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## **SPECIAL COMMITTEE ON ELECTORAL REFORM**

**Public Proceedings: Evidence**

**Wednesday, January 26, 2022 — 1:00 p.m.**

Chair: Kate White

**SPECIAL COMMITTEE  
ON ELECTORAL REFORM**

**Members:** Kate White, Chair  
Brad Cathers, Vice-Chair  
Hon. John Streicker

**Clerk:** Allison Lloyd, Clerk of Committees

**Witnesses:** **Fair Vote Canada**  
Anita Nickerson, Executive Director, Fair Vote Canada  
Gisela Ruckert, Board Member, Fair Vote Canada

**EVIDENCE****Whitehorse, Yukon****Wednesday, January 26, 2022 — 1:00 p.m.**

**Chair (Ms. White):** I will now call to order this hearing of the Yukon Legislative Assembly Special Committee on Electoral Reform. Allow me to introduce the members of the Committee. My name is Kate White and I am the Chair of the Committee and Member of the Yukon Legislative Assembly for Takhini-Kopper King, Brad Cathers is Vice-Chair of the Committee and the Member for Lake Laberge, and finally, the Hon. John Streicker is the Member for Mount Lorne-Southern Lakes.

This Committee was established by the Yukon Legislative Assembly on May 26, 2021. The Committee's purpose is to examine electoral reform and report to the Assembly its findings and recommendations. In our study of potential changes to the voting system, the Committee is seeking input from subject matter experts. Today, we have with us representatives from Fair Vote Canada, a non-profit organization that advocates for proportional representation.

Anita Nickerson has been involved with Fair Vote Canada since 2008 and has been its executive director since 2017. Prior to joining the voting reform movement, Anita was an addictions counsellor and mental health worker. Ms. Nickerson lives in Kitchener, Ontario.

Gisela Ruckert is a Fair Vote Canada board member and a long-time grassroots organizer living in Kamloops, British Columbia. She works with various non-profits at a local, provincial, and national level.

We will start this hearing with a short presentation from Fair Vote Canada and then Committee members will have the opportunity to ask questions. We will now proceed with the presentation.

**Ms. Nickerson:** Thank you very much for inviting us to present to Yukon's Special Committee on Electoral Reform. We are really thrilled to be here. I have a presentation and I am just going to bring it up here. I am assuming that everybody can see this presentation.

I just want to start by saying that I am in Kitchener, Ontario, which is the traditional territory of the Haudenosaunee, Anishinaabe, and Neutral peoples.

So, what we decided to focus on today is the process to get to electoral reform. We realize that there are a lot of other things that we could have focused on — models, details of systems, all that exciting stuff that people associate with Fair Vote Canada, but honestly, if the process doesn't work, it will end the same way that almost every electoral reform effort in Canada has ended, which is in failure.

So, it is very important for us that the process is the most evidenced-based and inclusive one possible. That is what we are spending our presentation time on today.

I am going to be taking a closer look at referendums and the evidence for citizens' assemblies and we will end with some recommendations. The second part of this presentation on citizens' assemblies is going to be done by Gisela.

The first thing to understand is that most OECD countries do use proportional systems. Canada, the UK, Australia, and really the US are outliers in terms of that. Of the modern democracies, the OECD countries that use proportional systems, most did not adopt them by way of a referendum. That is really sort of an odd route to adopt electoral reform and really it only happened in Switzerland in 1918 and New Zealand back in 1992, which I know you will hear more about.

During the federal Special Committee on Electoral Reform, they heard from hundreds of experts and we followed that process very, very closely. This was a quote that really struck me, from Yasmin Dawood, who said that "a referendum is not necessarily a politically neutral choice", which is sort of a diplomatic way of explaining the situation.

So, a lot of the work that I am going to be talking about today was done by Professor Lawrence Leduc, who is a professor emeritus at the University of Toronto and an expert on citizens' assemblies, referendums, and electoral reform. Professor Leduc says that while the democratic values may say that the voters are always right, it appears to increasingly be the case that the institutions that are intended to provide solutions can just as easily act to block them. The playing field in referendum campaigns is far from level. The no side possesses a powerful advantage, while the yes forces tend to face an uphill struggle. I am going to be talking more about that in detail.

Just so that you are clear that it is not just: "Well, this is Fair Vote Canada. Of course, we want to win, so we don't want a referendum." There has been a lot of research done around the world by people who have no skin in this game in Canada related to electoral reform on referendums.

Here you are looking at a chart that was done by Lawrence Leduc, looking at referendums around the world and what happens to support for the change side or the yes campaign in the month before people go to vote. So, the general gist of it is, you can be heading into a campaign on the yes side with a huge advantage, a lot of generalized public support, and in those last few weeks and last few days, it is almost always the case that support for the change side plummets, often dramatically. This was also shown by Alan Renwick, who is the director of the UK's Constitution Unit, who expanded on Lawrence Leduc's work and looked at some more referendums and some more countries and found exactly the same thing. It is quite common for there to be a 20-point drop when people actually go to vote on something that is new.

Now, of course, there are exceptions to that. In Fair Vote Canada, people talk a lot about New Zealand because it is the one that changed their system. How did they do it? I think that we want to be clear that what happened in New Zealand isn't a model for how to get electoral reform in the rest of the world. Leduc outlines specific situations where the yes campaign is likely to be able to overcome the tremendous hurdles, and those situations rarely apply to electoral reform referendums in Canada.

About a year or two years ago, we had Frank Graves, who is the president of EKOS Research, come and talk to us at our annual general meeting and he said the same thing. He said that someone asked him about referendums and he said that, in a

referendum, if you don't leave the gate with at least 70 percent or 80 percent support, you are unlikely to be successful because whatever you put forward will be put under criticism from all the other players and it will inevitably lose steam.

During the federal ERE, they invited a bunch of experts, including Arthur Lupia, who is from the United States' University of Michigan. I think that he is the vice-director of the National Science Institute now. He has spent his lifetime studying voter engagement, how voters make decisions, and things like ballot initiatives and referendums, and he says that he has a statistic that he uses to show just how skewed this is and that in California there is a whole industry devoted to helping organizations campaign in referendums. He says that they won't even touch it unless you are polling over 70 percent a year out. If you actually dig into that, it is more than that. They are saying that if you don't have at least 55 percent strong support for the exact thing that is going to be on that question, they basically say to not waste your money.

So, when we look at where the yes campaign for proportional representation would be starting from, would it have a reasonable chance of success in a referendum? Polls have been done on support for proportional representation in Canada for 20 years and the support for the general principle usually ranges somewhere between what you are looking at here — about 57 percent, which was six months ahead of the last vote in British Columbia, and up to the mid-70s, sometimes 75 to 76 percent. But you are talking about support for a principle, support for fairness, support for the idea that everyone's vote should count and that seats should match votes, which is very different from asking people to vote on a specific proposal after being subjected to months of relentless counterproductive campaigning.

So, why does the no side have such a big advantage? Why isn't it more fair? So, Arthur Lupia says that the no side has a huge advantage regardless of the legislation. That is something else that I want the Committee to take note of. Regardless of the system, regardless of the design of the ballot — we have been through this — the 21 years that Fair Vote has been around. It is true throughout the world that you are running against change and people don't know what life is going to be like under the change. A typical no campaign is when you think about the worst-case scenario and then you make the whole campaign about that. Whereas the yes campaign has to try to describe some new world that people have never lived in and ask them to take a leap of faith.

What Lawrence Leduc and others have shown is that referendum campaigns very often become about something that is not actually on the ballot. The vote becomes driven by a lot of factors other than the proposal, the merits — the fact-based merits — of the proposal in front of people.

So, after I read a whole bunch of his research and others, I sort of put together a little chart. I am just going to explain very briefly what this is. A lot of people don't realize that between Canada and the UK, we have had seven or eight referendums now on electoral reform. We have learned a lot and we have experienced it first-hand and have seen it come to life with different campaigners, different types of ballots, different types

of systems, and these same factors that Leduc and others talked about have come into play in almost every single referendum. It should be fairly obvious what they are at the top. I am just going to clarify the top one on this chart — Second Order Effects — this is just sort of an academic way of saying that things that aren't on the ballot, other political issues, end up driving people's decision-making.

I am not going to talk about media bias today, for the sake of time, even though it is hugely important in referendum campaigns, but in the slides that you will see — there are a bunch of slides referring to that you can read later.

So, this is from the “no to alternative vote” campaign in the UK. The UK had a referendum on electoral reform on AV in 2011; not many people realize that. The fellow who led the no campaign actually went on to lead the leave campaign for Brexit. In a podcast I listened to recently with him, he was saying how he looked at this no referendum campaign for electoral reform as a practise run for that and tried out some of the very successful tactics. In this no campaign, the no side was basically focusing on a small party that people, you know — if they were a small party, they have a small percentage of the vote, which means that most people are ambivalent or don't like them — and basically focused on, if you vote yes, you are going to get more of this guy, more of all these things that he is pushing, and he is going to hold the balance of power. This was used very successfully by the no campaign in the last BC referendum.

Again, here is another winner from the “no to AV” campaign in the UK. In this one, this was the precursor to the: We're going to send all this money to the EU — around Brexit — the ad on the bus. This isn't about the voting system anymore; it is not about counting ballots. It is all about: Do we really want to spend money — it was an entirely made-up number, by the way — on these voting machines?

This speaks to the second-order issues, which are around process and I really want to emphasize this. It doesn't matter what system you come up with; if people don't trust the process, they will not support it. If they think that it is being driven by partisan interests, if they think that it is to benefit one party, or if they think a bunch of partisans and political hacks have cooked it up in the back room, it doesn't matter what you come up with, you are going to be facing an uphill battle. This is what we saw in BC, where a millionaire took out the front page of all the newspapers in BC before the official campaign even started — not attacking proportional representation or the system; he didn't have to. They spent a year ahead of time telling people that what the government had come up with was being driven by partisan interests, that it was secretive and you can't trust the process and if you can't trust the process, you better vote no.

Research out of California has shown that partisanship is the strongest predictor of voting in referendums on governance-related questions. So, on these kinds of issues, voters will take shortcuts. They don't sit and read the whole manual. They take shortcuts and they figure out what is in their party's best interest. The party is usually fairly clear, one way or the other, which way it is, and they use those shortcuts to make decisions.

We saw this in the BC referendum where 82 percent of the BC Liberal voters, which is their centre-right party, voted no and in the UK referendum where 83 percent of the Conservative voters voted no. This is very much also tied into the media, so you might want to take a look at that after.

The other thing that really influences electoral reform referendums, and all referendums really or many of them, is misinformation campaigns. Because there are no laws around truth in advertising, there is no way to regulate that. Opponents, as Lupia said, are free to come up with whatever they want and still stay within the campaign rules. We saw a lot of that in BC, where people were basically — there was a lot of talk about Nazis and all these kinds of, you know, scary, dangerous people who were going to supposedly get elected if we adopted PR.

The misinformation campaigns that I would probably expect to see in the Yukon would be along these lines that we also saw in BC. “So, it is time to say farewell to your local MLA.” The urban area would have all the power and the rural areas would be shut out. This was completely — 100 percent — false — 100 percent. Dishonest information ran in whole-page newspapers. These kinds of social media ads ran, and it didn’t matter that the government was saying that there was an iron-clad guarantee that no region was going to lose a single seat, but that didn’t matter. These things were hugely effective.

A few years ago, MIT did a huge study on the effect of false information on social media, and they showed that false information reaches many more people than true information does. It is way more likely to be re-tweeted, it takes off six times faster, and they found that this effect of how quickly it spreads into social networks was so much more pronounced for political posts.

After the last BC referendum, there was an exit poll done and they went through a bunch of the different talking points of the no campaign, which ranged from “outright dishonest” to “severely misleading”. They found that all of these talking points affected people’s decisions a little or a lot. These are just a few examples. “MLAs might be appointed from party lists” — completely false information. “Voters from rural areas might lose representation” — 45 percent of people who voted no said: “That affected my decision a little or a lot,” and it was completely false.

Again, I am drawing your attention to the process. The government might have rigged the process for partisan gain.

So, heading back to 2005 — and I know that you are going to hear from an expert from PEI. Leonard Russell, who chaired the Commission on PEI’s Electoral Future, going back almost 20 years ago, testified for the electoral reform committee. It was sort of humorous because he said that he was going to say something that he had never told anybody, that he had only said to his coffee cup. He just basically talked about how the government had said that they wanted this and they had put this process together and then the people found out that they were being undermined by the very parties that had put this in place and that representatives from the parties were in church basements saying that this wasn’t very good. Part of that was just all about a threat to power that comes up when you are looking at changing the voting system.

So, Uninformed and Confused Voters — actually, I want to go back one, if I can. I don’t know if I can; let’s see. I want to talk to the last little bit for a minute about the parties divided. I skipped over that and it is really important. In every electoral reform referendum we found, parties are divided between themselves and internally on this issue. That is really hard for voters. So, you may have a party that says: “We are all for this,” but actually, half of your caucus isn’t really all for it, so you end up with a bunch of them who are working with the no campaign to undermine it. Then sometimes you have other parties that are saying: “This is a life or death issue; we are going to kill this.” Then you have parties that are like: “Oh, we are neutral; we don’t really have any opinion”, but they are not neutral. Even by the act of being neutral, they are communicating to their voters that this doesn’t really matter or that they don’t really want it or that they are not really behind it. When parties are divided, it makes it even harder for people to get past that.

Uninformed and Confused Voters — I am sure that you will hear from many academics on this point. In every electoral reform referendum, no matter what you do, you are going to have uninformed and confused voters. I think that it was Ken Carty who said to you this week that, you know, voters “don’t go to sleep thinking about” electoral systems. As someone who is passionate about that myself, I can just tell you that it is true. In the AV referendum, one of the problems was that the commission — the electoral commission — has to be neutral. Of course, that is so important; they have to be neutral. What they end up producing is something like a manual of how to disassemble the back of your refrigerator. When people get this, it makes something that is pretty simple sound really complicated. It also doesn’t talk about the values; it doesn’t say why anybody should care — why should people vote for this? — so that people look at this thing and it just can’t compete with seeing marching Nazis on TV.

Here we have Anna Keenan from PEI, flipping through the booklet that people got in PEI’s referendum, and their electoral commissioner said pretty bluntly that “sometimes it takes more words than people care to deal with.” Again, Lawrence Leduc saying that, for 2007, Ontario’s MMP referendum, the most persuasive argument of the no side was the lack of sufficient information — the public’s frustration at a lack of information would bedevil opponents of MMP right through voting day. Just not understanding what they were voting on is enough for many people just to say no. One of Canada’s top experts, Dennis Pilon, has basically said that research on the use of referendums at voting systems has found chronically low levels of public knowledge, excessive partisanship in the debate, and that when people say no, they are not usually saying no to proportional representation; they are saying: “No, I don’t know enough about this thing and I am confused about some things I have heard, so I vote no.”

The Australian Human Rights Commission did an interesting study on referendums in Australia. Australia has had 44 referendums on constitutional issues, which is as close as I could come in terms of an analogy to electoral reform, and the first thing you will notice is that, out of 44 referendums,

82 percent of them ended in a no vote, but what was it then about the 18 percent that succeeded?

Just to summarize what I have been talking about in these slides, Nelson Wiseman, who is a Canadian Studies expert and professor at the University of Toronto, who testified at the ERE, said: “I would not put the issue of an alternative voting system to a referendum. It’s unnecessary; it’s a waste of money; and it will almost certainly fail. You may as well recommend not changing the system and save Canadians the cost.” He is quite a blunt fellow, if you want to check out his testimony on the ERE.

So, what would be fairer conditions? If there is a built-in status quo advantage for the no side, combined with an issue that is rather complex and a little bit dry, where voters take cues from partisan campaigns, what would be fairer conditions for referendums to succeed?

So, the Australian Human Rights Commission wrote a little paper on what made the difference in those 18 percent that succeeded. Well, number one, there was strong support — and no, I am not saying neutrality — strong support for their proposal by all the major political parties. So, they were basically just asking people: “Hey, we’re all behind this. Will you, the population, get behind this too?” There is a sense of ownership of the referendum issued by citizens, so it wasn’t seen as: “Oh, this is an issue owned by a few politicians, elites, or voting system geeks.” The whole problem and the solution were felt to be owned by the population and an education campaign that ensures that citizens understand the issue.

So, honestly, this is an ideal scenario. If you had all these things, that would be incredible, but I have yet to see an electoral reform process or referendum in Canada that has all these things, and I am not sure that it is even possible anywhere in the world to have conditions like this to give the yes side a fair chance.

Now I am going to turn it over to my colleague, Gisela, to share her screen and talk about citizens’ assemblies.

**Ms. Ruckert:** Thank you, Anita. I am just going to shift my screen now.

I am hoping that by now Anita has made you aware of the pitfalls with referendums and I am hoping that you are questioning whether you would want to go that route, given their lack of utility in this context, really. I get the fun job of giving you the good news and assuring you that there are actually very good alternatives for getting citizen input on complex policy choices like electoral reform.

In the next few slides, I am going to be describing a process that taps into the wisdom of the crowd. I think that it is a process that has value because it draws on the common sense of common people. It is a process that is also recommended by the Organization for Economic Cooperation and Development, the OECD Citizens’ Assembly. The citizens’ assembly is exactly what it sounds like. It is a representative body of ordinary citizens, average people, gathered to deliberate on an important policy issue, and they are based on the evidence which shows that when people are given the knowledge, the resources, and the time, they can find solutions to complex and controversial

issues, including the ones that are often a stumbling block for politicians themselves.

So, who is in a citizens’ assembly? It is a mini-public — so, a mini-version of the Yukon is what you would end up with. Citizens are selected by sortition, so basically a civic lottery, like a jury, but once you have that pool of people chosen by sortition, you then make sure that the participants in the assembly are actually demographically representative of the population in terms of age, gender, political viewpoints, and everything that is relevant, so that, in effect, you create a microcosm of society. Since participation on citizens’ assemblies is voluntary and willing and will invariably involve hours away from home, possibly from work, it is important that the process covers those expenses — providing daycare, if it is needed, and compensating people for their time. The point is to remove the obstacles that would prevent certain groups from participating or from being represented.

There are loads of examples around the world and within Canada and this is one of the more recent ones — the Scottish Climate Assembly. You will notice at the bottom there that it says that citizens were representative of Scotland by age, gender, household income, ethnicity, geography, morality, disability, and attitudes toward climate change. By doing this, we are negating the influence of those who have a disproportionate amount of what Anita called “skin in the game” — special interest groups and the like. So, we are ensuring that the group is truly representative of folk in the real world.

The participants moved through the following stages. First, there is a period of learning where they familiarize themselves with the topics from experts and they look at the evidence. Then they consult the public. They hear from stakeholders and then, and this is the part of the process — they discuss the evidence and they carefully weigh the options. So, that is what we call the “deliberation phase”. After that, they come to a consensus recommendation. It doesn’t necessarily end up being unanimous, but it is a very large percentage of agreement that allows the groups to come forward with a recommendation.

It is important that the citizens’ assembly isn’t run by the government, but the government needs to fully fund and publicize the assembly so that the public knows what is happening — that they know that it is made up of people “just like me” and that they can engage in the consultations and follow the assembly’s work closely, if they choose. Ensuring that the public is aware of the process also makes it more likely that the recommendations will actually be acted on because you have the ideal conditions of public support and you have created that expectation for action.

In Canada, most processes are run by a company called MASS LBP, which has run hundreds of processes for governments in Canada. On a federal level, they ran the Citizens’ Reference Panel on Pharmacare in 2017, which you might be familiar with.

Again, it is important to fully fund the assembly and to publicize it so that the public knows what is happening and that they can choose to follow along if they like.

Citizens' assemblies are spreading around the world. There are many examples here on the page. I am not going to go through each one of them, but you can perhaps check out some of those later, if you are interested. This is a really neat little animation that shows how they have been popping up from — I think it starts in 1970 up to 2019, and you can see that they are starting a few here and there, and as you go through the time lapse, they really take off, and that is where we are right now.

As I said, what is being called the “deliberative wave” by the OECD has been building since the 1980s. You can see that the number of citizen-driven consultative processes are going up every year in the OECD countries.

This is a report that I would highly recommend that you check out. The *Catching the Deliberative Wave* report from the OECD is an extremely thorough look at these deliberative processes from around the world and there is an executive summary there. It is a very long report, but the executive summary will give you the highlights and it will inform your understanding of what is involved in these processes far more than I can do in the short time that we have.

So, in terms of benefits, we tend to get better policy outcomes when we create the space for deep learning and deliberation. Access to good information and time and skills facilitation both lead to the development of detailed and rigorous practical recommendations, which take into account the inevitable trade-offs that come up when you are making these policy choices.

Secondly, public officials and policymakers have greater legitimacy to make hard choices because the public is already on board and especially in situations where there is a political deadlock and you have to weigh these difficult trade-offs. This explains why climate assemblies tend to produce far more ambitious recommendations than what politicians themselves would actually have been able to bring forward because it gives them that greater legitimacy from across the public.

Thirdly, these processes tend to enhance public trust in government, rather than further erode it, which is often the result of a process like a referendum. People trust folks who are like them to act on their behalf more than they trust politicians or so-called “experts”.

Moving on, it is also important to note that these citizens' assemblies ensure that those with money and with power don't have an undue influence on a public decision. The participants in the process arrive without an agenda and they can focus on the common good. That is their job and they do it. There is a diversity of views that is represented. Research has shown that as far as developing successful ideas, when you have more cognitive diversity, it is actually more important to have that than the average ability of the group.

Finally, evidence-based processes counteract polarization and misinformation, which is, again, the exact opposite of what happens during referendums. There are three times when the OECD suggests that deliberative processes are the appropriate path to choose when making decisions, and these are the three: values-driven dilemmas — for example, the debate in Ireland on reproductive rights and abortion would certainly be an example of that; complex problems that require trade-offs — I

think that it is fair to say that electoral reform is one of those; and also, longer term issues that go beyond short-term incentives of electoral cycles. I think that electoral reform ticks all of those boxes and sets out a process that would be appropriate.

Fair Vote Canada actually commissioned a national poll two years ago — almost two years ago now — by Leger and it found high support for the concept of citizens' assemblies across the board. I found this particularly interesting: The support was very high across voters of all parties.

Last fall, PEI's legislature voted to go ahead with the citizens' assembly, and because they had already done a lot of consultations on electoral reform and people understand the concept of proportional representation, they chose to limit the citizens' assembly mandate to look at just forms of proportional representation, and it is widely expected to take a less partisan, more evidence-based approach to designing a new voting system for PEI.

So, CAs — the citizens' assemblies, which I am calling “CAs” — have been ongoing in Canada on a number of topics for many years and here is an example of one that has been going on for the last three years.

So, summarizing the differences between referendums and citizens' assemblies — I won't go through all of these — but this is a very strong argument for looking at the strong points and weak points of both potential models for making a decision. Basically, it is a stronger process because citizens are able to look at the facts and think about them deeply, rather than make a decision based on someone's opinion or misinformation.

Governments tend to see proposals for institutional change as threats to their position or as opportunities to advance a partisan agenda. Proposals put forward by organizations are easily ignored, and when governments do decide to act, they often do so from a perspective of gaining a political advantage over their opponents. This is exactly that partisan bit that citizens' assemblies remove from the equation.

Finally, you have heard a lot from other experts saying that electoral reform is hard, and we acknowledge that. It is not easy, but we encourage you to also acknowledge that progress is possible and we have drawn up these three recommendations which we feel will lead to a successful reform process.

First, we need to recognize that the process actually matters a lot. There is research on best practices, which we encourage you to consider when considering the path that you are recommending going forward. Again, we recommend that you avoid choosing a path that leads to a referendum. They are not appropriate tools for making complex policy decisions and it is becoming increasingly clear that their use reveals a preference for maintaining the status quo and the fact that you would like to, as Anita said, save the money.

Finally, number three, make sure that you establish an arm's-length, sortition-based process to create a legitimate representative mini-Yukon to learn about the options and to deliberate and find consensus on reforms to be implemented.

So, those are our three recommendations on the process which we have chosen to focus on for this presentation. We also want to draw your attention to our more comprehensive written

submission, which provides in-depth guidance on systems and models, which we didn't have time for in our presentation today. I will stop sharing and leave it there.

**Chair:** I would like to thank you both very much for your presentation and it is correct. So, the written submission from Fair Vote Canada is available on the Committee's website, which I will cite at the end, but what I would like to do right now is to give Committee members an opportunity to ask questions.

**Mr. Cathers:** I appreciate the presentation, but I do have some questions and concerns about the suggested approach to establishing a citizens' assembly. My question would be: Where is the opportunity for the democratic process, including for the average citizen to decide whether they even think there is a problem with the current system?

**Chair:** We will start with Anita and then, Gisela, we will follow up with you.

**Ms. Nickerson:** I think I will just answer that to say that the idea of a citizens' assembly is to tap into the opinion of the average citizen. Ken Carty and Jonathan Rose and one other person, whose name escapes me, wrote a whole book on this — on the three assemblies on electoral reform that happened about 20 years ago, and they showed how truly representative the people were. These were folks who were coming in who had no idea about electoral reform. They had no preconceived opinions. They knew very little about it and they reflected the average population. So, the idea of the citizens' assembly — this is what citizens would think if they were fully engaged and able to take that time to hear each other, listen to each other, learn what each other's experiences and thoughts are, so they are like a mini-public.

The second thing that I would emphasize is what Gisela talked about a lot in her presentation, which is providing the funding and means for the citizens in the citizens' assembly to reach out to the population. If you look at — there are a couple of citizens' assemblies on climate in the UK and in France. The one in the UK, almost nobody knew about it. The government treated it like a very quiet advisory committee. The one in France, the government seriously put effort and money to promote this as a legitimate process and, by the end, 70 percent of the people in France knew that the citizens' assembly was taking place. So, I would say that is what makes those links.

Oh, one more point — sorry. The other thing that we probably didn't touch on is that the citizens' assembly should be free to consider all options, including keeping the status quo. It should not be limited to options that Fair Vote Canada likes; it should start with a blank slate. Including keeping the status quo. So, it should not be limited to options that Fair Vote Canada likes; it should start with a blank slate and that also gives it credibility in the eyes of all voters.

**Chair:** Thank you, Anita. Gisela, did you want to add something to that?

**Ms. Ruckert:** It was actually Anita's final point — that they would actually have a mandate to consider the status quo as one of the options, as well as non-proportional systems as other voting systems that they could look at. They would not be

excluded or limited from considering a recommendation of making no change.

**Hon. Mr. Streicker:** Thank you very much for the presentations. Just to begin with, I have got to say that "sortition" is a new word for me, so I was quite excited about that. Say that there was a citizens' assembly. What is your recommendation or thought around — because if you empower the citizens' assembly to go where it wants to go, maybe it goes toward a referendum, even though there may be things that — they look at it and they consider it for all the reasons that they might because they are a mini-Yukon, in our case, or a mini-democracy. I also am curious to ask you what your thoughts are around — if it wasn't to go to a referendum, would it be that — are you recommending that if we set up a citizens' assembly, it would be — that the recommendations that come out are binding, or are they recommendations to be considered by the government or by the legislature of the day?

**Ms. Ruckert:** The first question was: What if the citizens' assembly decides a referendum is necessary? Absolutely valid — if that is what they choose, that is what they choose. We would recommend that they look at the evidence and we feel confident that, on the basis of the evidence available on best processes, they would recommend against a referendum. It is totally up to them though. It should be within their mandate to recommend a process that they feel comfortable with, and if that includes referendums, so be it.

The second part of your question was about what happens after they make their recommendation. So, this is another piece where they might have a role to play and I think that this is another thing that your Committee will also have to consider. One option, I suppose, is making it binding, but I think that a better way would be to have a back and forth after the recommendations are out, so that the politicians can have a look at those recommendations and maybe there will be some tweaking or developing that goes forward. I think I will stop. I don't know if Anita would like to add to that.

**Ms. Nickerson:** The question you are asking, John, is really important because one of the problems, obviously, is if the citizens' assembly, based on what they want in the evidence, ends up wanting something that the politicians don't want — I mean, that is like the catch-22 of electoral reform. I hate to use that cliché, but there is no easy answer to that and that is something that this Committee needs to talk about. But I completely agree with Gisela that the ideal scenario for me is that the citizens' assembly is not binding. You can't legally bind politicians to act on a citizens' assembly. This is your job — you are elected and you are responsible for that, but some back — first of all, they provide something that continues the conversation — that gives politicians somewhere concrete to start from.

Another option is to have the politicians respond, have this Assembly reconvene. We are seeing that in Scotland, where the government responded to all 81 recommendations of the climate assembly one by one, and now the citizens' assembly is reconvening to consider the government's response. This is sort of innovative and we will see what happens out of that. The other option that I would encourage you to consider is a little



bit outside what we would usually recommend or say, but in Ireland — Ireland really kicked off the whole citizens' assemblies around the world thing back about five years ago, when they had their hugely successful Irish citizens' assembly — the first one. But the precursor to that was something called their "constitutional convention" where they were trying out this idea of citizens' assemblies. What they did is that they had 66 randomly selected representative citizens sit with 34 of their MPs. They have a different word for it, but we will just call it "MPs", and they all went through that deliberative process together on electoral reform and came to a consensus.

That was a model that hasn't been used since. It really showed the politicians that citizens can be trusted and this works, but on this topic, I think that it is really important to find a way to build politicians' input into the process because the last thing a citizens' assembly wants is to spend all this time and then find out that the politicians are not going to back any of this because it is too much for them. So, you need to find a way to marry those two approaches so that it builds confidence in the government and it also builds confidence in citizens' assemblies.

**Chair:** Thank you for that. I am just going to take this opportunity — we did learn from Dr. Carty earlier this week and today we had a conversation with Dr. Desserud about, actually, citizens' assemblies. So, if we were to hold the example in British Columbia up as best practice in Canada — you know, we just had the conversation about the new citizens' assembly that has been called in PEI, and I have to say that there are lots of concerns there because none of those parameters that have been set out to make sure that it is a mini-Prince Edward Island, for example, has been set. I think that, in the Yukon, the closest comparison that I would make that we have had similarly would almost be planning commissions for areas here. I guess that one of the things I was surprised about — I might have, before today, been like: "Well, we need to go to a referendum because we need to hear from people," and you have done a very good job of arguing the opposite.

If, for example, we were to go toward the citizens' assembly, I guess one of the challenges becomes: How does a jurisdiction that hasn't ever done something to that scale — what is the first step toward that?

**Ms. Nickerson:** I'll take a shot at this. It is not something that I have an answer off the top of my head. I guess I would first start by reframing what you said. We do need to hear from people — absolutely, 100 percent. It is just: How do we hear from them and how do we ensure that we are hearing from the equivalent of everybody, not just the most motivated people and the most motivated campaigns that can push their voters out to the polls? We want to hear from everybody, including indigenous, including people who don't even vote — people who are disengaged from the process — because in a way, a lot of that is what this is for. It is to improve democracy for everyone.

In terms of what would be a next step in planning this, I would encourage you to talk with the organization in Canada that does most of these processes. Ask MASS LBP because they have done hundreds of these for government at different

scales. I also wouldn't be quite so overwhelmed about how huge it has to be. A population the size of the Yukon — I mean, previous electoral reform assemblies have been 100-160 people — the population of the Yukon — I am just guessing — I would think they might recommend closer to 50 people and it doesn't need to take a whole year. The assemblies in Scotland, for instance, the more recent ones, and the climate assembly in France took about six months. They had about six or eight full weekends, so take it one step at a time and have somebody knows what they're — who does this for a living walk you through it.

**Chair:** Gisela, have you got anything to add to that?

I am just aware of our time — Mr. Streicker, do you have another question?

**Hon. Mr. Streicker:** Thank you, Madam Chair.

Another question that I wanted to pose was — one of the things that we had presented to us yesterday from Dr. Everitt in New Brunswick was — okay, let's say that we move down the path of electoral reform and it is not successful or it does not change the electoral system. She discussed other ways, other things that could be changed. I haven't had the opportunity yet to go through your submission — and thank you very much for that; I will — but if there were other things — and they could come through a citizens' assembly as well, of course — but are there other things that you would identify that would be good to have under the broader umbrella of electoral reform, rather than just purely the system itself?

**Ms. Ruckert:** Anita probably has something to add as well. In terms of other ways to enhance your electoral system, there are things you can do. I listened to Dr. Everitt's presentation yesterday, and I agree with much of what she said in terms of campaign finance, per-vote subsidy incentives for having minority — underrepresented — groups represented. She herself said though that those are tweaks and her primary recommendation — really, she said that, if you have the option, go for proportional representation — or not — go for proportional representation.

So, yes, there are other things that you can do and they might have an impact. She said they are still figuring out whether the things that they have done have actually had an impact. They are hoping for data after the next election, but I feel that if you want to do — I guess I would just encourage you to be courageous and ambitious and then scale it down from there. Start off going bold because this is an opportunity to change the democratic process for the people of Yukon for the better.

**Ms. Nickerson:** Yes, you are going to hear from so many experts who will tell you that it's hard. Do you know how many times I have heard that it is hard? It really gets tiresome. It is hard, but it is possible. It is hard, but over 80 percent of the OECD use systems that really count every voter's voice. So, it is hard, but it is possible, and I think that it was Ken Carty who said to you that it will take leadership and it takes faith in people. I really believe that you can do that or we wouldn't be spending our time doing this for the last 20 years.

In terms of other improvements, one way you could look at a citizens' assembly is that instead of limiting it to just

electoral systems, you could consider having a citizens' assembly on democratic renewal in the Yukon and include electoral reform as one of the key pieces, but also include other things that the assembly itself might identify, or the all-party committee that sets up a mandate for the assembly might identify, and in that way, you could have a broader range of issues looked at and you might get a broader range of recommendations, rather than a complete succeed/fail scenario.

Again, I would go back to encouraging you to think about, when you focus on electoral reform, how you can bring citizens and politicians into the process in a way that it's going to succeed, rather than just thinking that you're going to end up with a citizens' assembly that's going to recommend some tiny tweak or that's the only thing the politicians are willing to do.

**Chair:** Thank you. Mr. Cathers, do you have a question?

**Mr. Cathers:** Thank you. I do appreciate you providing your perspective on this and advocating for why you think the system should be changed. I just do want to note, though, that from my perspective, I think it's important that we determine what Yukoners want, not just what anyone from a theoretical perspective, or from an advocate perspective, would want. I think we need to understand, through this process, whether Yukoners think that there is a problem with the current system and, if so, what those problems are and how you solve them, because changing to any model, whether it's a proportional model or something else, does itself — no system is perfect, as we have heard from other presenters, such as from the professor from PEI when he spoke to the Committee. There is also the question of the play, for some people, at least — of the connection to a person who is an elected representative, which may, for some people, be more important than a party.

I just would ask then, specifically from a question perspective — you indicated your view that the problem with doing a referendum is that there's a preference for the status quo, but there have also been cases where referendums have succeeded, including in the case of Brexit. That was a pretty notable departure from the status quo, and I would just ask if you would clarify why situations like that aren't an indication that perhaps people change from the status quo when they have decided that there's a problem and they actually want that change.

**Chair:** Okay, we'll start with Gisela.

**Ms. Ruckert:** I'll respond to the first part; I'll let Anita respond to the Brexit question. First, I want to say that I think we're in 100-percent agreement that we want citizens' input, that we want to know what the people of Yukon want, if they want their electoral system reformed or not.

I think what we're trying to suggest is the process for getting an accurate answer for that, a representative answer to that question of: "What do Yukoners want?" — because that's exactly the right question. The way to get that is via a citizens' assembly; that is the best process for getting a good answer to that very important question.

I also just want to quickly address the confusion about the local representatives. When I looked into some of the presentations earlier this week, and last week, there seemed to be this perception that — and you'll notice we haven't

advocated for PR today; we're talking about process issues. But just because you brought it up, I want to say that proportional representation does not mean that people lose local representatives. In fact, Fair Vote Canada no longer supports models that actually remove the local representative.

If we had more time, I would love to go into that more deeply, but all of the systems that we're talking about maintain local representation. So, I'll just bring it over to Anita now, if you would like to discuss Brexit.

**Ms. Nickerson:** Thanks for sending me that one, Gisela. I'll try not to get into Brexit here. I'm sure there's a range of opinions on this panel about that, but in terms of the status quo, yes. Brexit, in one way, looks like, if you see the huge graph of electoral reform failures for the change side that's in our submission that puts it all together, Brexit would look like a sort of outlier.

I was reading something by Arthur Lupia — one of the experts I quoted recently — on Brexit, and he basically said that he even sees the status quo bias in there in terms of how people voted, because the younger people had only ever been part of the European Union; the older people had a different sort of status quo. I don't know which — there are two status quos competing in that outcome, as well as a lot of misinformation that numerous fact checkers were completely unable to deal with.

In terms of the — I have one minute or something — in terms of electoral reform referendums that succeeded here in Canada, there were two that supposedly succeeded, even though we don't still have any electoral reform. You'll note that there were some commonalities. There was no "yes and no" funded campaigns; there was no opponent campaigns in those ones that succeeded. The people who were interested in participating were either happy with the citizens' assembly and trusted that or they were deeply into the issue and looked at what was actually on the ballot, and that doesn't tend to be the case in terms of what happened.

Finally, these issues of local representation, of the power party bosses, all these things I've heard come up in the Committee should really be the subject of their own session, and we had to pick and choose what we were able to discuss today.

**Chair:** I do appreciate the restraints of time. I would like to mention to our witnesses today, and also to anyone who is listening today live or in the future, that we are accepting submissions from the public on any topic related to electoral reform, and we encourage you to submit, because it sounds like — especially the two of you today — you have additional things to say, so I welcome that.

Before I adjourn this hearing, I'd like to say a few words on behalf of the Committee. First, I would like to thank the witnesses, Anita Nickerson and Gisela Ruckert. I would also like to thank the Yukoners who are listening to and watching this hearing, either live today or into the future.

More hearings with experts from across the country are scheduled for this week, and transcripts and recordings of the Committee's hearings will be available on the Committee's webpage at [yukonassembly.ca/scer](http://yukonassembly.ca/scer).

The Special Committee on Electoral Reform will soon be launching a survey to collect feedback from the public. The Committee also intends to hear from Yukoners at public hearings in the future.

Thank you very much. This hearing is now adjourned.

*The Committee adjourned at 2:00 p.m.*