% votes	% seats	% votes	% seats	% votes
2000	3	33.7	97	57.9	0	8.4
1996	30	44.7	67	47.7	3	7.9
1993	97	55	3	40	0	5
1989	94	61	6	36	0	3
1986	66	50.4	34	45.4	0	4
1982	34	45.6	66	53.9	0	0.5
1979	34	45.3	66	53.2	0	1.3
1978	53	51	47	48	0	1
1974	81	53.8	19	40.3	0	5.9
1970	84	58	16	42		
1966	53	50.5	47	49.5		
1962	37	49.3	63	50.7		
1959	27	49.3	73	50.7		
1955	90	55	10	45		
1951	80	51.5	20	46.7	0	1.8
1947	80	49.8	20	45.8	0	4.3
1943	67	51.4	33	46.3	0	1.7
1939	90	53	10	47		
1935	100	58	0	42		
1931	40	48	60	52		
1927	80	53	20	47		
1923	16.7	44	83.3	52		

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King said he hopes the discussion of electoral reform on P.E.I. continues no matter the result of the referendum. "I hope it's only the beginning of how we look at how we govern ourselves." NDP Leader Joe Byrne said "a 50 per-cent-plus-one vote requires a discussion by the elected members" of the new legislature, regardless of whether the second threshold is met. Joe Byrne, leader of the NDP said 'a 50 per-cent-plus-one vote requires a discussion by the elected members' of the new legislature, regardless of whether the second threshold is met. (Laura Meader/CBC). "They're not going to be bound by the old rules. They're going to be bound by the results," he said. Prince Edward Island has taken an innovative approach to the regulation of the future referendum on electoral system by limiting the amount of external money in the process and introducing public spending — two proposals that the ERS has long called for. Further, the appointment of the Referendum Commissioner for the purposes of campaign information — on the example of other countries such as Ireland and New Zealand — demonstrates a commitment to ensuring that voters are engaged and aware of the options that will be put before them. Arbitrary thresholds in referendums always act against change. Prince Edward Island and British Columbia are the only provinces to have had two plebiscites on electoral reform. Between October 29 and November 7, 2016, Prince Edward Islanders voted on provincial electoral reform for the second time since 2005. The results were surprising, albeit inconclusive. Using a ranked ballot, Islanders voted for a proportional representation hybrid (mixed-member proportional, or MMP). The turnout, however, was only 36.5 percent, this in a province that regularly boasts turnouts in the mid-80-percent range. In Islanders' first dance with electoral reform (2005), the plebiscite asked: "Should Prince Edward Island change to the mixed-member proportional system as presented by the Commission of PEI's Electoral Future? What do iron oxide and electoral reform have in common? Both are found in abundance on Prince Edward Island. The fertile red soil of Prince Edward Island is home to just under 150,000 inhabitants, who are represented by a legislature of 27 members. The disproportionate results produced by PEI's provincial elections led to discussions on electoral reform. In 2003, PEI's Commission on Electoral Reform recommended the province consider a mixed-member proportional system (MMP). An independent Commission on PEI's Electoral Future was set up to educate the public and draft a clear question on the issue. This idea was put to the public in a plebiscite on 28 November 2005.