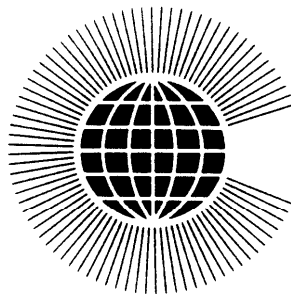


Voting for Democracy

Conference of Commonwealth Chief Election Officers
Queens' College Cambridge - 23-26 March **1998**

NOTES ON THE CANADIAN EXPERIENCE

Office of the Chief Electoral Officer of Canada



Commonwealth Secretariat

Voting for Democracy

Canada can be described as a constitutional monarchy with a system of representative democracy. Our system is modelled after that of the United Kingdom (Westminster). The Constitution Act of 1867 provides for the separation of legislative, executive, and judicial powers. The Canadian Parliament is made up of the Queen represented by the Governor General, the elected lower house, the House of Commons, and an appointed upper house, the Senate. Canada employs the single-member plurality electoral system (first past the post).

Research over the last few decades indicates that Canadians, like the citizens of other advanced industrial states, have become more interested in politics, but less confident in political and governmental institutions? For instance, a gradual weakening in citizen attachments to political parties has been evident during the last few decades. The proportion of Canadians reporting no party identification at the time of the 1997 federal election was the highest (30% for any election year since election surveys were introduced in 1965). Prior to 1997, the largest proportion of non-identifiers in any election year was 13% (in 1993), and the average was 12%.²

It is also noteworthy that the dissatisfaction of Canadians with traditional political forms has not led to alienation or demobilization. To the contrary, Canadians are expressing their desire for improved representation through their demands for forms of direct democracy, through their support of new political parties, and through the generation of new routes to representation, which by-pass the party system and channel energy in the direction of interest groups and new social movements.³

During the 1990s, referendums have been conducted in Canada at the federal level⁴ and in several provinces and Territories (British Columbia, Newfoundland, Northwest Territories, Prince Edward Island, Quebec, Saskatchewan). The provinces of British Columbia and Saskatchewan have enacted legislation on initiative referendums, and British Columbia now has recall legislation. Neither the initiative nor recall provisions have been successfully utilized to date, although attempts at initiative and recall have been attempted in British Columbia.

Thus, it can be expected that Canadians will continue to seek improved representation in the coming years,

¹ Nevitte, N. 1996. *The Decline of Deference*. Peterborough: Broadview; Zussman, D. 1997. "Declining Trust in Government: A Global Phenomenon. *Insights*, Ottawa: Public Policy Forum.

² Clarke, H.D., P. Wearing, A. Kornberg, and M.C. Stewart. 1997. "The Contest that Nobody Won: The 1997 Canadian Federal Election and the National Party System. Unpublished paper, Department of Political Science, University of North Texas, Denton Texas 76203.

³ Clarke, H.D., J. Jenson, L. LeDuc, and J.H. Pammett. 1996. *Absent Mandate* (3rd ed.). Toronto: Gage.

⁴ The federal *Referendum Act* was enacted in 1992. This is Canada's first permanent referendum statute, and it provides only for referendums on the Constitution of Canada.

What Kind of Election Management Body?

An important element of the Canadian electoral system is the existence of independent officials who are responsible for the administration of the electoral process. Unlike in other countries, where an electoral commission is the norm, the general responsibility for the administration of Canada's electoral legislation rests with the Chief Electoral Officer.

The Chief Electoral Officer of Canada is responsible for exercising general direction and supervision over the preparation, administration and reporting aspects of federal elections or referendums and the expenses provisions of the Canada Elections Act and the Referendum Act. In addition, the Chief Electoral Officer provides support to the federal electoral boundaries commissions.

Since its establishment in 1920, the Office of the Chief Electoral Officer has remained completely independent of the government and political parties. The Chief Electoral Officer is appointed by a resolution of the House of Commons and can be removed for cause by the Governor General on joint address of the House of Commons and the Senate. Once in office, the Chief Electoral Officer is an absolutely impartial public servant, and is accountable directly to Parliament.

The Chief Electoral Officer is supported by the Assistant Chief Electoral Officer who is appointed by the Governor in Council. Neither the Chief Electoral Officer nor the Assistant Chief Electoral Officer may vote in federal elections or referendums. In addition to statutory responsibilities, the Assistant Chief Electoral Officer oversees international services, helping meet Canada's commitment to provide professional and technical assistance in support of democratic development in countries around the world.

The Chief Electoral Officer appoints a Commission of Canada Elections and, under the general supervision of the Chief Electoral Officer, the Commissioner ensures that the provisions of the Canada Elections Act and the Referendum Act are complied with and enforced. The Chief Electoral Office also appoints and oversees the work of a Broadcasting arbitrator who allocates paid and free broadcasting time to registered political parties during a general election and to referendum committees during a referendum, in accordance with a formula set out in legislation.

The Office of the Chief Electoral Officer is comprised of eight directorates that carry out the administrative tasks involved in preparing for and administering electoral events. These directorates are: Operations, Election Financing, Information Technology, Legal Services, Administration and Human Resources, Communications, Strategic planning & Intergovernmental Affairs, and the Register of Electors.

What Kind of Elections

Canada uses the single-member plurality electoral system (SMP) for elections to the House of Commons. In the Canadian context, the following criticisms of SMP have been raised with more or less frequency. The electoral system:

- punishes parties with moderate, but geographically diffuse support;
- under-represents women, aboriginal people, and ethno-cultural minorities;
- exacerbates regional grievances by permitting government parties to not elect members from various regions;
- on some occasions it fails to produce majority governments, while on others it permits a minority vote share to be converted into a majority government;
- results in regionally oriented parties receiving seat shares that are larger than popular votes.'

The election in 1993 and 1997 of majority governments with 41.3% and 38.5%, respectively, of the valid votes has provoked some public discussion on the question of electoral system reform. One legal scholar has suggested that the first past the post system of translating votes into seats may be susceptible to a court challenge on the basis of the equality rights guaranteed by the Canadian *Charter of Rights and Freedoms*.⁵

In a recent survey of the Canadian electorate, Elections Canada included a question about the effects of the single-member plurality electoral system. Respondents were asked if they found it acceptable that "under our present system, a party can win a majority of seats without winning a majority of votes". Overall, 28% responded acceptable, 53% unacceptable, and 19% were not sure.

Despite this, many Canadians appear to be convinced that SMP is the system most likely produce majority governments and political stability. The New Zealand experience may have influenced this perception. That country's first election after adopting its mixed electoral system (Mixed Member Plurality), failed to produce a majority government. Nonetheless, various mixed system proposals have been made in the Canadian media and in academe and it is possible that a public debate will ensue.

⁵ A recent contribution to the literature is: Weaver, R.K. 1997. "Improving Representation in the Canadian House of Commons". *Canadian Journal of Political Science*. XXX: 3. See also: Seidle, F. L. 1996. "The Canadian Electoral System and Proposals for its Reform." In *Canadian Parties in Transition* (2nd ed.), ed. A. Brian Tanguay and Alain-G. Gagnon, 282-306. Scarborough: Nelson; and Cassidy, M. 1992. *Fairness and Stability in Canadian Elections: The Case for an Alternative Electoral System*. Ottawa: Parliamentary Centre.

⁶ Beatty, D. 1997. "An arbitrary, unjust system". *The Toronto Star*, May 15, 1997.

Getting the Register Right

In 1996 the *Canada Elections Act* was amended to provide for the establishment of a Register of Electors. This change eliminated the necessity of conducting a door to door enumeration during each electoral event and permitted the shortening of the electoral period from a 47 day minimum to a 36 day minimum. The National Register of Electors was established on the basis of a final enumeration in April, 1997. The National Register of Electors is an automated database which contains the following basic information about each elector: name, sex, date of birth, and address. It is expected that the National Register of Electors will result in cost savings of about CDN\$30 million per electoral event.

The information in the National Register of Electors is used to produce preliminary electoral lists for federal elections and referendums. The legislation also authorizes the Chief Electoral Officer to enter into agreements with other bodies that are responsible under provincial law for establishing lists of electors. Sharing data to update registers and lists of electors across Canada will eliminate duplication and create further savings for taxpayers.

The National Register of Electors is updated with information supplied by provincial, territorial and federal data sources between electoral events, and by electors themselves during federal electoral events;. Information from federal data suppliers will be transferred to Elections Canada only with the consent of the individuals concerned.

Annual changes to elector information and the sources of data used to maintain the National Register of Electors

Change	Electors Affected		Data Suppliers
	#	%	
Address	3 2 0 0 0 0 0	1 6	Revenue Canada. provincial and territorial motor vehicle registrars; provincial electoral agencies with permanent lists of electors.
18-year-olds	360 000	2	Revenue Canada; provincial and territorial motor vehicle registrars; provincial electoral agencies with permanent lists of electors.
New citizens	200 000	1	Citizenship and Immigration Canada
Deaths	195 000	1	Provincial and territorial vital statistics registrars, provincial electoral al agencies with permanent lists of electors.

The privacy of all information in the National Register of Electors is protected by the Canada Elections Act and the privacy *Act*. Information in the National Register of Electors can be used only for electoral purposes. Improper use of the information is an offence punishable by law.

Electronic and procedural safeguards have been put in place to ensure the security of elector information. The Privacy Commissioner has the right, at any time, to audit how information for the National Register of Electors is collected, stored, updated and used to ensure that the privacy rights of electors are respected. Under the law, lists of electors will be shared with registered political parties and members of Parliament each year, as well as with candidates during an electoral event. These lists will contain only the names and the civic and mailing addresses of electors. By law, these lists can be used for communicating with electors, and without restricting the generality of the foregoing, they can be used for soliciting contribution;; and recruiting members or campaigning.

Electors have the freedom to choose whether their information will be contained in the National Register of Electors and whether they wish to have their information shared with electoral agencies at any other level of government. Electors also have the right to gain access to their personal information that is contained in the National Register of Electors.

The right to vote of an elector who chooses not to be included in the National Register of Electors is protected. This elector will have to ensure that his or her name is added to the electoral list at the time of each federal electoral event.

Preparations: The Devil's in the Detail

Planning is an essential component of at Elections Canada's management structure. Planning is currently carried out on 3 planes.

At the base, and forming the vision to rally the organization for its current and future work, is the Strategic Plan. First developed in 1994, it was designed to set the course for change in the organization. The plan outlines the vision, values and key objectives that the organization envisioned for its short and medium term future. We are now poised to revisit the strategic plan, to ensure that it remains current and viable and to satisfy ourselves that we can, through its guidance, remain at the forefront of electoral administration. The second edition of the plan will incorporate our work in trying to bring about concrete partnerships with the other levels of jurisdiction in Canada that are working to serve the same electorate. In addition, the second version will provide for an annual review process which will allow Elections Canada to continually update its future direction on the basis of emerging trends in technology and government.

The second plane of our planning process is Event Readiness Planning (ERP). This exercise is conducted organization wide, and involves detailing our programs and projects in all spheres of activity to prepare for an election or referendum. Election readiness planning is based on an Election life cycle which includes the following five phases: Return to Readiness (following an event, this phase ensures that the agency is ready to enter another event), Improvement (where lessons learned and new advances are incorporated into plans), Pre-implementation (where all systems and procedures are brought to the "camera-ready" stage), Implementation (the actual conduct of the event), and Evaluation (the phase which encompasses institution wide reviews following an event).

Each of the individual detailed plans in the ERP is rolled up periodically for the consideration and review of senior management. The frequency of senior management monitoring of projects and programs varies depending on the time remaining in the mandate of the current government - in other words, as we approach the end of a mandate and a general election call is expected, plans are reviewed on a weekly basis. During the event itself, plans in the implementation stage become part of a daily management reporting process, known as Event Management System (EMS). Details from the field offices are transmitted electronically to Headquarters for continuous monitoring.

The third plane of planning at Elections Canada encompasses several different processes which include all the remaining elements required for the organization to plan effectively. This includes the preparation of the agency's proposed budget and annual activities which are tabled for Parliamentary review and

consideration on an annual basis, From these flow more detailed **budgetary and** performance plans, setting clear fiscal and reporting parameters to govern all of our current and anticipated work. In addition, we have instituted a Corporate Projects Planning system, which allows for the regular, systematic monitoring of all major activities that are deemed to be of strategic significance to the organization. These plans need not be directly related to the conduct of the next electoral event.

Civil Society and the Electoral Process

Media

The relationship of the media with Elections Canada and with the electoral participants is structured by constitutional and statute law. The freedoms of association, thought, belief, opinion and expression, including the freedom of the press and other media of communication are guaranteed by the Canadian Charter of *Rights and Freedoms*, which is entrenched in Canada's constitution.⁷

The *Canada Elections Act* also includes a number of provisions that relate to electoral communication and broadcasting, including:

- an allocation of free broadcasting time to registered political parties;
- an allocation of broadcasting time which can be purchased by political parties;
- a defined period during which political party advertising, announcements, and other programming for the purpose of promoting or opposing a particular political party or candidate is allowed.

Another important element of Canada's broadcasting provisions are the guidelines published for each general election by the Canadian Radio-television and Telecommunications Commission (C.R.T.C.). The main thrust of the C.R.T.C.'s guidelines is the equitable provision of time to allow the airing of diverse points of view. The C.R.T.C.'s enforcement powers include the ability to suspend or revoke a broadcaster's license.

Political parties

The Canadian constitution does not recognize the existence of political parties. It does, however, include the freedoms of association and peaceful assembly. Since 1970, The *Canada Elections Act* has recognized the existence of those political parties which are registered with the Chief Electoral Officer.

In order to become registered, a political party must meet certain criteria established in the Act, including the official nomination of 50 candidates during the general election following the acceptance of its application. Registration involves certain obligations, including the observation of spending limits and compliance with financial disclosure provisions. There are also benefits to registration, including the allocations of broadcasting time and potential eligibility for a reimbursement of election expenses.

Election observers

While the *Canada Elections Act* does not provide for independent election observers, it does entitle political party scrutineers to be present at the polling stations and the official addition. The Act also provides for the revising agents in each electoral district to be appointed by the returning officers from lists supplied by

⁷ *Constitution Act, 1982*, section 2.

the registered political parties whose candidates finished first and second in the previous election in that electoral district. Revising agents work in pairs to update the list of electors and the returning officer is required to ensure that each pair represents the two political parties. Later in the election period, the deputy returning officers and poll clerks who staff the polls are also appointed, respectively, by the candidates of the registered parties who finished first and second in the last election.

These checks and balances are designed to ensure that Canada's system is not only fair, but is also perceived as being fair. These are Essential parts of Canada's democratic political-electoral system.

The Voter and the Electoral Process

Voter Education Program

The *Canada Elections Act* provides that “The Chief Electoral Officer may implement public education and information programs to make the electoral process better known to the public, particularly those persons and groups most likely to experience difficulties in exercising their democratic rights”.

Both during and between electoral events, Elections Canada conducts programs to educate and inform Canadians about the electoral process. In recent years, it has undertaken information initiatives aimed at groups with special needs, such as youth, aboriginal electors and people with learning disabilities or low literacy skills.

Material such as our election simulation kits have been developed in response to the needs of a variety of audiences for a variety of learning situations. They are used not only for teaching democracy but also for teaching languages and history.

Election simulation kits, particularly *I Can Vote*, can be used to provide Canadians with the hands-on experience of an election, giving them the opportunity to familiarize themselves with the electoral process before exercising their right to vote at the polling station.

Elections Canada has also recently published a book entitled *A History of the Vote in Canada*, which describes the evolution of the franchise throughout Canadian history.

Participation of Women

Canadian women obtained the unrestricted right to vote in 1918 and the right to be candidates in Canadian federal elections in 1919. Canada was among the earliest countries to recognize the right of women to vote. Although women in New Zealand gained the vote in 1893 and some European countries and the USSR granted women the franchise before 1918, many others did not until much later.

Survey based studies of elector participation in Canada suggest that women and men vote in fairly even proportions.

The number of women in federal politics has constantly increased since 1921. While women represented only 0.6% of candidates in 1921, the proportion grew to 28.0% by 1993. A similar rise occurred in the number of women who won seats in the House of Commons, from 0.2% in 1921 to 18.0% in 1993. 24.4% of all candidates during the 1997 federal general election were women, and 21% of the elected Members of Parliament are women.

Initiatives for disadvantaged and special needs electors

Elections Canada has undertaken a variety of initiatives to facilitate the participation of electors who have special needs.

- all information materials are available in alternate format (Braille, audio-cassette, large print);
- our newspaper advertisements encourage readers to pass the information on to other electors who cannot read;
- the participation of acute care hospital patients is facilitated by a visit from a special ballot coordinator during an election;
- data sharing agreements with other federal, provincial and territorial agencies permit the identification of potential electors who can be informed about the right to vote and the National Register of Electors.

Efforts are also made at each electoral event to reach out and register electors who:

- move frequently and are not registered on the National Register of Electors;
- work on remote sites (mining camps, off-shore platform) and cannot register and vote easily;
- have moved into new residential developments and have not yet informed authorities of their new residence.

The Cost of Elections

Elections Canada operates under two financial spending authorities: a “statutory authority” for the management of electoral events, and an “administrative vote” for the administrative maintenance of the office.

Many factors influence the cost of electoral events and the related costs for each electoral district. Some of the key factors are the number of electoral districts involved; the characteristics of each electoral district (geographic location, population density, size of the electoral district, and whether it is urban or rural); the use of different processes, systems and methodologies from one event to the next (e.g. door-to-door enumeration, enhanced revision or permanent register of electors); the length of the electoral calendar; the rates of fees and allowances as set out in the Tariff of Fees; and the number of candidates and political parties eligible for reimbursement of election expenses.

The estimated cost for the 1997 general election is CDN\$132.9 million⁸, compared to CDN\$166 million for the 1993 general election. The cost of the 1997 general election represents CDN\$6.76 per elector. This cost can be broken down as follows:

- Electoral management (including Electoral System and Legislative Framework): 33.8%
- Voter Education: 7.3%
- Voter Registration: 16.3%
- Polling Arrangements (including Vote Counting): 22.4%
- Political Parties and candidates: 20.1%

It should also be noted that a final enumeration took place in April, 1997, prior to the establishment of the National Register of Electors,. In lieu of a door-to-door enumeration in the provinces of Alberta and Prince Edward Island, Elections Canada purchased current provincial lists of electors. On the basis of a preliminary analysis, we estimate that the saving; of approximately CDN\$5 million from the use of the Alberta and PEI lists.

By implementing and using the National Register of Electors, Elections Canada will reduce the voter registration costs at each of the next two general elections by approximately CDN\$30 million (per election). The full cost of the initial investment in the National Register of Electors, including the cost of the final enumeration, will be recovered after the 38th general election. Further savings are being realized as provinces/territories and municipalities begin data from the National Register of Electors for their own electoral purposes. Additional

⁸ The cost of readjusting the electoral boundaries is not included in this cost since it occurs once every ten years in between elections. The actual cost of the most recent readjustment was CDN\$6.5 million spent from 1991-92 to 1996-97.

savings were also realized during the conduct of the last enumeration **and the** June 1997 general election.

Training and Technology

Training

The main objectives of training election administrator;; and officials is to ensure a uniform application of election law, facilitate compliance, and to establish a sense of rapport and trust between the Elections Canada headquarters and the electoral district administrators. In addition to training elections officials it is also appropriate to provide briefing sessions and guidelines to political parties and candidates.

As the election date not fixed in Canada, it is important to establish programs that take place before and after an electoral event to maintain the knowledge base and interest of election administrators.

With a view to standardizing training, Elections Canada has developed training programs and materials for each of the following categories of election officer: returning officers, local election officers who are trained by the returning officers (deputy returning officers and poll clerks, for example), party officials, and candidates.

Returning officers are appointed by the Governor in Council for any new electoral district and can be removed only for cause. Consequently, Elections Canada implements an intensive training program for returning officers following each decennial readjustment of the electoral boundaries. Between redistributions, Elections Canada holds courses at irregular intervals depending on the number of new appointments. Before each event, Elections Canada also conducts briefing sessions to bring the returning officers up to date on new legislation and, or procedures.

The training course for new returning officers is currently nine days in duration, whereas the course for re-appointed returning officers is four days. The instructors are all Elections Canada staff and are people with whom the returning officers will generally come into contact while performing their duties.

A typical returning officer will have up to 500 election officers to train. Elections Canada provides assistance and training materials to returning officers.

Elections Canada offers occasional briefings for the federal political parties on changes to the electoral legislation and procedures. Training sessions are also offered on a regional basis for political parties and candidates following the close of nominations for an election in order to explain the election financing provisions of the law.

Technology

There are two main categories of automated systems: those used on an on-going basis and those used for an event.

The six on-going operational systems are: Returning Officer Profile (a register of local election officials), Physical Sites Register (which includes information on polling sites and revisal offices), Geographic Information (which includes maps and a profile of each electoral district), Supplies Management, Action Request System (which is call tracking system), and the HQ Office Management (which serves for planning and budgeting).

There are also six event administration systems: Elector Registration (which produces list of electors), Special Voting Rules (which handles registrations, enquiries and the results under the Special *Voting* Rules), Results of Voting (which tabulates election results by polling division), Payment of Election Salaries & Accounts (which serves for payment of election officials and rented premises), Event Management System (for planning purposes), and the Control of Authorizations (which tracks financial and statutory authorizations).

After the Event

Once the ballots are tabulated and the results announced, the general impression is that the electoral event is over. Apart from a myriad of post-election day administrative tasks, there is the possibility of legal action and hence court involvement. The Canada *Election Act* sets out procedures for a judicial recount of the ballots as well as for prosecution of election related offences. The courts may also be called upon to adjudicate in cases where the election of the successful candidate is challenged under the *Dominion Controverted Elections Act*.

There are two conditions which can result in a judicial recount of the votes cast at an election. The first, is an automatic recount, that is required if there is an equality of votes or if the number of votes separating the two leading candidates is less than one one-thousandth of the votes cast. The second occurs when a judge is satisfied, on the affidavit of a credible witness, that the votes were improperly counted, rejected, or added.

In the latter case, although the prospect of a reversal of the result is not a criterion for the application, it is often the motivation. In other words, when the margin of victory between the first and second ranking candidates is minimal and there is some question regarding the propriety of the initial count, application for a recount of the votes by an officer of the court could effect a change in the election return.

The 1997 general election brought about judicial recounts in three electoral districts. Two of these were at the request of candidates whereas the third was an automatic recount due to the small margin between the two leading candidates.

Pursuant to the *Dominion Controverted Elections Act*, any candidate or elector may present a petition complaining of an undue election of a member to the House of Commons or of any unlawful act by any candidate which would disqualify that person from sitting in the House of Commons. At the conclusion of the trial of an election petition, which is tried by two judges, a report is made to the Speaker of the House of Commons. In the absence of an appeal, the Speaker adopts the proceedings necessary for confirming or altering the return, or for issuing a writ for a new election. Since 1949, there have been only 13 cases in which an election has been controverted.

Judicial proceedings may also be instituted by the Commissioner of Canada Elections for contraventions of the Canada *elections Act*. The Commissioner of Canada Elections is appointed by the Chief Electoral Officer to ensure compliance and enforcement of the provisions of the *Canada Elections Act*. The nature of the offences under the Act range from indictable, such as exercising

undue influence over the election, to regulatory or public interest offences punishable by summary conviction or a fine, such as failure of a candidate to file a required financial report. The most frequent complaint made to the Commissioner in regard to the 1997 general election is the absence on printed advertisements and signs of the required authorization identifying the agent of the party or candidate in question.