

ELECTORAL Insight

Persons with Disabilities and Elections



**U.S. Supreme Court Upholds
Campaign Finance Law**

**Elections Canada's
Youth Voting Activities**





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Eleanor Milne, Chris Fairbrother and
Marcel Joannis

The Vote (1979–1980)

Indiana limestone, 121.9 x 182.8 cm,

House of Commons, Ottawa

The base stone of *The Vote*, a sculpture on the east wall of the House of Commons chamber, shows four heads with flowing hair whose mouths shape, in song, the first syllables of Canada's national anthem, "O-Ca-na-da".

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Disabilities Online

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Submissions of articles and photos that might be of interest to *Electoral Insight* readers are welcome, although publication cannot be guaranteed. If used, submissions will be edited for length and clarity as necessary.

Please address all contributions and letters to Wayne Brown, Managing Editor, *Electoral Insight*, Elections Canada, 257 Slater St., Ottawa, Canada K1A 0M6 (wayne.brown@elections.ca).

Chief Electoral Officer's Message



Jean-Pierre Kingsley
Chief Electoral Officer of Canada

Persons with Disabilities and Elections

One of the most important measures of the accessibility of the electoral process is the ease with which persons with disabilities can exercise their right to vote. A little over a decade ago, major obstacles were removed at the federal level through amendments to the *Canada Elections Act*. Other improvements have followed, and the accessibility of the Canadian federal electoral process is now recognized as a model for other countries. A number of provincial governments have also adapted their election laws and practices. The first four articles in this issue of *Electoral Insight* document these developments and remind readers of what remains to be done.

The improvements to the accessibility of the electoral process for persons with disabilities include the special ballot, level access at election premises, election day registration and public information programs. Groups representing persons with disabilities have contributed greatly by challenging discriminatory laws and practices, and by providing valuable advice to election administrators.

As Canadians become accustomed to a new federal political financing regime, this issue provides an assessment of the United States Supreme Court's decision to uphold the 2002 *Bipartisan Campaign Reform Act* (the subject of an article in the May 2002 issue of *Electoral Insight*). The American legislation had quite different objectives from Canada's Bill C-24 (adopted in 2003). However, some of the issues at stake, notably the degree to which campaign finance legislation may limit free speech, echo some aspects of the Canadian debate on political financing regulation.

The July and November 2003 issues of *Electoral Insight* provided extensive analyses of factors related to the lower turnout rates of young Canadians and Aboriginal people. In this issue, we return to the question of electoral participation among these groups. The reports on two major consultative exercises sponsored by Elections Canada shed further light on our understanding of the trends and present participants' varied suggestions about what should be done. Further information on Elections Canada's youth initiatives is found in the "Electoral News in Brief" section.

Finally, I wish to invite readers of this publication to send me comments about articles in *Electoral Insight*. Letters can be submitted to the postal or e-mail address on the opposite page. ✉

A handwritten signature in black ink that reads "Jean-Pierre Kingsley". The signature is written in a cursive, flowing style.

Jean-Pierre Kingsley



Persons with Disabilities and Canada's Electoral Systems Gradually Advancing the Democratic Right to Vote

Michael J. Prince

Acting Dean, Faculty of Human and Social Development, University of Victoria

Over the last 20 years, federal, provincial and territorial governments have come to identify citizenship as a central principle in disability-related policy statements and program agreements.¹ Governments share a belief that Canadian society, the economy and public policy inadequately realize the principle of citizenship for many people with disabilities. The vision rests on the values of equality, inclusion and independence, as well as on the principles of rights and responsibilities, empowerment and participation. The agreed policy direction is to promote access to generic programs that enhance the full and equal participation of persons with disabilities in all aspects of Canadian society.

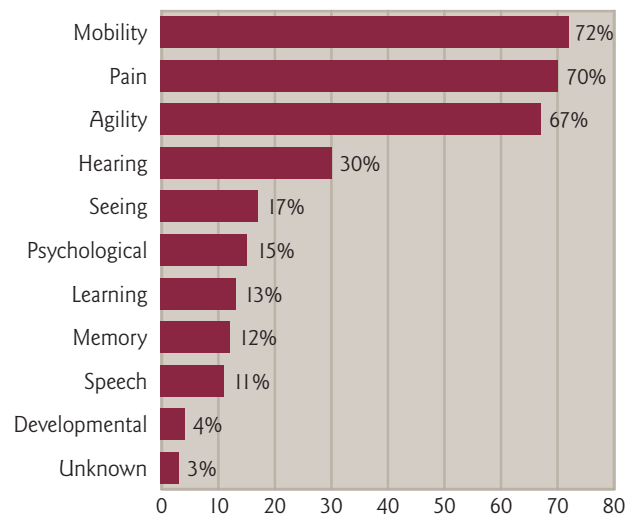
The purpose of this article is to examine the political side of citizenship for persons with disabilities. In particular, the focus is on the policies and administration of electoral systems at the federal, provincial and territorial levels as they relate to citizens with disabilities. It is intended to provide a better understanding of the present state of the democratic right to vote in Canada for this group of electors.

A brief profile of disability in Canada

In 2001, the latest comprehensive survey on disability reported that 12.4% of the population had a disability, representing 3.6 million Canadians.² A person is defined

as having a disability if he or she reports a limitation, or a restriction in participating in a standard activity for people in society, which is associated with a physical or mental

Types of Disabilities (2001)



Age 15 and over
Source: PALS 2001

The percentages above show the distribution in 2001 of types of disabilities among persons with disabilities aged 15 and over. They do not add to 100, since the majority of persons with disabilities experience more than one type of disability. The information comes from the Participation and Activity Limitation Survey (PALS), developed by Statistics Canada.

condition or a health problem. Certainly, voting in federal and provincial or territorial elections is a “normal activity” for adults in Canada.

Survey data show that the rates, severity and types of disabilities vary by age groups. Seniors (aged 65 and over) have a 41% rate of disability, compared to a 10% rate for working-age adults (aged 15 to 64) and a 3% rate for children (aged 14 and under). Thus, we can calculate that about 93% of Canadians with disabilities, or more than 3.3 million, are of voting age.

We also know that most persons with disabilities experience them in mild to moderate forms, rather than severe or very severe forms, as determined by the frequency and intensity of limitations on activity. The most common types of disabilities are related to mobility, agility and pain. This pattern holds nationally and in every province. Among the core working-age population, so-called “invisible disabilities,” such as psychological, learning and memory disabilities, are also significant.

The right to vote and access to the electoral system: two contrasting stories

The story of citizenship for Canadians with disabilities differs from conventional accounts in many other liberal democracies.³ It is not a simple record of the continual and steady extension of rights and responsibilities over many decades or centuries.

For many people with disabilities, guaranteed access to the electoral process did not exist until the last decade or so.

Indeed, we can suggest that there are two contrasting stories about the right to vote, as outlined in the chart below. One story is the dominant narrative of the universal franchise, joined more recently with the emergence of a malaise toward voting. In contrast, the second story, about Canadians with disabilities, presents a very different picture of experiences with voting and expectations of the electoral process.

In the early 1980s, a special House of Commons committee on the disabled and handicapped heard complaints throughout its hearings that the voting systems at the national and provincial levels made it difficult for many Canadians with disabilities to vote on election day. Polling stations were often located too far away and/or were inaccessible. At that time, only

For many people with disabilities, guaranteed access to the electoral process did not exist until the last decade or so.

one jurisdiction in the country, Manitoba, had made provisions for a postal vote system for general elections. The parliamentary committee argued that the *Canada Elections Act* should reflect the fundamental principle that elections are conducted for the convenience of all voters, including seniors and people with disabilities, and therefore made recommendations on providing polls at hospitals, nursing homes and apartment buildings.⁴

Two Perspectives on Voting and the Electoral Process

	Electorate in general	Electors with disabilities
Model of citizen	Able-minded and able-bodied individuals	Individuals with limitations and different capacities
Voting in Canada	A long-standing political process and traditional form of citizen participation based on a progressively more universal franchise	For many citizens with disabilities, a relatively new opportunity and experience in democratic participation
Recent voter turnout	Disengagement: A trend to lower voter turnout in many recent elections at the two senior levels of government	Engagement: In all likelihood, a trend to higher voter turnout, from a comparatively much lower base
Contemporary context	Disenchantment: Declining voter turnout seen as a result of growing public apathy, cynicism about governments, distrust of politicians and a sense of disempowerment in lacking involvement in public policy discussions and formation ⁵	Expectation: Growing desire and claims to participate in electoral processes and other political institutions stimulated by disability rights movement and the <i>Canadian Charter of Rights and Freedoms</i>
Reform focus	Political party financing rules; enhanced accessibility of voting process; civic education Beyond the existing electoral process: consideration of alternative electoral systems to single member plurality voting; changes to governmental and legislative institutions	Changes to federal, provincial and territorial election laws, practices and administration: mobile polls, level access to polling stations, mail-in ballots (where they do not yet exist); electronic registration/voting

On the federal government's response to guarantee full political rights to

general election, had already declared the provision to be invalid because it conflicted with section 3 of the *Canadian Charter of Rights and Freedoms*. As a result, those previously disqualified could vote in the 1988 federal election.

Most jurisdictions in Canada have opted for the use of special or mail-in ballots, rather than proxy voting, as an option for electors unable to vote in person in advance or on election day.

people with physical disabilities, Fraser Valentine and Jill Vickers note: "For people with physical disabilities [that is, mobility and sensory limitations], full access to the franchise was guaranteed only in 1992 when the architectural accessibility of polling stations became mandatory."⁶ While Bill C-114, passed in 1993, finally removed the disqualification to vote for people who are restrained of their liberty of movement or deprived of the management of their property by reason of mental disability, an October 1988 Federal Court of Canada ruling, during that year's

To Canadians with disabilities, voting is not a taken-for-granted political process. The vote is highly significant to them for several reasons. While some citizens with mental disabilities were disqualified, until 1988, from voting in federal elections, many others faced, and may still confront, architectural (in certain jurisdictions) and attitudinal barriers to exercising their right to vote; and, for all, voting in elections represents an important expression of democratic freedom and participation in a political community in which other obstacles and exclusions remain.

Recent reforms to electoral laws and practices

In fact, the process of securing full access to the right to vote is ongoing and unfinished. Various amendments were made to federal electoral law and to administrative practices in 1988, 1992, 1993, 1996 and 2000. In brief, major reforms of particular interest to people with disabilities included the following:

- Special ballots allowing Canadians to vote by mail or in person at the offices of their returning officers (replacing proxy voting)
- Level access at polling stations and other premises used during an election, combined with transfer certificates to allow voting at a different polling station that has level access, if the elector's own poll is not accessible
- Mobile polling stations for institutions where persons with disabilities reside
- Public education and information programs for those with special needs, including the use of alternative formats such as Braille, large print and audio-cassettes
- Accessibility training and awareness sessions for returning officers⁷

At the provincial and territorial levels, too, there has been much progress over the past decade or so. Among the 14 senior governments in Canada (federal, 10 provincial and three territorial), only two, Quebec and New Brunswick, have statutory provisions that disqualify certain persons with disabilities from voting in elections. Two broad types of supports and services are provided to voters with disabilities: (1) alternative methods of voting, such as proxy voting, mobile polls, advance polls with level access, and mail-in or special ballots; and (2) assistance to voters with disabilities on election day,



All federal polling stations and offices used by returning officers during an election must have level access. At the 2000 general election, returning officers modified many facilities (including the one pictured above) to provide such access.



The special ballot, through a unique system of envelopes that protects the secrecy of the vote, allows Canadians to vote by mail or in person at the office of the returning officer. Before voting, the elector must apply for a special ballot voting kit.

including templates, interpreters and transfer certificates.⁸

With respect to the first type of supports – alternative methods of voting – Ontario and the three territories are the only jurisdictions that provide for proxy voting, that is, appointing some other elector in the electoral district to vote for a person. Where it exists, this method of voting is available to all electors, whether they have a disability or not. Most jurisdictions in Canada have opted for the use of special or mail-in ballots, rather than proxy voting, as an option for electors unable to vote in person in advance or on election day. Accessibility provisions for advance voting are set out in the legislation of all but one jurisdiction (Saskatchewan). The election laws of several provinces specifically mention electors who have an illness, incapacity or disability as a category of electors eligible for these special or mail-in ballots. However, the language of election laws varies, and in certain cases seems to be a vague commitment rather than a firm guarantee.

Mobile polls are legislated as an available feature in seven provinces and two territories, but not in the others.

Typically, mobile polls are established in institutional settings (long-term care facilities, health institutions and homes for the aged) and, in some jurisdictions, in sparsely populated and isolated areas. In two provinces, Alberta and Nova Scotia, the

election law specifies that a mobile poll be set up only for a facility that houses 10 or more residents who are electors. Inadvertently, this threshold excludes electors in smaller-sized transitional and supportive housing arrangements.

As for the second type of services – assistance to voters with disabilities on election day – a similar patchwork quilt exists across the country. Templates enable electors who are blind or have a visual impairment to mark their ballots in secret, without

the assistance of another person. Eight jurisdictions provide for such templates (six make it a statutory requirement), while six other political systems in Canada do not offer this support.

Only three jurisdictions address electors who are deaf or mute in their election laws. Quebec's statute affirms that a person capable of interpreting the sign language of a deaf person may assist the deaf elector to communicate with an election officer. Ontario's law states that the elector has the right to the assistance of an interpreter; yet, in the event of inability to secure an interpreter, the elector must, for the time being, be refused a ballot. The federal law provides that a deputy returning officer may appoint and swear in a sign language interpreter to assist the officer in communicating to an elector any information that is necessary to enable him or her to vote.⁹

An elector with a physical disability or incapacity may find it difficult to vote in his or her own polling station if it lacks level or easy access. In such cases, a transfer certificate enables electors with restricted mobility to vote at



An Elections BC officer holds a voting screen at the curb for a disabled elector in Westbank, British Columbia, at an advance poll during the May 2001 provincial election.

Accessibility of the Electoral System

Elections Canada has improved many services in recent decades to meet the needs of the electorate, particularly persons with disabilities.

- There are now three ways to vote: by special ballot, at an advance poll, or on polling day.
- The special ballot allows Canadians to vote by mail or in person at the office of their returning officer. (See “Voting by Special Ballot” on p. 19.)
- All revisal offices, polling stations and other premises used during an election must have level access.
- In the rare cases where election day polling stations do not provide level access, transfer certificates are available so that electors with disabilities may use a different polling station that does have level access.
- The voter information card sent to every registered elector after an election is called indicates whether there is level access to the elector’s polling station.
- Mobile polling stations are provided for institutions where elderly or disabled persons reside.
- A ballot box is transported from room to room to facilitate voting in hospitals and certain residential institutions.

- At the advance and election day polls, any person with a visual disability may obtain a cardboard voting template to assist in marking the ballot.
- Interpreters may accompany voters to assist them at the polls.
- At the request of the elector, assistance in marking the ballot is available at the advance and election day polls. Voters may also bring a friend or relative who may assist them, after taking an oath.
- “Permitted personal expenses” for a candidate with a disability or one who cares for a person with a disability include expenses directly related to that disability.

Information services provided by Elections Canada that assist persons with disabilities include:

- a toll-free enquiries line for persons who are deaf or hard of hearing: TTY 1 800 361-8935
- information in alternative formats, such as large print, Braille, audio-cassette and diskette
- plain language publications for persons who have difficulty reading
- information, e-mail access, and special ballot registration forms available on the Internet (www.elections.ca)

another polling station, in the same electoral district, with level access. Surprisingly, only four jurisdictions provide for transfer certificates on election day – Canada, New Brunswick, Nova Scotia and Ontario.

Overall, then, the ability to vote and to have effective and equitable access to the electoral process remains very uneven for Canadians with disabilities.

Conclusions: unfinished work on democratic citizenship

In recent years, reforms have been introduced to modernize our electoral systems for citizens with disabilities. Different understandings of disability have informed these reforms – a not surprising situation, given that various understandings of disability exist in Canada and internationally. A human

rights perspective, stressing equality and human dignity, has successfully challenged disqualifications to vote based on mental conditions as unfair and discriminatory. Some reforms reflect an environmental notion of disability: they recognize that physical barriers in social practices and institutions, such as voting and polling stations, have prevented persons with disabilities from participating in elections. Many reforms to Canada’s electoral systems have adopted a biomedical or functional approach, seeing a restriction in the person’s ability to perform the customary activity of obtaining and completing a ballot as requiring accommodation in the form of mobile polls and mail-in ballots.

Yet, citizens with disabilities continue to face obstacles to full electoral

participation. The electoral processes in Canada are not as accessible as they could be. To effectively take part as voters, many people with disabilities require not just level access to polling stations, but also access to various supports – such as specialized aids and devices, personal help with everyday activities and handy transportation. They also require information, in plain language and alternative formats, on candidates, the issues of the day and the electoral process.

A groundbreaking amendment in 2001 to the Ontario *Election Act* added the provision that, within three months after an election, each returning officer is to prepare a report on the measures he or she took to provide access for electors with disabilities. These reports are to be submitted to the Chief Election Officer of Ontario who, in

turn, will make them available to the public. Reports from the October 2003 Ontario general election will offer the first round of information under this reporting requirement. The reports will shed light on the experiences of citizens with disabilities with the electoral process, and no doubt identify problems and possible improvements to the policy and administration of elections in that province. This provision is worth careful consideration for adoption by other jurisdictions in the country.

Research also could be done on the reasons why citizens with disabilities vote or do not vote, nationally or in particular jurisdictions; on the electoral reform preferences (values, goals and mechanisms) of disability organizations, including alternatives to the current first-past-the-post voting system as a way to increase the representation of persons with disabilities in elected legislatures; on the advantages and drawbacks of Internet registration and Internet voting; and on the relationship between Canadians with disabilities

(and their families and advocates) and elected representatives in their role as ombudspersons who should address the concerns and needs of this group of constituencies. ✕

NOTES

1. Major reports include: *Equal Citizenship for Canadians with Disabilities: The Will to Act*, Report of the Federal Task Force on Disability Issues (Ottawa: House of Commons, 1996); *Future Directions to Address Disability Issues for the Government of Canada: Working Together for Full Citizenship* (Ottawa: Human Resources Development Canada, 1999); *Advancing the Inclusion of Persons with Disabilities: Government of Canada Report* (Ottawa: Human Resources Development Canada, 2002).
2. Human Resources Development Canada, *Disability in Canada: A 2001 Profile*, available at <http://www.hrdc-drhc.gc.ca/hrib/sdd-dds/odi/menu/home.shtml>.
3. A similar point applies to women, Aboriginal people and visible minorities. See William Kaplan, ed., *Belonging: The Meaning and Future of Canadian Citizenship* (Montréal and Kingston: McGill-Queen's University Press, 1993); and James J. Rice and Michael J. Prince, *Changing Politics of Canadian Social Policy* (Toronto: University of Toronto Press, 2000).
4. Canada, House of Commons, *Obstacles: Report of the Special Committee on the Disabled and the Handicapped* (Ottawa: Queen's Printer, 1981).
5. See Nandini Saxena, *Citizens' Dialogue Experience: Follow-up Survey Results* (Ottawa: Canadian Policy Research Networks, 2003); Jon H. Pammett and Lawrence LeDuc, "Explaining the Turnout Decline in Canadian Federal Elections: A New Survey of Non-voters" [on-line research report], Elections Canada (March 2003), available at www.elections.ca under "Electoral Law & Policy."
6. Fraser Valentine and Jill Vickers, "Released from the Yoke of Paternalism and 'Charity': Citizenship and the Rights of Canadians with Disabilities," *International Journal of Canadian Studies* Vol. 14 (Fall 1996), p. 173.
7. For details on these and other reforms, see www.elections.ca, under "General Information," "Backgrounders," "Accessibility of the Electoral System."
8. The following discussion and analysis draws on the 2002 *Compendium of Election Administration in Canada*, by Alain Pelletier and associates, for Elections Canada, available at www.elections.ca.
9. See the Ontario *Election Act*, R.S.O. 1990, c. E.6, s. 56; Quebec *Election Act*, R.S.Q., c. E-3.3, s. 349; and Canada *Elections Act*, S.C. 2000, c. 9, s. 156.



Access to Electoral Success *Challenges and Opportunities* for Candidates with Disabilities in Canada

April D'Aubin

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Deborah Stienstra

Professor and Director, Graduate Program in Disability Studies, University of Manitoba

People with disabilities are largely invisible in Canada's electoral processes. Among those who participate as candidates in municipal, provincial and federal elections, there continues to be a significant under-representation of people with disabilities, particularly people with disabilities that require accommodations such as sign language interpreters, alternative media and other types of supports. There is no collected history or analysis of the presence or absence of people with disabilities in Canadian politics. As well, there are candidates and elected officials with disabilities who remain hidden, passing as non-disabled people. This under-representation stems in part from negative public attitudes about people with disabilities, lack of knowledge about the costs and potential contributions of disabled people, and lack of resources for candidates with disabilities, including appropriate disability supports, money, and access to political opportunities. This article shares some of the experiences of election candidates with disabilities to reveal both the barriers that make it more difficult for persons with disabilities to attain public office and the remedies required to equalize opportunities in Canada's electoral processes for such persons.

A number of barriers prevent the full and equal participation of people with disabilities in Canadian politics. As a group, people with disabilities are poor and have limited access to disability supports (goods or services used to overcome barriers related to disability). Many physical barriers still exist in Canadian society: inaccessible public spaces are common. The availability of Braille and other types of alternative media, and of sign language interpretation for deaf people, is limited. Stereotypical attitudes about the capabilities of persons with disabilities persist. The history of people with disabilities as elected officials has been neglected. In the case of disabled American President Franklin D. Roosevelt, some of this history is beginning to be reclaimed.¹ Consequently, there are not many well-known role models of people with disabilities who have attained high elected office.

In Canada, people with disabilities who are running for office, along with the self-representational organizations of people with disabilities that are promoting active citizenship, are reducing the invisibility of people with disabilities in Canada's electoral process.



Franklin Delano Roosevelt served as President of the United States despite a major disability. After being stricken with polio, he became Governor of New York and President from 1933 to 1945. His deliberate effort to conceal the paralysis of his legs, for political reasons, led to an understanding with the press. This is one of only two known photographs of him in a wheelchair.

Confronting the barriers to participation in the electoral process

Attitudes

Despite the potential for personal hardship and the systemic barriers to their participation in the electoral process, people with disabilities in Canada, like their colleagues in other countries, have been running for office. In January 2004, the Liberal Party of Canada removed a systemic barrier to people with disabilities – questioning potential Liberal candidates, on a personal information form, about any experience with mental illness. Prime Minister Paul Martin ordered the practice stopped and apologized to the Canadian Mental Health Association.²

For some, it has taken repeated attempts to win an election. Edmonton wheelchair user Percy

Wickman was introduced to politics at the Northern Alberta Institute of Technology, where he successfully ran for vice-president of the student council, using the slogan “Wheel ahead with Wickman.” After three unsuccessful runs for Edmonton City Council, Wickman was elected in 1977.³ He served until 1986.

As Wickman noted in his autobiography, *Wheels in the Fast Lane*, discriminatory attitudes contributed to lost votes.

“It was becoming evident that this could be the big one as I was being picked by many to

finally win a seat. Then the whispers started. ‘Why elect a disabled person, when there are so many healthy ones running?’ ‘If successful, he will only represent the handicapped.’

Certainly some sympathy votes were picked up, particularly from those who sensed my determination and hunger for the job. But many, many votes were lost because of the unfounded fear that I could not do a proper job if elected.”⁴

According to Wickman, by his third winning campaign, job performance, and not his disability, was the electorate’s main concern.

“In my third and last successful bid for another term, my wheelchair did not have even a marginal influence

on the outcome. The electorate judged me totally on my record and beliefs. Those who disagreed with me had no hesitation in telling me the way it was. Those who may have been previously swayed, one way or the other, by my set of wheels were now looking at Wickman, the alderman, and voting for the person just like any other candidate. I had proven that despite my disability, I could hold my own with the best of them. In a rather complacent campaign, I topped the polls in my home ward and narrowly missed the overall first spot in my final bid.”⁵

Following his stint in city politics, Wickman ran for and won a seat in the Alberta legislature as a Liberal in 1989.

Despite many years of law reform and awareness-raising on disability issues, the negative attitudes experienced by Wickman continue to affect candidates with disabilities. Ross Eadie candidly describes the discrimination he faced while running for Winnipeg City Council in 1998.

“My disability led to a few problems with voters and promoters. It first started off with a pamphlet, which only showed my face with sunglasses

A number of barriers prevent the full and equal participation of people with disabilities in Canadian politics.

on. A fairly large number of people called in to ask who does this Ross Eadie guy think he is?

“My campaign manager (now a good friend) explained to those who called that I was blind. We will never know if this sunglass issue cost us votes ...

A woman called into the office saying she was not going to vote for me if it was going to cost her more tax dollars. I explained I used a computer with voice output to do most of my work and would require some assistance in getting to meetings outside of City Hall given a tight schedule. She said that was it, she wasn't going to vote for me because of paying for a computer. I explained to her that every City councillor received a computer to carry out their jobs, and I would use my already-purchased voice synthesizer. She still said she would not vote for me because of the transportation. I did not bother to explain how past mayor (Susan Thompson) used city-paid transportation. I think she was determined not to vote for me.

“Another fellow didn't even listen to me at the door. He just went in the house and came out with money for the blind guy. I told him I could use the money for the campaign, but I really wanted his vote”⁶

It is not only citizens who display discriminatory attitudes towards candidates with disabilities. Community leaders have also been influenced by stereotypes about disability. Some Manitoba election-night coverage served to reinforce stereotypes about the capabilities of persons with visual impairments. Eadie comments:

“In the end, I lost by a vote of 46% to 54%. At one point, I was ahead in the polls, and the former mayor of Winnipeg (Bill Norrie) was commenting on CBC television, saying I was an intelligent young man. But he said he did not know how I was going to keep up with all the reading. On the radio after the election I explained how the clerks department

Photo: Perry Zavitiz



Sam Sullivan, now in his fourth term, is the longest serving current member of Vancouver's City Council.

was very good at getting things onto computer disk.”⁷

Eadie is now an elected school trustee in Winnipeg.

Due to the prevalence of disability stereotyping, candidates with disabilities need to address the impact of disability on their lives in order to confront biases. Sam Savona, a New Democratic Party (NDP) candidate in the 1997 federal election, made the following comments at an all-candidates meeting:

“I was born with cerebral palsy, which is a neurological disorder. As you can hear, I have a speech impairment and, as you can see, I'm a wheelchair user. I also have restricted use of my hands. Cerebral palsy does not affect my intellectual ability. These days, when my friends learn of my political plans, they do wonder about my mental health.”⁸

For disabled people, just as for the non-disabled, a sense of humour and

a willingness to be self-deprecating while on the hustings can go a long way toward building links with the electorate. Many electors reacted positively to Savona's candidacy. While Savona lost the election, he did come in ahead of the Reform Party of Canada candidate.

Inadequate access to disability supports

Disability supports are essential if people with disabilities are to pursue the activities that contribute to effective citizenship: going to school, working, having a family, enjoying recreation, and giving back to the community by volunteering and holding public office. Deaf people

Due to the prevalence of disability stereotyping, candidates with disabilities need to address the impact of disability on their lives in order to confront biases.

use the services of sign language interpreters. For others, specialized equipment or attendants support independent living.

The experience of Sam Sullivan, a Vancouver city councillor, illustrates what a difference disability supports can make to a candidate.

“Sam Sullivan, who became a quadriplegic after a skiing accident as a young man, required twice-daily visits by a home attendant after his rehabilitation. The cost to the health care system at the time ranged from \$50 to \$75 per visit. Sullivan thought that he could do much more for himself if he only had the tools. He recruited a retired engineer who volunteered to help

him design some simple devices to assist him around the house. Soon he needed his attendant only once per week and Tetra [an organization that develops assistive technology] was born. In Sullivan's case, which is typical, the direct savings to government, calculated at a modest estimate of \$50 per visit, have totalled \$33,800 per year (almost a half a million dollars over the years). Once homebound, frustrated and sometimes even distraught, Sam Sullivan is today a busy city councillor in Vancouver, who, in his free time, camps and sails and travels the world over – all without an attendant.”⁹

Not everyone can replace the supports provided by other people with equipment that requires a single capital investment.

Some people with disabilities who have chosen public life as a career have encountered difficulties in obtaining payment for their disability

supports needs. Steven Fletcher, a quadriplegic, plans to run in the next federal election in the Manitoba riding of Charleswood–St. James. Fletcher, who had an automobile accident, began his career in public life when he was elected as President of the University of Manitoba Students' Union (UMSU). During his term as president, the Manitoba Public Insurance (MPI) paid for Fletcher's disability supports when he had to travel on UMSU business. In November 2001, Fletcher ran successfully for President of the Progressive Conservative (PC) Party of Manitoba, a position that also required him to travel. In 2002, MPI decided it would no longer cover the costs of Fletcher's attendant care expenses for travel outside Winnipeg associated with his PC Party responsibilities. Fletcher unsuccessfully challenged the MPI ruling at the Automobile Injury Compensation Appeal Commission (AICAC) and at the Manitoba Court of Appeal.

Just as some employees with disabilities require disability supports, some candidates with disabilities need access to disability supports that assist them to function independently in the campaign environment. For example, Ross Eadie needed to hire a guide and driver to assist him in campaigning door-to-door in his bid to become a member of the Manitoba Legislative Assembly. According to Eadie, the Manitoba government paid 100% of his election expenses related to disability.¹⁰ *The Elections Finances Act* of Manitoba allows claims for disability supports. Candidates are reimbursed for the full amount of reasonable expenses they incur related to their disabilities to enable them to campaign during the election period.¹¹

The federal and British Columbia election laws allow accommodation costs for people with disabilities to be claimed as “permitted personal expenses” of candidates in a campaign budget. The

Access to Voting

Statistics from the 2000 federal election illustrate Canadians' use of the available services.

- Almost **13 million** Canadians cast ballots in the general election of November 27, 2000.
- Almost **192,000** electors used the special ballot to vote by mail or in person at the office of their returning officer.
- Level access was available at **99.5%** of the **17,340** polling sites used on election day. Transfer certificates allowed electors with disabilities to use other polling stations with level access, if their own did not have level access.
- By having ramps built, returning officers modified **239** facilities to provide level access to more than **1,100** advance and election day polls. All advance polls had level access.
- More than **63,000** electors registered or updated their information on the lists of electors at the advance polls.
- Mobile polling stations were provided for elderly or disabled persons residing in more than **2,500** institutions.

Photo: Elections Canada



Advance voting at federal elections takes place on the 10th, 9th and 7th days before election day.

- Almost **6,500** hospitalized electors registered and voted.
- Elections Canada answered more than **1,100** calls received by TTY (teletypewriter) from persons who were deaf or hard of hearing.

Canada Elections Act [ss. 409(1)(c) and (d)] includes accommodation provisions for both candidates with disabilities and candidates who are caregivers to persons with disabilities, allowing both caregiving expenses and disability-related expenses to be included as personal expenses of a candidate. In Ontario, accessibility costs are excluded from the spending limits for candidates. To assist candidates with disabilities, Elections Canada could support additional research to encourage further legislative action across Canada to help ensure that similar provisions are in place at every level of the electoral process.

Difficulties such as these faced by Sam Sullivan and Steven Fletcher illustrate the additional barriers faced by people who use disability supports. It is more difficult for these Canadians to follow their chosen path to elected office. A very practical problem remains: how does someone who uses disability supports negotiate campaigning in the face of costly support needs? It is an issue that non-disabled campaigners do

not face. The cost of disability supports can be a significant disincentive to running for public office for many people with disabilities.

The Canadian disability community has been promoting the concept of a national disability supports plan, which would provide supports across the life span of an individual. Such a plan would involve commitments by federal, provincial and territorial governments, ensuring comparable services across Canada and thereby ensuring mobility rights.¹² Should such a plan be implemented, it would allow disabled candidates access to the necessary supports during an election campaign.

Lack of role models

People with disabilities who contemplate running for public office have few role models to inspire them. Even elected officials, such as former Prime Minister Jean Chrétien and former Quebec Premier Lucien Bouchard, both of whom live with an impairment, may not identify themselves as disabled persons.

This is particularly true for people with disabilities who are not part of the organized disability rights movement. People with disabilities unaffiliated with disabled people's groups may have more limited access to the newsletters and autobiographies that tell the stories of politicians with disabilities. Sam Savona was inspired by the success of his deaf friend Gary Malkowski, who sat in the Ontario legislature as an NDP member from 1990–1995. Savona's involvement in the 1997 federal election campaign encouraged a student with

cerebral palsy to let her name stand for the presidency of her student council.¹³

When political parties reach out to people with disabilities, this helps to overcome the disincentive caused by the lack of role models and the limited history of people with disabilities seeking public office. Sam Savona began to think about running for office when an NDP federal party worker approached the NDP Disability Caucus to see who was interested in running in the upcoming election. Following that overture, Savona relentlessly pursued candidacy.

Deaf activist Gary Malkowski was able to find a helpful person inside a political party who was willing to mentor him. He describes his experiences in the following manner:

“Prior to being an elected member of the Ontario provincial parliament (and then a defeated candidate in the next election) I had no experience in any parties I was able to make a friend with a member of the provincial parliament who provided me with support in making connections with the provincial party office and the riding association which supported me, a disabled/deaf candidate to run for a provincial seat. I ran as a candidate for the provincial York East NDP riding”¹⁴

Having a disability caucus within a political party can help to raise the profile of disability issues and possibly encourage candidates. Parties may also want to create special funds to promote candidacy by persons with disabilities, or create broader diversity funds to assist with a range of under-represented groups, modelled after the special funds for women candidates in several parties.



Photo: CP (Tom Hanson)

Former Prime Minister Jean Chrétien and former Quebec Premier Lucien Bouchard at a 1998 meeting on Parliament Hill.

Inaccessible places and spaces

The built environment continues to present barriers to people with disabilities. Candidates with various disabilities find that many buildings do not conform to universal design standards; thus they must develop innovative strategies for getting their message out to the public. Sam Savona concentrated his efforts in large apartment buildings that had elevator service and at subway stations. While this may be a workable approach in Toronto or another large metropolitan area, candidates with disabilities in rural areas would have to develop other tactics. One First Nations woman with a visual impairment who ran for chief of her band council was assisted by family and supporters to travel in her community while campaigning.

The self-representational organizations of persons with disabilities: A voice of our own

People with disabilities have created self-representational organizations to give themselves a voice in Canada's public policy debates at the local, provincial and national levels. This requires vigilance in ensuring disabled

People with disabilities have created self-representational organizations to give themselves a voice in Canada's public policy debates at the local, provincial and national levels.

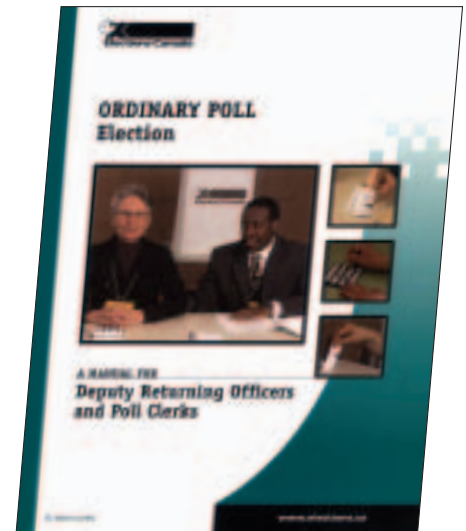
people their electoral rights, as well as encouragement and support for those who wish to participate as candidates.

These organizations have challenged candidates running for office to make commitments on disability issues. They

have also shared information with the public about how to participate in all-candidates meetings and how to interact with candidates when they campaign door-to-door, to make them aware of disability issues. At the local and provincial levels, disability groups organize town hall meetings and provide the opportunity for candidates to address disability issues in a public forum. Disability organizations have also laid human rights complaints to remedy the discrimination caused by polling stations located in inaccessible buildings. Organized people with disabilities have participated in law reform and litigation to eliminate discrimination in the legislation governing Canadian electoral processes.

Despite efforts to ensure that people with disabilities do not experience discrimination at the polls, people with disabilities continue to encounter problems. When problems occur, the organizations help make the issue known and, if requested, assist people with disabilities to lodge complaints about the discrimination experienced. In 2000, the Council of Canadians with Disabilities (CCD) recommended:

“[S]ince a federal election never goes by without us, at CCD, hearing about returning officers who don't quite get it right when dealing with voters with disabilities, perhaps an investment in a few officer trainers from our community wouldn't be such a bad idea for Elections Canada either. Blind voters have told us that they were so mad at having their companions spoken to, instead of them, by returning officials that they almost forgot who they came to vote for.”¹⁵



Elections Canada's training manuals teach the staff of polling stations how to respectfully assist electors with disabilities.

Since 2000, Elections Canada has improved its sensitivity training for returning officers and other election officials. Its revamped training program includes more information about how to provide services to electors with disabilities. The training manuals for returning officers and poll officials contain specific sections about how to meet the special needs of some electors, and an information video provides details about the accessibility of the federal electoral system. CCD advocates that qualified trainers with disabilities provide such awareness training.

The organizations of people with disabilities have also been encouraging grassroots people to run for public office by sharing information about the experiences of elected officials with disabilities in newsletters and through international information networks like Disabled Peoples' International (DPI). Ross Eadie suggests that disabled peoples' organizations provided him with encouragement to become more actively involved in the electoral process.

“At Independence 92 in Vancouver, people with disabilities from all over the world congregated in one place. [A DPI World Congress was held during Independence 92, an international conference.] Our leaders called for people with disabilities to become politicians and part of the government. As described in detail, our leaders said we have lobbied, marched, and educated the public on the ability of those with disabilities, and we still have a long way to go to change society. They said we still haven’t enough people in government to make a real change. They said we could not make changes without someone who lives the life of disability being right at the heart of decision-making. I was fired up to help make further changes, to play my part ... Politicians said they understood, but they would not take the bold steps needed to make change. I decided the only way was to get in there and push.”¹⁶

Conclusion

At least one in eight Canadians reports experiencing a disability and many others provide support to family or friends with disabilities. This is a significant proportion of the Canadian population. Although some political parties do limited outreach to people with disabilities and there has been minimal recognition of the need to accommodate candidates with disabilities, much remains to be done. There needs to be more public and party discourse about candidates with disabilities and how their involvement will benefit Canadian public policy development by making it more responsive to the actual characteristics of the Canadian population. Such discussion will help more people with disabilities to see the need for their involvement in the electoral process and their involvement will, in turn, change public attitudes about candidates with disabilities. To level the

playing field for candidates with disabilities, more jurisdictions need to reimburse candidates for the disability-related costs they incur while campaigning. With adequate disability supports, more visible role models and supportive party and electoral structures, people with disabilities will change the attitudes that say disabled people cannot contribute to electoral politics. More than that, with their presence as elected officials, they will change the landscape and language of politics in Canada. ✖

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8. John Feld, “Sam Savona What a Candidate! What a Campaign,” *Abilities* (Fall 1997), p. 14.
9. Loraine Taneja, “Reducing Barriers to Customized Assistive Technology,” Center on Disabilities Technology and Persons with Disabilities Conference 2002 Proceedings, available at <http://www.csun.edu/cod/conf/2002/proceedings/143.htm>.
10. Eadie, “A Politician Wanna Be,” p. 29.
11. The *Elections Finances Act*, Office Consolidation (February 9, 2003), chapter E32, paragraph 72(3)(a).
12. Council of Canadians with Disabilities, *A Framework for a National Disability Supports Plan* (February 2003).
13. Feld, “Sam Savona,” p. 14.
14. Gary Malkowski, “Running in the Federal Election,” *CCD Election Monitor* Vol. 1, No. 2 (April 25, 1997).
15. *CCD Horror Gazette* Vol. 4, No. 5 (December 13, 2000).
16. Eadie, “A Politician Wanna Be,” p. 26.



The Evolution of Federal Voting Rights for Canadians with Disabilities

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Canada's federal electoral process has become progressively more accessible, in large measure because of the efforts of persons with disabilities. In their quest for electoral equality, groups representing persons with disabilities have adopted a wide range of methods. They have challenged discriminatory laws and practices through the courts, appeared before parliamentary committees and the Royal Commission on Electoral Reform and Party Financing, and developed recommendations and draft legislation. In addition, these groups have provided valuable advice and expertise to the Chief Electoral Officer.



Photo: Elections Canada

At federal elections, voters with visual disabilities may use this cardboard template that has holes enabling them to feel where to mark the ballot for their preferred candidate.

At the same time, successive Chief Electoral Officers have adopted a number of administrative measures to increase the accessibility of the voting process, particularly access to polling stations and information for electors with disabilities.

This article provides an overview of the legal and administrative changes that have taken place over the past 30 years, and concludes that more can be done to ensure that Canada's federal electoral process is as accessible as possible to all Canadians.

The right to vote in Canada

At the federal level in Canada today, every citizen who is 18 years of age or older on election day is entitled to vote.¹ Until 1993, however, the *Canada Elections Act* excluded from voting "every person who is restrained of his liberty of movement or deprived of the management of his property by reason of mental disease."² This provision was eliminated in April 1993 by Bill C-114.

The 1993 amendment may be seen as a response to the October 1988 ruling by the Federal Court of Canada, which declared the provision to be invalid on the grounds that it conflicted with section 3 of the *Canadian Charter of Rights and Freedoms*, which guarantees every citizen of Canada the right to vote. In explaining her ruling, Madame Justice Reed noted that while section 1 of

the Charter allows for limitations that are demonstrably justifiable in a free and democratic society, and that “a requirement of mental competence or judgmental capacity” may well constitute such a limitation, the section of the Act “as presently drafted does not address itself only to mental competence or capacity insofar as that quality is required for the purposes of voting.” She went on to describe the limitation as

While removing legal disqualifications is an essential element in ensuring the universality of the right to vote, it is not the whole story.

“arbitrary”, noting that “it catches people within its ambit who should not be there and, arguably, it does not catch people who perhaps should be.”³ Madame Justice Reed also made reference to two parliamentary committee reports,⁴ as well as to changes that had been made to the law in Ontario⁵ and Manitoba.⁶

The House of Commons Special Committee on the Disabled and the Handicapped had recommended amending the Act as early as 1981, while the Chief Electoral Officer of Canada had, on a number of occasions, encouraged Parliament to seriously examine paragraph 14(4)(f) in light of the probability of a Charter challenge.⁷

In fact, Parliament had attempted to address this issue in 1987. Bill C-79 would have repealed paragraph 14(4)(f). However, Bill C-79 died when Parliament was dissolved for the November 21, 1988, federal general election.

The Federal Court’s decision was delivered on October 17, 1988 – in the

midst of that election. Consequently, paragraph 14(4)(f) was not in effect for that election, and those individuals who had previously been disqualified could vote.

The Royal Commission on Electoral Reform and Party Financing also examined this question. In its final report, tabled in the House of Commons in February 1992, the Commission recommended that:

“... the following persons not be qualified to vote in federal elections: 1) a person subject to a regime estab-

lished to protect the person or the person’s property, pursuant to the law of a province or territory, because the person is totally incapable of understanding the nature and consequences of his or her acts; and 2) a person confined to a psychiatric or other institution as a result of being acquitted of an offence under the *Criminal Code* by reason of insanity.”⁸

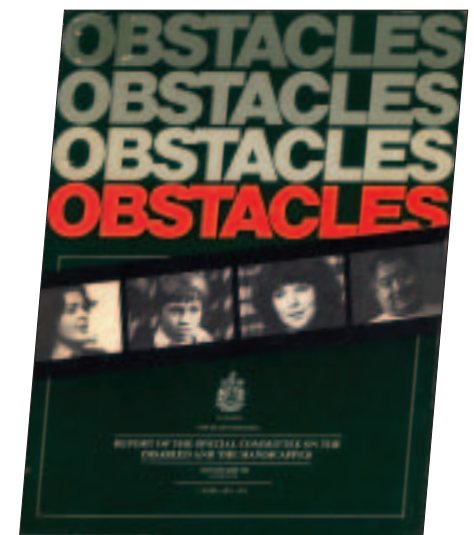
It is interesting to note, then, that Parliament’s response to this question went beyond the requirements of both the 1988 court ruling and the 1992 recommendation by the Royal Commission – neither of which had demanded the complete repeal of paragraph 14(4)(f). As a result, mental disability no longer restricts access to the federal franchise. Indeed, according to a recent study of electoral laws in 63 democracies, only four countries – Canada, Ireland, Italy and Sweden – have no restrictions at the national level on the right to vote for persons with mental disabilities.⁹

Beyond the basics: Ensuring the vote is accessible to all

While removing legal disqualifications is an essential element in ensuring the universality of the right to vote, it is not the whole story. Equally important are the many legislative and administrative measures that have been adopted over the past 30 years to make the electoral process accessible to all Canadians.

Before 1982

Legislative changes to facilitate voting by persons with disabilities predate the Charter. In 1977, for example, Parliament amended the Act to require a minimum number of advance polls in places with level access. This is not to say that voting was fully accessible at that time. In 1981 (International Year of the Disabled), the House of Commons Special Committee on the Disabled and the Handicapped released a report, *Obstacles*, which showed that many barriers remained. Among the Committee’s recommendations were that Canada establish a “postal



The 1981 report of the House of Commons Special Committee on the Disabled and the Handicapped showed that there were still many barriers to voting.



vote system similar to Manitoba's" to make voting more accessible; that the Chief Electoral Officer cease the practice of centralizing polling places and accommodate, as fully as possible, the mobility problems of persons with disabilities; and that the Chief Electoral Officer establish orientation sessions for polling place personnel on the needs of voters with disabilities.¹⁰

1982–1987: Consultations and recommendations

Shortly after the release of *Obstacles*, the Chief Electoral Officer appeared before the Committee to discuss its recommendations and to examine the measures that would be needed to implement the proposed changes. His 1983 statutory report to Parliament provides an overview of those discussions.¹¹ That report also shows that Elections Canada had already implemented, at least on a limited basis, several administrative measures recommended by the Committee, or was planning to implement them for the next election. Examples include the placing of polling stations in nursing homes or chronic care hospitals, and the implementation

of orientation sessions for polling station personnel. With respect to the recommendations for accessibility of polling stations and the offices of returning officers, the Chief Electoral Officer expressed full support and pointed out that he had urged returning officers to locate their offices in public and accessible buildings, but that the legislation did not give him the authority to force them to do so.

This early episode shows that where the Chief Electoral Officer had the authority to do so, he was already implementing administrative measures to improve accessibility for voters with disabilities. To achieve those changes that were not within his legislative authority, the Chief Electoral Officer recommended that Parliament enact the necessary amendments.

The 1983 report also reveals that Elections Canada had adopted the practice of consulting groups that represent persons with disabilities. For example, to prepare orientation

sessions for polling station personnel, Elections Canada consulted the Coalition of Provincial Organizations of the Handicapped, the Causeway Work Centre, the Canadian Mental Health Association, the Canadian Association for the Mentally Retarded and the National Institute for Mental Retardation, the Canadian Rehabilitation Council for the Disabled and the Canadian Hospitals Association.¹²

The Chief Electoral Officer made additional recommendations on accessibility in his 1984 report. Among these were that all revisal offices and advance polling stations be required to have level access, and that election officers be authorized, where necessary, to take the ballot box outside the polling station to permit an incapacitated elector to vote.¹³ These recommendations were reiterated in his 1985 report, which also recommended that proxy voting be made easier.¹⁴

Major legislative changes to guarantee accessibility took place in June 1992, when Bill C-78 was passed.

1988–1992: Implementation in the absence of legislation

In 1987, Parliament attempted, through Bill C-79, to respond to some of the recommendations of the Chief Electoral Officer and the House of Commons Special Committee. Among its provisions was a requirement that the offices of returning officers, all advance polling stations and all centralized polling places be located in buildings with level access. Bill C-79 died when the 1988 election was called, but the Chief Electoral Officer proceeded to implement its level access measures. A level access policy



At Canadian federal elections, electors with physical disabilities may request assistance, including help in marking the ballot.

was developed in consultation with the Barrier-Free Design Centre, a non-profit organization that also drew up standards for the construction and installation of temporary or permanent ramps, the posting of information placards and the construction of other special facilities at polling stations.¹⁵

Following the 1988 election, returning officers were required to submit detailed reports on the steps they had taken to implement the level access policy. These reports indicated that 1,048 ramps were installed, providing level access to 4,834 polling stations. Overall, more than 92% of polling stations had level access.

1992: Bill C-78 and the Charlottetown Accord referendum

Major legislative changes to guarantee accessibility took place in June 1992, when Bill C-78 was passed.¹⁶ These amendments to the *Canada Elections Act* resulted from a number of factors.

First, the disabilities community had made significant input. In addition to appearances by groups representing persons with disabilities before parlia-

mentary committees studying this bill, the Canadian Disability Rights Council, with funding from the Secretary of State's Disabled Persons Participation Program, prepared a detailed package of legislative reform proposals.¹⁷ Many of these proposals were included in the final draft of the bill.

Second, Elections Canada contributed research and legal advice to the parliamentary committees charged with studying this bill.

Finally, section 10 of Bill C-78, which guaranteed level access to polling stations, may be seen as a response to the February 1992 decision by the

Canadian Human Rights Tribunal,¹⁸ which found that Elections Canada had discriminated against persons with disabilities during the 1984 federal election by failing to provide adequate access for persons in wheelchairs at several Manitoba polling stations.¹⁹ However, it seems likely that a provision for level access would have been

included in any event, as this was a measure the Chief Electoral Officer had been recommending for several years. In fact, the Tribunal noted with approval that Elections Canada had already taken significant measures to implement a policy of level access by 1988.

As to the *Canada Elections Act*, Bill C-78 amended it to provide for:

- mobile polls at institutions where seniors or persons with disabilities reside
- level access at all polling stations
- a transfer certificate allowing electors with disabilities to vote at an accessible polling station if theirs does not have level access
- a template for use by electors who are visually challenged
- the appointment of an interpreter to enable the deputy returning officer to communicate with an elector with a disability
- public education and information programs targeted to persons and groups most likely to experience difficulties in exercising their franchise

In the three months between the passage of Bill C-78 and the 1992 referendum on the Charlottetown Accord, Elections Canada was able to implement all of the measures in the bill.

In the three months between the passage of Bill C-78 and the issue of the writs for the 1992 referendum on the Charlottetown Accord, Elections Canada was able to implement all of the measures in the bill. This quick implementation was made possible, in large part, by previous administrative initiatives,

such as the introduction of a template for persons with visual disabilities in 1979 and the provision of level access in most polling stations in 1988.²⁰ In addition, Elections Canada:

- paid to have 724 ramps built – resulting in an accessibility rate of 99% on polling day
- created a total of 434 mobile polls, serving 1,182 institutions for the elderly and persons with disabilities
- developed an inventory of all sign language interpreters across the country and, because of a shortage of interpreters at that time, encouraged electors who communicate through

sign language to go to the polls accompanied by a friend or relative familiar with sign language

- printed the referendum question in Braille, in consultation with the Canadian National Institute for the Blind
- added visual symbols to the Notice of Enumeration cards, to assist electors with little or no reading ability
- replaced the instructional text behind the voting screen with graphics showing electors how to mark and fold their ballot papers
- sensitized and trained election officers on the needs of persons with

disabilities and how to provide them with appropriate services

1993: Bill C-114

Following recommendations from the Royal Commission on Electoral Reform and Party Financing (tabled in February 1992), Parliament passed Bill C-114 in May 1993. Notable among the administrative reforms brought about by this law was the extension of special ballot voting (i.e. voting by mail) to all electors. This effectively replaced proxy voting as an additional method of voting for persons with disabilities.²¹

Voting by Special Ballot

Many electors cannot or do not wish to vote at their own polling stations on election day or during advance voting. They may have physical or other disabilities, be hospitalized in an acute care facility or be students living away from home. They may be travelling or working away from their electoral districts or residing temporarily outside Canada. In light of this, Parliament took a major step forward in 1993 in Bill C-114, which extended the use of the special ballot to all electors. Voting by mail was formerly available only to members of the Canadian Forces and Canadian diplomats. Since 1993, all electors may register and vote by mail or in person at the office of the returning officer.

Those voting by special ballot use a voting kit that includes a unique system of three envelopes to ensure secrecy. On a blank ballot, the elector writes the name of the preferred candidate. It is the voter's responsibility to obtain information about the candidates; although, once candidates are confirmed, a list for the appropriate riding is included with the kit. The voter must have a Canadian address and his or her vote is counted for the electoral district of that address. He or she must register to vote by special ballot before 6:00 p.m., on the sixth day before election day. Registration forms are available from the offices of returning officers (after the writs are issued) or from Elections Canada (www.elections.ca under "Registration of Electors").

Electors absent from the electoral district of their ordinary residence must ensure that their completed ballots arrive at

Elections Canada before 6:00 p.m., Ottawa time, on election day. Canadian residents voting in their own ridings must ensure that the returning officer receives the completed ballot before the polling stations in the electoral district close on election day.



The special ballot is also used by Canadian Forces electors and incarcerated electors, using different procedures from other special ballot voters.

Almost 192,000 electors voted by special ballot in the 2000 general election.

Building on the measures introduced in 1992, Elections Canada created a checklist to help returning officers assess the accessibility of revisal offices and polling stations. The assessments resulted in a computerized database of 17,000 suitable sites across the country. Used primarily by Elections Canada to identify where resources are needed to achieve accessibility, this database was also made available to interested provincial and municipal electoral organizations.²² In addition, consultations were carried out with more than a dozen groups representing people with disabilities and as a result, the number of mobile polls was increased, and signage at polling stations was improved.

2000 general election

Elections Canada continued to work with groups representing persons with disabilities to improve its products and services. Notably, this included:

- providing a general information kit in Braille and large print, and on audio-cassette and diskette
- preparing the information householder in plain language
- working with the Canadian Association of the Deaf to produce an American Sign Language video, highlighting important dates in the election calendar and information on the voting process

- promoting access to its teletypewriter (TTY) phone service for electors with a hearing impairment
- airing news releases on VoicePrint and La Magnétothèque (an audio news and information service for people with impaired vision)
- hiring a special needs liaison officer to communicate with target associations during elections²³

While significant progress has been made, the task of ensuring that the federal electoral process is fully accessible is far from complete.

Conclusion

While significant progress has been made, the task of ensuring that the federal electoral process is fully accessible is far from complete. Based on the experience of the 2000 general election, it would appear that improvements could be made in the following areas:

- ensuring that interpreters are available for persons with hearing disabilities
- making sure that Elections Canada's policies are properly applied by election day personnel
- enabling alternative methods of voting and registering to vote

On the third point, it is worth noting that of all the stakeholder groups surveyed by Elections Canada following

the 2000 election, groups representing persons with disabilities were the most supportive of using the Internet for such activities as registering to vote, finding out where to vote and even voting itself. Fully 64% indicated they would be interested in voting on-line

during future elections, if technology allows. By comparison, support for on-line voting among the general population was only 47%.

Although much has changed over the past 30 years to make the federal electoral process more accessible, more can be done. While a good deal can be accomplished through administrative measures, further changes to the *Canada Elections Act* may be required. Working in partnership with groups representing persons with disabilities, Elections Canada will continue to seek ways to improve its programs and services, so that all Canadians can exercise their democratic right to vote freely and with as few difficulties as possible. ✕

NOTES

1. The only exceptions are the Chief Electoral Officer and the Assistant Chief Electoral Officer (*Canada Elections Act*, s. 4).
2. *Canada Elections Act*, 1970, c. 14, s. 14(4).
3. *Canadian Disability Rights Council v. Canada*, 1988.
4. Canada, House of Commons, *Report of the Special Committee on the Disabled and the Handicapped: Obstacles* (Ottawa: Queen's

Printer, February 1981), Recommendation 9, p. 24.
Canada, House of Commons, *Report of the Parliamentary Committee on Equality Rights: Equality for All* (Ottawa: Queen's Printer, 1985), Recommendation 52, p. 91.

5. The *Ontario Election Act*, 1984, S.O. 1984, c. 54, s. 14, provided for polling to take place in a variety of health institutions, including psychiatric hospitals. At the time

of the court ruling, institutionalized mental patients in Ontario had voted in the previous two provincial elections and the 1985 municipal elections, and were being enumerated for the 1988 municipal elections.

6. Part of s. 31(b) of *The Elections Act* of Manitoba, which disqualified patients in mental hospitals from voting, was struck down as being in violation of s. 3 of the Charter in *Canadian Mental Health*

- Association (Manitoba Division) v. Manitoba (Chief Electoral Officer)* (March 17, 1988).
7. Chief Electoral Officer of Canada, *1984 Statutory Report of the Chief Electoral Officer of Canada* (Ottawa: Minister of Supply and Services, 1984), p. 19. See also the *1983 Statutory Report of the Chief Electoral Officer of Canada* (Ottawa: Minister of Supply and Services, 1983), pp. 26 and 28; and the *1985 Report of the Chief Electoral Officer of Canada on Proposed Legislative Changes* (Ottawa: Minister of Supply and Services, 1985), p. 3.
 8. Canada, Royal Commission on Electoral Reform and Party Financing, *Reforming Electoral Democracy: Final Report*, Vol. 1 (Ottawa: Minister of Supply and Services Canada, 1991), p. 41.
 9. Louis Massicotte, André Blais and Antoine Yoshinaka, *Establishing the Rules of the Game: Election Laws in Democracies* (Toronto: University of Toronto Press, 2004), p. 27.
 10. *Obstacles*, pp. 22–23.
 11. Chief Electoral Officer, *1983 Statutory Report*, pp. 23–26.
 12. Chief Electoral Officer, *1983 Statutory Report*, p. 24.
 13. Chief Electoral Officer, *1984 Statutory Report*, pp. 42 and 50.
 14. Chief Electoral Officer, *1985 Report*, p. 12.
 15. Chief Electoral Officer of Canada, *1989 Report of the Chief Electoral Officer of Canada* (Ottawa: Minister of Supply and Services, 1989), pp. 31–32.
 16. Bill C-78 amended a total of six federal acts, including the *Canada Elections Act*, the *Citizenship Act*, and the *Criminal Code*.
 17. Canadian Disability Rights Council, *Legislative Reform for People with Disabilities ... Proposals for Change* (Winnipeg, Manitoba: Canadian Disability Rights Council, September 1991).
 18. *Canadian Paraplegic Association v. Elections Canada et al.* (1992).
 19. Nancy Holmes, *Legislative Summary: Bill C-78: An Act to Amend Certain Acts with Respect to Persons with Disabilities*, Library of Parliament, LS-135E (1992), p. 9.
 20. Chief Electoral Officer of Canada, *The 1992 Federal Referendum: A Challenge Met* (Ottawa: Elections Canada, 1994), p. 15.
 21. In his report on the 1992 referendum (*A Challenge Met*, p. 54), the Chief Electoral Officer pointed out that many electors found proxy voting cumbersome and difficult. In particular, concerns were expressed about the requirement for a medical certificate to obtain a proxy certificate, as this often entailed paying a fee. Had they not been replaced by the extension of special ballot voting to all electors, the proxy voting provisions would almost certainly have required amendments.
 22. Chief Electoral Officer of Canada, *Towards the 35th General Election* (Ottawa: Elections Canada, 1994), p. 31.
 23. Chief Electoral Officer of Canada, *Report of the Chief Electoral Officer of Canada on the 37th General Election Held on November 27, 2000* (Ottawa: Elections Canada, 2001), pp. 54–55.





The Evolution of Access to Voting for People with Disabilities in Quebec

Michel Leclerc

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Since 1792, the date of the first legislative election in Lower Canada, there have been 60 general elections and four referendums in Quebec. During that time, the various reforms introduced have, on the whole, helped increase access to the vote and encouraged voting. Indeed, while scarcely a few tens of thousands of people were entitled to vote at the end of the 18th century, almost 93% of Quebec's population aged 18 or over was on the list of electors for the 2003 election. The gradual evolution of Quebec's electoral system, particularly in the last few decades, testifies to the government's intent to make the electorate, including certain groups with special needs, central to its concerns.

Recent legislative provisions

While Quebeckers made major advances in democratic and political rights over the years, it was only in the 1960s that provisions were introduced into Quebec electoral law to facilitate voting for people with disabilities and those in hospitals. Then, during the May 1980 referendum, some polling stations were made accessible to people with disabilities who wanted to vote in advance. During the November 1980 by-elections, people with visual impairments were able to vote with the help of a template. And in response to the needs of electors with limited mobility, since 1985 the Act has required level access at all revision offices, advance polls and returning offices.

A new version of the electoral legislation was adopted in 1989. The changes included recognition of the right

to vote of people with mental disabilities, unless they were under guardianship. The Act also introduced mobile polls for electors who are domiciled in and unable to leave their hospital, residential or chronic care institution or rehabilitation centre. This measure allowed them to register and then to vote without having to leave their rooms.

Since 1995, thanks to new legislative measures,¹ all ordinary polls must, except in extraordinary circumstances, be accessible to people with disabilities on election day. This measure made it possible to attain a 90% accessibility rate for people with mobility impairments during the 1995 referendum. During the 2003 general election, this rate exceeded 97%, thanks to the efforts that the returning officers made to choose appropriate sites or adapt them.

In addition, the electoral staff in polling stations are prepared to help people who find it difficult to vote. Then there are the special measures to facilitate voting for electors with disabilities or who are illiterate:

- electors who cannot mark the ballot may ask for the assistance of a member of the electoral staff
- a template is available so that electors with visual impairments can vote by themselves; in this specific case, the deputy returning officer tells the elector the order in which the candidates appear on the ballot
- a person with a hearing impairment may be accompanied by an interpreter



Voters with visual disabilities may use a cardboard template to help them mark the ballot in Quebec's provincial elections.

In 1998, a legislative provision was added for electors who are temporarily away from home to receive medical care, undertake a rehabilitation program or ensure the safety of themselves or their children. These electors may now choose to vote in the electoral district where their home is, or in the electoral district where they are living for one of these purposes.²

The importance of information

In a democracy, access to information is a key element in allowing electors to make enlightened choices. This factor is particularly crucial for people with disabilities or with limited mobility, and for people who are illiterate or have little education. It is, therefore, of prime importance to send targeted information to them and adapt it to their needs, to give them an equal opportunity to vote. It is important to remember that the methods used to inform the Quebec electorate as a whole are not necessarily suitable to groups whose method of communication differs from that of the rest of the population, such as people with visual or hearing impairments. It is also necessary to inform some groups of

electors, such as people with reduced mobility, of the measures specially designed for them.

Therefore, in the 1990s, with the development of new ways to facilitate voting for people with disabilities, the Directeur général des élections du Québec created a communication program based on the needs of this specific clientele. It was implemented during the 1992 referendum and improved during subsequent elections.

Its goal is to give electors with special needs as much information as possible on the details of electoral legislation and on the methods available to give them easier access to voting.

During recent elections, the Directeur général des élections du Québec has made significant efforts in this area. Contact was made with the representatives of various target groups to inform them of the provisions of the Act and the means available to facilitate their access to voting, and to solicit their co-operation in

disseminating this information to their members. More than 20 different information tools adapted to the needs of these electors were produced. They took the form of pamphlets, posters, letters, news releases and advertising messages.

In particular, the manual for electors was adapted to alternative media such as Braille, audio-cassette and large print, as well as video cassettes in Quebec Sign Language and American Sign Language. All televised messages were subtitled for people with hearing or visual disabilities. A teletypewriter for the deaf (TTY), which gives access to qualified enquiries officers, allows these electors to obtain information adapted to their mode of communication. Finally, throughout each election period, information on the special measures for these groups was sent to all media in Quebec, including some 20 specialized media and to some 1,500 affected institutions and organizations.

In a democracy, access to information is a key element in allowing electors to make enlightened choices.

For the 2003 general election, a pamphlet was produced showing the various stages of the election period. The last part of this pamphlet, representing election day, was turned into a poster to be put up in all polling stations. The pamphlet and poster, which are very visually oriented, with little text, were aimed in particular at groups who had difficulty understanding written information in French or English. They were thus sent to organizations involved with literacy or welcoming immigrants.



An elector's manual was provided in various alternative media for the 2003 election in Quebec.

A great deal of importance was attached to the visual treatment of messages to ensure they reflected respect for people with special needs. In all types of communication with electors, the Directeur général des élections made sure that the text of the message incorporated the provisions of the Act that applied to them in particular and demonstrated awareness of and sensitivity to them. The message's content must meet the clientele's needs and, at the same time, the language used must be adapted to their individual realities. Thus, an advertising message on a given subject may be drafted differently, depending on whether it is addressed to people with visual impairments or people with limited mobility. When asking someone who is blind, for example, to check that his or her name is correct on the list of electors, the request must be phrased differently and he or she must be given the means to check that information.

Always room for improvement

Despite some falling-off in recent general elections, Quebec in recent decades has had one of the highest voter turnout rates among the world's

democracies. The vote, with universal suffrage, is the ultimate expression of democracy and counts as one of the major assets of modern societies. We must preserve this right and the access to using it as one of the most precious of all rights.

The population is aging and society is changing. Trends are emerging and modifying the characteristics of Quebec society. In 1991, there were twice as many people under 15 as there were 65 and over in Quebec.

It is estimated that, in 2031, the situation will be reversed. We know that there are clearly more people with disabilities or mobility impairments among the elderly. To keep voter turnout as high as possible, the electoral system must adapt to these demographic changes.

Being aware of this situation, the Directeur général des élections du Québec has set the following

institutional objective in his *Strategic Plan 2001–2005*:

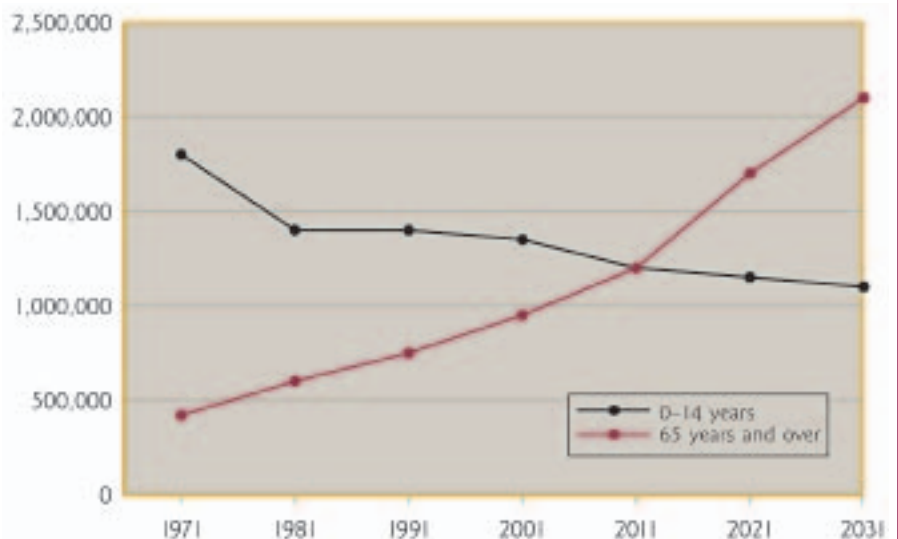
- Promote the broadest possible exercise of the right to vote, be it within the framework of the current legislation or by recommending and supporting legislative amendments adapted to the needs of electors.

In the same spirit, the Directeur général des élections included a recommendation in his annual report to amend the electoral

To keep voter turnout as high as possible, the electoral system must adapt to demographic changes.

legislation to encourage as many people as possible to use their right to vote, given the new socio-demographic realities. And one of his research priorities for 2003–2005 is to study mechanisms to encourage the broadest possible exercise of the right to vote.

Changes in the population of Quebec, for ages 0–14 years and 65 years and over (estimated from 2001 on)



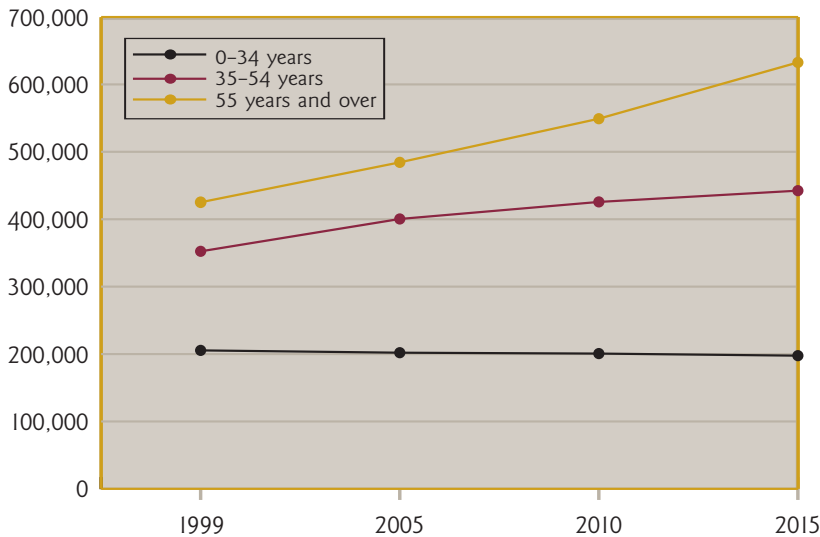
Sources: Statistics Canada and projections of the Bureau de la statistique du Québec

It was against this backdrop that the Directeur général des élections set up an internal working group to study

different possibilities and their impacts. Advance polls, mobile polls, mail-in ballots and special voting

in the returning office are among the voting mechanisms that were reconsidered and analyzed. This report should be submitted to Quebec's National Assembly in the spring of 2004 as a contribution to potential amendments to the Act.

Estimate of the number of people with disabilities in Quebec, by age group



Sources: Statistics Canada, Ministère de la Santé et des Services sociaux du Québec, Office des personnes handicapées du Québec

Constant concern with improving access to the vote and facilitating voting for all electors, and particularly the elderly and people who are illiterate or have physical or mental disabilities, permeates the evolution of Quebec's electoral system.³ This evolution confirms that any system has room for improvement. Ours enjoys solid foundations and valuable assets on which we must continue to build. ✕

NOTES

1. Directeur général des élections du Québec, *Cinquante ans au cœur de la démocratie : Le Directeur général des élections et l'évolution de la législation électorale de 1945 à 1995*, Collection Études électorales (Québec: 1996).
2. In a section of his Web site, the Directeur général des élections du Québec describes the various measures to facilitate voting, in particular for people with disabilities or limited mobility. See www.electionsquebec.qc.ca/en/measures_facilitate_voting.asp.
3. Directeur général des élections du Québec, *Québec's electoral system: Basic reference manual*, Electoral Studies, 5th Edition (Québec: 2002).



McConnell v. FEC

A New World of Campaign Finance in the United States?

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On December 10, 2003, the U.S. Supreme Court issued its ruling in *McConnell v. Federal Election Commission*, the court case that challenged the constitutionality of the *Bipartisan Campaign Reform Act* (BCRA), or, as it is more commonly known, the McCain-Feingold law.¹ The case was widely viewed as the most important legal battle on campaign finance since the Supreme Court established Congress's authority to regulate campaign funding under the First Amendment in its landmark decision in *Buckley v. Valeo*,² more than 25 years ago. The central issue before the Court was the question of whether BCRA's new limits on party finances and independent advertising campaigns by parties and interest groups were permissible restrictions on the rights of free speech and association under the First Amendment. In a decision that surprised many observers, given the intense legislative battle over BCRA and a lower court decision that found parts of the law unconstitutional, the Court upheld all the major provisions of the law, although in most instances by a narrow five-to-four majority.³

The Court's decision on BCRA ushered in a new era of federal campaign finance regulation in the United States. But how much did it really change? The Court took care to note that its view was grounded firmly in prior court precedents, and cast BCRA, as its defenders had argued, as an incremental step towards restoring longstanding prohibitions

on the use of corporate and labour union funds in federal elections and regulations mandating the public disclosure of campaign monies. The majority adhered to the First Amendment doctrine established in *Buckley*, maintaining the distinction between contributions and expenditures and affirming that Congress had the authority to regulate contributions, but not expenditures. It also followed the now well-established principle that the constitutional interest served by campaign finance laws is to prevent corruption or the appearance of corruption. Indeed, only Justices Scalia and Thomas, in their separate dissenting opinions, argued that core components of *Buckley* should be overturned, most notably arguing that limits on campaign contributions are unconstitutional.

However, despite the largely conservative approach represented in the majority opinion, the Court did offer new directions for reform by building on prior rulings in important and meaningful ways. The majority advanced an expansive and pragmatic understanding of corruption to include not simply the exchange of cash for votes or direct influence on legislation, but also the sale of access to legislators and the "broader threat" of undue influence that results "from politicians too compliant with the wishes of large contributors." The Court also found that safeguarding the integrity of the electoral process justified efforts to



Republican Senator Mitch McConnell (Kentucky) challenged the constitutionality of the Bipartisan Campaign Reform Act, signed into law by U.S. President George Bush on March 27, 2002.

extend the regulatory structure to deal with reasonable and plausible means of circumventing the law, even in certain circumstances when it involved funds spent by parties in ways that would benefit candidates. The decision also approved new and broader standards for defining the types of campaign activity that can be regulated under the First Amendment, especially with respect to political advertising. Finally, the ruling expanded the reach of federal law to encompass the federal-election-related activities of state and local party committees and other political groups.

Key elements of the new law

Congress adopted BCRA primarily to address two contemporary forms of campaign financing, party soft money and issue advocacy advertising, that had created egregious tears in the regulatory fabric established by the 1974 *Federal Election Campaign Act* (FECA) and rendered utterly meaningless the law's contribution limits and public disclosure requirements. Throughout the 1990s, party committees raised increasingly large sums of soft money – unlimited contributions exempt from

federal source prohibitions – from corporations, labour unions and individuals. Although these funds were ostensibly spent for purposes unrelated to federal elections, they could be used to pay for part of the costs of voter registration drives, voter mobilization programs and other “party-building” activities that benefit federal candidates. As the parties became more aggressive in their use of soft money, the amounts of unregulated money spent in connection with federal races soared, rising from \$86 million in 1992 to almost \$500 million in 2002.⁴

The growth of soft money became especially prominent during the 1996 election, when the parties discovered new ways of spending these funds on broadcast advertisements that supported federal candidates, but were not considered to be campaign ads subject to federal law. This tactic was based on a distinction made by the Supreme Court in *Buckley* between election-related “express advocacy” communications that could be regulated by campaign finance laws and non-election-related “issue advocacy” communications that could not. “Express advocacy” communication was deemed to consist of messages that used such words as “vote for” or “elect.” After many years of inattention, this “magic words” doctrine came to be interpreted to mean that so long as certain words were not included in an ad, that ad could be financed at least in part with unregulated monies, including funds raised from corporations and labour unions. Parties and interest groups quickly exploited this loophole, spending more than \$250 million on independently financed television and radio ads in the 2000 election alone, with most of the money coming from sources long prohibited in federal elections.⁵

This explosion of party soft money and issue advocacy advertising, combined with a growing body of evidence concerning the corruptive effects of soft money gifts and the electioneering intent and impact of issue advertising in federal campaigns, convinced Congress that the flow of unregulated money had to be stopped. Accordingly, one of the cornerstones of BCRA was a ban on soft money. The law prohibits federal officeholders and candidates, as well as national party leaders and their agents, from raising or spending any funds that are not subject to federal contribution limits and reporting requirements. In other words, federal politicians and national party personnel, as a general rule, are only allowed to raise and spend “hard money” – money raised under federal regulations, which means no contributions from corporate or labour union treasury funds and no unlimited gifts from wealthy individuals. The ban includes efforts to raise soft money for state or local party committees. Federal candidates may not solicit contributions impermissible under federal law for state organizations.⁶ To ensure that officeholders do not simply shift their soft money solicitations to fundraising



The National Rifle Association challenged the constitutionality of the Bipartisan Campaign Reform Act with the claim that Americans had lost “a large measure of their right to exercise collective paid political speech.”

for groups that can conduct election-related activities, the law also restricts the fundraising that federal politicians and national party leaders can undertake for non-party and tax-exempt organizations.

The law prohibits federal officeholders and candidates, as well as national party leaders and their agents, from raising or spending any funds that are not subject to federal contribution limits and reporting requirements.

BCRA also deals with the circumvention problem through specific rules about the types of state and local party expenses that must be financed with federally regulated funds. The law expands the definition of “federal election activity” to clarify the types of campaign activity that state and local parties have to finance with federal hard money. These activities are defined to include (a) voter registration during the 120 days before an election; (b) voter identification and turnout efforts, and generic campaign activity conducted in connection with an election in which a federal candidate appears on the ballot; (c) public communication that refers to a clearly identified federal candidate and “promotes, attacks, supports or opposes” that candidate; and (d) the services of any state party employee who spends more than 25% of his or her time on federal election activities.

Another cornerstone of BCRA was the creation of a new category of broadcast ads – electioneering communications – that establishes a new standard for election-related

speech extending well beyond the “magic words” of express advocacy. As defined by BCRA, an “electioneering communication” is any broadcast, cable or satellite communication that refers to a clearly identified federal candidate, is broadcast within 30 days of a primary election or 60 days of a general election, and is targeted to the electorate of the identified candidate. Any advertisements

that fulfill all of these criteria cannot be paid for with money from corporate and labour union treasuries and the sources of funding must be disclosed to the public. The law neither prohibits any independent advertising campaigns nor limits the amounts that can be spent on broadcast communications; it simply requires that any ads qualifying as electioneering communications be financed with funds subject to federal regulation.

The Supreme Court’s decision

In upholding the provisions summarized above, the Court in *McConnell* relied heavily on the evidentiary record that was prepared in the case and showed a notable willingness to defer to Congress’s “ability to weigh competing constitutional interests in an area in which it enjoys particular expertise.” Congress, in the view of the majority, had “properly relied on the recognition of its authority” as established by the Court and “concluded from the record that soft money’s corrupting influence insinuates itself into the political process not only through national party committees, but also through state committees, which function as an alternative avenue for precisely the same corrupting forces.” The Court thus upheld the constitutionality of the ban on soft money and the requirements imposed on state and local parties to *spend* only hard money on federal election activities. In doing so, the Court contended that BCRA simply “restore[s] the efficacy of FECA’s longstanding restriction on contributions to state and local

Photo: Associated Press



United States Supreme Court, Washington, D.C.

committees for the purpose of influencing federal elections,” and that the new restraints were justified because they served the “important government interest” in preventing circumvention of the soft money ban.

Certainly the most surprising aspect of the Court’s opinion was the apparent ease with which it reached its conclusion to uphold the constitutionality of the “electioneering communications” definition and the accompanying limits on election-related speech by interest groups and other non-party organizations. This was one of the most controversial aspects of the law and a matter of intense legal debate in the months leading up to the Supreme Court ruling, with the District Court panel finding BCRA’s primary definition of electioneering communications overly broad and thus unconstitutional.⁷

The Supreme Court first rejected the plaintiffs’ argument that the Constitution prohibits Congress from regulating election speech that goes beyond the express advocacy standard. That *Buckley* standard, the majority ruled, was the product of statutory interpretation rather than a constitutional command. Congress had every right to construct an alternative standard that was neither vague nor overly broad. But the Court devoted little attention to the arguments advanced by plaintiffs that the four-part test (broadcast communication/clearly identified candidate/proximity to election/targeted to electorate) was too vague to withstand constitutional scrutiny and would snare some ads that were not designed to influence an election in the web of federal regulation. The Court found the four components of the new electioneering standard to be “both easily understood and objectively determinable” and thereby swept aside any concerns about the vagueness of

the definition. The Court also was comparably abrupt in dismissing concerns about the definition being overly broad, explaining that issues ads broadcast in close proximity to an election are “the functional equivalent of express advocacy.” Instead, the Court focused on the purpose of the rule – to uphold the ban on corporate and union treasury funds in federal elections and promote public disclosure of election-related expenditures – and accepted the new rule.

An even greater eight-to-one majority supported the disclosure of electioneering advertisements. The BCRA requires the disclosure of the names of any individuals who contribute \$1,000 or more to an individual or group paying for electioneering communications. The Act further requires these advertisers to disclose not only the actual amounts spent on these campaign ads, but also any contracts made for communications that have not yet aired. While the Court did consider the problems that might accompany these disclosure requirements, all of the Justices, except for Justice Thomas,

felt that any concerns were outweighed by the public’s interest in obtaining full disclosure prior to an election.

What lies ahead

By upholding the major pillars of BCRA, the Court has sanctioned the efforts of Congress to rein in party soft money and electioneering in the guise of issue advocacy, thereby breaking up the nexus among large donors, political parties and elected officials, and reinstating the prohibition on corporate and union contributions and expenditures in federal elections. This presages, not a revolution in campaign finance, but an incremental adjustment to patch gaping holes in the regulatory regime. The new law anticipates no reduction in the amount of money spent on election campaigns nor any diminution of campaign activity by political parties or interest groups.



The Web sites of U.S. President George Bush and some of the Democratic challengers have been important tools in soliciting contributions for their 2004 presidential campaigns.

Political parties will continue to be free to spend unlimited amounts in independent expenditures on behalf of their candidates, as long as the funds used for this purpose are hard dollars – that is, raised in accordance with federal source prohibitions and contribution limits. (The Court in *McConnell* affirmed that right in overturning a minor provision of BCRA that would have forced parties to choose whether to make limited expenditures in coordination with a candidate or unlimited independent expenditures.) Parties may also invest unlimited sums of hard money in party-building and get-out-the-vote activities. Initial experience under BCRA suggests that parties will have adequate funds. The national parties raised more hard money in the first year of the current presidential election cycle than hard and soft money combined during the comparable period in the previous cycle.

Interest groups and non-party organizations also have many options under BCRA to engage in robust campaign communications. They can spend unlimited amounts in independent expenditures and electioneering communications, using funds raised by their political action committees (PACs) in accordance with federal restrictions. They can also spend without limit and avoid all restrictions on the source of funds by running ads that fail to meet all four criteria of the new bright-line test for electioneering communications, and by funding non-broadcast campaign activities such as mail, phone banks, Internet and voter education programs.

Not surprisingly, political actors have moved quickly and aggressively to test the limits of the new law. Several new organizations have been formed by prominent political figures to receive

soft-money contributions (from corporations, unions and wealthy individuals) with the intent of using those funds for partisan voter mobilization programs or for campaign ads that fall outside the window of electioneering communications. The Federal Election Commission (FEC) will rule on whether these organizations must register as federal political committees and comply with the applicable rules, including federal contribution limits. This is only one important illustration of the extent to which BCRA's ultimate impact will depend crucially on administrative rulings by the FEC.

Conclusion

As dramatic and surprising as the passage of the McCain-Feingold bill and the Supreme Court's decision to uphold its major provisions are, it would be a mistake to conclude that the United States has entered a new world of campaign finance. Changes in the law are best viewed as incremental repairs, not new departures. Campaign finance law and jurisprudence continue to heed the free speech imperatives of the First Amendment. Long-standing prohibitions on corporate and union financing of federal election campaigns have been restored after years of leakage, and disclosure regimes have been strengthened. Ample scope remains for political parties and interest groups to engage in unlimited campaign communication.

Perhaps the most interesting question is whether the Court's more expansive reading of *Buckley*, one more

in line with subsequent cases, including *Austin*, *Missouri Shrink PAC*, *Colorado II*, and *Beaumont*,⁸ portend more constitutionally-sanctioned reforms to limit expenditures. This seems unlikely. The Court's prevailing doctrine on campaign finance retains the crucial distinction between contributions and expenditures. Moreover, four members of the Court were willing to overturn

Long-standing prohibitions on corporate and union financing of federal election campaigns have been restored after years of leakage, and disclosure regimes have been strengthened.

most of the provisions of BCRA and move in a more deregulatory direction. A slight change in its composition could move the Court in a radically different direction on campaign finance.

For the foreseeable future, therefore, reformers are likely to turn their attention to proposals that fit within the current jurisprudence. These include repairing the presidential public financing system, providing free air time to candidates and parties, reinstating a federal tax credit for small donors, and strengthening or restructuring the Federal Election Commission. ❧

NOTES

1. 124 S. Ct. 619 (2003). The text of the opinion is available at <http://www.supremecourtus.gov/opinions/03pdf/02-1674.pdf>. *The Bipartisan Campaign Reform Act* was signed into law by President Bush on March 27, 2002. Its constitutionality was immediately challenged by Republican Senator Mitch McConnell and the National Rifle Association. Eventually, 11 lawsuits involving 77 plaintiffs, ranging from the Republican National Committee and California Democratic Party to the American Civil Liberties Union and National Association of Manufacturers, were filed against the Act. These cases were consolidated into one case and, in accordance with a provision in BCRA that called for expedited judicial review, the challenge was heard by a three-judge panel in U.S. District Court for the District of Columbia. This district court issued its ruling in May 2003, but stayed its opinion, which found parts of the law unconstitutional, pending Supreme Court review. The decision was appealed immediately to the U.S. Supreme Court, which heard oral arguments on the case in an unusual September 8 session.
2. 424 U.S. 1 (1976).
3. The Court's decision is unusual in that it contains three separate majority opinions written by four judges on different issues raised in the case. The central issues in the case were those related to the ban on soft money and the new standard of electioneering communications. These were decided in the majority opinion written by Justices Stevens and O'Connor, adopted by a 5-4 vote, with Justices Souter, Ginsburg and Breyer joining to form the majority.
4. Federal Election Commission, "Party Committees Raise More Than \$1 Billion in 2001-2002," press release, March 20, 2003. For background on party soft money financing, see Anthony Corrado, et al., *Campaign Finance Reform: A Sourcebook* (Washington, D.C.: Brookings Institution Press, 1997), pp. 167-177.
5. Kenneth M. Goldstein, "Electioneering Communications in Recent Elections: The Case for a New Standard," in Anthony Corrado, Thomas E. Mann and Trevor Potter, eds., *Inside the Campaign Finance Battle* (Washington, D.C.: Brookings Institution Press, 2003), p. 178.
6. The law does contain a few provisos. Federal candidates or party leaders may not solicit soft money, but they may appear as speakers or invited guests at state or local party fundraisers where parties are raising money allowable under state law, but not under federal law. A federal officeholder seeking state office (e.g. a member of Congress running for state governor) is exempted from the ban and may raise funds allowed under state law for his or her state campaign committee.
7. See *McConnell v. FEC*, 251 F. Supp. 2d 176 (D.D.C. 2003).
8. Full citations and discussion of these cases and their connection to *McConnell v. FEC* can be found in a special issue of *Election Law Journal* Volume 3, Number 2 (2004).



National Forum on Youth Voting



On October 30–31, 2003, Elections Canada held a National Forum on Youth Voting in Calgary, Alberta. This event, the first of its kind in Canada, brought together youth leaders and leading Canadians from a number of other sectors to focus on concrete measures to encourage youth electoral participation. In total, 48 participants took part; of these, 27 were youth representatives.

The Forum included presentations by representatives of youth organizations, small group and plenary discussions, questions and commentary. With the exception of the small group discussions, all parts of the event were recorded for television and broadcast by Canada's Political Channel (CPAC) on November 28, 2003.

The Forum was launched on the evening of October 30 with welcoming remarks by co-chairs Dominique Anglade, Senior Manager at Nortel Networks, and Phillip Haid, Senior Account Director and Director of Business Development for Manifest Communications. Ms. Anglade urged participants to become engaged and to look for ways



Photo: Elections Canada

The Forum was co-chaired by Dominique Anglade, Senior Manager at Nortel Networks, and Phillip Haid, Senior Account Director at Manifest Communications.

to convince the greatest number of young Canadians to vote. Mr. Haid said he hoped that, with the support of all the participants, this event would “galvanize even more activity over the coming months and years.”

Presentations

The Chief Electoral Officer of Canada, Jean-Pierre Kingsley, followed with his keynote address. He congratulated participants on their commitment to strengthening youth civic engagement in this country and said that he looked forward to hearing their ideas for ways to encourage youth to exercise their democratic rights. “The future of democracy belongs to young people,” Mr. Kingsley stated. “I hope you will see this National Forum not as an end in itself, but as a starting point for revitalizing Canada’s democratic process.” He added that concerted efforts must be made for both the next election and the longer term, but that Elections Canada could not address the problem single-handedly: “We need others to become involved as part of a shared effort: political parties, civil society organizations, business and the media.”

On October 31, a number of youth organizations made presentations about their activities to encourage youth involvement.

Paul Green, director of Blockheadz, described the activities of his organization’s Rush the Vote concert series. Through free musical events, Rush the Vote aims “to increase voter turnout and political awareness among Canadian youth (18–30) through art, music and education.” He provided a video presentation on Rush the Vote concerts in Ottawa and Toronto and told how they were effective in connecting with youth and explaining to them how government affects



At the National Forum on Youth Voting, Chief Electoral Officer of Canada Jean-Pierre Kingsley outlined the initiatives Elections Canada was taking to encourage electoral participation among young people. Mr. Kingsley also proposed the creation of a national committee or council to encourage voting by young Canadians.

young people, how the electoral process works and how youth can get engaged.

Julianna Torjek and Tamar Eylon told the participants about their work with the City of Vancouver's Youth Outreach Team (YOT) as a part of the city's Civic Youth Strategy (CYS). The CYS is a policy that was endorsed by Vancouver's city council in 1995 to ensure that: youth have a place in the city; youth have a strong voice in decision making; youth are seen as a resource in and to the city; and that there be a strong support base for youth in the city. Tamar and Julianna talked about the role of poverty and inequality as factors that discourage electoral involvement and went on to describe how the YOT's programs and initiatives are intended "to speak to young people's sense of self, identity and community." In their words: "low voter turnout ... can only be addressed by a coordinated and concerted effort to restore policies and programs that promote equality."

Carle Bernier-Genest, President of the Forum jeunesse de l'île de Montréal,

described his organization's activities to promote youth civic engagement and voting. These include: disseminating information during elections, promoting youth candidates, offering election simulation activities in schools and offering activities to promote and support citizen involvement via their Web site, training, workshops, guides and conferences. Mr. Bernier-Genest stressed the importance of "politicizing youth" in order to increase their voting rates. He encouraged greater citizenship education through lessons in civics and exploring the values of mutual co-operation and democratic institutions.

Kids Voting Canada founder, Taylor Gunn, gave the participants an overview of his organization's Student Vote 2003 educational initiative during the recent Ontario provincial election. As well as providing youth election-education activities and opportunities to talk with candidates, Student Vote 2003 featured an election simulation module. Mr. Gunn explained that on election day, some 350,000 students

from 800 schools across Ontario voted in their schools for candidates in their local riding. The ballots were collected and tabulated and the results were presented live on national television.

Tom Axworthy, Executive Director of Historica Foundation, underlined the importance of civic engagement and education. He noted the need for public policies to engage youth and urged political parties to play a greater role in this effort. He described Historica's YouthLinks initiative – a Web-based program linking 400 schools in Canada and around the world – to foster discussions on democracy and civic engagement.



The importance of youth civic engagement was stressed by Tom Axworthy, Executive Director of Historica Foundation, who urged political parties to become more involved in this activity.

Roger Gibbins, President of the Canada West Foundation, gave the luncheon address on October 31. He used the "canary in the mine shaft" analogy to explain what he saw as the factors underlining the recent decline in youth electoral participation. He said that "Canadian youth, through their lack of participation, are sending a message about the health of Canadian democratic politics." He noted that the Canadian political



Paul Green (Director of Blockheadz) tells the National Forum on Youth Voting about his organization's Rush the Vote concert series to encourage voter turnout and political awareness among Canadian youth through musical events. Pictured also are Forum presenters (left to right) – Carle Bernier-Genest (President of the Forum jeunesse de l'île de Montréal), Tamar Eylon and Julianna Torjek (City of Vancouver's Civic Youth Strategy) – and the co-chairs of the event.

culture carries a strong and persistent message that elections don't count for much, that Parliament is irrelevant, and that the courts are now the primary policy-makers. He suggested that the lack of a competitive party system and distortions in the electoral system could also explain low rates of electoral participation. In his view, while efforts to encourage youth to participate are worthwhile, there is a need for a wider debate on ways to revitalize Canadian democracy.

Group discussions

Over the two-day event, participants took part in two sets of small group discussions. Rapporteurs from each discussion group reported back to plenary sessions on proposals to address the decline in youth voting for both the next federal election and the longer term.

The following provides a summary of participants' proposals and suggestions. The ordering of the various points is not intended as an indication of the level of support within the Forum as a whole.

Possible actions for Elections Canada and others to improve youth voter turnout at the next federal election

Improve access to the vote

- Bring the election to youth by engaging them where they are – youth groups; universities; sports organizations; coffee shops; concerts; Friendship Centres
- Polling stations: at youth centres; universities; cinemas
- Hire more youth as election day workers
- Explain and encourage greater use of the mail-in ballot and advance voting



Participants at the Forum also met in small groups to discuss what can be done to improve youth electoral participation on an ongoing basis.

- Use of information and communication technologies

Improve voter registration

- Simplify the identification requirements for election day registration
- Flyers that provide information on registration and elections (possibly slipped into shopping bags)
- Use of information and communication technologies

Elections Canada's advertising campaigns

- No guilt trips in advertising campaigns: be honest and straightforward; passionate not passive
- Advertising blitz during last two days of election
- Encourage youth to contact Elections Canada for more information: Web site or enquiries line
- Use youth-oriented newspapers and magazines to publish information
- Fund youth organizations to organize get-out-the-vote campaigns for young people
- Work with several advertising agencies to create a variety of concepts: encourage creativity and diversity
- Invite well-known personalities and role models to promote the vote

Possible ongoing actions to encourage youth voter turnout

Civics education

- Start in lower grades
- More training for those who teach civics
- Work with the provincial ministries of education to improve civics curriculum

Main Messages from Participants

In addition to the specific suggestions and proposals put forward, a number of broader lessons, for both election and inter-election periods, were drawn from the National Forum on Youth Voting.

1. “Come to us” – bring the election to where youth live, work, study; make voting accessible to youth – e.g. polling stations on university campuses. Must not neglect youth “on the street” or marginalized in other ways; must be mindful that not all youth are involved in post-secondary education.

2. “Respect the diversity of youth” – recognize that youth are not a homogeneous group and that what works for one group of youth may not work for another; bear in mind rural/urban differences and

technological barriers (e.g. lack of or limited access to the Internet).

3. “Speak to youth in their own language” – don’t be bureaucratic, or worse yet, condescending; use multiple media (including musical and other events) and spokespersons who have influence with youth, including leaders from their own organizations.

4. “Work with organizations close to youth” – e.g. Friendship Centres are a good way to reach Aboriginal young people, particularly those who live in urban areas.

5. “Don’t just talk to youth at election time” – promote elections on an ongoing basis – e.g. through civics education and activities sponsored by community groups.

- Elections Canada should provide election information and sample materials
- Stress the historical importance of the right to vote (reference Elections Canada’s *A History of the Vote in Canada*)
- Support election simulations to develop the “habit of participation” – e.g. Kids Voting Canada
- Involve local leaders, educators and politicians
- Personalize issues – make them real for students

Research and policy

- Feasibility of e-voting
- Effects of lowering the voting age
- More research into the decline of youth engagement

Make voting day special

- Consider declaring election day a national holiday
- Concerts following the close of polls

Youth outreach

- Outreach between elections is important

- “Take it local” – school-based activities; engage local leaders (not just politicians); encourage local co-operation and involvement of youth on governing bodies of various organizations
- Work with spokespersons youth respect – e.g. musicians, athletes
- Promote discussions of relevant issues
- Take risks and be innovative
- Take advantage of successfully tested programs that connect with youth

Greater use of technology

- Improve Elections Canada’s Web site
- Create more links between Elections Canada’s Web site and other relevant youth sites
- Text messages from Elections Canada to promote voting and registration
- Chat rooms to discuss election issues

Advertising

- Advertise between elections
- Change the message: instead of talking about “duty” or “responsibility”, emphasize political weight of young people as a group – e.g. a “way of

taking power into your hands” and exerting influence

- Multimedia approach including new technologies – maximize the potential of Elections Canada’s Web site

New national committee or council to promote youth voting

- Would need national leadership
- Should be an NGO at arm’s length from government
- Could be a good place to promote and “bring together” best practices and research
- Could coordinate youth voter education and youth outreach programs
- Greater coordination among existing organizations may be an alternative to the creation of a new body

Aboriginal youth participation

- Have more polling stations situated on reserves
- Utilize Friendship Centres to disseminate information
- Utilize Aboriginal broadcast networks and publications to promote the vote

- Benefit from National Aboriginal Day, powwows and assembly meetings to reach a greater number of Aboriginal youth – e.g. information booths
- Link Elections Canada’s Web site with Aboriginal Web sites
- Encourage Aboriginal youth to run as candidates and work as election officers
- Encourage and utilize connections between elders and youth
- Engage Aboriginal organizations to develop projects to get-out-the-vote
- Be sensitive to Aboriginal customs

Roles of various actors

- Political parties must make a greater effort to reach out to young voters: use youth caucuses as outreach tools; allocate part of the annual public funding they will receive as a result of Bill C-24 to fund youth education activities
- Parliament should allocate time to debate youth issues
- Leadership debates should address youth issues
- Encourage town hall meetings with candidates that target a younger audience
- Foundations and businesses should play a greater role

Other major issues

- Lack of trust in political leaders
- Perception that votes are wasted under current electoral system
- Potential of direct democracy measures to encourage engagement

In his closing remarks, the Chief Electoral Officer stressed that the participation of everyone in this effort counts. Mr. Kingsley noted the need to reach out to youth in their milieu and by their own means at all

times: before, during and after an election. He indicated that the establishment of a national committee or council would be considered for the longer term. He assured the audience that Elections Canada would pursue participants’ proposals and suggestions, and that he would share widely the messages he had heard, including with Parliament. ❌



Canaries, Mine Shafts and the Decline of Voting Among Canadian Youth

Dr. Roger Gibbins

President and Chief Executive Officer, Canada West Foundation

The following is the text of Dr. Gibbins' remarks to the National Forum on Youth Voting, in Calgary, Alberta, on October 31, 2003.

This brief discussion will address three basic questions:

- Why should we worry about the low and declining voter participation rates among Canadian youth?
- Whom should we blame?
- To whom should we direct a public policy response?

In addressing these questions, I should note that I am not speaking from a Canada West Foundation perspective; this is not a field of active research for the Foundation. Nor are the questions ones with a particular regional flavour. I'm speaking, then, more from the perspective of a political scientist with a long-standing interest in citizen participation and democratic governance.

1. Why should we worry about declining participation rates?

There are a number of reasons, some more compelling than others, for identifying low and declining voter participation rates among Canadian youth as a problem. Perhaps surprisingly, one of the least compelling reasons is that the policy outcomes of elections would be different if youth participation rates were higher. It is often assumed, for example, that young voters would bring a different set of policy preferences and political values to the electoral process and would, therefore, push electoral mandates in a different direction. However, the empirical evidence that young Canadians as

a block have a unique perspective on the dominant public policy issues of the day is, at best, weak. Moreover, the Canadian electoral system has very limited success in converting the policy preferences of voters to corresponding partisan outcomes; election mandates are more constructed by the winners than they are derived in some objective way from the election results. We, therefore, lack an empirically convincing case that low levels of youth participation matter in the sense of policy outcomes. If no one under 30 voted in the upcoming election, it is not at all clear that the policy mandate of the election would be any different.

A second reason for concern might be that the partisan outcome of elections would be different if youth participated at a higher level. This would be the case if Canadian youth



Photo: Elections Canada

Dr. Roger Gibbins, President of the Canada West Foundation, addresses the National Forum on Youth Voting.



During an election, Elections Canada enquiries officers answer thousands of telephone calls every day, many from students and other first-time voters. At the next general election, the agency will provide an enhanced toll-free service, including voice recognition, that will answer many frequently asked questions and quickly refer others to election officers.

were to bring a different set of partisan preferences to the ballot box, or if they were significantly more likely than their parents or grandparents to be Liberals, New Democrats or Conservatives. Here again, however, the empirical evidence is less than compelling. While age differences in partisanship do manifest themselves from time to time, there is little in the way of systematic differences across elections and leaders. No one party has a lock on the youth vote. Therefore, it is not clear that the partisan outcome of the upcoming election would be different if everyone under 30 stayed home.

It could also be argued that low rates of youth participation further weaken the electoral representation of Canada's urban heartland. The current electoral system, at both the provincial and federal levels, gives disproportionate weight to the rural electorate. While this bias has been diminished somewhat in recent years, we are not even close to the rigorous

adherence to the principle of one person, one vote that characterizes the American electoral system. It might be argued, therefore, that if the urban heartland is the heartland of Canadian youth, then low rates of youth participation weaken the urban voice in federal politics. Here I suspect, however, that the effect would be far from pronounced.

A more compelling reason for identifying low rates of youth participation as a problem stems from the assumption that electoral participation provides the foundation for broader participation in democratic politics – that it is the gateway to other, more meaningful forms of political participation. Simply put, if you do not vote, then you are also less likely to follow politics, to get involved in the community and to run for elected office. If this assumption is correct, then low levels of youth voting are troublesome, less in and of themselves, and more in terms of what they predict for other, more important forms of political participation as young Canadians age. And certainly there is correlational evidence pointing to a problem – if individuals do not vote, they are, indeed, less likely to participate in other ways. However, the relationship is not

necessarily a causal one. Voting does not automatically trigger other forms of political participation; nor is it a necessary condition for other forms of participation. Canadian youth *may* – and I stress *may* – be participating politically in other ways, such as marching in the streets to protest globalization, joining lobby organizations, or mobilizing like-minded souls through the Internet.

Nonetheless, this brings me to the most compelling reason for concern, and that is the possibility that not voting is a manifestation of more general political apathy, of withdrawal from the political community. The relevant analogy here is that of the canary in the mine shaft. In distant times, miners would take caged canaries with them into mine shafts to detect the presence of deadly but odourless gases; if the canaries keeled over in their cages, the miners knew that it was time to beat a hasty

Youth disengagement may well be symptomatic of a deeper sense of malaise in democratic politics.

retreat. Perhaps, then, we should see young Canadian voters, or more to the point young non-voters, as our canaries in the democratic mine shaft. Their disengagement may well be symptomatic of a deeper sense of malaise in democratic politics that is not restricted to youth alone. However, if this is true, the real problem is the mine shaft, and not the canaries. In other words, Canadian youth, through their lack of electoral participation, are sending a message about the health of democratic politics.

2. If there is, indeed, a problem, what is the cause? Whom should we blame?

I would argue that if we want to explain low rates of electoral participation among Canadian youth, it is imperative to look beyond our youth. For example, the Canadian culture and media carry a persistent message that elections do not count for much, that Parliament is irrelevant, that the courts are now the primary policy-makers in the land. Given this message, it should hardly be surprising that youth are not rushing to the polls. We could also mention the lack of a competitive party system and the related effects of an electoral system that both suppresses diversity and reduces competition (e.g. the federal Liberals in the last election won all but three seats in Ontario with only 50% of the vote). The act of voting itself provides limited incentive for participation; although we have probably the most educated and skilled electorate in the world, all we ask of Canadians in terms of federal politics is to mark a single “X” with a blunt pencil once every four years. Is this an enticement? If voters could click on an “X” on a computer screen, would this be any more of an enticement?

Admittedly, such factors should depress levels of electoral participation across the generational continuum. It is by no means clear why they should have a disproportionate effect on young Canadians, unless we assume that older voters are still riding the participatory crest of a prior, golden age of Canadian politics. Nonetheless, it is important to stress that we may be asking the wrong question. Rather than asking why many young people are not voting, perhaps we should be asking why so many *are* voting, given a political process with so little appeal or relevance. Rather than ask why the young fail to vote, we should be asking why anyone – young or old – does vote. In other words, do not blame the victim.

3. If there is a problem with the electoral participation of Canadian youth, to whom should we direct a public policy response?

To some degree, this question has already been answered; the roots of the problem may well be found outside the unique characteristics of Canadian youth. We have to throw a wider net. However, we want to ask not only what *should* we do, but also what *can*

we do to increase rates of electoral participation for young Canadians and, indeed, for all Canadians. Declining rates of electoral participation are not a Canadian problem alone, nor uniquely a youth problem, and it is not clear that there are policy options that can turn this trend around. There are real limits to the reach of public policy. Can public policy produce a more competitive party system? Can it restore the place of Parliament in the political landscape? Can it shift policy power from the courts to parliamentarians?

This does not mean that Elections Canada should throw in the towel in terms of trying to increase the electoral participation of Canadian youth, for it may be possible to address some of the logistical barriers to youth participation. To use another analogy from *Shoeless Joe* and *Field of Dreams*, if Elections Canada can build a better stadium, they – Canadian youth – may well come in greater numbers. Certainly we – and not just Elections Canada – should try to build the best possible election stadium. However, while we can try to improve access, and try to build the most comfortable seats, we cannot *through public policies* affect the quality of the teams or the importance of the outcome.

What this suggests to me is that, in trying to address the problem of youth participation, we should remember the analogy of the canary and the mine shaft. The problem lies with the mine shaft, and not the canary. Therefore, our remedial efforts should be directed to the mine shaft, and not solely to our young canaries. ✕



Photo: Elections Canada



Roundtable on Aboriginal Youth and the Federal Electoral Process



On January 17, 2004, Elections Canada organized, in partnership with the Canadian Centre for Indigenous Research, Culture, Language and Education (CIRCLE), a roundtable on Aboriginal youth and the federal electoral process at Carleton University in Ottawa. The majority of the 27 participants were Aboriginal youth, most of whom represented one of the national Aboriginal associations.

Opening session

The roundtable was opened with a prayer by Gordon Williams, an elder from the Peguis First Nation.

John Medicine Horse Kelly, co-director of CIRCLE and co-chair of the roundtable, said this initiative indicated that the question of Aboriginal electoral participation was getting the attention it deserves. Val Courchene, founder of the Dreamcatcher Aboriginal youth conferences and co-chair of the roundtable, said she was honoured to be part of this event.

The Chief Electoral Officer of Canada, Jean-Pierre Kingsley, delivered informal opening remarks. He mentioned that the available research indicates that, even though in his view they have a good deal at stake, Aboriginal people participate in federal elections at lower rates than the population as a whole. In this context, he noted that turnout rates in the referendums sponsored by the Cree and Inuit in northern Quebec prior to the 1995 referendum on Quebec sovereignty were quite high. He added that, if young Aboriginal people participate in significant numbers, elected officials would listen. Mr. Kingsley mentioned that Elections Canada had developed a number of programs to

improve the accessibility of the electoral process for Aboriginal people. Certain improvements would be made by the next federal general election. However, a longer-term effort was required, in collaboration with Aboriginal communities, particularly concerning education about the electoral process.

Presentations on Aboriginal People and Electoral Participation

Kiera Ladner, of the Department of Political Science at the University of Western Ontario, explored the question of why a significant number of Aboriginal people do not vote in federal elections. Dr. Ladner said that she has not voted in the past because of her understanding of treaties and her belief that she belongs to a nation that is “within the purview of Canada by default.” In her view, for some Aboriginal youth, voting in federal elections would be a question of participating within an “alien nation.” She added, however, that a lot of Aboriginal people do not share this perspective. Dr. Ladner did not offer a specific response to these differing stances, but suggested that a process of dialogue was necessary before Aboriginal participation would be broadened.

The next presentation was given by Jaime Koebel, former president of the Aboriginal Youth Council of the National Association of Friendship Centres and a Master’s student at Carleton University. Ms. Koebel said that, given historical events such as denying certain First Nations people the right to vote in federal elections until 1960, it is not surprising that some Aboriginal young people do not vote. However, this does not mean that they are not interested in other

political activities. She said that she votes on any occasion when she thinks she can make a difference. Ms. Koebel noted that Aboriginal youth are a rapidly growing community and therefore have considerable power. She mentioned a number of changes that had taken place within the National Association of Friendship Centres (NAFC) since the mid-1980s, adding that youth now count for one third of the votes for the NAFC assembly. To close her presentation, Ms. Koebel stated, “your ideas can transpire into valuable changes.”

Discussion groups

Following the initial sessions, participants divided into two discussion groups and addressed the following questions:

1. Barriers to Aboriginal youth voting:

What factors discourage Aboriginal youth from voting in federal elections? What can Elections Canada and Aboriginal communities do to lower these barriers?

2. Why Aboriginal youth should vote:

What can Elections Canada and Aboriginal communities do to increase Aboriginal young people’s understanding of and interest in the federal electoral process?

Following the group sessions, participants reassembled to hear reports on each group’s observations and suggestions. The points presented below, which are taken from the reports from both groups, have been structured according to a number of themes.

Barriers to Aboriginal youth voting

Participants identified a number of reasons to explain why a significant

Photo: John Medicine Horse Kelly



The Chief Electoral Officer, Jean-Pierre Kingsley, and participants at the roundtable on Aboriginal youth and the federal electoral process.

proportion of Aboriginal youth do not vote in federal elections.

Relations with the federal government and political parties:

- The right to vote in federal elections was not extended to all Aboriginal people until 1960. For some, this is not a long time ago. For others, this is not a personal memory but an injustice they have learned.
- Negative experience in past relations with the federal government, which results in anger and disconnect with federal institutions.
- Lack of trust in political parties and elected representatives
- For some, a non-acceptance of Canadian citizenship
- Marginalization of Aboriginal people, including in their socio-economic conditions

Education/information about the federal electoral process:

- Lack of understanding of the federal electoral process – not only among youth but also within Aboriginal communities (e.g. chiefs, band councils, etc.)
- Lack of education among Aboriginal youth on the federal electoral system

- Lower education levels for some Aboriginal youth, which impedes understanding of the importance of voting

Representation within political parties and Parliament:

- Lack of Aboriginal representation and leadership in federal political parties and Parliament
- Lack of issues that affect Aboriginal people in the platforms of political parties
- Limited access to members of Parliament, political parties and the electoral process in general

On the question of why Aboriginal youth should vote or not, most comments fell into one of two groups. A number of participants said that Aboriginal youth should vote because the federal government makes decisions that affect the quality of life of their family and their community. Other participants said that Aboriginal youth should not vote because they do not trust or have faith in the federal government. They added that the best way to influence the government is to be active within their own organizations; in turn, these organizations can make

an impact by lobbying members of Parliament and the government.

Proposed actions for Elections Canada and Aboriginal communities

Visibility and involvement with Aboriginal communities:

- Elections Canada should be more present and visible within Aboriginal communities, taking into account their diversity, including at important Aboriginal events (e.g. National Aboriginal Day). It should hold roundtables such as this one in schools.
- Elections Canada should increase its partnerships with various Aboriginal organizations at the national and local levels.

Education/information about the electoral process:

- Aboriginal youth should be provided with more education and information about the electoral process, and not only at election time. It was suggested that Elections Canada establish youth relation offices in the various regions; the staff could, among other things, go to schools to speak about the electoral process.
- Some participants said that youth councils and committees are the best way to reach youth, and that Friendship Centres could help distribute information to the grass-roots level.
- One participant proposed organizing mock elections, perhaps in Friendship Centres.

Communications/advertising:

- Elections Canada should make greater use of Aboriginal media and publications from national organizations.
- Messages from well-known personalities (for example, Jordin Tootoo, Tina Keeper) should be included in advertising campaigns.

- Set up a mailing list between Elections Canada and Aboriginal youth organizations so the latter can distribute material in their regions.

Political parties:

- Some participants said that political parties have a responsibility to reach Aboriginal youth and to build trust relationships with them. One participant suggested that political parties might be given funds for activities to educate youth about voting.

Accessibility:

- Have polling stations placed in band offices on reserves, Friendship Centres, as well as in the offices of provincial and territorial organizations.
- Hire people from the communities to go door-to-door – e.g. for targeted revision.

Parliamentary representation and the electoral system:

- One participant said that Elections Canada should undertake research on electoral systems and processes in other countries that guarantee representation for minority groups.
- Some participants said there is a need to look again at constitutional reform to build a new relationship between Aboriginal peoples and federal institutions. There were a number of positive references to the report of the Royal Commission on Aboriginal Peoples.
- One participant suggested changing the rules for the redistribution

Photo: John Medicine Horse Kelly



Participants at the roundtable on Aboriginal youth and the federal electoral process report back from their group discussion.

process to specifically include the Aboriginal population in the concept of “community of interest.”

Aboriginal communities:

- Some participants said it is important for national and other Aboriginal organizations to work together to strengthen their relationships.

Other:

- Build awareness, including with the government, that socio-economic conditions and various public policies have an impact on Aboriginal people’s interest in voting.
- Build relationships with Aboriginal peoples that are based on trust and respect.

Concluding discussion

During the last session of the roundtable, each participant was invited to share what he or she had learned during the day and any specific suggestions.

One participant said that, in order to better understand the barriers to voting, it would be important to meet Aboriginal youth at the grassroots level. She said it was important to

communicate to the government that there are barriers outside the electoral process that discourage young Aboriginal people from voting.

A participant said that the foundation of democracy is people choosing their own destiny and that the choice not to vote is an exercise of democratic rights.

Another participant said that the decision to vote or not is a personal choice, but that it is important to make the system accessible and give the opportunity to everyone who wants to vote.

According to one participant, voting is not the only way of bringing about political change. She underlined the importance of working within Aboriginal associations, which can make an impact through their lobbying and other efforts.

A number of participants said they were pleased that Elections Canada had taken this opportunity to bring together and listen to Aboriginal youth. One participant expressed the hope that Elections Canada would continue the dialogue.

Ms. Courchene said that she drew two conclusions from the day's discussions: 1) the importance of education; and 2) the need to come together and for healing to take place, so that Aboriginal youth can move to the next stage.

Mr. Kingsley said that Aboriginal people in Canada have equality with respect to the right to vote. From his perspective, that reflection of equality, the right to vote, does not just concern the individual but society as a whole. He said he had been enriched by each person's participation and that an event such as the roundtable "allows real change to find a beginning."

To conclude, Mr. Williams commended the "quality and vitality" of the youth who were present. He said he had learned from the discussion and that he would transmit that to others through teaching. Looking to the future, he quoted the following saying: "If the result is the same, the difference might just be you." ✖

Electoral News in Brief



Elections Canada's Youth Voting Activities

Elections Canada has taken a number of initiatives to inform young voters about the electoral process. They follow Chief Electoral Officer Jean-Pierre Kingsley's commitment at the National Forum on Youth Voting held last October in Calgary, Alberta, (see p. 32) to address the issue of declining voter turnout among young people. While the general turnout at the 2000 general election was slightly over 64%, only about 25% of electors aged 18 to 24 used their right to vote. "Elections Canada is committed to action on declining voter turnout among young people," said Mr. Kingsley. "Citizens who stand back from the electoral process miss an important opportunity to have their say."

New Web site for young electors

Elections Canada launched a new Young Voters Web site on February 6, 2004, to educate users about the electoral system and democracy. It provides interactive content and is fully integrated with the main Elections Canada Web site at www.elections.ca. Teaching guides and activities are also available for primary and secondary school teachers. Elections Canada consulted youth to learn more about their needs and preferences before redeveloping its previous Web site for youth. "We expect the new site to become the cornerstone of electoral information for young Canadians and of our youth outreach programs," stated Mr. Kingsley.



Elections Canada's new Young Voters Web site was launched by Chief Electoral Officer Jean-Pierre Kingsley at the Flexible Learning and Education Centre in Bedford, Nova Scotia, one of the winning schools in the "Your Vote ... Your Voice" contest.



Participants at the announcement of the winners of the "Your Vote ... Your Voice" contest (left to right) were Bernadette Hamilton-Reid, Vice Chair of the Halifax Regional School Board; James L. Rooney, teacher, Flexible Learning and Education Centre; Ashley MacNeill, Nic Foster and Michael Carr, students, Flexible Learning and Education Centre; Chief Electoral Officer Jean-Pierre Kingsley; and Dan McKeen, Chair, Cable in the Classroom.

"Your Vote ... Your Voice" contest

A joint venture last autumn between Elections Canada and Cable in the Classroom, the leading provider of educational cable programming in Canada, gave students in Grades 10–12 (Secondary IV, V and CEGEP in Quebec) a chance to share with peers their ideas about the importance of electoral and democratic participation. More than 100 entries were received from 11 provinces and territories. Thirteen student groups received awards for producing exceptional 30-second videos to convince young people to vote. The winners were announced on February 6, 2004, at the Flexible Learning and Education Centre in Bedford, Nova Scotia, one of the schools in which students produced a winning video. "The young Canadians' ability to relay complex themes through words and images showed great promise as a means of reaching out to and engaging Canadians," said Mr. Kingsley. The winning videos may be broadcast nationally this year by more than 30 cable providers and programmers.

Chief Electoral Officer writes to young Canadians

The Chief Electoral Officer has written to some 1.1 million young Canadians who turned 18 after the 2000 federal

election, reminding them of the significance of their right to vote. In February, approximately 800,000 young people who are in the National Register of Electors received a card with a message from Mr. Kingsley. Another 300,000 who were not yet registered, or who may not have responded to previous mailings, also received the card, as well as a registration form. The mailing is one of several initiatives to ensure that eligible Canadians across the country are registered to vote in upcoming federal elections and that the National Register of Electors is as up to date as possible. For more information, visit www.elections.ca and click on "Leave Your Mark."

Parallel election for students

Elections Canada and Student Vote 2004 have developed a joint initiative to provide students who have not yet reached voting age with the opportunity to experience the federal electoral process through a parallel election. The election simulation follows the success of Student Vote 2003, held during the Ontario provincial election, in which nearly 335,000 students participated. Students will vote for candidates in their school's electoral district and assume the roles of returning officers and poll clerks. Participating high schools will receive free, non-partisan



educational resources, including riding maps, posters and an instructional guide.

"This innovative educational program, organized by youth for youth, will deepen young Canadians' understanding of elections and the democratic process," said Mr. Kingsley at a press conference on March 4, 2004. "Student Vote 2004 is proud to receive the support of educational organizations in every province and territory, and now Elections Canada, to inspire our students into active citizenship," added Taylor Gunn, Chief Election Officer of Student Vote 2004.

Global Bill of Rights for People with Disabilities

An international conference on Electoral Rights for People with Disabilities was held in Sigtuna, Sweden, in September 2002. The conference resulted from a collaboration involving the International Institute for Democracy and Electoral Assistance, the International Foundation for Election Systems, the Swedish International Development Cooperation Agency and Elections Canada. The Chief Electoral Officer of Canada, Jean-Pierre Kingsley, played a leading role in the planning of the conference. To follow up on the conference, a group of experts on disability issues, elections and legislative practices met in Geneva, Switzerland, for the 2003 Global Workshop to Draft and Advance Model Election Law Provisions to Ensure Electoral Participation of People with Disabilities. (*Electoral Insight*, March 2003, includes a report on the Sigtuna conference.)

Participants developed draft model legislation to ensure that citizens with disabilities have equal access to the electoral process.

Among the draft provisions are obligations for electoral management bodies to ensure that all procedures prescribed in any electoral or related legislation are equally accessible to all citizens. As well, the draft law outlines responsibilities of electoral management bodies to consult disabled persons' organizations (DPOs) on any proposed change or interpretation of any law that would affect their ability to participate equally in the conduct of elections. In addition, electoral management bodies would ensure that DPOs have the right and are accredited to observe and monitor the electoral process at all levels.

A draft strategy was formulated to advance and encourage the adoption of these legislative provisions by parliaments around the world. A proposed agenda for a global workshop on election law reform and disability access was also developed. The proposed goals of the workshop (date to be determined) are to finalize the model election law provisions and to begin implementing a strategy for their adoption.

Update: Afghanistan in Preparation for Elections

From April 2003 until June 2004, the Elections and Registration in Afghanistan (ERA) Project is supporting the Afghan government and the United Nations Assistance Mission in Afghanistan in implementing a transitional electoral framework.

The International Foundation for Election Systems (IFES) civic education staff has organized 869 workshops with almost 23,000 participants, more than 30% of whom are women. The project organizers are now looking at expanding by adding components such as mobile civic education cinemas. Additional next steps include establishing training programs for election officials and conducting a security assessment.

Elections Canada, through Diane R. Davidson, Deputy Chief Electoral Officer and Chief Legal Counsel, was

mandated to provide oversight and strategic direction to ERA. During the planning phase, Elections Canada co-operated with IFES to implement the necessary program activities. The Honourable Jean-Jacques Blais, who was Head of Mission for ERA from January 2003 to September 2003, and other senior officials involved in the process met with Afghan ministries in Kabul to discuss a national voter registration campaign, an identity document distribution program and the establishment of electoral institutions and processes.

Afghanistan's presidential and parliamentary elections are to be held in September. The Government of Canada, through the Canadian International Development Agency, allotted \$1.5 million for the project.