

**UNFULFILLED PROMISE: HOW AND WHY CITIZEN INITIATIVE WAS
CREATED IN BRITISH COLUMBIA**

by

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Abstract

Democracy serves as a governing philosophy where decisions are made by a vote of the population. Due to the large numbers of citizens who live in modern democracies, this is mainly done through elections to legislative assemblies as a form of representative democracy. But representative democracy does not always ensure policy alignment between citizens and elected representatives. Citizen initiatives serve as a means of promoting greater policy alignment by allowing citizens to propose their own legislation, to be voted on by the electorate. This thesis investigates why British Columbia chose to enact citizen initiative alone among Canadian provinces, and also why British Columbia's policy was written with the provisions and constraints that elected representatives chose to include. The research shows that key individuals in power used their influence to advocate for citizen initiative in the province, and that British Columbia's citizen initiative process was written to accommodate constitutional requirements and public opinion on what citizen initiative should look like.

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Chapter One: Introduction

Democracy is a philosophy and a system of government where the members of a society or community come together to determine the collective actions of the state. The concept of liberal democracy goes further and includes limits on the actions of the state and the protection of citizens' rights through a constitution or fundamental law (Wolterstorff 2012: 2). Democracy is generally accepted to have been developed in ancient Greece. The ancient Greek system was a form of direct democracy because the citizens themselves were able to make decisions about important issues and elect leaders, and thus retained political power within their society (Gastil and Richards 2013: 255). This early form of democracy differed significantly from the democracy we enjoy today in Canada. In part, this is due to the vastness of Canadian geography, but also because of the larger number of people afforded the rights of citizenship, Canada has an indirect or representative democracy, where political power is delegated to individuals elected to represent their geographic areas and their communities (Gastil and Richards 2013: 255).

While representative democracy has spread over much of the world, many democracies have also decided to incorporate tools of direct democracy into their decision-making structures. Over time, the concept of direct democracy has evolved to include new tools, but the principle of ensuring that all citizens have an opportunity to directly exercise political power remains the same. The three main tools of direct democracy that exist in the modern era are recall, referendums and citizen initiatives. This thesis will focus on citizen initiative, which is the process of citizens proposing and voting on their own legislation, and how it was created in British Columbia. While there is a significant literature base about citizen initiative more generally, little has been written about British Columbia's citizen initiative policy, particularly

with regards to why it was enacted and how it differs from other citizen initiative processes. This thesis will contribute to the literature by explaining the reasons why British Columbia determined to create citizen initiative in the province, and what circumstances led the BC government to make their citizen initiative process different from other jurisdictions.

In 2012, I was a volunteer canvasser for the only successful citizen initiative in British Columbia, the campaign to remove the Harmonized Sales Tax. In participating in that campaign, I learned that British Columbia was the only province in Canada that allowed for citizen initiatives, and it sparked my interest in why the province was alone in allowing for this tool of direct democracy. Citizen initiative struck me as an opportunity to allow for the passage of widely popular legislation that was being blocked or not seen as a priority by the government of the day. I was surprised to learn at how infrequently citizen initiative was attempted in British Columbia, a surprise that was compounded when I saw how commonly the tool was used outside Canada.

Research Questions

Within the Canadian political system, British Columbia presents a unique case study on the evolution of direct democracy. British Columbia is the only province to include provisions for the three main tools of direct democracy (Bowler, Donovan and Karp 2002: 736). This thesis seeks to answer two research questions. The first question asks how and why British Columbia enacted citizen initiative. The second question investigates the rationale for why certain provisions of British Columbia's citizen initiative process were included. With regards to the first research question, I hypothesize that the change in leadership in the both the Premiership and the leadership of the Social Credit Party, and the events of that new administration were primary

causes that led to the creation of the BC *Recall and Initiative Act*, the legislative vehicle that enabled citizen initiative in the province. I specifically believe that Premier Bill Vander Zalm's personal support for direct democratic tools was an important motivating factor that led to the creation of the legislation.

In response to the second question, I believe that the main reason for British Columbia's policy choices were because of the constitutional concerns brought up by the 1919 Privy Council decision (Manitoba *Initiative and Referendum Act*). This reference case on the constitutionality of Manitoba's *Initiative and Referendum Act* confirmed the requirement that the Legislature and Lieutenant-Governor have meaningful roles to play in the creation of legislation. British Columbia's legislation was structured specifically to address the requirements that the Legislature and Lieutenant-Governor's powers be respected.

Introduction of Key Concepts

In order to fully understand the thesis topic, it is necessary to differentiate between the types of democracy, as well as the tools of direct democracy and how those tools differ from each other. A more detailed explanation of these concepts will be found in chapter two. This explanation will also describe the different perspectives on each term and the tensions between them. In this section, however, a brief definition will be provided on these key terms.

As noted above, representative democracy has existed for less time than direct democracy, though it is the more common form of democracy found in the world today. Rather than having all citizens vote on political issues, voters cast ballots for individuals to represent their communities and develop legislation. The election of representatives transfers political power from individual citizens to their representatives. Citizens maintain overall political power

through periodic elections where they can select different representatives. Representative democracy, therefore, is both a decision-making process and a political system where citizens retain political power, which they use to select individuals to act on their behalf (Cheneval and Ferrín 2018).

Direct democracy has long been established in western civilization and refers primarily to the idea that the important decisions in a jurisdiction are made by the citizens themselves. The concept of direct democracy is a series of practices that allow citizens to directly participate in the creation or repeal of public policy and legislation and allowing citizens to vote on the issue being debated. Direct democracy is also the umbrella term for the processes and tools that allow for that citizen participation. These include recall, referendum and citizen initiative (Rachwal 2014).

Recall is a process that allows for citizens to remove an elected official from their office, thus requiring a new election to fill the vacated seat. It requires a legislatively prescribed percentage or number of eligible voters to sign a petition supporting the recall within a certain time period, again established by law or regulation. Petitions that gain the necessary signatures in the timeframe cause the political office in question to become vacant (Twomey 2011).

Referendum refers to a vote of the citizens on a single issue of public policy, though not necessarily during a regularly scheduled election (Matsusaka 2005: 187). This form of direct democracy is often called a plebiscite and refers to a public vote that is brought forward by the government of the jurisdiction (Qvortrup 2017: 143). The government determines the timing of the vote, the wording of the question and the conditions needed for an affirmative vote in a referendum. Questions are written in such a way that they provide a binary yes or no question to

voters. The vote is also binding on the government that proposes them (LeDuc 2003: 34).

Referendum is considered part of direct democracy because it allows citizens the final say on public policy questions submitted to them for consideration (Qvortrup 2017: 143). In this thesis, the term referendum will refer to a vote of the citizens on an issue of public policy, presented by the government.

Citizen initiatives are similar in many respects to referendums but include some notable differences. Referendums are created by the government, while citizen initiatives are sponsored by ordinary citizens (Matsusaka 2005: 187). A citizen initiative requires that a legislatively directed share of the population sign a petition in support of proposed legislation created by another citizen or group of citizens (Varzeliotis and Varzeliotis 1996: 105). Citizen initiatives also differ from referendums in that they are not necessarily binding on the government subjected to them. This thesis will consider a citizen initiative to be a process in which a citizen or group of citizens writes a draft policy for consideration by the public. Such initiatives require supporters to gather signatures in favour of the proposed bill within a certain timeframe; the timeframe and number of signatures is determined by legislation within the jurisdiction. The successful collection of the required signatures leads to a public vote on the proposed bill.

Citizen initiatives can be divided into two different categories. Direct initiatives are also called full-scale initiatives. Direct initiatives are those which require votes of the population that are binding on the government (Cuesta-López 2012: 257; Christensen, Jäske, Maija and Maija 2017: 411). Indirect initiatives, otherwise called agenda initiatives, are not binding on the government. This is because indirect initiatives either do not have a public vote component, or because the government is not bound by the results of the public vote that occurs.

History of Citizen Initiatives

The earliest forms of direct democracy were found in the Greek city-states, where landowning males would discuss issues and be elected to govern by lottery. The first modern forms of direct democracy were recorded in thirteenth century Switzerland, where male citizens would gather in town squares for public votes on issues in their local communities (Macklin 2003). These processes would not be formalized in Switzerland until the 19th century with the rewriting of the Swiss Constitution which specifically included provisions for citizen initiative, codifying what was already occurring within the country (Rachwal 2014: 35). Within the British parliamentary system, the first known petitions were brought to Parliament during the reign of Richard the Second in the fourteenth century (Bochel 2013: 798). Britain still allows for these petitions to be brought forward. The British government must respond to the petitions if they obtain ten thousand signatures, but these petitions do not compel legislative action and, therefore, are not considered citizen initiatives (United Kingdom Parliament 2019).

Globally, citizen initiative is practiced in many countries (Qvortrup 2017: 147). The European Union conducts a form of citizen initiative, where citizens can gather proposals for debate at the European Parliament (Kandyla and Ghergina 2018: 1223). This is a form of indirect citizen initiative as the effect of the petition is to make the European Commission propose legislation (Kandyla and Ghergina 2018: 1223). Within Europe, the United Kingdom allows for petitions to be brought forward to Parliament; there the only expectation is that the petitions be debated by Parliament (Bochel 2013: 801). In addition to the United Kingdom, Austria, Spain, Poland and the Netherlands also allow for indirect initiatives (Christensen, Jäske, Maija and Laitinen 2017: 411). New Zealand also has some experience with citizen initiatives, which are also a form of indirect initiative (Karp and Aimer 2002: 146). Australia presents a model similar

to Canada where there is no national citizen initiative process, but individual states have considered it; again, the Australian Capital Territory's citizen initiative is indirect, similar to that of other parliamentary democracies (Hill 2003: 500).

In the United States, citizen initiatives first emerged in rural, western states (Bridges and Kousser 2011: 167). These states had a political culture that emphasized the importance of the individual in political affairs (Bochel 2013: 799). In the late nineteenth and early twentieth centuries, the power of vested interests such as the railways was easily observed by citizens, who became concerned that the legislatures of these states were focused more on legislating on behalf of those special interests instead of on the interests of the citizens. This created a feeling of disenfranchisement within the political system that led voters to embrace populist political parties that advocated for direct democracy (Bridges and Kousser 2011).

In Canada, citizen initiative policies have been proposed twice at the federal level. The first was in the early 1980s by the Trudeau Government which introduced the Canada Referendum Bill (Dunn 1991). Despite its name, the Canada Referendum Bill contained provisions for citizen initiative at the national level in Canada. Following that, Patrick Boyer, a Member of Parliament in the Progressive Conservative government under Brian Mulroney also put forward a private member's bill outlining legislation to enact citizen initiatives (Boyer 1992b). Both proposals were defeated and there remains no national level citizen initiative process in Canada.

Direct democracy and citizen initiative found their Canadian birthplace in western Canada (Boyer 1992a: 79). Manitoba, Saskatchewan, Alberta and British Columbia all began experimenting with citizen initiative policies in the 1910s (Boyer 1992a: 81-83). Political parties

in these western provinces began supporting citizen initiative as a response to party discipline (Ruff 1994: 25). These parties would generally promote citizen initiative while in opposition, and then would implement their version of the process once elected to government. Citizen initiative was seen as a means of allowing citizens to legislate on issues of importance in spite of the wishes of the political parties on those issues, which by this time had become powerful and able to force legislators to remain faithful to the party platform. This ability to legislate despite the parties' wishes was important, as the legislators often would vote with their parties instead of based on the best interests of their constituents (Ruff 1994: 25). For citizens, the difficulty was that they were left to vote between candidates representing these parties, and none would perfectly represent their views. The goal was then to elect the candidate who best shared their worldview, knowing that the legislator would vote against the citizens' best wishes on some occasions (Schmidt 1989: 26). Citizen initiative was thus seen as a way of separating policies from the political parties and allowing citizens to decide the issue instead.

British Columbia first attempted to create a citizen initiative process in the late 1910s, and while that bill was passed by the Legislature at the time, it was not proclaimed into law because of concerns that it would fail constitutional tests (Ruff 1994: 26). Around the same time, Manitoba passed its own citizen initiative legislation which was proclaimed and was challenged on constitutional grounds. The legislation was appealed to the Judicial Committee of the Privy Council (JCPC) in London, England, which at the time was the highest court of appeal in the Canadian judicial system. The JCPC ruled that Manitoba's legislation was unconstitutional on the grounds that it interfered with the powers of the Lieutenant Governor and the Legislature (Haldane 1919: 937). This thesis argues that the impact of this case was to change the way in which governments in Canada and the provinces, such as British Columbia, attempt to legislate

citizen initiative processes by setting constitutional requirements that legislation go through the normal legislative process.

British Columbia's system of citizen initiative, as outlined in the *Recall and Initiative Act* passed in 1994, is a form of indirect initiative. It requires that proponents of a draft bill gather signatures equal to ten percent of all registered voters in the province within a ninety-day period. This number must also include ten percent of all registered voters in each of the provincial electoral districts. A citizen initiative that gains the required signatures in the ninety-day timeframe is sent to a Standing Committee of the legislature, which either tables the proposed bill as a private member's bill at first reading stage in the Legislature or submits it for a public vote. A public vote in favour of the draft bill is then tabled for first reading in the Legislature. The decision to write the legislation to include this particular provision was due to the constitutional reference case in re: *Manitoba Initiative and Referendum Act*, which confirmed a constitutional requirement for all legislation to go through the standard legislative process. This process has the Legislature vote to approve the legislation, and then the bill is given royal assent by the Monarch or their representative, in the provinces' case the Lieutenant-Governor.

Methodology

As a descriptive case study, this thesis attempts to provide a detailed overview of the BC case, and how it relates to the literature on citizen initiative and direct democracy. A descriptive case study works to fill in the blanks about an issue of concern. Descriptive case studies are often used as a point of entry by academic research into a targeted area of study. The descriptive case study provides detailed information about the subject, which allows for additional research to be completed as subsequent studies (Berdahl and Archer 2015).

The case study methodology was chosen because it allows for a more detailed analysis of the subject of the research. In the case of British Columbia's citizen initiative process, the fact that it is different from other jurisdictions makes it important to gain a detailed understanding of why it is different. Unlike other methods of research, a case study allows for the development of the context surrounding the object. The context of political decision-making is important, as looking at the history of a policy decision and the political environment in which it is made can help explain how and why those decisions are made. This depth of analysis into the political and social environment is important to determine the motivations of the actors involved in the decision-making process (Blatter and Haverland 2012).

A limitation of the case study methodology is the breadth of research that can be conducted. A case study focuses on one or a small number of similar events for analysis (Blatter and Haverland 2012: 20). In doing so, case studies are a form of qualitative research. Qualitative research focuses on more detailed analysis of the phenomenon being researched and goes into greater depth (Berdahl and Archer 2015: 29). These detailed analyses include attempts at interpreting what data is created or provided, and it is up to the researcher to determine the importance of the information provided. American Anthropologist Clifford Geertz has characterized this process as "thick description" and used it as the means of understanding multiple complex concepts layered on top of each other (Geertz 1973: 6). Because the importance of any information provided is subjective, as a researcher I am forced to consider the context in which the information was created and presented (Fenno 1986: 4). This contrasts with quantitative research, which attempts to test hypotheses by studying many cases of the same or similar phenomenon (Berdahl and Archer 2015: 29). Quantitative research uses statistical analysis to understand the similarities and differences between the cases under examination.

Within the case study, research was conducted through primary source analysis, secondary source analysis and elite interviews. Each of these data sets provided additional information to help fill in the details about this specific case. They were used to help determine which actors and events were most important in creating initiative policies in British Columbia.

Primary sources served as the main data set for determining the views of the actors that participated in the decision-making process to enact initiative legislation in British Columbia. Most of these documents were records of the British Columbia Legislature, specifically the Hansard transcripts of legislative debates and the report of the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills. These documents outline what the elected officials were planning to do with regards to initiative and provide contextual information and insights on why the initiative process was developed in the way it was. Other primary sources include reports of non-profit organizations lobbying on the issue of initiative and recall, the transcripts of all public meetings of the Select Standing Committee and interviews with Members of the Legislative Assembly who were participants in the legislative debate on the *Recall and Initiative Act*.

These primary sources contributed to the research by providing on-the-record views of all the chief policy-makers involved in the legislative process. Hansard ensured that the complete transcript of all statements made by elected officials was accurately recorded, providing direct quotes in reference to each individual member's views of the proposed legislation. The committee report also reflects what was to be the official position of the standing committee, whose views were used to inform the creation of the legislation. The committee report would later be used to defend the legislation during the second reading and committee stage debates.

Press releases and other statements made by lobbying organizations highlighted their position in direct reference to the drafted legislation and clarified the concerns each group had with the proposed bill.

Bias is a serious concern for the reports and press releases of the lobbying organizations. These organizations have pre-existing opinions on the concept of initiative and use their position in public affairs to try and shape public opinion to their preferred viewpoint. Even the documents of the legislature exhibit some level of bias, as the comments made by individual elected officials may be representative of their party's viewpoint, and not necessarily of their own personal views or the views of their constituents. Harrison speaks to the idea of bias in interviewing, but her arguments are relevant to primary source document writing, in that bias can raise certain opinions as desirable and attempt to emphasize those opinions in writing (2001: 96). Furthermore, the specific arguments used by each individual legislator were not likely to have been pre-determined by party leaders beforehand, and each person's individual comments reflect their own biases towards the idea of citizen initiative. In order to adequately protect against potential bias, multiple sources have been consulted, representing a variety of different perspectives. These perspectives come from different authors and political actors, and together they create a more objective view of what occurred.

Secondary source documents form the basis of the history of initiative and the theoretical origins of direct democracy. These academic articles and books outline the detailed information defining the key terms of the study and providing a detailed history of initiative in other jurisdictions. Very few of these sources specifically reference British Columbia's policy, but they go to great lengths to discuss the long history of initiative in North America and other

jurisdictions, and how each of the different processes of direct democracy are related to and different from each other. Newspaper accounts of the legislative debate, and later coverage of citizen initiatives as they occurred, provide a secondary source on the British Columbia case. These newspaper articles also included interviews with citizens engaged in the initiative process, and the quotes from those individuals or groups of individuals were instructive in determining what people thought about the legislation once it was enacted and used. Outside of the history of the concepts being researched, the secondary source documents provide some of the context and history of the actors relevant to citizen initiative in British Columbia. They also document how these actors came to be in positions where their points of view would be given credence by society. Finally, the newspaper accounts helped to show how the legislation was being explained to British Columbians and demonstrated how the views of citizens could be changed over time.

Working with the secondary sources presented interesting challenges for the research as these sources approached the topic from different perspectives. Many of these secondary sources look at citizen initiative in general terms, and do not comment on British Columbia's specific policy. Others discuss British Columbia's citizen initiative process but are less able to connect it to processes in other jurisdictions. These two streams of discussion on the topic provide a general context to situate British Columbia as a case study and present an opportunity for this thesis to synthesize between those two streams of thought. In doing so, this thesis will provide a connection between the general literature on citizen initiative with what we already know about British Columbia's policy.

The information that is available about the British Columbia legislation focuses mainly on the individuals responsible for the legislation, and what some of their personal motivations were

for enacting the policy. The secondary source documents often did not agree with each other on the definition of each key term. As a result, it was necessary to synthesize a definition for each key term by incorporating commonly expressed ideas from each source article. Many of the individual definitions have shared characteristics, but there was no one definition for each concept being discussed in this thesis. Using this literature, the key concepts will be discussed in greater detail in chapter two.

The secondary source documents also present the potential to introduce bias to research. For example, newspaper articles represented a specific viewpoint that was being brought forward on behalf of the author or their news organization. As part of the mainstream news coverage of the time, they would have had a disproportionate ability to shape the views of British Columbians about the legislation being created. While journalists would be bound by a code of ethics to report the news as objectively as possible, editorial writers would not be bound by those same ethical concerns and would be able to present their opinion on the legislation, as opposed to just the facts.

Regarding both the primary and secondary sources, a thorough content analysis was done to ensure that information would be of use. Content analysis attempts to explore the characteristics of a message, regardless of the medium being used to communicate. Within the field of content analysis there is a dichotomy between manifest content and latent content. Manifest content is the literal meaning of the message, while latent content is the implied meaning of the term and requires additional analysis to determine (Berdahl and Archer 2015). These ideas of manifest and latent content are conceptually connected to Geertz's concepts of thick and thin description, where thin description is a more surface level understanding and thick

description works to analyze and determine the underlying understandings of those initial concepts (Geertz 1973: 9). The content analysis done with the chosen primary sources is both a manifest and latent content analysis, looking to determine the rationales behind the different threshold points, which are the signature requirements and time constraints within the legislation governing citizen initiatives. Content analysis was also done to determine how the law compares with past theory and other legislation on citizen initiatives.

Finally, elite interviews were conducted with former Members of the Legislative Assembly who were key participants in the legislative debate. These individuals are considered elite interview subjects because they have knowledge that would not be widely known (Berdahl and Archer 2015: 174). They were also chosen because of their ability to direct the research into different directions, either through the answers they provided or by providing the researcher with new individuals to contact for additional interviews through a snowball sampling process (Harrison 2001: 94). Snowball or network sampling is a process in which a small number of interviews are initially used for research, and which then give referrals to other individuals and allows the research to continue branching out from those initial contact points (Berdahl and Archer 2015: 170; Harrison 2001: 96).

One of the concerns with the snowball method is that it may introduce bias in the research. Interviewees may be more likely to suggest other potential participants with similar life experiences or perspectives. On the other hand, the snowball technique may provide interviewers with networks of contacts that they may not otherwise be able to reach (Harrison 2001: 94). The introduction of bias in snowball sampling for this thesis would be easy to determine if the introductions being made were with other Members of the Legislative Assembly (MLA) who

were active at the same time; their voting records would be publicly available. However, potential bias is a concern that needs to be addressed when using a snowball method of procuring interview subjects.

In choosing elite interview participants, I attempted to find participants who represented a spectrum of different beliefs. My hope was to find government MLAs who supported the legislation based on support for the concept, government MLAs who voted for it because of party loyalty, opposition MLAs who opposed the legislation due to their opposition to the concept, and opposition MLAs who supported initiative in theory but who opposed the legislation due to its perceived failings. These participants can speak directly to the motivation of the elected officials in creating the initiative legislation. Government records allowed me to find MLAs who represented each position in the debate. I was then able to search for these individuals' contact information to make a first contact inviting them to be interviewed for this thesis.

A difficulty of using elite interviews was the limited ability to obtain interview participants. From the initial group of four subject areas, I was only able to obtain interviews from three individuals; each of the individuals served as an MLA during the period in which citizen initiative was being considered in British Columbia. Attempts were made to contact other potential interview subjects; many of those contacted did not respond to my requests, regardless of the method of communication used. In other cases, potential subjects replied but believed they would not be able to contribute to the research and thus declined to be interviewed.

As part of the thesis research process, I was required to obtain approval from the University of Northern British Columbia Research Ethics Board for the interviews I undertook (see Appendix A). The Research Ethics Board process involved writing a formal proposal to the

university in which I explained the purpose of the research and indicated the category of individuals I would be interviewing in my research. When conducting research involving human subjects, care must be taken to ensure that individuals are not placed in any potential harm and that they give informed consent to participate. In my application I had to identify any potential areas of risk to the participants. For this research there were no direct physical concerns for the participants, but as former and current public officials they were given the option of anonymizing themselves to prevent others from identifying them.

This application was reviewed by my committee and the university's Research Ethics Board before formal approval was given and the interviews could be conducted. In communications with the participants, care was taken to ensure that the ethical requirements of the UNBC Research Ethics Board were followed. This included providing the questions to the participants ahead of time and stressing that the questions would be an initial point of discussion and that additional questions not listed may arise from the participants' answers. Participants were also asked to sign consent forms prior to the start of the interview. They indicated on the consent forms that they would also be willing to allow me to use of their names as part of the research, as opposed to being anonymized.

When contacting my interview subjects, I identified myself as a graduate student from the University of Northern British Columbia who was requesting their assistance with my thesis by participating in a semi-structured interview about their recollections of the debate surrounding the *BC Recall and Initiative Act*. Each interview was scheduled to last one hour; one of the interviews lasted one and a half hours, the second was a shortened interview of twenty minutes and the third was for the full hour.

The interviews were recorded to facilitate better data collection and to ensure that I could refer to them later. Tape recording interviews can be controversial, as the participants may refuse to be interviewed under conditions in which they are recorded, or the recording itself may not be of good enough quality to enable written transcription (Harrison 2001: 93). In this case, the participants were quite willing to provide consent. The consent forms were signed and returned to the researcher.

I was surprised at the candor that occurred in each of the three interviews I conducted. One of the potential failings of an interview, especially with elite interviews, is that the interview subject may remember events in such a way as to paint themselves in a more favourable light, or to attempt to provide answers that may be seen as more favourable to the researcher's point of view (Harrison 2001: 94). I found instead that the interviewees were willing to speak honestly about their intentions and their motivations for their position with regards to the legislation. They provided an opportunity to learn more about the process that led to the legislation and provided information that would not be considered part of the public record.

Summary of Thesis

This thesis is divided into five chapters. Chapter one has provided an overview of the thesis, including research questions and hypotheses, basic concepts germane to the thesis topic and methodology. Chapter two of the thesis will include a complete literature review. The first part of this literature review will be a discussion of each of the main concepts discussed earlier in chapter one. This discussion shows the difficulty in deriving a single definition for any of these terms and will attempt to synthesize a final definition. After the definitions of key concepts, I discuss the literature outlining the general principles, benefits and drawbacks of citizen initiative.

An overview of the literature describing why citizen initiative occurred in British Columbia will follow this section on principles. This is followed by a summary and discussion of the literature addressing the research question on why British Columbia's citizen initiative policy was written the way it was. The chapter ends with a discussion of current gaps in the literature. Chapter three of the thesis discusses the history of initiative in British Columbia, with a focus on the development of the British Columbia *Recall and Initiative Act*. The chapter will proceed in chronological order, starting with its origins in Canada in the late nineteenth and early twentieth century, and ending with the establishment of the British Columbia *Recall and Initiative Act* in 1994. Chapter four analyzes the case study. This analysis includes a summarization of the different factors that determined why citizen initiative occurred in British Columbia, followed by the analysis of why British Columbia's citizen initiative policy was written the way it was. The second half of the chapter discusses findings unrelated to the specific thesis question. These findings are divided into those that suggest the British Columbia *Recall and Initiative Act* ignores or counters the academic literature on what a citizen initiative process should look like, and those findings which were of interest to the researcher but which are unrelated to the research questions. This chapter concludes with an explanation of how the thesis contributes to the overall literature on citizen initiative and on the British Columbia *Recall and Initiative Act*. Chapter five is a summary of the thesis's key findings and contributions to the academic literature, followed by an examination of future areas of research and a discussion of how the BC policy could be changed to better reflect the literature of what citizen initiative processes should look like.

Chapter Two: Literature Review

This chapter provides an overview of the academic and non-academic literature on the topic of citizen initiatives. This chapter is divided into two parts. The first part of the chapter reviews the literature on the key concepts related to citizen initiatives, such as referendum, recall, direct democracy and representative democracy. The second section of the chapter focuses on the literature exploring citizen initiative in British Columbia.

Representative Democracy

The purpose of governance in modern society is to authorize the use of state power to effect changes in that society. Hamilton suggests that the use of this power is integral to freedom, and that power for citizens comes from political representation (2017: 5). Relevant to this thesis is the governance structure of democracy. Democracy can be considered a decision-making process which citizens of a jurisdiction use to choose the public actions done by their government (Hirst 1988: 200). A democracy requires that the citizens of the jurisdiction are sovereign, and that they are not controlled by any other state or jurisdiction (Cheneval and Ferrín 2018: 1179).

The most common form of democracy is representative democracy, which is practiced in Canada. Ultimate political power is vested into sovereign legislatures, whose purpose is to make laws on behalf of the population (Hirst 1988: 201). Representative democracy requires periodic elections in which eligible members of the community vote to determine their representatives to these sovereign legislatures (Hamilton 2017: 5). There must be institutional arrangements that include the delegation of power and allow representatives to act independently of their constituents, and to enforce the laws made by the legislatures (Hamilton 2017: 9; Hirst 1988: 201). Gastil and Richards argue that through those institutional arrangements, citizens retain

control and power over their elected representatives (2013: 255). Representative democracy is further defined by the ability of citizens to participate as candidates, rather than having candidates be selected by some other authority (Cheneval and Ferrín 2018: 1179; Le Bihan 2018: 715; Szeligowska and Mincheva 2012: 270).

A key aspect of this system of governance is the belief that citizens may choose some of the personnel involved in government decisions, but they do not have the power to influence the political outcomes that their representatives choose once in office (Hirst 1988: 202). Citizens select those elected representatives through free and fair elections, in which the outcome is not predetermined by an outside force. Modern democracies are almost always representative democracies because of the logistical difficulties in maintaining a direct democratic structure. These difficulties can include ensuring that all citizens have an opportunity to participate, and in tabulating the votes of all citizens for each policy question being debated. This would slow the policy implementation process down considerably. It is further argued that it is impossible to have direct democracy in large and modern political units because of the number of citizens involved (Cheneval and Ferrín 2018).

Modern representative democracies have almost always created political parties as a means of contesting elections. Political parties serve the purpose of grouping like-minded candidates together and presenting their views to the electorate, making it easier for voters to quickly understand what individual candidates represent and their potential governing philosophies while in office. Political parties have an important effect on political deliberation in representative democracies. Rather than allowing for free-spirited debates between representatives based on the views of their constituents, political parties impose their views on

affiliated representatives and reduce the variety of opinions presented during debate (Qvortrup 2002: 11). The institutions of representative democracy have the capacity for limiting viewpoints outside the mainstream within a society, such that overwhelming public force is needed to make government yield to public opinion (Ford 1912: 71).

Party discipline is a feature of democratic political systems that include political parties. Political parties themselves form as a means of aggregating supporters of an ideology or policy belief system and organizing them to win elections and implement their policy proposals. Party discipline is strong in Canada, with political parties supporting candidates who must conform to the policies of the party. This forces voters to vote for their preferred party's nominee, even though on some issues, a voter's preferred party will vote contrary to the wishes of that voter (Ruff 1994: 25). The voters choose those candidates because in other policy areas more relevant to that particular voter, their chosen party and candidate have views that do align, and the voter's decision to vote based on those more important personal issues outweighs any disagreement on less important policy issues.

Representative democracy is the starting point of any investigation into citizen initiatives. As noted, the mechanisms of representative democracy can slow down or even halt the advance of public opinion if not prevented by overwhelming public support for a concept (Ford 1912: 71). In British Columbia, this was seen in the initial implementation of the Harmonized Sales Tax, which was eventually removed through a citizen initiative. By creating a political system in which the citizens voluntarily elect representatives and temporarily transfer their political power to that representative, the citizens place themselves in a situation where they are unable to materially affect the outcome of political deliberations and the exercise of power. The main

recourse for citizens is the periodic elections that occur in representative democracy, which allow citizens an opportunity to elect a new representative if the current one is not governing according to their constituents' desires (Hamilton 2017: 5). Because many citizens are not satisfied with the limited control that they have over the political process, they have pressed for greater direct democracy.

Direct Democracy

Direct democracy has existed for millennia. As noted in chapter one, the first documented form of direct democracy in the modern era were the Swiss town halls, in which male citizens of a community would come together to vote on issues important to that community (Macklin 2003). These rights to directly participate in the political affairs of the country and cantons were introduced in 1874, when Switzerland undertook a revision of their 1848 constitution (Rachwal 2014: 35). The essence of direct democracy, which contrasts with representative democracy, is that the major political decisions are made by the citizens themselves and not through representatives (Lupia and Matsusaka 2004: 466; Rachwal 2014: 34). Research suggests that direct democracy represents an idealized form of democracy because it allows the politically sovereign people to affect policy changes when they wish, instead of waiting for political actors to do so (Cheneval and Ferrín 2018: 1179).

A core element of direct democracy is that legislative and government action on policy issues should align with the voters' policy preferences (Leemann and Wasserfallen 2016: 750). In direct democracy, the alignment between personal policy preferences and government policy is guaranteed for members of the voting majority on each issue voted upon. This alignment of policy preferences can come at the expense of the wishes of elected representatives who may be

wary of some citizen proposed reforms, something seen by supporters of direct democracy as a positive development (Karp and Aimer 2002: 148). Further to this, direct democracy in theory can allow for debate on issues that might otherwise be ignored due to government disinterest in those policy areas (Karp and Aimer 2002: 148).

Historically in North America, direct democracy was used to reign in the power of the legislatures and special interests which were politically influential (Bridges and Kousser 2011: 168; Gastil, Reedy and Wells 2007: 1435). In the early twentieth century there was a separation between the views of the citizens and the actions taken by the legislatures. Some researchers have thus argued that even though all eligible members of a democracy are given a voice in political decision-making through their vote, in practice there are inequities in access to information and wealth that skew policy preferences towards certain outcomes (Yetano, Roy and Acerete 2010: 783). These inequities of information create a second layer of marginalization, as the inequity of information occurs alongside formal limitations in which citizens could vote and participate. Political reformers of the late nineteenth and early twentieth centuries believed that direct democracy would protect the political system against special interests which controlled elected representatives and from popular mass appeal being used to make poor policy decisions (Bridges and Kousser 2011: 168). These reformers believed that public deliberation where citizens were given all the required information would allow people to determine which policy would be in their best interest, and then vote for that policy (Boyer 1992A: 47). In the modern era, the idea of direct democracy has come to encompass various tools that help establish direct citizen participation in democracy (Gastil and Richard 2013: 254; Matsusaka 2005: 187).

Some researchers have suggested that direct democracy has the effect of developing the political skills of the electorate with regards to their ability to logically deliberate on issues of public policy, and thus to vote in a rational manner on issues put to them for discussion (Donovan and Karp 2006: 672). Advocates of direct democracy argue that the collective wisdom of the citizens as a whole will allow for better public policy to be created, and that their decisions are superior to those made by elected officials (Zimmerman 1986: 89). In contrast to that view, other researchers have suggested that direct democracy has no effect on the political skills of the electorate, and that instead apathy or incomprehension can occur (Meldelsohn 1996: 6). This apathy seems most likely to occur on questions in which the individual voter is uninterested, and thus does not take the time to fully understand and deliberate upon (Qvortrup 2002: 28). Even where there is motivation, some researchers were concerned that outside groups would be able to influence voters with biased information to sway public support (Gastil, Reedy and Wells 2007: 1438).

To many reformers, both in North America and around the world, representative democracy has its flaws. While a core element of democracy is the alignment of government action with voter preferences, periods in which there are serious misalignments have encouraged responses outside the representative democratic policy set (Leemann and Wasserfallen 2016: 750). The result has been the rise in direct democratic practices. In the late 19th and early 20th century, the American Progressive Party led the reform movement to integrate direct democracy into the American political system in states where it gained control, and which supported direct democratic reform (Bridges and Kousser 2011: 171). The stated hope of the Progressives was to place lawmaking power directly in the hands of citizens, thus undercutting the power of political parties and powerful interests that influenced elected officials in those states (Phillips 2008: 127).

Naturally, this would undercut their own political power, but the Progressive Party was ideologically insistent upon ensuring the power of the individual to affect public policy (Bridges and Kousser 2011: 168). Many of the same historical elements are occurring today, such that there has been a substantial expansion of direct democracy within states and sub-national jurisdictions of many western democracies over the last forty years (Donovan and Karp 2006: 671).

Recall

Recall, in its simplest form, is the means by which citizens can remove an elected official from office (Twomey 2011: 42). Recall processes are similar in several respects. Citizens who wish to remove an official circulate petitions and gather a legislatively proscribed number of signatures within a specific timeline provided for in legislative guidelines (Tonge 2019: 143; Twomey 2011: 42). The successful gathering of petition signatures triggers the next portion of recall, which is where there exists some differentiation in recall provisions. With some processes, verification of the required number of signatures automatically declares the seat vacant, precipitating a new election (Tonge 2019: 143). In other jurisdictions, the verification of signatures triggers a vote of the jurisdiction as to whether to recall the individual (Twomey 2011: 42). If that vote passes, the seat is declared vacant and a subsequent election is required to fill the seat (Twomey 2011: 42).

The purpose of recall is to provide an opportunity for citizens to give second thought and consideration to an elected representative (Tonge 2019: 146). Other researchers broaden the scope of potentially acceptable recall rationales to include corrupt individuals using their office for personal gain, or lazy officials who are not participating in the political system the way they

should (Twomey 2011: 43). Recall could then become a mechanism for electors to decide the fate of elected representatives who are behaving badly, but whose actions did not rise to the level of criminality (Wright 2015: 289). Recall would also be used to subject elected officials to increased accountability between elections, with elected officials becoming aware that they could lose their seat prematurely if they vote in opposition to the wishes of their constituents (Wright 2015: 289). Researchers suggest that recall be limited to prevent it from being used for partisan purposes or other forms of mischief (Twomey 2011: 43). Both researchers and the political parties themselves are concerned that recall could be used as a partisan tool that political parties and their supporters could use to harass elected representatives from other political parties (Twomey 2011: 43).

Even if political parties could be convinced not to use recall against each other, there are also concerns that outside organizations could use recall or the threat of recall to force elected representatives to vote in accordance with the views of those organizations (Twomey 2011: 43). Given that the stated purpose of recall and other tools of direct democracy is to ensure that government action aligns with the prevailing views of the citizens, these potential abuses of recall would be a perversion of this tool.

Some political philosophers argue that the role of the representative is not simply to transmit the public's views on policy initiatives, but instead is to use their own judgment to vote in the best interests of their constituents. This view is best articulated by Edmond Burke, an 18th century British Member of Parliament, who argued that "your representative owes you, not his industry only, but his judgment; and he betrays, instead of serving you if he sacrifices it to your opinion" (Wright 2015: 290). This view of the elected representative as a trustee empowered to act in the best interests of the community contrasts with the more traditional view of the elected

representative, which is that of the delegate entrusted with the views of the community and bound to vote in that manner regardless of partisanship or other considerations. Of course, it is noted that in political jurisdictions with political parties, the general view is that elected representatives vote in the manner desired by the party, as the party imposes its views by way of the Whip and other internal power structures (Qvortrup 2002: 11). Recall thus prevents elected representatives from enacting the trustee model of political representation, and instead forces them to serve in a delegate capacity.

While recall is not specifically relevant to the thesis questions relating to why and how British Columbia enacted citizen initiative, as a tool of direct democracy it is important to ensure that these tools are accurately described and placed into their academic context. Relating specifically to British Columbia, recall and citizen initiative were combined in legislation and were offered together for consideration by voters. More generally, recall serves as one of the major tools of direct democracy, which ensures alignment between policy decisions and the preferences of the voters on those issues. The threat of recall is used to ensure a representative's vote is consistent with the views of their voters, which reduces the need for other tools of direct democracy to be used.

Referendum

Referendum is a tool of direct democracy that allows citizens to vote directly on government action. Referendums are widely used by the world's major democracies, but the usage varies greatly (Karp and Aimer 2002: 147). The term referendum is generally applied when a vote is initiated by a governing body such as a legislature, and where the result is legally binding upon the body that initiated the vote (LeDuc 2003: 34). A more specific definition

suggests that referendum is a process that allows citizens to approve or reject laws proposed by the government, which takes the form of a citizen veto over legislation (Lupia and Matsusaka 2004: 465). Others view the term more broadly, suggesting that a referendum can refer to any public vote on a policy issue (Qvortrup 2017: 142). While a referendum question placed on the ballot by the government does not have any additional requirements, referendums can be imposed by the voters, which then requires collecting a certain number of signatures (Matsusaka 2005: 187). This point regarding signatures is confusing, and Matsusaka appears to contradict himself by stating earlier that only governments can draft referendums; processes written by citizens would be considered citizen initiatives according to his 2004 work (Lupia and Matsusaka 2004: 465).

The term referendum is also contested. Qvortrup suggests that referendums can differ in name depending on the scope of the referendum. At the one end there are referendums where the government works to influence the results, such as the 1991 British Columbia referendum on citizen initiative and recall where the government and Official Opposition parties publicly announced their support for the questions. On the other hand, there are modest local referendums which are sometimes referred to as initiatives (Qvortrup 2015: 37). Rather than serving to differentiate terms, this creates confusion about what differences may exist between citizen initiatives and Qvortrup's view of initiatives as local referendums. While Qvortrup rightly notes that referendums can be used for a wide variety of issues, others suggest that referendums are most used to decide constitutional issues rather than policy issues (Karp and Aimer 2002: 147).

In terms of the proposed rationale for referendums, the idea of popular consultation was conceived as a legislative process designed to complement or replace representative voting with

the will of the sovereign people (Budge 1996: 91). As a tool of direct democracy, referendum also has the stated goal of bringing policy congruence between voter desires and governmental action. Many authors argue that referendums cause policy congruence because voters are supposed to get what they want when they can directly participate in policy-making through these public votes (Leemann and Wasserfallen 2016: 750). This does not appear to be a contested view, as both proponents and opponents of referendums agree that policy preferences can diverge between representatives and citizens, which affirms the purpose of referendums (Hug 2008: 253). The public view is theoretically determined through public deliberations which can last for several weeks before the referendum is held (Boyer 1992b: 7). In theory this deliberation period will occur because the referendum itself will require partisans for the various policy positions on the ballot to defend their arguments in public and attempt to persuade other members of society to support their view (Milke 2001: 173).

As noted, referendums can come in a variety of fora (Qvortrup 2015: 37). While this is useful for ensuring that there are referendums available in a variety of policy arenas, this also limits the ability to create a single policy relevant to all governments that allow for referendums. Speaking specifically to the British parliamentary system, until the second half of the 20th century, the idea of referendums was considered incompatible with the political system (Qvortrup 2002: 1). The concern was that in the British system of governance, Parliament was supreme; a referendum limits the sovereign power of the Parliament to be the sole law-making power, and thus was ruled unconstitutional until the 1970s (Qvortrup 2002: 1).

A referendum also has the potential to limit political action. Referendums by their very nature set up confrontation between policy options rather than encouraging compromise between

partisans supportive of different policies (Boyer 1992b: 53). The deliberation necessary for effective referendum processes may also be absent. Critics suggest that referendums take place in conditions that are even less deliberative than ordinary elections (Cheneval and El-Wakil 2011: 294).

Defining referendum and placing it within the context of the other tools of direct democracy is important, as both referendum and citizen initiatives share many similar characteristics. Given that this thesis focuses exclusively on citizen initiative in British Columbia, there was an imperative to define the term in such a way that its definition could be easily compared to the definition of citizen initiative. In British Columbia, referendum was the starting point of direct democracy and led to the implementation of the other tools of direct democracy. As noted later in chapter three, referendum policies in British Columbia were used to gauge public opinion on whether to enact citizen initiative.

Citizen Initiative

Citizen initiative is the final tool of direct democracy to be discussed in this overview, and it is the main consideration of this thesis. Citizen initiatives go by many other names, including ballot initiatives or popular initiatives (Childers and Binder 2012: 94; Cuesta-López 2012: 257; Rachwal 2014: 33). Citizen initiatives share many of the same characteristics as referendums, which is why it is important to define the two and highlight the characteristics that distinguish them. As with referendums, citizen initiatives are processes that allow the public to vote on a policy idea, by either approving or disapproving of it. Where citizen initiatives differ from referendums is that citizen initiatives are proposed and created by ordinary citizens, while referendums are proposed and created by government (Besley and Coate 2008: 379; Lupia and

Matsusaka 2004: 465). These definitions can sometimes be mixed, such as when citizen initiative is defined as a way in which a legislatively proscribed number of citizens petition for a referendum on a particular question (Varzeliotis and Varzeliotis 1996: 105). This more narrowed definition suggests that citizen initiative only involves the public petitioning process and is not inclusive of the public vote. A key definitional component of a citizen initiative is that the citizen initiative proposal is accompanied by the legislative text that is to be considered by the public (Hill 2003: 496). Even in cases of indirect citizen initiatives, the public vote is on the proposed legislative text. The British Columbia citizen initiative to remove the harmonized sales tax included the exact legislative text to be considered by the Legislature in the case of an affirmative vote. This means that a citizen initiative bill would be the same in scope and complexity as a piece of legislation proposed by an elected representative (Adams 2012: 44).

The concept of citizen initiatives can be broken down further into two separate categories: direct and indirect citizen initiatives. With direct initiatives, also known as full-scale initiatives, one of the key components is that the result will be a public vote to determine the fate of the proposed legislation attached to the petition process (Rachwal 2014: 34). The public vote in a direct initiative is considered binding on the government, which creates a parallel policy-making process within that particular jurisdiction (Zimmerman 1986: 76). Direct citizen initiatives that pass serve to bind the actions of the legislature and reduce policy discretion for elected representatives on the issue subjected to the citizen initiative (Besley and Coate 2008: 379). The target audience of the direct initiative is thus the entire citizen body, whose decision through the public vote is the final decision on the legislation (Cuesta-López 2012: 357).

In contrast, indirect initiatives, also called agenda initiatives, are subordinate to the decisions of the legislature (Cuesta-López 2012: 357; Rachwal 2014: 34). An indirect initiative still goes through the petitioning process and still requires the support of a legislatively prescribed amount of the population. Indirect initiatives differ from a direct initiative in that any decisions are not binding upon the government. This occurs because indirect initiatives are subject to revision by elected representatives, or because they are only meant to be advisory in nature, as is the case with New Zealand's initiative legislation (Morris 2004: 117).

The European Union (EU) is the largest jurisdiction by population with citizen initiatives. It has an indirect initiative where voters call on the European Commission to propose legislation on an issue (Kandyla and Ghergina 2018: 1223). Some of the literature on the European Citizens' Initiative (ECI) suggests that it simply builds upon citizen initiative and direct democratic policies in some of the member states of the EU (Cuesta-López 2012: 259). The view is that the ECI is an opportunity to broaden public engagement (De Clerck-Saschse 2012: 299; Kandyla and Ghergina 2018: 1234). Despite the requirement to obtain one million signatures, the hope is that the ECI will be used for citizens, not for large organizations or Members of the European Parliament to legislate their preferred views (Greenwood 2012: 325). Other literature suggests the hope that the ECI would be user-friendly, which led to a lengthy debate on the different provisions of the initiative process (Szeligowska and Mincheva 2012: 273).

The theme for these jurisdictions is that citizen initiatives should be non-binding, and that the legislators have the final decision on policy. Both Europe and New Zealand's proposals focus on the idea that citizen initiative emphasizes the role of citizens in democracy, and that the tool

will help increase meaningful participation (Kandyla and Ghergina 2018: 1225; Morris 2004: 118).

The citizen initiative process differs significantly from that of referendum, which helps create definitional differences. Where citizen initiatives differ is in their origin point; a referendum originates from the government, while a citizen initiative originates from a citizen or group of citizens. A citizen initiative must therefore go through a different process to be placed on the ballot. For a citizen initiative to be placed on a ballot for a public vote, it must receive a set number of petition signatures from eligible citizens who support the proposed citizen initiative bill (Lupia and Matsusaka 2004: 465). The signature gathering process is a means used to reduce the number of frivolous citizen initiatives by ensuring that there is a base of public support for the proposed idea before it is subjected to a popular vote (Arnold and Freier 2015: 44).

The original purpose of citizen initiatives in North America was to serve as a check on the power of the legislatures, which at the time were seen populated by societal elites removed from the concerns of regular citizens (Gastil, Reedy and Wells 2007: 1435). The perception of elitism was fueled in part due to the concerns citizens and the Progressive movement had towards the entrenched interests of the time, which appeared to have undue influence over elected representatives and their policy decisions (Phillips 2008: 127). Seen from the perspective of early twentieth century reformers in the Progressive Party, citizen initiative presented an opportunity for citizens to take control of the policy agenda and legislate on behalf of their own needs and desires (Zimmerman 1986: 90). This view returns to the idea of direct democracy being a tool that is used to create policy congruence between the wishes of the electorate and the policies

actually being pursued by government, as we accept that elected representatives may at times vote in ways that are contrary to the constituency they represent.

As with referendums, some researchers suggest that citizen initiatives can have an impact on the political skills and deliberations of the citizens. In other words, the presence of citizen initiatives on the ballot can lead to a better-informed public (Childers and Binder 2012: 94). A secondary argument related to the idea of improving citizen political skills is that as a participatory reform that gathers petitions from the public, the act of seeking support for petitions will increase inclusiveness in the political system by activating new groups of citizens into the political process (Christensen, Jäske, Maija and Laitinen 2017: 412). Greater citizen activity in the political system can be achieved through the act of signing an initiative petition; even the decision to refuse to sign a petition is a political act and requires the citizen to actively engage with the political system to make a rational choice about whether to sign or not sign (Schmidt 1991: 30).

While they can coexist, citizen initiatives sit uneasily within the theory and practice of representative democracy (Karp and Aimer 2002: 147). This is particularly true within the British parliamentary system of governance. Historically, constitutional rulings limited Canada's ability to create citizen initiative processes because they infringed upon the powers of the legislature and Crown (Haldane 1919: 937). Similar rulings in Australia stated that under the Self Government Act the authority of the legislative assembly may not be circumscribed, which citizen initiatives can do by becoming a parallel process for passing legislation (Hill 2003: 500). Even where these legal concerns are addressed, adversaries also note that citizen initiatives can weaken the authority of legislatures by creating a new and competing centre of political legitimacy (Hill

2003: 497). In doing so, citizen initiatives can interfere with a government's ability to govern; especially if a citizen initiative is used to overturn government policy (Morris 2004: 118).

Researchers suggest one of the benefits of citizen initiative is that it allows the majority of citizens to have their political views directly recognized and integrated into law. However, this majoritarian perspective also presents a potential drawback. Because a voting majority would be able to pass legislation through citizen initiatives without necessarily needing to address the considerations that elected representatives do, citizen initiative could be used to remove the rights of minority groups within a society (Karp and Aimer 2002: 148). In Colorado, for example, a citizen initiative was approved in 1992 restricting the civil rights of LGBTQ couples in the state (LeDuc 2003: 41). While that initiative was later defeated through judicial review, there are no guarantees that citizen initiatives could not be used to enact similar discriminatory legislation, something that elected representatives are generally forced to consider when drafting legislation.

The case study investigation of the development of citizen initiative in British Columbia allows us to identify whether British Columbia's process includes the same traits and requirements of other citizen initiative processes around the world. We may also use British Columbia's process as a case study to investigate how much of the academic literature predicted what would be in British Columbia's process. The previous section established a definition of citizen initiative that applies broadly to all forms of citizen initiative and identified the rationale for citizens in a society to desire the use of citizen initiative in their jurisdictions. A deeper investigation will determine what motivated British Columbia's elected representatives to pursue citizen initiative in their province.

Citizen Initiative in Canada and British Columbia

The academic literature specifically devoted to the Canadian context in general and British Columbia's citizen initiative process is limited. Many of the sources provided lack peer review, though they are written sources and present their own biases towards the process and the policy itself. Despite the existence of these biases, important information can be obtained from the literature, which sheds light on two questions underlying the development of citizen initiative in the province: why citizen initiative occurred in British Columbia and what factors determined its structure

While not having a direct impact on the creation of citizen initiative in British Columbia, the history of citizen initiative in North America is important and serves to provide the necessary context to analyze the actions of the key stakeholders that were responsible for the creation of citizen initiative in the province. Much of the literature focuses on jurisdictions outside of Canada and, in doing so, takes a larger worldview into account. Scarrow discusses the North American origins of citizen initiatives, and what social conditions led to the political environment necessary for citizen initiative policies to be passed into law (Sarrow 2001: 652). Phillips adds to this literature, noting that there were specific political parties that were predominantly in favour of citizen initiative and discussing their rationale for their actions, which continues as a theme into the modern era (Phillips 2008: 127). These historical factors help differentiate the United States from Canada, where a legal decision in the early 20th century ruled that citizen initiative would be unconstitutional in Canada, blocking progress for several decades (Haldane 1919: 937).

Canadian literature underscores the importance of key individuals, chiefly by connecting the early North American and Canadian citizen initiative processes to procedurally similar ideas

that could stand in as constitutionally acceptable forms of public petitioning. This research explains who was responsible for first bringing citizen initiative back into the public sphere for consideration, and how they attempted to differentiate their concept from citizen initiative, which at that point was still considered constitutionally impossible in Canada (Ruff 1994: 27). The academic narrative continues from that point, noting the failure of the previous attempts and the first forays into direct democracy (Ruff 1994: 28). As will be explored in greater detail in chapter 3, in British Columbia, changes in political leadership were cited as a potential reason for citizen initiative being given a higher priority (Vander Zalm 2008: 224).

Citizen initiative has a long history in British Columbia, dating back to the *Direct Legislation Act*, passed in the same time period as Manitoba's doomed *Initiative and Referendum Act* in 1918. However, the law was never proclaimed into effect despite being passed by the Legislature (Ruff 1994: 26). The concern with the legislation was that it would meet the same fate as Manitoba's law in 1919, and thus was not proclaimed. This led to a significant period of history in which citizen initiative was not considered as an option in British Columbia or in Canada as a whole (Ruff 1994: 26).

The importance of legislative leadership was noted by many of the sources that do discuss British Columbia's citizen initiative process. It was not until the 1970s that the idea returned to Canadian politics when the opposition Social Credit Party sought to amend the provincial legislature's rules to accommodate legislative debate on petitions (Ruff 1994: 27). That proposed rule change was never adopted even when Social Credit formed government, and the idea of direct democracy again became dormant until the establishment of new leadership for Social Credit (Leslie 2001: 189). The new leader, Bill Vander Zalm, won his party's leadership and the

Premiership of British Columbia on a platform limited in policy. One of the few notable policies was to bring in direct democracy and commit the government to the principles of consultation and cooperation (Leslie 2001: 21, 23).

The British Columbia *Recall and Initiative Act* is the legislative vehicle that enables citizen initiatives to be run in the province. The legislation shares many of the characteristics of citizen initiatives, including signature gathering requirements, and outlines the process that leads to a successful initiative. However, British Columbia's policy differs in significant ways from other initiative policies found in North America. One of the research questions of this thesis is to investigate why British Columbia's citizen initiative policy was written the way it was.

Constitutional constraints influencing the development of citizen initiative policies in Canada were created in 1919 through the decision of the Judicial Committee of the Privy Council (JCPC) in re: Manitoba *Initiative and Referendum Act* (Haldane 1919: 937). At the time, the JCPC served as the highest court of appeal in Canada, and its decision rested on its reading of section 92 of the British North America Act, indicating that the Legislatures could not divest the law-making power to any other body (Haldane 1919: 937). Further to that, the JCPC also indicated that citizen initiatives impinged on the role of the Lieutenant-Governor in the legislative process, and that the provinces could not amend the role of the Lieutenant-Governor (Haldane 1919: 937). The decision of the Privy Council makes clear that only citizen initiatives that respect the role of the Legislature and Lieutenant-Governor would be considered constitutional (Haldane 1919: 937).

Gaps in the Literature

The literature describing citizen initiative is thorough in its discussion of the purpose of this tool of direct democracy, both in Canada and in other jurisdictions around the world where it is used. The literature also accurately explains the potential benefits and problems that can occur when using citizen initiatives. Where this literature lacks depth is in its application to different citizen initiative cases. A significant amount of literature is designed around analysis of individual citizen initiative processes, in the form of case studies. Many of the countries with citizen initiative processes are not based on the British parliamentary system. The form of direct initiative practiced in these countries would be unconstitutional under Canadian law. Studies of citizen initiative in other Parliamentary democracies are more useful, as they share political institutions and processes with Canada. Within the British parliamentary system, there is literature on the history of citizen initiative in New Zealand, and discussion papers regarding citizen initiative in Australia (Hill 2003; Morris 2004). Even with literature coming from Australia and New Zealand, these are insufficient points of comparison as there has been no documented judicial review of citizen initiative to confirm the issues that occurred in Canada. Research into these processes, however, helps provide general context about benefits and shortcomings, and structure of citizen initiatives.

Conversely, the literature discussing the creation of British Columbia's citizen initiative policy also lacks detail, but in different ways. Most discussions of the BC *Recall and Initiative Act* describe its origins in Premier Vander Zalm's government. Most of the research also touches upon the early twentieth century citizen initiative policies that were later ruled unconstitutional by the JCPC. The literature focuses on the historical facts of the case; the order in which the direct democratic tools were introduced in the Legislature, the use of the Referendum Act to bind

the next government to introduce citizen initiative and recall, and the analysis of the effectiveness of those processes legislated into being. Without this context, it is difficult to accurately explain the timing behind the creation of citizen initiative in British Columbia. Less detail is given to the rationale and motivations of Premier Vander Zalm to advocate for the creation of direct democratic tools. Almost no literature exists that discusses British Columbia's policy in the context of other citizen initiatives, or how it relates to previous academic literature on the purpose and construction of citizen initiatives.

The current academic literature provides an explanation of how citizen initiative processes work and what their potential benefits and problems can be. The literature also explains that British Columbia has a citizen initiative process, making it unique in Canada. Previous research was used to provide a basic overview of the main concepts found in this thesis. There remains some debate on the definition of the key terms and ideas related to direct democracy. Highlighting the debate and different views was important to create working definitions that are used in this thesis, and to show that these viewpoints do change depending on the perspective of the researcher. The academic research also provided some of the context and source materials used to answer the two major research questions of this thesis. In the next chapter, this thesis investigates in more depth the case study of the British Columbia *Recall and Initiative Act*, and the reasons why citizen initiative occurred in British Columbia, and why British Columbia's policy was written the way it was.

Chapter Three: The Evolution of Citizen Initiative in British Columbia

Canada has over seventy separate statutes that provide for citizen initiative at the municipal level, showing that Canadians have some experience with this tool of direct democracy (Mendelsohn 1996: 1). However, that experience does not extend into provincial politics, except in British Columbia. British Columbia remains the only province to have a citizen initiative process. A combination of an electorate advocating for citizen initiative and politicians that feel citizen initiative will guarantee the implementation of their policy preferences are needed for most citizen initiative processes to be created. British Columbia was able to create that confluence of factors over a period of two decades.

This chapter provides an overview of citizen initiatives at the provincial level in British Columbia. The overview focuses on the recent history of citizen initiative, starting in the 1970s and moving into the creation of citizen initiative legislation in the province in 1994. Information related to citizen initiative at the beginning of the twentieth century is not addressed due to the constitutional concerns inherent in those initial attempts and the significant lapse in time between those early attempts and more modern movements advocating for citizen initiatives.

Recent History of Citizen Initiatives in British Columbia

Citizen initiative was first considered in British Columbia in 1975 when Bill Bennett, then the leader of the Social Credit Party, the Official Opposition in the provincial legislature, attempted to change the standing rules of the Legislature to require a debate on any issue that received the support of ten percent of the provincial population (Ruff 1994: 27-27). Bennett's proposal would have served as a non-binding citizen initiative which would have ensured that issues of expressed public interest were debated in the legislature. However, it did not require a

vote of the legislature or the electorate on the topic once it garnered the required signatures. The purpose was only to allow for legislative debate on the matter being put forward. Bennett structured his proposal this way to ensure that it would differ from American-style initiative processes, which did require a vote of the electorate on the topic of the citizen initiative process (Ruff 1994: 27). This proposal was defeated by the governing New Democrats. Interestingly, Bennett did not bring back his own proposal after his party won the election and formed government later that year.

Following this defeat, citizen initiatives in British Columbia were taken off the policy agenda for another decade. This was due in part to the prevailing constitutional view that citizen initiative specifically and direct democracy more generally were unconstitutional in the Canadian political system (Qvortrup 2002: 1). Prior to the 1986 election, Bill Bennett, by then Premier of British Columbia, resigned his leadership and triggered an internal party election to nominate a new party leader and provincial Premier. In the ensuing leadership race, the eventual winner, Bill Vander Zalm, ran as an outsider, separate from Bennett and his government.

Vander Zalm was first elected as a Social Credit member representing Surrey in the 1975 election (Vander Zalm 2008: 73). He quickly became part of Premier Bill Bennett's Cabinet, being appointed to the Ministry of Human Resources in 1975 (Vander Zalm 2008: 73). Vander Zalm then moved to the Ministry of Municipal Affairs in 1978 (Vander Zalm 2008: 92). His final Cabinet appointment was to the Ministry of Education, which occurred in 1981 (Vander Zalm 2008: 115). Vander Zalm had a reputation within Cabinet for enacting significant cost savings, which was the rationale for his movement to each of his different ministries (Vander Zalm 2008: 92, 115). He later resigned from elected office in 1983 over the direction the party was taking

under Premier Bennett (Vander Zalm 2008:119). At the time of the Social Credit leadership campaign in 1986, he was a private citizen who hoped to present himself as an outsider who could win back disaffected Social Credit supporters.

Vander Zalm's leadership campaign chiefly focused on him as an individual, but one of the policies he did champion was a promise to bring a voice to the people through greater direct democracy including referenda, citizen initiative and recall (Vander Zalm 2008: 224). In an interview he noted he had been a proponent of citizen initiative since his initial election in 1975 (Interview, 2020). As a minister, Vander Zalm attempted to use his position to try and implement greater local control as a means of instituting more direct democracy in British Columbia (Interview, 2020). This consistency is important and demonstrates how strongly he felt about the policy. At the time, his campaign lacked a lot of the detailed plans that other candidates were presenting to the people. Instead it was Vander Zalm's personality traits that were the main basis of his candidacy.

In Vander Zalm's view, Social Credit was meant to be a grassroots party that gained strength by listening to its membership and enacting policies that had the support of its members (Vander Zalm 2008: 10). By the time he contemplated a run for the leadership of the party, he was concerned that the party seemed to be governing based on the views of professional political consultants who often resided outside of British Columbia and who did not understand the culture and politics of the province (Vander Zalm 2008: 9). Vander Zalm also suggested that resistance from within the bureaucracy makes it difficult for newly elected representatives to achieve their policy goals, and that was part of his desire to create citizen initiative in British Columbia (Interview, 2020). This brings us back to the idea that citizen initiative provides an opportunity

for citizens to propose legislation that was being blocked at some point in the political process by one or more political actors, in this case the professional consultants who Vander Zalm felt controlled the Social Credit Party by the 1980s (Bridges and Kousser 2011: 168; Piott 2003: 1; Vander Zalm 2008: 9). This view was echoed by citizens who were consulted by the Select Standing Committee on Parliamentary Reform, Standing Orders, Ethical Conduct and Private Bills, which was tasked with conducting additional research on citizen initiative and recall after the successful referendum votes on those two topics in the 1990s (BC Legislature 1993). The Committee found that citizens wanted a political system that was not dominated by special interest groups and that reflected the wishes of a broad segment of the population. That the Premier and the electorate reached the same conclusion by different means was important in building support for citizen initiative.

Vander Zalm went on to win the leadership and became Premier in 1986. In the 1986 election, the Social Credit Party defeated the New Democrats. Interestingly, neither major party discussed any of these tools of direct democracy in their party platforms, suggesting that it was not a significant issue of the election campaign. As Premier going into the 1986 election, Vander Zalm stated that the caucus was supportive of citizen initiative, but the Social Credit Party executive was more cautious and suggested that the campaign should avoid discussing issues such as direct democracy and citizen initiative that would take a significant amount of time to explain (Interview, 2020). Instead, the party suggested that Vander Zalm focus his campaign on economic issues and other policies that were more easily explained and understood by the electorate (Interview, 2020).

Following the election, Vander Zalm began the process of forming a Cabinet, retaining many of the ministers that served under Bill Bennett. The resignation of Brian Smith as Attorney General in July 1988 gave him an opportunity to appoint Bud Smith as Attorney General. Bud Smith was also given the task of developing the system of referenda, initiative and recall that would fulfill Vander Zalm's leadership campaign promise (Vander Zalm 2008: 264). Both Brian Smith and Bud Smith were supportive of creating citizen initiative in British Columbia but were stalled in their efforts by the Ministry of Justice, which was a proponent of the status quo (Interview, 2020). Cliff Serwa, a Member of the Legislative Assembly during that time period, noted that there were significant discussions within the government caucus long before any action was taken towards legislating these tools (British Columbia Library of the Legislature 1993: 261).

In 1990, near the end of his time as Premier, Vander Zalm and the Social Credit government introduced the *Referendum Act*, which allowed for referendums initiated by the government (Bowler, Donovan and Karp 2002: 736; Leslie 2001: 189). The *Referendum Act* gave the government absolute power to decide the wording, timing and rules of a referendum (Palmer 1990). It was hoped that enacting the *Referendum Act* and successfully using it would provide a means of measuring support for citizen initiative and recall. Indeed, the initial use of the legislation was to put citizen initiative and recall to a referendum vote (Bowler, Donovan and Karp 2002: 736).

The *Referendum Act* was the legislative vehicle that allowed for government sponsored referenda to be enacted in British Columbia. Under the terms of the Act, the government of the day could choose the timing and wording of a question to be submitted to the public for approval

or disapproval. The government would also have the sole discretion to determine what level of support would be needed in the public vote for the referendum to pass. A quirk of the *Referendum Act* was that the results of the referendum would only be binding upon the government that proposed the question.

The introduction of the *Referendum Act* on July 5, 1990 was a key event leading to the establishment of a citizen initiative policy in British Columbia (Leslie 2001: 189). The government, at this time still led by Vander Zalm, telegraphed its desire to enact some form of referendum bill by including the measure specifically within the Throne Speech (British Columbia Legislature 1990a: 8847). The *Referendum Act* was the first time any provincial government had been willing to consider legislation based on one of the tools of direct democracy since 1919 when the Privy Council ruled Manitoba's legislation on initiative and referendum unconstitutional. The Act was described as a controlled experiment to see whether direct democracy could be made compatible with parliamentary democracy and set the stage for the formal referendum on citizen initiative and recall scheduled for September 1991 (Ruff 1994: 28).

The legislative debate on the *Referendum Act* was notable for how little discussion it created. While the first reading of a bill is normally done without debate and is a formality, the second reading is an opportunity for parties and individual MLAs to speak to the principle of the bill (British Columbia Legislature 1990b: 11395). It is striking that only three Members of the Legislative Assembly spoke to the bill at all during the second reading debate on July 24, 1990. One of the speakers was the legislative sponsor who is required to speak (British Columbia Legislature 1990b: 11394). Equally surprising was that both political parties represented in the

Legislature were in favour of the bill, and that there were no amendments offered during the committee stage of the debate. Vander Zalm suggested that there were political considerations to the opposition New Democrats' support of the *Referendum Act*, noting that political parties would be likely to suffer an electoral penalty with voters if they voted and campaigned in opposition to policies that would give citizens more political power (Interview, 2020).

Vander Zalm resigned¹ from office after the legislation passed. During his time in office, he attempted to sell his leisure and commercial property, Fantasy Gardens. An investigation into his actions determined that he violated the government's conflict of interest guidelines, which led to his resignation. His successor as Premier, Rita Johnston, placed two separate referendum questions on the 1991 general election ballot asking voters if they wanted to have recall and citizen initiatives. The wording of the questions were as follows: "Should voters be given the right, by legislation, to vote between elections for the removal of their member of the Legislative Assembly"; and "Should voters be given the right, by legislation, to propose questions that the government of British Columbia must submit to voters by referendum" (Elections BC 2002: 60). While both recall and citizen initiative were placed on the ballot, there was little deliberation on the issues in the legislature (British Columbia Library of the Legislature 1993: 6, 155). Both Rita Johnston and Mike Harcourt, the leader of the New Democrats, stated that they would personally be voting in favour of the two referendum questions (British Columbia Library of the Legislature 1993: 21). They also indicated that if they won the election, they would be bound by the results of the referendum and move to enact citizen initiative and recall. It was later noted by the Select Standing Committee that there was no significant debate on either of the two referendum

¹ Mr. Vander Zalm disputes the severity of his actions and whether it constitutes a conflict of interest. For more information please see Vander Zalm 2013: 82)

questions on citizen initiative or recall during the election campaign (British Columbia Library of the Legislature 1993: 6). Each of these two questions received the support of over eighty percent of participating voters (Elections BC 2002: 60). Under the terms of the *Referendum Act*, the government can determine the timing of a referendum, the wording of the question and the majority required to be successful. The Social Credit government, using the previously passed *Referendum Act*, declared that a simple majority of fifty percent plus one would be required for passage of the two referendum questions on citizen initiative and recall.

Premier Johnson chose to have the referendum votes on the same day as the general election, and thus it became part of the election campaign itself. The New Democrats had previously been supportive of the *Referendum Act* in the Legislature, and when asked during the election, they reiterated their support for both referendum questions. Members of the Legislative Assembly would later state that there was very little public debate about citizen initiative and recall during the 1991 election campaign (British Columbia Legislature 1992: 6). The media also offered limited coverage, with only a single newspaper editorial asking voters to consider any potential benefits and drawbacks of the two tools of direct democracy up for debate (Campbell and Collett 1991).

Unknown to voters at the time, the Social Credit government created a policy paper in which it indicated that an affirmative vote for the referendum questions would not result in the creation of legislation, but would instead create a Standing Committee to investigate the feasibility of citizen initiative in the province (British Columbia Legislature 1992: 263; Vander Zalm 2020). After the 1991 election, the newly elected New Democrat government mandated the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and

Private Bills to engage with citizens on what a recall and citizen initiative process should look like.

Following the successful referendum to approve citizen initiative and recall, there was a long period of consultation and research by the government through the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills in anticipation of its bill to enact these two tools of direct democracy (British Columbia Legislature 1994a: 12842). A 1993 Vancouver Sun article noted that initiative already existed at the local level (Vancouver Sun 1993). While the article said that some municipalities had the ability to use voter initiatives on local issues, they had no legal weight and were not binding (Vancouver Sun 1993). The question of whether initiative votes would be binding on the provincial government became an issue of debate for the BC Act (McInnes 1993) was discussed during the select standing committee's community meetings.

The literature makes clear that most of the impetus for citizen initiative in British Columbia came from the Social Credit Party, first in opposition as a means of trying to gain a greater platform for its leader, and then once in government as a means of returning to the principles of the party as a grassroots organization, rather than one that is controlled by professional political operatives and internal party staff (Vander Zalm 2008: 9). This internal push for more effective consultation and cooperation with the electorate was balanced and supported by greater social support for removing corrupt elements of the government, which created a political climate where there would be strong support for increasing the power of the citizens relative to that of elected officials. Citizens speaking at the standing committee after the 1991 election noted that polls taken at that time period showed elected officials had lost the

confidence of the public (British Columbia Library of the Legislature 1993: 103). This political environment helped lead to a strong referendum vote in favour of citizen initiative and recall in the 1991 election.

The Work of the Select Standing Committee

Following the 1991 election, the Legislature created the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills. (British Columbia Library of the Legislature 1993: 6) The referendum vote in favour of citizen initiative required that the government establish a legislative committee whose purpose would be to develop legislation for citizen initiative and recall in the province (British Columbia Library of the Legislature 1993: 263). Most voters believed that when they voted yes on the two referendum questions, they were voting to create those two forms of direct democracy in the province, and that the government would immediately table legislation to that effect, but this was not the case (British Columbia Library of the Legislature 1993: 263).

In response to voters' confusion over what they voted on, the chair of the committee, Ujjal Dosanjh, noted at most public meetings that the affirmative vote on the two referendum questions was designed to be a vote to create the standing committee (British Columbia Library of the Legislature 1993: 263). The first meeting of this committee was on August 14th, 1992 and dealt mainly with the logistics of the committee's schedule. Committee members² from all three parties agreed that there be a significant number of meetings, which would be both consultative

² Ujjal Dosanjh, Sue Hammell, Mike Farnworth, Barry Jones, Jackie Pement, David Schreck and Dennis Streifel were NDP members. Linda Reid, David Mitchell and Clive Tanner were BC Liberal members. Cliff Serwa was the lone Social Credit member of the Committee. In the second session of the Parliament, NDP member Jackie Pement was replaced by Jan Pullinger; BC Liberal Clive Tanner was replaced by Allan Warnke; BC Liberal David Anderson became an Independent member, and NDP member Leonard Krog was added.

and educational for the committee and for British Columbians as a whole (British Columbia Library of the Legislature 1993: 6).

In interviews, members of the committee noted that the behaviour of the committee was very collegial, with members being focused on their tasks instead of the partisan debate heard during Question Period (Warnke, 2018). While it was noted that committee business is often less contentious than Question Period and other more heavily publicized aspects of the Legislature, the members also indicated that part of their respect for the process was because citizen initiative was a new concept, and most members were using the Committee hearings as an opportunity to learn about direct democracy, as opposed to an opportunity to score political points on each other (Farnworth, 2018).

Expert Researcher Opinions

The first substantive meeting of the committee was on September 29th, with the committee inviting academic experts with past research experience on recall and citizen initiative to present and express their views (British Columbia Library of the Legislature 1993: 21). Ken Carty, Norman Ruff, John Dyck and Allan Warnke all presented, with Warnke participating as an academic expert, even though he served in the Legislature at the time (British Columbia Library of the Legislature 1993: 21). Ken Carty, a professor of political science at the University of British Columbia opposed both mechanisms, with his main point of concern being that they weaken party discipline and erode the responsibility mechanisms that are inherent to our system of government (British Columbia Library of the Legislature 1993: 21).

Norman Ruff, a professor of political science at the University of Victoria, spoke next, again in opposition. He provided a global perspective and noted that this desire for more

participatory democracy existed more broadly than just in British Columbia (British Columbia Library of the Legislature 1993: 24). Both Carty and Ruff raised some concerns about the impact of money on any recall or citizen initiative regime, with both expressing some interest in regulating how much money could be spent on these processes (British Columbia Library of the Legislature 1993: 23, 27).

Ruff's presentation was followed by John Dyck of the University College of the Cariboo, and, like the others, he expressed some concerns about integrating citizen initiative into British Columbia's political system (British Columbia Library of the Legislature 1993: 32). Dyck first suggested that if these reforms were brought in, the government would need to provide the means to educate citizens and allow people to become better aware of the political issues being debated in the province (British Columbia Library of the Legislature 1993: 32). Rather than outright opposing recall and citizen initiative, Dyck suggested they be used as policies of last resort, and, therefore, should be made difficult to employ (British Columbia Library of the Legislature 1993: 36).

The last presenter for the expert meeting was Allan Warnke, a former university professor and the Member of the Legislative Assembly for Richmond-Steveston. Mr. Warnke offered an interesting critique of the initiative process, indicating that it could be used by the Cabinet to bypass the Legislature and bring its agenda directly to the people (British Columbia Library of the Legislature 1993: 43). Doing so would violate the democratic norms of the province, in which laws are debated and voted upon by the representatives of the people.

At the committee's October 28th meeting in Victoria, future MLA Graeme Bowbrick presented on the history and constitutionality of citizen initiative. Bowbrick's presentation

focused on the legal aspects of citizen initiative and recall, as he was a law student when he made his presentation. He noted that in the early twentieth century recall and citizen initiative were of interest to grassroots populists who revolted against the traditional party system (British Columbia Library of the Legislature 1993: 53). Bowbrick highlighted one of the key differences between the Canadian and American political systems, stating that sovereignty in the Canadian system is vested in Parliament, while in the American system it is vested in the citizens (British Columbia Library of the Legislature 1993: 53). This distinction is important as it suggests that Parliament, and not the electorate, is the supreme democratic institution in Canada. Parliamentary supremacy limited the power of the electorate to impose laws on Parliament. Bowbrick further argued that any citizen initiative must be an indirect initiative, reminding the committee that the previous Manitoba direct initiative legislation was ruled unconstitutional, and that any direct initiative statute in British Columbia would be ruled unconstitutional on the same grounds (British Columbia Library of the Legislature 1993: 54).

As noted previously, an indirect initiative would be one where the popular vote at the end of the initiative process does not automatically enact the proposed bill into law. The popularly supported bill would then still have to be passed by the Legislature through the normal legislative process. A direct initiative, on the other hand, would have the popularly supported bill be automatically enacted into law without any additional steps. Bowbrick ended his presentation by highlighting the problem that extremist or special interest groups could abuse the process, and that citizen initiative should be made more difficult to reach the referendum stage and force minority groups to respond to extremist political rhetoric (British Columbia Library of the Legislature 1993:56).

Public Commentary on Citizen Initiative

Following the expert testimony of the four political science professors and Mr. Bowbrick, the committee conducted a ten-month long public consultation process. This consisted of a series of public meetings in different communities across British Columbia. In order to create better awareness of these meetings, the committee bought advertisements in both local and provincial newspapers, along with other sources of print media in British Columbia (British Columbia Library of the Legislature 1993: 49).

A key theme that ran throughout the meetings was the role of government, and particularly the role of elected officials in the political process. At the November 21st meeting in Kelowna, a citizen said that he had to give all his political power to his elected representative, and that the lack of power made him feel uncomfortable (British Columbia Library of the Legislature 1993: 113). This feeling was echoed by another citizen, who declared that the voters and taxpayers used the referendum vote to serve notice on politicians that they no longer have complete trust in them (British Columbia Library of the Legislature 1993: 126). This feeling was not limited to those areas far away from the urban centres of British Columbia. At the December 5th meeting in Vancouver, presenters to the committee argued that the affirmative vote for initiative and recall suggested that the electorate no longer accepts delegated democracy (British Columbia Library of the Legislature 1993: 165). However, people were not unanimous on this issue, with some arguing at that same Kelowna meeting that we already elect governments to govern and make decisions, and that if British Columbia creates initiative policies we may as well cancel the government and do everything by initiative (British Columbia Library of the Legislature 1993: 133).

The contrasting opinion was that citizens should have more responsibility and that in doing so better public policy will be constructed. One person speaking at the December 5th Vancouver meeting told the committee that the main benefit for providing initiative referendums is that they give the public more responsibility for government policy decisions on a particular topic than they otherwise would have (British Columbia Library of the Legislature 1993: 154). A more philosophical argument was made in favour of granting citizens more power through citizen initiative at the April 3rd meeting in Cranbrook, where one of the speakers characterized the political system as one where the ultimate sovereignty resides with the electorate (British Columbia Library of the Legislature 1993: 439). Of course, by their own admission some individuals at the hearings made an argument that they should not be given initiative power, as one person did at the January 22nd meeting in North Vancouver when he said that voters do not have time like a lot of intellectuals, academics and other professionals to sit down and think over those matters (British Columbia Library of the Legislature 1993: 232). That comment was made as an explanation for why citizens voted overwhelmingly in favour of recall and citizen initiative in the 1991 general election referendum, even though citizens argued strongly for placing limits on initiative. Another individual in Surrey was also concerned about citizens not being responsible with the power given to them by initiative, arguing that referendums allow people to bring in ill-conceived laws that often do not consider the long-term effects (British Columbia Library of the Legislature 1993: 268).

Some suggested that the power of special interests already inherent to the Canadian system of government was precisely why citizen initiative was needed (British Columbia Library of the Legislature 1993: 67). Kathleen Toth, representing the Family Coalition Party of Canada, noted that ordinary people have little opportunity to lobby for legislation unless they happen to be

part of a special interest group, again suggesting that citizen initiative could be a way for citizens to reduce the power of special interests (British Columbia Library of the Legislature 1993: 76). This theme of special interest power ran through many of the committee's meetings (British Columbia Library of the Legislature 1993: 131). Concerns about the power of special interests were articulated clearly by citizens at the May 28th, 1993 meeting in Prince Rupert near the end of the committee's consultations. They asked if citizen initiative will mean that eventually the pollsters and lobbyists would be able to directly intercede in government by financially supporting an initiative beneficial to that organization (British Columbia Library of the Legislature 1993: 510).

One of the key concerns for MLA Mike Farnworth was whether initiative could be used to abrogate the rights of minority groups, and whether citizens believed there should be some kind of limit or constitutional test on initiatives prior to either the signature gathering phase or the public vote (British Columbia Library of the Legislature 1993: 140). Several speakers, including Ujjal Dosanjh, highlighted the case in Colorado where a citizen initiative was used to try to restrict the rights of the LGBTQ community (British Columbia Library of the Legislature 1993: 532). At the first public meeting on November 4th in Victoria, one person stated that the initiative question should not be restricted at all, allowing for any topic to be put to the voters (British Columbia Library of the Legislature 1993: 74). Others suggested that initiative would return power to the majority and argued that if an initiative is not right it will not get approved by voters (British Columbia Library of the Legislature 1993: 82, 84). A more extreme view was put forward when it was brought up that citizen initiatives should be immune to Charter and constitutional challenges due to the support the initiative would have to gain among the electorate (British Columbia Library of the Legislature 1993: 221). A contrasting view was also presented,

in which the initiative legislation would also include a list of topics that could not be petitioned on (British Columbia Library of the Legislature 1993: 88). Supporters of the list of banned topics further argued that there should be a constitutionality test for any citizen initiative to ensure that it does not violate the Charter or Constitution (British Columbia Library of the Legislature 1993: 88). This view would be echoed by other participants throughout the consultation process.

Citizen Comments on the Process of Citizen Initiative

Moving beyond the theoretical benefits and problems inherent to citizen initiative and recall, the committee received significant input regarding the form that recall and citizen initiative legislation should take. Again, there was a significant level of disagreement about how these principles should be implemented, and committee member Leonard Krog mentioned near the end of the consultation process in the April 2nd meeting in Penticton that the majority of speakers in every community consultation spoke in opposition to both processes, despite a wide majority of voters choosing to support the concepts when they were placed on the ballot (British Columbia Library of the Legislature 1993: 473).

Questions arose both within the committee and among members of the public about whether citizen initiatives should take the form of direct or indirect initiatives. In the November 21st meeting, a voter argued forcefully for direct initiatives, and suggested that the power to bring forward questions that are binding on the government could generate new solutions to political problems (British Columbia Library of the Legislature 1993: 137). An interesting legal argument was brought forward defending direct initiatives at the December 5th meeting by one of the participants, who suggested that a 1991 Supreme Court case ruled that Parliament could delegate its powers to another body, and therefore it would be constitutional to delegate powers to the

citizens as a whole for direct initiatives (British Columbia Library of the Legislature 1993: 158). As with other areas of discussion, there was considerable dissent and disagreement on this point. On March 6th in Nanaimo, a speaker explained that Royal Assent is required for legislation to be brought into law, which necessitates action by the Lieutenant-Governor (British Columbia Library of the Legislature 1993: 383). Because of the Royal Assent requirement, the individual argued that initiative must be indirect and not binding on government (British Columbia Library of the Legislature 1993: 383). Someone else echoed this view in one of the final meetings on July 5th pointing out that they have to be advisory indirect initiatives, because you cannot usurp the parliamentary process (British Columbia Library of the Legislature 1993: 581).

In terms of the number of signatures needed to get an initiative onto the ballot and the time given to gather those signatures, there were significant differences between different presenters. The most lenient suggestion was that three percent of all registered voters in British Columbia would be enough (British Columbia Library of the Legislature 1993: 158). The most restrictive was brought forward by Robin Richardson, presenting on behalf of the Canadian Taxpayers Federation (CTF). This proposal would have citizen initiatives gather ten percent of registered voters in each of the seven electoral regions that the CTF proposed based on geographical boundaries (British Columbia Library of the Legislature 1993: 169). This regional requirement seemed to address one of the concerns of the Committee that the populated, urban regions of the province could use initiative to overwhelm the rural regions (British Columbia Library of the Legislature 1993: 511). There was general agreement that there be a significant amount of time given to gather signatures, based in part on the difficulties associated with gathering signatures in a timely manner in more remote parts of the province (British Columbia Library of the Legislature 1993: 160).

Two other concerns dominated the questions put forward by the committee. The first asked about funding, and whether there should be any limits on spending by proponents or the opponents of an initiative. Both arguments were summarized quickly in the November 4th Victoria meeting. One person argued that there should not be any restrictions on spending by any organization, but that it should be restricted to residents of British Columbia (British Columbia Library of the Legislature 1993: 74). Another speaker, however, strongly argued that there should be spending limits to ensure it is a fair process that is not dominated by special interests using their financial resources to sway voters (British Columbia Library of the Legislature 1993: 77).

Another question brought up by committee participants was when any public vote connected to a successful citizen initiative petition should be held. Member of the Legislative Assembly David Schreck noted that American states with citizen initiative had lower voting rates than British Columbia did in the 1990s (British Columbia Library of the Legislature 1993: 166). His concern was that having too many questions on the ballot would reduce voters' willingness to get out and vote, and thus supported the idea of citizen initiative votes happening on a separate day from general elections. Roxanne Matheson, a Returning Officer in charge of elections in her electoral district, took the opposite position and argued that citizen initiative votes should occur at the same time as regularly scheduled elections. Matheson noted in her presentation that the administrative costs to the government would increase by having separate voting days, and that doing so would require people in her position in each electoral district to essentially become full-time employees (British Columbia Library of the Legislature 1993: 369). Beyond creating uncertainty for staff about arranging the logistics of guaranteeing the availability of voting locations for a vote, Matheson also pointed out that significant effort would be needed to ensure

that the voters' list was up to date in time for any potential citizen initiative vote (British Columbia Library of the Legislature 1993: 369).

Recommendations of the Committee

When the committee concluded its public meetings, it drafted a report that was submitted back to the Legislature for consideration. The report touched on both citizen initiative and recall and made several substantive recommendations on how to proceed. With regards to initiative, the committee recommended that the government proceed with indirect initiatives, noting that most jurisprudence argued that self-executing referenda were unconstitutional (BC Legislature 1993). The committee also suggested that any proposed initiative be put through a test for constitutionality prior to the process beginning, but that there would otherwise be no limits on what could be subject to citizen initiative (BC Legislature 1993). This constitutionality test would be based on the exact wording of the proposed citizen initiative, which is a required component of any citizen initiative (BC Legislature 1993). The argument was made that this would ensure the Legislature is not forced to try and craft legislation that may not meet the needs of initiative proponents (BC Legislature 1993).

Looking to the logistics of citizen initiative, the committee recommended that proponents be given anywhere between sixty and ninety days to obtain the required signatures (BC Legislature 1993). The committee also recommended that the number of signatures be set at ten percent of all registered voters in every provincial constituency in British Columbia (BC Legislature 1993). As noted before, this would place British Columbia's initiative system as one of the most restrictive in the world (British Columbia Library of the Legislature 1993: 169). The committee suggested that the initiative votes be held separately from general elections, because

the committee did not want initiative questions and candidate issues to be confused during the election campaigns (BC Legislature 1993). Instead, it recommended that there be stipulated dates for initiative votes, with the Committee stating, but not specifically recommending, that they occur in October every three years, partway through a government's mandate (BC Legislature 1993). The proposed requirements for passage were a double majority: first, a simple majority of all eligible voters must vote in favour of the proposed initiative; and second, a supermajority of two-thirds of all electoral districts must vote in favour (BC Legislature 1993). Note that the committee suggested using a simple majority of all eligible voters, as opposed to a simple majority of all participating voters; the committee warned of the hazard posed by a "tyranny of the minority" in which a small minority of voters who participate in referendum voting would be able to control the outcome of policy decisions and initiatives (BC Legislature 1993). The committee's final recommendation with regards to citizen initiative was to put spending limits in place for both the petitioning and the referendum voting periods to ensure fairness in the process (BC Legislature 1993). The work of the committee and its report were sent to the Legislature and were used as the basis for the development of legislation in the Spring 1994 session.

The Legislative Debate

On June 16th, 1994, the NDP government introduced Bill 36, also known as the *Recall and Initiative Act*, to the House for first reading (BC Legislature 1994a: 12031). The legislation was introduced by the Attorney General, Colin Gabelmann. Gabelmann would be the main speaker for the government throughout debate. The Act would serve as the legislative vehicle to enable recall and citizen initiative. Debate for the second reading did not occur until July 6th. Key provisions of the legislation were attacked by opposition politicians, with the signature requirement and signature gathering time thresholds being the main areas of concern. The Act

followed the committee's recommendations and required ten percent of all registered voters in total and ten percent of all registered voters in all electoral districts to sign the petition within ninety days. BC Liberal Leader Gordon Campbell put that ten percent figure into comparative context by noting that the state of Oregon only requires that four and a half percent of registered voters sign their initiative petitions (BC Legislature 1994a: 12833). Campbell also pointed out that in other jurisdictions that had the ten percent signature threshold, no group of petitioners had yet been successful in obtaining the required amount (BC Legislature 1994a: 12834). While opponents of the Bill were opposed to the short time to gather such a large amount of signatures, the BC Reform Party was pleased to see that the government agreed with the committee's view that petitions pass in two-thirds of ridings (BC Legislature 1994a: 12837).

The government also chose to support the committee's recommendation that an initiative vote could only be successful if it obtains the support of a majority of all registered voters as opposed to a majority of those who participate. This clause was also attacked by the opposition as being too onerous for initiative proponents; they noted that individuals who do not participate in the initiative vote would be considered to have effectively voted against the initiative (BC Legislature 1994a: 12850). The indirect or non-binding nature of the initiative process also came under attack by the opposition, suggesting that the initiatives could be ignored once the proposed bill enters first reading (BC Legislature 1994a: 12850). Brian Kieran, a columnist with *The Province*, echoed these concerns, stating that "even if this threshold can be achieved, there is nothing in Bill 36 that makes the proposed law binding on government" (Kieran 1994a). As written, the *BC Recall and Initiative Act* only required that a successful initiative be introduced for first reading. The opposition specifically raised concerns that a bill could be left at first

reading forever and not be enacted, despite a majority of voters voting in favour of the exact bill that was introduced through the initiative process (BC Legislature 1994a: 12837, 12849).

The bill was passed onto the Committee of the Whole for a clause-by-clause debate on Thursday, July 7th, where MLAs deliberated on some of the mechanisms of the bill. The bill included a provision that required any proposed initiatives to go through a constitutional test administered by the Chief Electoral Officer, as suggested by the standing committee. However, the opposition charged that the Chief Electoral Officer may not have the necessary expertise to perform a check on the constitutionality of any proposed initiative, and that this task should be given to another individual or institution of government, such as the courts (BC Legislature 1994a: 12937).

The bill also followed the committee's recommendation that the initiative votes be undertaken separately from general elections. Opponents of the provision noted that all previous experience with referenda at the provincial and municipal level showed that these votes do not get the same kind of public attention as general elections, and thus do not have a significant turnout (BC Legislature 1994b: 12951). On the other hand, David Schreck, an NDP MLA and a member of the committee, argued that the experience in California where elections and initiatives are done concurrently showed that fewer people vote for referendum and initiative questions, and that turnout decreases the further down the ballot the question is (BC Legislature 1994b: 12950).

Members of the Legislative Assembly were concerned about the timing issue and how to best ensure that the greatest number of citizens would participate because of the previously noted clause in the legislation that required fifty percent of all registered voters to vote in favour of an initiative for it to pass. Members of the opposition strenuously objected to this clause, with the

Reform Party's Jack Weisgerber noting that the way the bill was worded, all of the voters who do not vote are deemed to have voted no, which would be a departure from current practices (BC Legislature 1994b: 12952). Weisgerber continued to state his preference for a simple majority of all those who participate, suggesting that is the most fundamental principle of democracy in British Columbia (BC Legislature 1994b: 12952). Brian Kieran commented on this aspect of the legislation as well, quoting Weisgerber's comment that women's suffrage would have failed under this provision of the Act (Kieran 1994b).

The requirement to have the voting threshold be set at a majority of registered voters was a serious impediment to gaining opposition party support. Fred Gingell of the BC Liberal Party created a hypothetical situation where eighty percent of voters vote in favour of something, but only sixty percent of all registered voters participated. In such a situation, the vote would fail to reach the fifty percent of registered voters threshold set by the government, which Gingell argued would look undemocratic to the voters of the province (BC Legislature 1994b: 12955). Indeed, the situation was far from hypothetical; the 1991 election had a turnout of seventy-five percent of all registered voters, meaning the eighty percent who voted in favour of initiative only constituted sixty percent of all registered voters (Elections BC 2019). If turnout had been slightly lower or if support for the two ballot questions had not been so dominant, they would have failed if brought forward under the government's proposed thresholds. Despite all these objections, the bill was passed without amendment and was granted royal assent on July 8, 1994 (BC Legislature 1994c: 12986).

While the opposition BC Liberals had changed their position to support initiative and recall, they opposed the legislation. Campbell later would try to amend the legislation in

opposition, and in 2001 the BC Liberal Party's campaign platform included a promise to create workable initiative legislation to make it feasible for British Columbians to call for a referendum on issues of province-wide concern (BC Liberals 2001: 30). Once in government, the Liberals did not make the promised amendments, and the legislation has been unchanged since its creation in 1994. Opponents of the legislation were not confined to the Legislature; Les Leyne of the Victoria Times-Colonist commented that the Act was "useless window-dressing", suggesting that the signature thresholds made the legislation almost unusable (Leyne 1994).

Conclusion

Citizen initiative is a tool of direct democracy found around the world. British Columbia is the only province in Canada to have a citizen initiative process. In this chapter I discussed the recent history of citizen initiative in British Columbia, and the development of the *Recall and Initiative Act* in 1994. The next chapter provides an analysis of this process, showing how the literature on citizen initiative helps us to understand the development of British Columbia's legislation, and sheds light on the research questions outlined in chapter one.

Chapter Four: Analysis and Discussion

British Columbia has the only citizen initiative process in Canada, making it unique among the provinces and territories. The purpose of this chapter is to analyze the case of British Columbia's citizen initiative policy, found in the *Recall and Initiative Act*, and connect the process of creating the Act and the provisions of the Act to what is already known about citizen initiative policies through other research. Identifying these connections between British Columbia's legislation and the academic literature helps us to answer the two research questions of the thesis, which were to ask how and why British Columbia enacted citizen initiative and why certain provisions of British Columbia's citizen initiative process were included.

This chapter will be organized into three sections: the findings supporting the current academic literature on each of the two research questions: findings that refute or disagree with the current academic literature; and those findings that were interesting, but have no relation to the two research questions. Each section will be divided thematically, highlighting areas of similarity in the literature with what was found in the research for this thesis.

Findings Supporting the Current Academic Literature on the Research Questions

How and Why British Columbia Enacted Citizen Initiative

Historically, citizen initiative became popular as a means of allowing for greater democratic participation in the face of governments that seemed to be focused on policy outcomes that were beneficial to donors and other powerful organizations, instead of broader sections of the population (Bridges and Kousser 2011: 168). This led to demands for greater citizen control over public policy, which in turn led to fundamental reforms in some American states at the beginning of the twentieth century (Scarrow 2001 652).

The academic literature does not discuss in detail why British Columbia committed itself to enact a citizen initiative process. However, previous arguments made about citizen initiative in general do apply to British Columbia's specific case. Previous research has stated that citizens begin to advocate for citizen initiatives when they feel that their participation in the democratic process is not providing them with a meaningful opportunity to influence the policymaking process (Phillips 2008: 127). The literature also suggests that politicians themselves will apply pressure to enact citizen initiative as a means of guaranteeing their policy proposals are written into law. However, politicians will only advocate for citizen initiative when they feel the median voter³ will support the same policy choices as them (Bridges and Kousser 2011: 171).

Citizen initiative was brought back into the public consciousness after the 1919 Haldane ruling when Bill Bennett suggested changes to the standing rules of the British Columbia Legislature in 1975 to require petitions that obtained ten thousand signatures to be debated in the Legislature. At the time, the belief that the views of ordinary British Columbians were being ignored was one of the arguments Bennett put forward in support of changing the rules (Ruff 1994: 27). While this proposal was not considered a citizen initiative, it was the first step in recent memory towards creating citizen initiative processes in the province.

Premier Bill Bennett was skeptical of the idea of citizen initiatives and wanted to differentiate his proposal from American citizen initiatives, which lack a role for the Legislature in the law-making process (Ruff 1994: 27). Bennett's proposal was defeated by the governing New Democrats, but it is important to note that once returned to power later that year, he declined to implement his policy of allowing for petitions to be debated in the Legislature. This suggests

³ The term median voter here is meant to describe the group of voters who do not fully support any of the political parties, and whose support is necessary to create electoral majorities (Bridges and Kousser 2011: 191).

that the main purpose of his proposal was to highlight what he felt was the unwillingness of the government to consider the views of the broader electorate, which is a key component in building support for citizen initiatives. Following the Social Credit leadership election that elevated Bill Vander Zalm to the Premiership of British Columbia, citizen initiative was brought back into focus. Vander Zalm had previously shown interest in the idea of citizen initiative, and as a cabinet minister in Bill Bennett's government, he championed the idea of devolving government back to the citizens where possible (Vander Zalm 2008: 73). Vander Zalm also believed that the Social Credit Party was losing touch with its origins as a grassroots party that derived policy from its membership (Vander Zalm 2008: 9). Instead, he found that the party was reliant upon advisors and strategists, mainly from Ontario, who did not understand British Columbia's political climate (Vander Zalm 2008: 9). Citizen initiative was seen as a means of ensuring that citizens retained political power in the system, and not any of the lobbyists or strategists.

The election of Vander Zalm as Social Credit leader and Premier was followed by an immediate general election, which was won by Social Credit. The re-election of Vander Zalm's government gave credence to the idea that the public was generally supportive of his policies and his party, as the electorate had been given an opportunity to register its opposition in the election. Vander Zalm thus had reason to believe that the public would continue to support him. This belief in the public's support, combined with his own personal belief in the importance of devolving power back to the citizens, prompted Vander Zalm to pursue the creation of direct democratic tools in the province, which was one of his only campaign promises during his leadership campaign (Vander Zalm 2008: 224).

Before he could enact citizen initiative legislation, Vander Zalm resigned from office. His successor as Premier put referendum questions to the voters at the 1991 general election asking if they wanted to have citizen initiative and recall legislation. Social Credit was defeated, but the referendum questions were overwhelmingly supported. The incoming New Democratic government led by Mike Harcourt announced during the campaign it would be bound by the results of the electorate, and after forming government created a select standing committee of the legislature to investigate how citizen initiative would impact the province. The standing committee then proceeded to have over a year of public meetings in which citizens could express their views on how citizen initiative and recall should be implemented in the province. The final report of the standing committee was used as a blueprint for the *Recall and Initiative Act*, which was passed into law in 1994.

Democratic Participation

Distrust of politicians was historically a key requirement for the creation of citizen initiatives (Scarrow 2001: 652). This distrust was fueled in part by politicians who subverted the policy wishes of the electorate (Piott 2003: 1). Citizens addressing the standing committee also indicated that they were frustrated by political parties that seemed to be pursuing policies that were opposed by the electorate. Rural and northern communities indicated that they felt their voices were ignored, and that the politicians would act to the benefit of more heavily populated areas (British Columbia Library of the Legislature 1993: 542). Rural residents also suggested that politicians were listening to too many voices, and that it was confusing the politicians as to what the people's actual needs and demands were (British Columbia Library of the Legislature 1993: 547). The belief among citizens presenting to the committee was that citizen initiatives would come from segments of the population that felt they were not being represented well, or that their

policy wishes were not being reflected by the voting majority (British Columbia Library of the Legislature 1993: 548). Citizen initiatives would thus become a means of increasing democratic participation by those segments of society that felt they were being ignored.

In other meetings, participants brought up the idea that citizen initiatives would only be used when Parliament is introducing legislation that is unacceptable to the public, or when it is failing to introduce popular policies (British Columbia Legislature 1992: 71). Again, the literature suggests that citizen initiatives should be rare and, in parliamentary democracies, that most legislation should be enacted by Parliament (Budge 1996: 91). Comments at these meetings also echoed the findings of research about the purpose of citizen initiatives, and how they should be used to rectify government action or inaction (Ford 1912: 68; Gastil, Reedy and Wells 2007: 1435; Phillips 2008: 127; Piott 2003: 2; Scarrow 2001: 652; Zimmerman 1986: 89).

The literature states there is a need to be consulted, suggesting that citizens in modern democracies see themselves as comparatively less powerful than in the past, and that they need to be able to participate in the political system more frequently than just during election periods (Budge 1996: 109; De Clerck 2012: 299; Rourke, Hiskes and Zirakzadeh 1992: 18; Schmidt 1991: 26). Many of the citizens participating in the hearings brought up the idea that they did not have any power to influence policy in British Columbia, and that they wanted more opportunities to be consulted and have their views solicited by the government. One individual noted that in a parliamentary system, individuals give up their political power to elected representatives, and the loss of decision-making power made them uncomfortable (British Columbia Legislature 1992: 113).

Voter Confusion

A continuing argument against citizen initiatives is that voters may become confused and are unable to vote in the manner that reflects their best interests. Voters can be easily swayed by persuasion campaigns to change their minds (Gastil, Reedy and Wells 2007: 1438). The research admits that the best-informed voters can consistently connect their values and policy views to voting choices, but that does not necessarily apply to all citizens (Gastil, Reedy and Wells 2007: 1439). The language of the ballots themselves can lead to confusion and makes it more difficult for citizens to connect their values to their voting choices (Gastil, Reedy and Wells 2007: 1445).

The academic literature is consistent with what occurred in British Columbia, in terms of there being voter confusion over the language of the ballots in the referendum on citizen initiative and recall. For example, citizens appearing before the standing committee clearly indicated their belief that they had voted to force the government to create legislation for citizen initiative and recall, because that was the language used on the ballot itself (British Columbia Library of the Legislature 1993: 97, 126). The voters' beliefs were incorrect, as the chair of the standing committee informed committee participants that the government published literature explaining that the vote was only to create the standing committee itself, not to create legislation (British Columbia Library of the Legislature 1993: 263). This shocked some of the participants in the standing committee meetings, as the document referenced by the committee chair was not widely available or known to voters.

The literature also indicates that voters can be persuaded to change their position on a citizen initiative vote based on public relations campaigns, either conducted by the proponents of the citizen initiative or by outside organizations who wish to sway citizens to their own position

(Gastil, Reedy and Wells 2007: 1446). This did not occur in British Columbia on the referendum to implement citizen initiative in 1991, as the committee noted that there was no discussion of the merits and demerits of citizen initiative during that election campaign (British Columbia Library of the Legislature 1993: 6). After the vote, however, citizens appeared to do more research into what citizen initiative and recall were, and what kinds of effects they may have on society. This research influenced some individuals, who noted that it caused them to switch their position on citizen initiative (British Columbia Library of the Legislature 1993: 24, 613). Additional research conducted by or provided to citizens appears to have changed the minds of some of the participants in the meetings; committee members noted that in almost every community visited and almost every meeting, opponents of citizen initiatives and recall outnumbered supporters, despite more than eighty percent of all cast ballots being in favour of citizen initiative in the public vote (British Columbia Library of the Legislature 1993: 473). This would suggest that the information provided was able to convince people to change their minds about citizen initiative and recall. Dr. Ruff specifically indicated that after taking additional time after the referendum to think through the concepts of citizen initiative and recall, his views on both were changed by the new information he was able to read through (British Columbia Library of the Legislature 1993: 24).

Persuasion campaigns in citizen initiatives are only effective with certain segments of voters who may lack the necessary information to make an informed vote. The academic literature indicates that insufficient or biased information can reduce the ability of voters to connect their values to the options on the ballot (Gastil, Reedy and Wells 2007: 1446). These less informed voters then can vote on citizen initiatives, giving themselves the powers usually reserved for legislatures without having done the necessary research to understand what they

were voting on (Karp and Aimer 2002: 148). Presenters speaking to the standing committee suggested that compared to elected officials, ordinary people would not have the time or expertise necessary to deliberate on policy issues and consider the consequences of each policy choice presented in a citizen initiative (British Columbia Library of the Legislature 1993: 185). The standing committee noted among its own members that there was a lack of deliberation on citizen initiative during the election campaign, and citizens presenting to the standing committee also indicated that they made their voting decisions based on differing levels of information (British Columbia Library of the Legislature 1993: 541). Citizens also suggested that even where information was available to everyone, not everyone would take the time to evaluate all the evidence before them. While some people would take the time to become informed votes on the topic of each citizen initiative, others would not and simply vote based on a small subset of the necessary information to cast a meaningful vote (British Columbia Library of the Legislature 1993: 564).

Influence of Interest Groups

Much of the academic literature surrounding citizen initiatives suggests that concerns over the power of lobbyists and other interest groups were a motivating factor towards creating these types of direct democratic processes (Adams 2012: 44; Bridges and Kousser 2011: 168; Gastil, Reedy and Wells 2007: 1438; Mendelsohn 1996: 7; Piott 2003: 1; Rourke, Hiskes and Zirakzadeh 1992: 19; Szeligowska and Mincheva 2012: 276). The academic experts spoke about how citizen initiative would be implemented in British Columbia. In particular, there were concerns - about the impact of money, and the fact that special interest groups may use their financial power to obtain solutions beneficial to them (Gastil, Reedy and Wells 2007: 1446; Lutz

and Hug 2010: 2; Mendelsohn 1996: 3). The cost of these public votes created by the citizen initiative process was viewed as problematic and is related to the issue that interest groups could buy the policy results they want through the citizen initiative process (Adams 2012: 44; Lutz and Hug 2010: 2).

Citizens presenting to the standing committee noted that lobby groups already held a significant amount of power in British Columbia's political system (British Columbia Library of the Legislature 1993: 67). The growth of a large lobbying sector was seen by some citizens to be sufficient reason to consider legislative policies such as citizen initiative that could limit the power of the lobby groups. Other citizens noted that it was not the size of the lobbying groups that represented the biggest concern, but their impact on legislation and the manner in which lobbyists could use their size and power to change the policies being put forward by the government (British Columbia Library of the Legislature 1993: 71). This echoes what the academic literature has said was the underlying cause of citizen initiatives being adopted in the late nineteenth and early twentieth centuries in North America (Besley and Coate 2008: 381; Scarrow 2001: 652).

British Columbia's legislation includes clear limits on the amount of money that can be spent by individuals or groups who want to run persuasion campaigns during the citizen initiative process. These limits include the requirement for any groups who wish to participate to register with Elections BC so that they can be monitored. These limits were included in part due to the concerns brought up by citizens presenting to the standing committee. Citizens suggested that the single universal concern about how citizen initiative systems could be abused was with large organizations using large sums of money to influence the citizen initiative process (British

Columbia Library of the Legislature 1993: 27). To that end, they requested that there be established limits under any citizen initiative system created by the government (British Columbia Library of the Legislature 1993: 23).

Citizens indicated that the government was one of the groups that they wanted to prevent from using the citizen initiative process to obtain desired policy results. To that end, some of those who presented to the standing committee suggested that the government should maintain its neutrality in any citizen initiative campaign (British Columbia Library of the Legislature 1993: 84). In the Standing Committee meetings, presenters strongly indicated that citizen initiative was a means for voters to demonstrate to the government what their policy preferences were (British Columbia Library of the Legislature 1993: 83). The public will, expressed through the citizen initiative process, would show the government what citizens desired, which could be different than what government officials were being told by lobbying organizations (British Columbia Library of the Legislature 1993: 83).

Academic discussions about the cost of referendums and citizen initiatives are usually focused on how different interest groups spend money to try and convince citizens to vote a certain way. Roxanne Matheson, a presenter to the standing committee and a Returning Officer employed by Elections BC, suggested that the administrative costs of having separate election days for each citizen initiative needs to be considered as well. Matheson pointed out that citizen initiative would restructure the way we conduct elections in the province (British Columbia Legislature 1992: 369). Placing Elections BC staff on constant alert for incoming citizen initiatives could turn their position into full-time jobs (British Columbia Legislature 1992: 369). Not only would Elections BC staffing cost more, but Matheson also noted that the cost of

actually holding the vote would increase, particularly if the initiative vote was held separately from general elections (British Columbia Legislature 1992: 370). Matheson's view certainly supports the academic literature warning about the cost of referendums and citizen initiatives, just from a different perspective than most academic thinkers were considering. Most academic literature refers to cost issues as a means of discussing the ability of interest groups to spend money to advertise in favour of their preferred policy choice on a citizen initiative vote. Matheson was instead considering the administrative costs of holding elections, such as the payment of Elections BC staff and the requirement to rent space for voting locations in each of the electoral districts. The *Recall and Initiative Act* set the election day for citizen initiative for September 1996, and then every three years after for any citizen initiative that reaches the public vote stage.

Constitutionality

Skepticism towards citizen initiatives in British Columbia may have been less fundamentally about shared ideology between elected representatives and their constituents, and more based on the issue of constitutional challenges. The 1919 Privy Council decision made clear that the powers of the Legislature and Lieutenant-Governor must be respected in any citizen initiative policy (Haldane 1919: 937). While Haldane spoke to the constitutionality of the citizen initiative process, the decision is silent on what subject areas would be acceptable for citizen initiatives. The practice of citizen initiatives in British Columbia and other jurisdictions is that subjects are limited to those that the jurisdiction is constitutionally competent to legislate. Prior to its repeal, the Alberta *Direct Legislation Act* specifically required that any citizen initiative be restricted to topics that were within the legislative jurisdiction of the province (Boyer 1992a: 82).

For British Columbia's *Recall and Initiative Act*, this would mean that only those subjects enumerated in section ninety-one of the Constitution would be acceptable subject areas.

Academic literature skeptical of the value of citizen initiatives urges readers to consider how citizen initiatives could be used to restrict the constitutional rights of citizens, particularly minority groups (Karp and Aimer 2002: 151; LeDuc 2003: 31). The literature argues that rights could be abrogated through citizen initiatives based on the historical actions of jurisdictions that use these direct democratic practices. For example, in Colorado, the electorate approved a citizen initiative that would have curtailed the rights of homosexuals (LeDuc 2003: 41). That citizen initiative was able to gather the necessary signatures and was approved by a vote of the electorate, only to be overturned by the courts as a violation of constitutional rights (LeDuc 2003: 41). Members of the committee were cognizant of the potential threat to minority rights, and often brought up the example of Colorado in the questioning of citizen presenters (British Columbia Library of the Legislature 1993: 140). The purpose of the committee members asking presenters about the Colorado case was to ascertain how people believed rights should be safeguarded in the face of citizen initiatives.

In response, a proposal by one of the presenters to the standing committee was that citizen initiatives in British Columbia should be immune to any kind of legal challenge and be protected from all courts (British Columbia Library of the Legislature 1993: 221). This individual suggested that the will of the majority be automatically considered constitutional, regardless of how the majority votes on any given subject (British Columbia Library of the Legislature 1993: 221). While this proposal was not adopted by the Legislature, the fact that it was brought up at all suggests that the research arguing that minority rights could be placed at risk through citizen

initiatives was correct, and that the citizen initiative in the Colorado case was not necessarily an aberration (Hill 2003: 498; Karp and Aimer 2002: 148, 151; LeDuc 2003: 43; Morris 2004: 118). The proposal suggests that the individual who presented it was ignorant of the role of the courts in protecting the constitution, and that there was a lack of awareness of the previous JCPC decision that addressed the constitutionality of citizen initiatives.

Others suggested that there would always be individuals in a society who seek to infringe on the rights of others (British Columbia Library of the Legislature 1993: 82). Rather than preemptively attempt to prevent citizen initiatives that restrict constitutional rights from being allowed through the process, the suggestion was that citizens would simply defeat the initiative and that such a defeat would be a natural part of the citizen initiative process (British Columbia Library of the Legislature 1993: 82). The result was to create a safeguard to protect constitutional rights. The *Recall and Initiative Act* includes provisions requiring the Chief Electoral Officer investigate each proposed citizen initiative to ensure that constitutional rights are protected prior to the initiative being given permission to start gathering signatures from the electorate (British Columbia Legislature 1994b: 12937).

Less common than these philosophical views at the Standing Committee were the constitutional concerns brought forward by citizen presenters. Where citizens seemed to have the most constitutional awareness was with the role of the Lieutenant-Governor, and the fact that Royal Assent is required for any legislation to pass, which citizens implied meant that citizen initiatives could not be binding on the government (British Columbia Legislature 1992: 383). The need for Royal Assent was established by the JCPC in its decision affirming that the constitutional powers of the Lieutenant-Governor cannot be amended (Haldane 1919: 937).

Constitutional jurisdiction or legislative competence was the last issue of constitutionality to be addressed with British Columbia's *Recall and Initiative Act*. As with Alberta's *Direct Legislation Act* and citizen initiatives in American states, the *Recall and Initiative Act* requires that citizen initiatives be restricted to those subjects that are within the competence of the province to legislate. British Columbia ensures that citizen initiatives are within the province's constitutional jurisdiction to enact legislation through a secondary step in the citizen initiative process. As noted above, British Columbia requires that the Chief Electoral Officer for Elections BC check each proposed citizen prior to the signature gathering phase to ensure that the proposed legislation was constitutional (British Columbia Legislature 1994b: 12937). British Columbia further requires that the Chief Electoral Officer approve the wording of the citizen initiative, including the language to be used in any public vote within the initiative process (British Columbia Legislature 1993).

Findings of the Case Study that Differ from the Academic Literature on the Research Questions

Policy Outcomes

A key consideration of the literature is that citizen initiatives and other forms of direct democracy force the policy prescriptions of a jurisdiction to become closer to the views of the median voter in that jurisdiction (Arnold and Freier 2015: 44; Bridges and Kousser: 2011: 171). Presenters to the Select Standing Committee appeared to disagree with the research. Citizens noted that citizen initiatives and referendums require either a yes or no vote (British Columbia Legislature 1992: 154, 268). While the binary nature of citizen initiative questions makes it easy to determine whether the proposed bill has majority support or not, it leaves no room for

compromise and can have the effect of polarizing the electorate. Instead, citizens suggested that this was part of the purpose of having elected representatives, in that those representatives would be able to establish a compromise between different ideological perspectives and create a policy that would be closer to the median voter. This would be achieved because citizen initiatives would not be binding on the elected representatives (British Columbia Legislature 1992: 154). Others suggested that the issues that could be addressed through citizen initiatives would be more complex than a question with a simple yes or no answer, and that doing so would create policy removed from the median voter (British Columbia Legislature 1992: 134).

As noted earlier in this chapter, a common argument made by citizens to the standing committee concerned the complexity of legislation, and the ability for citizens to be able to seriously deliberate on those issues before voting. Proponents of citizen initiatives suggest that placing citizen initiatives on the ballot will facilitate the improvement of democratic deliberation within society (Boyer 1992a: 47; De Clerck 2012: 299; Karp and Aimer 2002: 148; Schlozman and Yohai 2008: 472).

Some noted that compared to elected representatives, the general public lacks the time, information sources and expertise to deliberate and consider all the consequences of a potential policy (British Columbia Legislature 1992: 185). Others took a more pessimistic view, and suggested that if policy-making power is given to citizens through initiatives, there will be a lack of accountability and citizens will not be motivated to even try to be responsible in their deliberations (British Columbia Legislature 1992: 202). Still others explained their vote for citizen initiative in the 1991 referendum by arguing they were angry at the political system and acknowledging that they do not have the time to sit down and think about political matters

properly (British Columbia Legislature 1992: 232). These concerns regarding the ability of average citizens to consider and deliberate on public policy problems were brought up in a different way later in the standing committee's consultation process. Several speakers in the final few meetings of the standing committee suggested that if citizen initiatives were allowed, it would be an abdication of the duties of the elected representatives (British Columbia Legislature 1992: 375, 384). While a more fulsome consideration of these issues would require an analysis of citizen initiative campaigns over time, these arguments seem to challenge the academic literature on the purpose of citizen initiatives and their effect on citizen deliberation in the jurisdiction.

Democratic Participation

The academic literature suggests that the use of direct democratic tools would help improve the ability of citizens to debate complex political issues (Childers and Binder 2012: 94; Donovan and Karp 2006: 672). However, it also reinforces the view that excessive campaigning can lead to confusion in the electorate, which causes either a reduction in participation or in an inability to match policy preferences to the correct vote on the ballot (Budge 1996: 92; Gastil, Reedy and Wells 2007: 1441; Qvortrup 2002:28). In contrast to the view that citizen initiatives should have no spending limits, the presenters suggested that excessive campaigning on behalf of an initiative or referendum question serves to distract the voter and does little to improve the ability for citizens to seriously understand the political issues placed before them, and then to decide on whether the proposed solution is in their best interests.

Use of Citizen Initiatives

The academic literature suggests that citizen initiatives would be more popular in jurisdictions where there was an increase or upsurge in complaints about the institutions of representative democracy within that jurisdiction (Scarrow 2001: 653). It also suggests that the wider use of citizen initiatives could help reduce some of those concerns (Boyer 1992b: 5). Research from parliamentary democracies, where indirect initiatives are more common, suggest that citizen initiatives would not necessarily be used to change policy on its own, but would instead be a means for Members of Parliament to receive feedback about specific policies that might be brought forward in the future (Bochel 2013: 801). It is also suggested that citizen initiative use would increase over time, even where the process was designed to limit the number of successful citizen initiatives (Scarrow 2001: 655). The research specifically suggests that technological changes will help make citizen initiatives more likely and more common because it becomes more feasible to undertake the public consultations needed for citizen initiatives (Scarrow 2001: 653).

When creating the *Recall and Initiative Act*, Members of the Legislative Assembly debated the importance and value of establishing in the legislation a system of indirect initiative. Some members charged that this would mean the results of any vote could be ignored by politicians who wanted to do so (British Columbia Legislature 1994a: 12839). The concern of these legislators was exactly that which was predicted by the literature; that citizen initiatives would be taken as advisory or as a means of identifying public opinion, but without requiring action to implement public opinion. The response from government was to remind legislators of the political costs of ignoring the electorate on an initiative vote (British Columbia Legislature

1994b: 12956). It was suggested that ignoring such an overwhelming show of public support would cause that government to be defeated in its next re-election campaign, and thus there would be a political imperative to implement policies supported through citizen initiative (British Columbia Legislature 1994b: 12956). This thought process is precisely what occurred in the Fight HST campaign noted earlier. The government determined that there would be overwhelming support for the citizen initiative petition, far beyond the requirements of the legislation. In response, it decided that the public vote would become binding, rather than advisory.

Additional Findings

The concept of citizen initiative is a simple one. Citizens gather petition signatures in support of a policy proposal, and then eligible voters in the jurisdiction as a whole vote on whether to support that policy. There are differences between direct and indirect citizen initiatives in terms of whether those votes are binding on government, but that is the general concept. In the presentations to the Standing Committee, one participant in northern British Columbia proposed a novel implementation of citizen initiative. Rather than citizen initiatives being undertaken on a province-wide basis, with the potential for the more populous regions to overwhelm the rural regions, it was suggested that citizen initiatives could change policy only within certain regions of the province, and that only citizens in those regions which were directly affected by the policy be allowed to vote (British Columbia Legislature 1992: 545). It was also suggested that citizen initiatives were not necessarily asking for a change of legislation from the provincial government, but instead would be more closely aligned with local regions and would allow for greater regional autonomy (British Columbia Legislature 1992: 545). The effect would

be that within certain regions, or within certain electoral districts, provincial law would be altered to suit regional needs and circumstances. The effect would be to eliminate the uniformity of the law in the province and create different sets of laws for each electoral district. The rationale from the participant was interesting as well; this person suggested that citizens' knowledge of the political problems of their own region would be good, but they may not understand what is happening in other regions, and thus would not be able to cast an informed vote on changes in other regions of the province (British Columbia Legislature 1992: 545).

This chapter demonstrates how the academic literature on citizen initiatives helps us understand the case study of British Columbia's *Recall and Initiative Act*. When conducting the research, it was not only the legislation itself that was used, but also the history and public discussions surrounding the creation of the Act that helped place the Act in the context of academic research. In many cases, the actions of public officials and the writing of the legislation supports what we already know about citizen initiatives. In a smaller number of situations, British Columbia's citizen initiative process differs from the expectations set out in the literature and promotes further research into why those differences have occurred. These additional findings were of interest, and present opportunities for future research into British Columbia's citizen initiative process.

Chapter Five: Conclusion

Summary of Findings

Citizen initiative is good for democracy because it creates an additional layer of accountability for elected officials. Governments and elected officials who are unable or unwilling to legislate on issues of importance to the community will be forced to address those issues through citizen action and a citizen initiative process. The purpose of this thesis was to determine the key individuals and events that led to the creation of citizen initiative policies in British Columbia. A second question was asked about how the BC *Recall and Initiative Act* was structured, and why it was structured with the provisions that it contains. Investigating the two research questions helped determine why and how citizen initiative occurred in British Columbia. Research for this thesis demonstrates how citizen initiative is brought forward by political actors, who are supported by political events that lead to a perceived increase in public support for citizen initiatives and greater citizen engagement in the democratic process. The research also explains how constitutional defects with previous citizen initiative legislation in Canada were repaired in the BC Recall and Initiative Act.

Previous academic research suggested that citizen initiative would be created when citizens felt they were being ignored by their governments. A second required factor was that the politicians themselves needed to feel that voters would use direct democratic tools such as citizen initiative to support those politicians' own policy preferences (Bridges and Kousser 2011 171). My research showed that both of these required factors were present for the creation of citizen initiative in British Columbia. While both factors were present in British Columbia, they were not always present at the same time.

The research answering the first question, determining the key individuals and events that led to the creation of citizen initiative policies in British Columbia, showed that citizen initiative was brought forward largely through the efforts of specific individuals in positions of government power. This satisfied the second condition, that politicians believed that citizens would align their policy preferences with that of the politicians. These individuals took advantage of events to advocate for citizen initiatives and other tools of direct democracy. Once placed into the public consciousness and considered by the public, the actions of these officials created the perception of public pressure, reinforced by the referendum result and some of the comments made in the public forums after the referendum, needed to enact citizen initiative and other tools of direct democracy. This occurred in much the way that the actions of previous state governments in the United States created the need for citizens to attempt to regain control of the policy agenda in the early twentieth century.

In terms of the key events and individuals involved in the creation of citizen initiative in British Columbia, the principal actor remains former Premier Bill Vander Zalm. Prior to his winning the leadership of the Social Credit Party in 1986, there had only been two attempts to bring in a policy resembling citizen initiative in the province: the 1919 *Direct Legislation Act*, which was passed into law but not proclaimed, and remains on the statute books; and the 1975 attempt by Bill Bennett to require the Legislature to have a debate on petitions that obtained the signatures of ten percent of the province's registered voters. Neither proposal became law and thus the only serious and successful attempt to create citizen initiative occurred after Vander Zalm became Premier in 1986. The research is clear that Vander Zalm intended to enact legislation and worked with his Cabinet throughout his five-year term to ensure it could be done in a manner that would not contravene the constitution.

Vander Zalm was long a proponent of citizen initiative, and even when he was a cabinet minister for Bill Bennett, he wanted to devolve power away from government and back to the citizens. As Premier, Vander Zalm believed that Social Credit was moving away from its origins as a grassroots political party that took policy direction from its membership. Instead, he saw that the party appeared to be taken over by organizers and strategists from Ontario, who did not understand the political culture of the province (Vander Zalm 2008: 9).

Vander Zalm's resignation in 1990 led to a new Premier, with Social Credit selecting Rita Johnston as its leader. She chose to place recall and citizen initiative onto the 1991 general election ballot as referenda questions, binding the government to uphold the results of the vote. Citizen initiative passed at the referendum stage. Following the Social Credit Party's defeat in the 1991 provincial election, the newly elected NDP government was empowered and mandated to form a Select Standing Committee to address how citizen initiative could be implemented within the province. This committee spent over a year in hearings across the province, leading to a final report that was used by the party and its Attorney General, Colin Gabelmann, to draft the main components of what would become the BC *Recall and Initiative Act*. This Act would become the legislative vehicle that would make citizen initiative available to British Columbians.

The actions of Social Credit governments, both under Bill Bennett and Bill Vander Zalm, helped create the popular support necessary for citizen initiative. As the academic research suggests, the actions of the government created greater demands for citizens to have increased influence and control over the political sphere of society. This, combined with Vander Zalm's personal affinity and interest in creating citizen initiative in the province, provided momentum

needed to ensure that political actors would create citizen initiative regardless of ideological opposition.

To answer the second question, there were two major factors that explained how British Columbia's citizen initiative policy was created. The constitutional question had a major impact on how British Columbia's legislation was crafted, but it was not the only factor that influenced the development of the legislation. Public consultation following the referendums in favour of citizen initiative and recall showed that there were significant differences of opinion about how citizen initiative should be structured. The submissions provided a wide range of different potential options for how different aspects of the legislation should be created. Combined, these submissions and the historical constitutional concerns created the backdrop for creating citizen initiative legislation and explain why British Columbia's citizen initiative policy differed from legislation in other jurisdictions.

These concerns are addressed by the *Recall and Initiative Act* which ensures that any initiative brought forward would be an indirect initiative and require action by the Legislature to be enacted into law. The Act requires that a successful citizen initiative be given first reading as a private member's bill, at which point it would follow the regular legislative process. This allows for the Legislature to remain the sole law-making authority within the province, and guarantees the reserve powers of the Lieutenant-Governor. The *Recall and Initiative Act* also requires that an independent officer of the government, the Chief Electoral Officer, determine the constitutionality of any proposed citizen initiative. These provisions of the legislation work to ensure that constitutional concerns are addressed, both those that reflect the concerns of the

reference case, and those brought forward by the Standing Committee on how citizen initiatives would act upon the province.

The work of the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills had a significant influence on the creation of British Columbia's citizen initiative process. Citizens provided suggestions and recommendations to the standing committee about what a citizen initiative process should look like. Many of those suggestions were consistent with what the academic literature. Presentations occurred in thirty-five different meetings across British Columbia, with certain cities and regions being canvassed multiple times to ensure that citizens would be able to participate. Citizens who were unable to participate directly in the Standing Committee's consultation meetings could make their views known sending written submissions to the committee, which would consider those written suggestions along with the oral presentations of citizens. Many of the citizens who did participate in the committee meetings also submitted their comments as a written piece as well. In all, the process of developing of the legislation on citizen initiative, like the legislation itself, included both elements of direct and indirect democracy.

This thesis works to address a gap in the literature related to citizen initiative in British Columbia. The academic literature is currently aware that the province has a citizen initiative process put in place, but it lacks detail on who the main actors were that helped create citizen initiative. There is also a lack of detail on which events helped precipitate the creation of citizen initiative in British Columbia. Finally, even where there is acknowledgment of which political parties were responsible for the final legislation, there is no information available that speaks to the motivations of the key figures about why they decided to pursue this policy instead of other

public policies. This thesis seeks to specifically address those questions and explain how the key events and individuals are linked to each other, and how each event leads to the next.

In order to facilitate effective citizen action and increase the accessibility of the BC Recall and Initiative Act, the signature gathering requirement should be halved to five percent of all registered voters, and five percent of registered voters in each of British Columbia's provincial electoral districts. The legislation could also be made more easily accessible to citizen groups by increasing the amount of time given to obtain the given number of signatures. An increase in the time allowed to gather signatures would be in line with other citizen initiative processes, and the increased amount of time would reduce the burden on citizen groups attempting to gather signatures. Finally, the legislation could be amended to allow for digitally recorded and obtained signatures. Doing so would reduce the burden on citizen initiative proponents to obtain signatures in provincial electoral districts with low population density, and would take into account the changes in technology that have occurred since the creation of the legislation.

Areas of Future Research

This thesis represents the initial foray of research into the *Recall and Initiative Act*, which has succeeded in creating a baseline understanding of the key events and individuals who helped create citizen initiative in British Columbia. The findings uncovered in the creation of this thesis lead themselves to new areas of research that could be undertaken in the area of British Columbia citizen initiative policy.

First, a case study should be done to determine how the initiative to repeal the Harmonized Sales Tax was successful under the process proscribed by the Act. At the time of this writing, the Fight HST initiative is the only successful use of initiative legislation in British

Columbia and Canada. A case study investigating the specific factors that may have contributed to the success of that initiative would be a worthwhile investment of research time. That case study could be done either as an investigation of the single initiative, or it could be compared to other initiatives that failed. The utility in such a case study would be to see whether the actions of initiative proponents changed over time to better adapt to the provisions of the Act, as the Act has not been changed after being given Royal Assent in 1994. A direct comparison between two or more different cases would highlight those differences.

Another interesting research project would be to compare the initiative processes of British Columbia and other jurisdictions, such as New Zealand. Such a comparison would allow us to determine whether other methods could be used to address the constitutional concerns of citizen initiative in a British parliamentary system. Further comparisons could be made with other provinces in Canada, noting whether other provinces decided to create citizen initiative policies after analyzing British Columbia's process, and comparing those processes where they may exist. The comparison with other provinces could also include an analysis of the experiences of those other provinces in creating a citizen initiative policy, and how those legislative processes to create a citizen initiative policy differed from each other.

One potential area of research would be a theoretical analysis of how the *Recall and Initiative Act* could be amended to better address the needs of citizens and the requirements set upon the government. This research would build on the work of Scarrow, who indicated that technological change would lead to citizen initiatives being brought forward more frequently (Scarrow 2001: 653). Scarrow argues that technological changes favour the spread of direct democracy by undermining some of the barriers to such procedures, such as those relating to cost

and the potential weakness of citizen deliberation in an initiative process (Scarrow 2001: 653). Many of these changes, such as the spread of social media, would not have been anticipated by the drafters of the original Act, and thus it would be an interesting exercise to see how the Act could be amended to address potential concerns that accompany social media and other forms of technological change.

Another research project would be a comparison of two different case studies involving the BC Recall and Initiative Act. The research in question could compare the initial attempts to use the Act with the successful 2012 initiative to repeal the Harmonized Sales Tax. This case study research would involve investigating the organization of the citizen initiative campaigns and how the proponents communicated with volunteers and members of the public. This could be done through a series of interviews with citizen proponents of each of the initiative campaigns, as well as through public surveys investigating how citizens remember being engaged by each of the chosen citizen initiative campaigns.

This thesis noted that the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills was responsible for investigating the impact of citizen initiative and recall on the province of British Columbia. Additional research could be done on the work of the committee and the deliberations of the members. This could include interviews with additional members of the committee, focusing more on how the members interacted with each other and how effective members felt they were in contributing to the overall structure of the committee's final report, as well as their ability to help shape and amend the legislation during the legislative debate.

Susan Scarrow also argues that even where citizen initiative policies are devised in such a way as to discourage their use, over time those policies become more accessible than lawmakers originally intended (Scarrow 2001: 655). She cites the rise of new methods of voting that make it technically and economically more feasible to consult the public more frequently (Scarrow 2001: 653). Research could be undertaken to determine the extent to which Scarrow's thesis is true; has the rise of new technologies and new forms of voting facilitated the use British Columbia's *Recall and Initiative Act*? Comparisons could be made between the successful initiative to repeal the Harmonized Sales Tax and failed citizen initiatives that occurred before it.

The British Columbia *Recall and Initiative Act* requires that initiative proponents obtain the signatures of ten percent of all registered voters province-wide, and also ten percent of all registered voters in all of the province's electoral districts. It would be intriguing to investigate the different methods of signature gathering that are used by initiative proponents, and how those strategies would differ between rural and urban electoral districts. My experience working on the Fight HST campaign in an urban electoral district presented different circumstances than existed in a rural riding. It would have been interesting to see how initiative proponents address those concerns, particularly as British Columbia is one of the few jurisdictions that requires a regional signature threshold as well as a signature threshold for the entire jurisdiction.

Conclusion

Citizen initiative remains an underutilized tool within the scope of direct democracy in British Columbia. Citizens regularly find themselves able to sign petitions asking for government action on a wide variety of topics, but it is only in rare circumstances that these petitioners organize and attempt to use the citizen initiative process to force government action on issues of

concern. The underutilization of the tool is not due to a lack of interest, but instead is based on the design of the BC *Recall and Initiative Act*. The Act was designed first and foremost to address the constitutional concerns of the Judicial Committee of the Privy Council, and the public commentary of the citizens who presented to the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills. Although the Act provides a pathway for direct democracy in British Columbia, it is important to remember that the restrictions built into the legislation favour a more indirect or representative form of democracy in the province.

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Appendix A: Research and Ethics Board Application



RESEARCH ETHICS BOARD

MEMORANDUM

To: Trevor Ritchie

CC: Tracy Summerville

From: Henry Harder, Chair
Research Ethics
Board

Date: May 8, 2018

Re: E2018.0409.028.00

Citizen Initiated Referenda in British Columbia: A Primer on the BC Recall and Initiative Act and its Initiative Provisions

Thank you for submitting revisions to the Research Ethics Board (REB) regarding the abovenoted proposal. Your revisions have been approved.

We are pleased to issue approval for the above named study for a period of 12 months from the date of this letter. Continuation beyond that date will require further review and renewal of REB approval. Any changes or amendments to the protocol or consent form must be approved by the REB.

Good luck with your research.

Sincerely,

A handwritten signature in black ink, appearing to read 'H. Harder', written in a cursive style.

Dr. Henry Harder

Chair, Research Ethics Board

3333 University Way, Prince George, BC, V2N 4Z9, Telephone (250) 960-6735



RESEARCH ETHICS BOARD

MEMORANDUM

To: Trevor Ritchie

CC: Gary Wilson

From: Chelsea Pelletier, Vice-Chair

Research Ethics Board

Date: October 10, 2019

Re: E2018.0409.028.01(a)

Citizen Initiated Referenda in British Columbia: A Primer on the BC Recall and Initiative Act and its Initiative Provisions

Thank you for submitting a request for renewal and amendments to the Research Ethics Board (REB) regarding the above-noted proposal. Your request has been approved.

We are pleased to issue renewal approval for the above named study for a period of 12 months from the date of this letter. Continuation beyond that date will require further review and renewal of REB approval. Any further changes or amendments to the protocol or consent form must be approved by the REB.

Good luck with continuation of your research.

Sincerely,

A handwritten signature in black ink, appearing to read 'C. Pelletier', written in a cursive style.

Dr. Chelsea Pelletier

Vice-Chair, Research Ethics Board

3333 University Way, Prince George, BC, V2N 4Z9, Telephone (250) 960-6735

Appendix B: Timeline of Citizen Initiative in Canada

1912 – Saskatchewan passes the *Direct Legislation Act*

1913 – Saskatchewan repeals *Direct Legislation Act*

1913 – Alberta passes *Direct Legislation Act*

1916 – Manitoba passes *the Initiative and Referendum Act*

1919 – British Columbia passes *Direct Legislation Act*

1919 – Judicial Committee of the Privy Council rules Manitoba *Initiative and Referendum Act* unconstitutional

1919 – British Columbia refuses to proclaim *Direct Legislation Act* into law

1958 – Alberta repeals *Direct legislation Act*

1975 – Bill Bennett proposes change to British Columbia Legislature standing rules to allow for legislative debate on petitions

1986 – Bill Vander Zalm wins Social Credit leadership, becoming Premier, on campaign of approving direct democratic tools

1990 – British Columbia passes *Referendum Act*

1991 – British Columbia government uses *Referendum Act* to propose two questions; “Should voters be given the right, by legislation, to vote between elections for the removal of their member of the Legislative Assembly” and “Should voters be given the right, by legislation, to propose questions that the government of British Columbia must submit to voters by referendum”. Both pass overwhelmingly

1992 – Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills created to develop understanding of citizen initiative and recall

1993 - Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills submits interim report to the Legislature

1994 – British Columbia passes *Recall and Initiative Act*

2011 – *Recall and Initiative Act* used to repeal Harmonized Sales Tax, first successful usage of citizen initiative component of the legislation

Appendix C: List of Select Standing Committee Meeting Locations

1. May 14, 1992 – Victoria
2. August 14, 1992 – Vancouver
3. September 29, 1992 – Vancouver
4. October 21, 1992 – Victoria
5. October 28, 1992 – Victoria
6. October 29, 1992 – Victoria
7. November 4, 1992 – Victoria
8. November 21, 1992 – Kelowna
9. November 24, 1992 – Victoria
10. December 5, 1992 – Vancouver
11. January 14, 1993 – Victoria
12. January 22, 1993 – North Vancouver
13. January 23, 1993 – Surrey
14. February 5, 1993 – New Westminster
15. February 12, 1993 – Campbell River
16. February 13, 1993 – Powell River
17. March 6, 1993 – Nanaimo
18. March 31, 1993 – Victoria
19. April 2, 1993 – Penticton
20. April 3, 1993 – Cranbrook
21. April 30, 1993 – Revelstoke
22. May 1, 1993 – Kamloops
23. May 26, 1993 – Victoria
24. May 27, 1993 – Terrace
25. May 28, 1993 – Prince Rupert
26. June 14, 1993 – Smithers
27. June 15, 1993 – Burns Lake
28. June 16, 1993 – Fort St. John
29. June 17, 1993 – Dawson Creek
30. July 5, 1993 – Fort Nelson
31. July 6, 1993 – Prince George
32. July 7, 1993 – Quesnel
33. July 8, 1993 – Williams Lake
34. July 9, 1993 – Victoria
35. July 9, 1993 – Victoria
36. June 23, 1994 – Victoria

Appendix D: Interview Questions

Questions for Allan Warnke, Member of the Legislative Assembly for Richmond-Steveston

1. Given recent judicial changes and the passage of other pieces of initiative legislation in Canada, have your concerns about the general constitutionality of direct legislation regimes been addressed?
2. Having seen the Recall and Initiative Act used to successfully challenge duly enacted legislation proclaimed by the Lieutenant-Governor, do you believe that the Act represents a legitimate use of power by the citizens. Put another way, is the power of popular veto by way of citizen-initiated referendum too much power to have been granted?
3. One of your chief concerns had been that citizen-initiatives would erode the power of the Legislature and concentrate power in the executive; has this concern been adequately addressed by the way in which the Act has been used, or is this still of concern to you regarding the Initiative portion of the Recall and Initiative Act?
4. Over the past twenty-two years of the Recall and Initiative Act's existence, would you assert that the majority of initiatives, both failed and successful, were the result of special interest groups as opposed to the work of ordinary citizens?
5. Do you believe that it is possible for ordinary citizens to successfully use the Initiative portion of the Act without the support of interest groups or organized segments of society?
6. Does it remain a concern of yours that legislative initiatives could be written in such a way that they are too confusing to be easily understood by the voters in the context of an initiative campaign?
7. The final Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills report indicates you joined the committee after it was initially created, could you describe how the committee functioned after you became part of the committee?
8. In your recollection, do you recall if there were any concerns expressed about the timetable for action on creating the BC Recall and Initiative Act?
9. Can you explain how the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills decided on where to conduct hearings on the BC Recall and Initiative Act?
10. Hansard records that there was a unanimous report of the Standing Committee, but also that Opposition Members did not have a chance to participate in the creation of the report. Could you describe some of the differences in opinion on Initiative between the report authors and the opposition members of the committee?
11. How would you describe the way in which the committee chair led the committee? Do you feel that the committee chair and majority were open to other ideas about how to implement Initiative, and why or why not?

Questions for Mike Farnworth, Solicitor General and Member of the Legislative Assembly for Port Coquitlam

1. Having seen the Act used or attempted to be used over the past twenty-three years, are there any specific amendments that you would put into place, or have your previous objections been addressed through the use of the law?
2. In your recollection, do you recall if there were any concerns expressed about the timetable for action on creating the BC Recall and Initiative Act?
3. Can you explain how the Select Standing Committee on Parliamentary Reform, Ethical Conduct, Standing Orders and Private Bills decided on where to conduct hearings on the BC Recall and Initiative Act?
4. Hansard records that there was a unanimous report of the Standing Committee, but also that Opposition Members did not have a chance to participate in the creation of the report. Could you describe some of the differences in opinion on Initiative between the report authors and the opposition members of the committee?
5. How would you describe the way in which the committee chair led the committee? Do you feel that the committee chair and majority were open to other ideas about how to implement Initiative, and why or why not?
6. Between the recall and the initiative portions of the legislation, which did you believe would be more commonly and popularly used by British Columbians?
7. Historically, the New Democratic Party was opposed to the concepts of Recall and Initiative. Why did the party decide to take the position that it would adopt Recall and Initiative if the voting public endorsed them during the 1991 election campaign?
8. In arriving at the recommendations, the committee often gave a range of timetables or threshold numbers. Why did the committee choose to give a range of options instead of picking a single target for both the amount of time to gather signatures, and the number of signatures required to trigger the threshold for both Recall and Initiative?
9. Having seen the Recall and Initiative Act used to successfully challenge duly enacted legislation proclaimed by the Lieutenant-Governor, do you believe that the Act represents a legitimate use of power by the citizens. Put another way, is the power of popular veto by way of citizen-initiated referendum too much power to have been granted?

Questions for Bill Vander Zalm, Premier and Member of the Legislative Assembly for Richmond

1. Early in your autobiography, you offer an assessment of Social Credit during the Bill Bennett years, particularly later in his administration, in which you suggest that the Party was being too directly controlled by political consultants and other individuals associated with the Ontario Progressive Conservatives' "Big Blue Machine". Did those feelings of the party moving away from its grassroots origins impact your thinking on citizen initiative, referendum and recall?
2. In chapter 8 of your autobiography, you reference Bill McCarthy's account of the 1986 leadership convention as the basis for your recollections. In it, you quote McCarthy as describing your campaign as a populist campaign promising "simple government, fewer experts and more consultation with the people". What prompted your aversion to expert opinion and research, and did that colour your view on the necessity of citizen initiative in the province?
3. The chapters of your autobiography detailing the leadership election indicate that your campaign was based primarily on your personal attributes, with recall, referendum and initiative being one of the few policies you campaigned on. Did you give any interviews or publish any campaign literature outlining your support for these concepts?
4. Similarly, on page 224 of your autobiography, you state that one of your long term priorities was to provide a voice to the people through a system of referenda, initiative and recall. What motivated you to want to introduce those tools of direct democracy to British Columbia?
5. As you had made the concepts of referendum, initiative and referendum part of your leadership campaign, were they considered as significant parts of the 1986 election campaign?
6. Follow up: why were these concepts not added to the 1986 Social Credit campaign platform?
7. On that same page, you stated that the cabinet was in agreement with your proposed short term priorities, and that the longer term priorities would be discussed again later. Do you remember how frequently citizen initiative was brought forward for discussion at the Cabinet meetings?
8. What, in your mind, were the main reasons that your government was delayed in the creation of citizen initiative, recall and referendum?
9. Later, on page 264 of your autobiography, you indicated that you approached Bud Smith to begin work on the creation of referendum, citizen initiative and recall provisions in British Columbia. Was Bud Smith the first Attorney General supportive of the creation of these processes?
10. While these Cabinet discussions were occurring, were there any discussions of citizen initiative held with the Social Credit caucus as a whole? If so, can you describe the overall feeling of the caucus towards the concept?

11. Do you recall if there were any documents or reports brought to Cabinet or the Social Credit caucus regarding citizen initiative during your administration?
12. You stated in your autobiography that you felt that the New Democrats who ended up legislating on citizen initiative and recall did a poor job of creating those processes in British Columbia. In your view, what were the major failings of the *BC Recall and Initiative Act*?
13. Historically, citizen initiatives were considered unconstitutional in Canada; the Judicial Committee of the Privy Council ruled in 1919 that the Manitoba Initiative and Referendum Act was unconstitutional because it altered the power of the Lieutenant-Governor, and because the Legislature was improperly delegating its lawmaking power to another entity. How would you have addressed those constitutional concerns, if you had more time to research and create a citizen initiative policy?
14. Similarly, with the Referendum Act you brought in 1990, were there any concerns about the constitutionality of government-initiative referenda?
15. Do you feel that advances in technology have made citizen initiative redundant? Social media and instant communications make it easy for organized groups to send hundreds or even thousands of letters to elected officials, do you feel that reduces the need for formal citizen initiatives to get government attention placed on an issue?
16. Speaking specifically to the fight HST campaign you led, what role did the formal print and tv media have on your campaign's efforts to sign up volunteers and gather signatures?
17. I canvassed for you and the fight HST campaign; most of my communications with campaign organizers occurred through email and social media. Do you believe we would have been successful if those technologies did not exist, and more time was needed to communicate with the campaign's volunteers?
18. Having now seen the *BC Recall and Initiative Act* be used over the past twenty-five years, is there any way that you would amend the legislation to be more appropriately used by citizens in light of technological change, population growth and the increase in electoral districts in the province?