

Royal Commission on
Electoral Reform and
Party Financing



Commission royale sur
la réforme électorale et
le financement des partis

REFORMING ELECTORAL DEMOCRACY

VOLUME 2



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The Report is available in both official languages as a set or as individual volumes.

Available in Canada through
Associated Bookstores
and other booksellers

or by mail from
Canada Communication Group – Publishing
Ottawa, Canada K1A 0S9

Catalogue No. Z1-1989/2-2-1991E
ISBN 0-660-14246-5 (vol. 2)
0-660-14244-9 (set)

Canadian Cataloguing in Publication Data

Canada. Royal Commission on Electoral Reform and Party Financing

Reforming electoral democracy : final report

Chairman: Pierre Lortie

Partial contents: vol. 3: Proposed legislation; –
v. 4: What Canadians told us.

ISBN 0-660-14244-9 (set);

0-660-14245-7 (vol. 1); 0-660-14246-5 (v. 2);

0-660-14247-3 (v. 3); 0-660-14248-1 (v. 4)

DSS cat. nos. Z1-1989/2-1991E (set);

Z1-1989/2-1-1991E (vol. 1); Z1-1989/2-2-1991E (v. 2);

Z1-1989/2-3-1991E (v. 3); Z1-1989/2-4-1991E (v. 4)

1. Elections – Canada. 2. Election law – Canada. 3. Advertising,
Political – Canada. 4. Campaign funds – Canada. 5. Voter
registration – Canada. I. Title.

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Party Financing



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TO HIS EXCELLENCY
THE GOVERNOR GENERAL IN COUNCIL

MAY IT PLEASE YOUR EXCELLENCY

We, the Commissioners, appointed by Order in Council dated 15th November 1989, as revised and amended on 3rd October 1990, to inquire into and report on the appropriate principles and process that should govern the election of members of the House of Commons and the financing of political parties and of candidates' campaigns

BEG TO SUBMIT TO YOUR EXCELLENCY THIS REPORT.

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THE REGISTRATION OF VOTERS



INTRODUCTION

THE REGISTRATION OF VOTERS serves two essential purposes that maintain the integrity of the vote. First, it determines the eligibility of voters to vote. Second, it prevents voters from voting more than once. The registration of voters is thus an essential quality control mechanism of the electoral process. The voters list also assists candidates and political parties in canvassing voters and getting their supporters to vote. In these indirect ways, the voters list helps mobilize voters, promoting political participation and voting itself.

The current Canadian approach to the registration of voters contains three principal elements:

- (1) Enumeration or census of voters, administered by returning officers in each constituency using specially appointed enumerators for each polling division.
- (2) Revision of the preliminary lists produced by the enumeration. This is an appeal process; those not enumerated may apply to be registered or deleted, corrections may be made, and objections to those on the preliminary lists may be made.
- (3) In rural polling divisions, those not on the voters list can register and hence vote on election day at their polling station if another registered voter from the same polling division vouches for them.

The enumeration phase is a massive logistical undertaking conducted in a very short period of time after the election writs are issued. In the 1988 election, for instance, returning officers in 295 constituencies had to appoint, train and supervise some 90 000 enumerators to register approximately 17 million voters in seven days.

In urban areas the *Canada Elections Act* requires two enumerators for each polling division. They visit all residences in the division, taking the names of all qualified voters at each address. If no one answers the door, they leave a written notice giving the date and time for a return call. Enumerators must make their calls at times prescribed in the *Canada Elections Act*: the first is to take place between 9 a.m. and 6 p.m., the second between 7 p.m. and 10 p.m. If no one answers the second call, they leave a notice of final visit, informing any voters at the residence of the last date for revising the preliminary lists and the telephone number of the constituency returning officer.

In rural areas, only one enumerator is required. Rural enumerators post public announcements of the enumeration and the subsequent revision. Then they compile a list of voters in the polling division using information from any available source.

At the end of the enumeration period, enumerators transfer each voter's name to a typed or handwritten list from a carbon copy of the enumeration slips, the original of which has been left with voters enumerated at their residence. If an enumerator supplies a handwritten list, it must be typed at the office of the returning officer. In urban polling divisions, lists are compiled geographically by street and consecutive address; in rural polling divisions, lists are assembled in alphabetical order by voters' names.

Once the preliminary lists have been compiled, voters missed by enumeration can be added to the list through the revision process. Because the original objective of revision was to determine eligibility to vote, the Act places this process under the authority of judges acting as *ex officio* revising officers for all urban polling divisions. In practice, however, they appoint substitute revising officers. In rural polling divisions, the enumerator is also a revising officer. In addition, recognizing that the primary purpose of revision is now to add the names of voters missed by enumeration, returning officers in urban constituencies must divide their constituencies into 'revisal districts' and appoint two revising agents for each district who, as far as possible, should represent two different political parties.

Revision begins the day the preliminary lists are submitted by enumerators. Until the seventeenth day before election day, in urban areas, revising agents may complete applications submitted by voters who have not been enumerated or by certain relatives on their behalf. Applications are then submitted to revising officers, who decide on them and any others made by voters to returning officers or to revising officers directly during a formal three-day revision period. On the thirteenth day before election day, the revising officers decide on any objections to names on the preliminary lists. In rural polling divisions, the enumerators, acting as revising officers, perform similar functions, but they are required to sit formally for only one day, the nineteenth day before election day, to consider applications for additions, deletions or corrections.

Finally, voters in rural polling divisions, but not in urban polling divisions, can register on election day at their polling station and then vote. This distinction between voters in urban and rural polling divisions was predicated on the assumption that in rural polling divisions voters will likely be known by election officials and the representatives of candidates. This constitutes a sufficient safeguard to protect the integrity of the vote.

In addition to these procedures, the *Canada Elections Act* provides Special Voting Rules for voters who are members of the Canadian forces in Canada and abroad, certain civilian employees of the Department of National Defence stationed abroad, the spouses and dependants of these Canadian forces personnel and employees if living abroad with them, certain veterans

residing in institutions, and federal public servants posted abroad including their spouses and dependants living abroad with them. For those who qualify under these rules, registration and voting procedures are special because they are not governed by the same procedures that apply to all other voters.

Except for this last category of voters, the Canadian approach to registration has two major characteristics. First, it is initiated by the state through a national enumeration carried out under the direction of Elections Canada. Second, enumeration is conducted only after the election writ is issued. In both respects, Canada's approach is unique among western democracies.

This approach assumes that a state enumeration is the most effective and efficient method of ensuring that qualified voters are registered. When the state carries out an enumeration, it is assumed, those who may not fully understand their rights as voters will be enumerated and, hence, eligible to vote. Conducting an enumeration after an election is called, it is assumed, makes voters more aware that they must be registered to vote. The enumeration thus alerts voters to the election.

The current enumeration process also assumes that citizens, as well as non-citizens living in Canada, are to be trusted when they provide information to enumerators. In conducting the door-to-door enumeration, enumerators are neither required nor permitted to challenge householders' statements about the names of persons in each residence who are citizens, 18 years of age and over, and residents of the polling division. Although a few ineligible people may be enumerated, this is considered a minimal price to pay for a process that is relatively efficient and exists without excessive regulations and controls. Those enumerated have their addresses included on the voters lists, and objections may be made to any name on the preliminary lists. These voters vote in person and may be challenged when they vote. This procedure constitutes an additional check and justifies the approach to enumeration.

To ensure that the election lists are as complete, accurate and current as possible, it is essential that the state maintain its responsibility for registering voters. This does not mean that voters should not be required to initiate their own registration in certain circumstances; rather, it means that as a general rule, the state should continue to ensure that citizens do not have to assume sole responsibility for their own registration or that responsibility for voter registration be thrust on candidates or political parties.

To ensure that voters are neither statutorily nor administratively disfranchised by the registration process, it is also essential that enumeration, revision and election-day registration constitute consecutive phases, or integrated components, of a registration process. This is not the case with the current *Canada Elections Act*. Although the three major elements are present, revision was not designed to complement enumeration, and election-day registration is limited to those residing in rural polling divisions. As a result, the current approach has not accommodated or responded to major social, demographic, technological and political changes that have occurred

since it was put in place more than half a century ago. Moreover, the detailed prescriptions in the Act have hampered adaptation to these changes; the process is frozen in time and, hence, has restricted the gradual introduction of new techniques.

HISTORY, COMPARATIVE PERSPECTIVES AND ASSESSMENT

Historical Evolution

As with the election law for the franchise and candidacy, rules governing registration of voters were initially left to the provinces. From 1867 to 1885, the election lists were those used by the provinces for their provincial and municipal elections. These were based primarily on municipal assessment rolls, with some provision for revision by local officials.

Early attempts by Conservative governments to bring registration under federal control were opposed by the opposition Liberals who had greater electoral success in the provinces. The opposing views on the issue of federal versus provincial control over the compilation and revision of lists, not surprisingly, were mainly partisan: the two national parties and their candidates blatantly manipulated voter registration to their political advantage through officials appointed by the parties in power at each level. (Ward 1963, 189–204)

In 1885, the federal Conservative government finally established federal control over the compilation and revision of the voters list. In each electoral district, this responsibility was assigned to a federally appointed 'revising officer' who was to revise the voters list annually, with an appeal to a judge if the revising officer was not a judge. Appeals, however, were 'legalistic' and expensive. (Ward 1963, 196–97) Annual revisions, however, were not the norm.

In 1898, the federal Liberal government returned the entire process of voter registration to the provinces, notwithstanding the fact that this meant that there could be no appeals to lists in the maritime provinces where registration did not provide for such appeals. Provincial control remained until the 1917 *War-time Elections Act*. Before 1917 there were deficiencies in provincial lists in Manitoba and British Columbia, and these resulted in a requirement that federal lists in the two provinces be compiled by an enumeration of voters. This approach to compiling a voters list was extended to the entire country by the 1917 Act, with the reassertion of federal control, although enumerators based their lists largely on existing provincial lists.

In 1922, and in a reversal of their previous position, the federal Conservative government returned to using provincial lists, with some conditions. If a province's lists were more than two years old, they were to be revised. For voters living in towns of more than 1000 population, self-registration in person at a registrar's office was required, and following a period for judicial revision the lists were 'closed'. For voters in rural areas, on the other hand, any voter not on the list after an enumeration could register if vouched

for by another qualified voter in the same polling division; the list was therefore 'open'. In rural areas there was thus no need for judicial revision.

From 1922 to 1930, the use of enumeration was progressively extended in urban areas; self-registration as well as the use of provincial lists was abandoned by the Liberal government in 1929. By 1930, there was a door-to-door enumeration in urban areas by two enumerators representing the two major parties, with election-day registration based on vouching. The lists compiled for this election were reported by the chief electoral officer to be the most satisfactory since the creation of the office of the CEO in 1920. (Ward 1963, 201)

In 1934, however, the Conservative government reverted to an annual revision of the lists by registrars in each electoral district. Registrars were appointed by a Dominion Franchise Commissioner who was appointed by resolution of the House of Commons, with the support of both the Conservative and Liberal parties in the House. The revised lists, however, were 'closed' following the annual revision; registration on election day by vouching was eliminated, even in rural areas.

This system was used only once – for the 1935 general election. The CEO considered it inferior to the system in place for the 1930 general election, and a Special Committee on Elections and Franchise Acts agreed. (Canada, House of Commons 1937) It recommended a return to the system used for the 1930 election, and the 1938 *Dominion Elections Act* reinstated that system. Thus enumeration was to be the basis for compiling preliminary voters lists and undertaken after the election writs were issued. Enumeration was conducted by two enumerators in urban polling divisions and one in rural polling divisions working under the supervision of each constituency's returning officer. Urban enumerators were required by law to conduct a door-to-door enumeration, after which they could also use any other means to place qualified voters' names on the lists; rural enumerators were to use any means, including door-to-door visits, to compile their lists. One urban enumerator was nominated by the political party whose candidate came first in the previous election, the other by the party whose candidate came second. After judicial revision of the preliminary lists in urban polling divisions, the lists were closed. After enumerators compiled and revised preliminary lists in rural polling divisions, the lists remained open because qualified voters not on the list could be vouched for by another qualified voter from the same polling division and could thus vote.

The system put in place in 1938 remains the basic approach to federal voter registration. Returning officers in each constituency, appointed by the Governor in Council, are responsible for managing the enumeration and appointing the enumerators who compile the preliminary list in each polling division of a constituency. The enumeration of voters is thus a state responsibility. In urban polling divisions, two enumerators are used, one nominated by each of the candidates who finished first and second in the previous election. Enumeration therefore has a partisan control mechanism

built in. The enumeration in urban polling divisions must be done door-to-door to make it as complete as possible. The revision process augments and corrects the preliminary lists. In rural polling divisions, enumeration is done by only one person, who is not required to visit door-to-door to complete the lists; election-day registration completes the process. Finally, the enumeration is conducted after the writs are issued to make the lists as current as possible.

Provincial Approaches

The federal approach to voter registration varies from that found in the provinces and territories in several ways. Three provinces – Newfoundland, Alberta and British Columbia – do not have an enumeration following the issuance of writs. Newfoundland and Alberta compile their lists based on an enumeration, but they conduct the enumeration outside the election period: Newfoundland at the discretion of the provincial government but usually within a year of an election; and Alberta in the second calendar year following a provincial election and each succeeding year if no election is held in the interim, and not in the year when a constituency boundaries commission is established or for the 12 months following the establishment of a commission. British Columbia uses a continually updated voters list based on self-registration by voters, although an enumeration is conducted every three years to update the list. The other seven provinces and the two territories compile their preliminary lists based on enumerations conducted after the writs are issued.

In Newfoundland, Manitoba, Saskatchewan and the Northwest Territories there is one enumerator per polling division, and one or two may be used at the discretion of the returning officer in British Columbia and the Yukon. All provinces have a residency requirement of six months for a person to be qualified as a voter in their province, and in the two territories a person must be resident for 12 months. The voting age is 18 years except in British Columbia where it is 19.

Six provinces allow revision of the preliminary list closer to election day than is the case federally when revision closes on the seventh day before election day. In Ontario revision can occur up to and including the day before election day. Ontario, however, does not provide election-day registration for those residing in urban polling divisions.

Seven provinces and the Northwest Territories have election-day registration for all qualified voters; Ontario allows this in rural polling divisions. Only Quebec, British Columbia and the Yukon have no provision for election-day registration.

Costs of Registration

The registration of voters in Canada is not only a huge administrative exercise, it is also expensive. By far the most expensive portion is the enumeration. The cost of the 1988 federal enumeration was about \$24 655 000. This included the fees, training pay and travel expenses of enumerators. The cost

of revision was about \$3 145 000. This included the fees for those acting as revising officers, the fees for revising agents, travel expenses and office rental for revision sittings. The total cost of enumeration and revision was about \$27 800 000. In addition, the cost of printing 'vote-at cards' was \$2 525 600 and the postage for these cards was \$5 822 000. Hence, the total cost of voter registration for the 1988 federal election was just over \$36 000 000. Detailed comparative costs for voter registration in all provinces are not available. However, the provincial data available indicate that a comparable amount was spent to register voters for recent provincial and territorial elections.

Assessment

From the perspective of the individual voter, the two most important things about any registration system are the extent to which the individual voter has to take initiatives to register and the opportunities he or she has to register up to and including election day. The former is minimized to the extent that the state assumes responsibility for initiating the registration of voters; the latter is enhanced to the degree that voters lists are open rather than closed up to and including election day.

On the basis of the Canadian experience at all levels, Canadians clearly favour state-initiated registration. In some large part this is obviously due to the long history of enumeration-based registration in Canada at the federal level and, with only a few exceptions, at the provincial-territorial level. As John Courtney and David Smith note:

Among Western democracies the Canadian government alone assumes responsibility for sending voter registration officials (enumerators) to the home of every potential elector in the country. As a consequence eligible electors who are omitted from the voters' list believe that they have grounds for harbouring a grievance against the election administration, a belief not shared by citizens elsewhere. Since in countries where the onus for becoming listed rests on the citizen, it would be perverse for him or her to blame others for the failure to register. (1991 RC)*

The critical issue that was raised time and again at our public hearings and that has been acknowledged by election administrators, federally and provincially, as an increasingly serious problem over the past two decades, is the number of voters who are missed by enumeration. This concern is twofold. First, there are the complaints at every election that certain areas are left unenumerated in major urban centres. Second, there are the complaints that large numbers of certain categories of voters are left unenumerated – the homeless, the hearing handicapped, new Canadians and voters whose occupations require frequent absence from their residences. Although the reasons for the shortcomings of enumeration vary, the outcomes

* In references to Royal Commission research studies, the date is followed by the initials RC.

are the same – some voters are not enumerated. These outcomes are to be expected. Any census-type count of a large population cannot be other than incomplete and inaccurate to some degree. Statistics Canada, for example, estimates that it undercounts the Canadian population at the decennial census by approximately 3 per cent. Applied to the total electorate in the 1988 election, this would mean that the enumeration undercounted by at least 500 000 voters. In addition, the recent experience with enumerations conducted at elections indicates clearly that the level of coverage has declined. This means that enumeration must be considered but one phase of a registration process.

For those missed by enumeration, the second major part of the registration process is the extent to which there are sufficient opportunities to register during the election period. Here the differences between registration systems within Canada, and even within a single system, are striking in terms of their responsiveness. The most important difference between the responsiveness of the federal system and most provincial-territorial systems lies in the fact that several provinces allow for the revision of voters lists much later in the election period and, most critical of all, allow for election-day registration. Provincial election officials in provinces with this latter provision point to it as the single most crucial factor in minimizing citizen complaints about voter registration. The reason is obvious – those who really do wish to vote may be registered on election day. At the federal level, the absence in federal electoral law of this provision for voters in urban polling divisions fuels many of the complaints about the shortcomings of the registration system, especially as the same federal law allows those in rural polling divisions to register and vote on election day. Although complaints about this differential treatment in federal law are not new – the report of the chief electoral officer of Canada in 1922 discussed the subject in response to complaints – they now take on a new hue with the guarantees of equal treatment found in the Charter. (Courtney and Smith 1991 RC) This is especially the case since many ‘rural’ polling divisions in fact contain areas that are suburban in character and thus are indistinguishable from similar areas in urban polling divisions. Many voters consider it unfair to have different standards for voters in urban and rural polling divisions. Moreover, this different treatment could be successfully challenged in the courts. If this occurred during an election, it would cause a major disruption in the administration of the vote on election day.

The question of the extent to which voters lists are open up to and including election day is obviously the easiest issue to address by comparative assessment. The provincial-territorial experience in all but three provinces and one territory, as well as the federal and Ontario experience in rural polling divisions, indicates that election-day registration can be effectively managed with minimum disruption to the voting process while securing the integrity of the vote.

Improving the revision of voters lists is likewise relatively straightforward through comparative assessment. The closer that the revision

process is open to election day and the degree to which it is under the authority of returning officers, and thus considered a consecutive phase of registration, the greater the opportunity of voters to have their names on the voters lists.

The comparative perspective on the enumeration phase of voter registration is more complicated. Election officials at all levels of government in which enumerations are conducted during the election period, as well as the Alberta officials responsible for their non-election period enumeration, report that enumeration in major urban centres has become increasingly difficult to conduct successfully in terms of coverage and accuracy. Although the major causes of this are interrelated in some ways, two sets of issues stand out.

First, both election officials and interveners at our hearings drew attention to the fact that over the past two decades access to voters at their residences has become increasingly problematic. The increased percentage of women in the labour force, as well as changing lifestyles, makes it less likely that enumerators will find someone to answer their calls. An increasing number of voters are away from home for lengthy periods for work-related reasons and cannot be contacted even with two visits. In urban areas in particular, increasing concerns with personal safety make some voters, especially the elderly and those who live alone, unwilling to respond to unannounced callers. An increasing number of multiple-residence buildings, especially condominiums, have policies not to allow persons into their buildings to conduct door-to-door calls. Although none of these factors constitutes a new phenomenon, the incidence of each has increased as a factor militating against access; taken together, they make a census-type count of voters more difficult than in the past.

In addition, election officials are now more cognizant of the fact that hearing-impaired persons may not be aware that someone may be calling at their door, that illiterate persons may be hesitant to respond to official callers for fear of revealing their handicaps, that persons without a command of English or French may be hesitant to reveal their difficulty with either official language and that new Canadians may be hesitant to respond to callers representing the state given their experiences in their country of origin. Again, none of these factors is entirely new to enumeration, but citizens in the last three categories have increased substantially in both absolute and relative numbers over the past two decades.

The more important challenges facing enumeration, however, stem from the widely acknowledged problem of finding enough capable enumerators in many urban centres. The pool of potential enumerators in these centres has been reduced considerably over recent decades for at least two reasons. First, the increased numbers of women in the paid workforce has diminished the number who are able to take on this short-term assignment. Second, fears of personal safety in major urban areas have also taken their toll. At the federal and provincial levels, the shortfall of enumerators has

required election officials to take extraordinary steps to find enumerators and to extend the time period of enumeration. It is also the experience of Newfoundland and British Columbia, with enumerations outside the election period, that these problems are more easily overcome because of the greater time available to seek out enumerators. However, officials in Alberta, where the enumeration is also conducted outside the election period, report problems in finding enumerators in certain urban areas. This indicates that conducting enumeration outside the election period does not, in itself, overcome the problem of finding enumerators.

Complicating matters further, moreover, are the various requirements found in federal and provincial election laws concerning the number of enumerators used as well as the appointment process and qualifications for enumerators. The federal law and that of several provinces requires that returning officers in urban constituencies appoint two enumerators; before enumerators are appointed, however, they must await nominations from the political parties in their constituencies whose candidates placed first and second in the previous election, or nominations from the candidates themselves. This requirement was originally adopted as a check against partisan manipulation in the compilation of voters lists. Given that candidates and their parties could use these government-paid positions as recognition for the party faithful, they were usually able to supply the returning officer with enough names in very short order. In many urban areas today, however, the political parties are unable to nominate the required number of enumerators. In a survey of constituency party associations conducted for our research program, 32 per cent of local party officials from the major parties reported they "barely managed to name [the] required number of" enumerators. As well, 19 per cent of the respondents stated that their local party association was unable to "find enough enumerators". (Carty 1991a RC) The potential pool, as we have noted, has diminished and candidates and parties in many urban areas regard this obligation as an unwarranted burden and a distraction to their preparations for the campaign. They are unwilling to sidetrack their own volunteer workers from campaign activities by offering them as enumerators. This contrasts with smaller urban and rural constituencies where volunteers for enumeration are still found in sufficient numbers.

Election laws in several jurisdictions, including the *Canada Elections Act*, require that each enumerator be a qualified voter from the electoral district in which he or she is appointed. The result of these requirements is that the pool of enumerators is statutorily restricted, particularly with respect to age and residence.

Not surprisingly, the above requirements have meant in several instances that chief electoral officers or returning officers have had to use their discretionary or extraordinary powers to overcome shortfalls in the numbers of enumerators. The most common responses have been to use one enumerator instead of the required two, to use enumerators from outside the constituency in question, to appoint 16- and 17-year-olds and to go beyond the

political parties to community organizations to find enumerators. The latter has been especially necessary in urban areas where proficiency in languages other than English or French and where experience with certain categories of voters, such as the homeless and transient, are deemed necessary. Again, it is not surprising that many election officials, as well as many citizens, consider the current restrictions on who may be an enumerator to be unjustified and inefficient.

The combination of the above factors has increasingly meant that too many returning officers, especially in major urban centres where the problems are most acute, cannot appoint enumerators until several days into the election period; thus, enumerators must be appointed immediately before they are sent into the field. Returning officers themselves in many instances must find enumerators when parties are unable to nominate sufficient numbers. The time for training is thus compressed. Moreover, returning officers have few support staff to conduct training and, equally critical, to provide supervision of enumerators when they are performing their task.

In addition, provisions for quality control to ensure coverage and accuracy are virtually non-existent. Returning officers and their assistants have little time and few measures with which to assess the performance of their enumerators during or immediately following the enumeration. In many areas, as election officials have pointed out with increasing concern, enumeration must be conducted by crisis management. For the 1988 federal general election, this sense of crisis management was exacerbated by the fact that "253 of the 295 returning officers ... had no previous experience of managing an election". (Canada, Chief Electoral Officer 1989, 46)

Finally, at the federal level, the shortcomings of the enumeration process are compounded because revision is a cumbersome and complex quasi-judicial procedure, is not under the authority of returning officers and is not extended late into the election period. Unlike the approach taken in many provinces, it is not structured and managed as a consecutive phase of registration. Furthermore, election-day registration is not available to voters in urban polling divisions, where the vast majority of voters reside.

REFORMING REGISTRATION

Enumeration

In Volume 2, Chapter 4, we discuss whether the Canada Elections Commission should be authorized to acquire the preliminary lists for a province from sources other than a federal enumeration. The Commission would thus not be required to conduct an enumeration in provinces where this might be done. The fact remains, however, that time and the scope of the undertaking will not allow for such alternatives to completely replace enumeration in all provinces in the immediate future, let alone in the next federal election. Consequently, it is necessary to modify the *Canada Elections Act* to ensure that the whole process of enumeration is modernized and made much more efficient.

Planning the Enumeration

Elections Canada has for many years encouraged returning officers to plan between elections; indeed, the responsibilities of returning officers require them to be prepared for an election. But with one exception, the *Canada Elections Act* does not empower the chief electoral officer (CEO) to remunerate returning officers for planning and preparations undertaken before the writs are issued. The exception is the authority to engage the services of returning officers, as necessary, to adjust the boundaries of polling divisions within their constituencies. In addition, under the tariff of fees established pursuant to the Act the CEO is authorized to engage returning officers for special assignments. The scope of this, however, is too narrow and should be expanded.

Much more needs to be done before an election, however. The normal administrative responsibilities of returning officers should include several functions on which the best returning officers already spend a good deal of time and effort, but for which they receive no additional remuneration. They include identifying polling stations for advance and regular polls, especially stations that are or could be accessible to persons with disabilities; developing strategies to reach areas and voters that are difficult to enumerate; and maintaining up-to-date lists of potential enumerators in consultation with constituency associations and community organizations.

To promote effective planning and preparation before the issue of the writ, the CEO must have the capacity to engage the services of returning officers in any or all districts where the CEO deems this to be required. The CEO should therefore recognize the extra time and effort spent by returning officers and remunerate those whose situations require extra attention in the pre-writ period. In Volume 2, Chapter 3, we recommend that the CEO be authorized by the *Canada Elections Act* to engage the services of returning officers outside an election period, as necessary, for planning and preparatory work for the registration and voting processes.

Enumerators: Recruitment, Appointment, Qualifications and Numbers

The *Canada Elections Act* requires the candidates who finished first and second in the preceding election to each nominate one enumerator in urban polling divisions. Returning officers must await these nominations, which must arrive by the forty-fifth day before election day, before appointing enumerators. Only when candidates or their constituency associations fail to nominate enough enumerators may returning officers appoint without nomination.

Rural polling divisions require only one enumerator. Although returning officers generally consult with the candidates of the parties that finished first and second in the previous election, there is no statutory requirement that returning officers await nominations.

The procedure specified for urban polling divisions increasingly impairs the efficient conduct of enumeration and serves little useful purpose.

Candidates and party associations in many electoral constituencies, especially in urban areas, have had great difficulty finding enough nominees and in many cases have been unable to provide complete lists of nominations. In the constituency of North York in 1988, for example, the two candidates concerned provided the names of only 30 of the 780 enumerators required. Many candidates and parties do not want to be required to supply names as this interferes with the conduct of their campaigns, especially when it means that they lose capable volunteers to the enumeration. Not surprisingly, many names show up on the lists submitted by both parties, as individuals who do wish to enumerate approach both parties or are referred to the parties by returning officers. The result, in too many instances, is that the names submitted to the returning officers arrive at the last minute. In addition, many returning officers indicated that they had problems with enumerators who could not write or were not physically able to perform the work.

To overcome the present shortcomings in the training of enumerators, returning officers should have the authority to appoint enumerators as soon as possible after the writ is issued. This is particularly important because our recommendations require that enumerators understand the right of voters to use the special ballot, the right of Aboriginal voters to register and be placed on a voters list in provinces where Aboriginal constituencies are created, and their responsibility to inform voters with special needs of the availability of access to polling stations. This does not rule out co-operation with candidates or local party associations; indeed, returning officers have an incentive to co-operate with party officials, for in most cases they remain the best source for potential enumerators. However, returning officers should consult all registered constituency associations, giving due regard to the standings of their respective candidates at the previous election, and these consultations should be made early, preferably before the writ is issued.

Although returning officers should consult with constituency associations, they should not have to wait several days for their nominations after the writs are issued. Once an election is called, they should be able to appoint enumerators almost immediately. This is, in effect, the procedure used in rural polling divisions, and we see no reason why it should not apply to the appointment of all enumerators.

Specific attention also should be given to voters who are members of ethno-cultural minorities, and who may require specialized information on the voter registration process. Several affirmative measures have been suggested by Michael and Shelley Pinto-Duschinsky (1987) to increase registration among ethno-cultural groups in Great Britain. For example, based on a comprehensive review of the registration process, they recommend that the Home Office, which has responsibility for voter registration in Great Britain, communicate regularly with Community Relations Officers, community organizations, and the ethno-cultural press as well as local radio stations to assist ethno-cultural voters. They note that, where possible,

individuals who can translate in the relevant ethnic minority languages should be available to assist canvassers and election registration officials. The Pinto-Duschinskys also suggest that posters, leaflets and press advertisements with voter registration information in the languages of these communities should be widely distributed in appropriate areas. (1987, 22)

Returning officers should also consult widely with community organizations to ensure that the total complement of enumerators includes persons from all the major minority groups in a constituency. It cannot be presumed that the constituency associations whose candidates finished first and second in the previous election, or even all registered constituency associations combined, have networks that extend to these minorities or to the marginal segments of a constituency such as the homeless. Yet it is persons from these communities or segments of society who require the most complete coverage possible.

Recommendation 2.1.1

We recommend that

- (a) returning officers be required to**
 - (1) request names of enumerators from all registered constituency associations;**
 - (2) appoint enumerators as soon as possible after the writ is issued with due regard to the standings in the previous election of the candidates of registered constituency associations that have submitted names;**
 - (3) consult with community organizations and shelters to recruit potential enumerators; and**
- (b) measures be taken to provide voters from ethno-cultural communities with information and assistance on the enumeration and voter registration process.**

The *Canada Elections Act* requires that enumerators be qualified voters in the constituency for which they are appointed. In the 1988 election, the chief electoral officer had to exercise his special powers to authorize returning officers to appoint persons under the age of 18 years in 10 polling divisions, involving six constituencies, and to appoint persons who did not reside in the constituency in 177 polling divisions, involving 18 constituencies. The problems that required the chief electoral officer to use these special powers were not 'unusual' or 'unforeseen'; they were predictable problems that any administrator overseeing an operation of this magnitude and complexity would expect.

Although there are sound reasons for enumerators to be qualified voters living in the constituency for which they are appointed, this should not be required by the *Canada Elections Act*. In major urban areas, where the shortage of enumerators is most severe, this regulation has caused serious logistical

problems. However, the small size of high-density constituencies in urban areas means that enumerators appointed from outside a constituency are likely to be neighbours of voters in the constituency in which they enumerate. In large rural constituencies, it is virtually assured that enumerators will be from the constituency. Moreover, if the pool of enumerators is increased by recruiting enumerators from all registered constituency associations in a constituency and from community organizations, the number of potential enumerators from the constituency would be expanded. Finally, if Canadian citizens aged 16 and 17 years were allowed to enumerate, as they were in the 1988 general election with the authorization of the CEO, the pool would be expanded even further.

Recommendation 2.1.2

We recommend that every person appointed enumerator be a Canadian citizen and at least 16 years of age.

The requirement that enumerators work in pairs in urban polling divisions to check against partisan interference is no longer necessary. As noted above, political parties are now willing to nominate persons who are referred to them by returning officers or who apply to them to be enumerators but are not known to them. This demonstrates that party officials are not overly concerned that the integrity of enumeration will be undermined if they do not have their own nominees acting as enumerators. Notwithstanding the shortcomings of the system in providing adequate enumeration, there is no reliable evidence to suggest that disfranchisement occurs because of partisan interference. Moreover, our recommendations on revision and election-day registration provide assurance that, if problems were to occur, they could be corrected.

The requirement for two enumerators per polling division is also an inefficient use of personnel. There is no evidence that using just one enumerator in rural areas for federal enumerations, or the use of one enumerator in Newfoundland, Manitoba and Saskatchewan for both urban and rural polling divisions, has affected the eligibility of voters or the quality of the preliminary lists. At the same time, it would be advisable for enumerators to work in pairs in some areas to ensure personal safety.

Recommendation 2.1.3

We recommend that one enumerator be appointed for each polling division, except where it is deemed prudent or advisable to appoint two.

Managing the Enumeration for Quality Control

Enumeration is carried out under the direction of a returning officer, assisted by an assistant returning officer. The scope of the returning officer's

management responsibilities – which include recruiting, training and supervising enumerators – is too great in too many instances. The present structure does not provide for another layer of management in constituencies where extra effort is required to recruit and train enumerators and where there is a need for close supervision for quality control.

The *Canada Elections Act* assumes that all constituencies, and therefore their management requirements, are identical in every respect. This is not the case, and the CEO should be able to authorize returning officers to appoint 'supervisory enumerators' to assist them in recruiting, training and supervising enumerators where necessary. The CEO, in consultation with individual returning officers, should have the authority to determine which constituencies require supervisory enumerators and how many should be appointed.

Recommendation 2.1.4

We recommend that returning officers be authorized by the chief electoral officer to appoint supervisory enumerators to assist in managing the enumeration process.

At the same time, there is a need to introduce improved methods of quality control if errors are to be identified in sufficient time for corrective action to be taken before the end of the enumeration period.

Several changes would improve the current approach. For instance, enumerators should not have to complete the enumeration before submitting voters' names. At present, unless they submit the lists well before the end of the enumeration period, there is insufficient time for the returning officer to check on the completeness of the enumeration. If time is available, returning officers should base their check primarily on their own knowledge of the areas enumerated.

If returning officers and their supervisory enumerators are to provide a thorough check on the completeness of enumeration, they require a system for processing information that begins well before the end of the enumeration period. The obvious solution is to have enumerators submit completed enumeration forms daily or every other day. They should also provide addresses where there were no voters or no one at home. In this manner, the completeness of coverage could be assessed throughout the enumeration period. To be managed effectively, this information should be entered on a computerized voters list at the returning officer's office. This would eliminate the need for enumerators to prepare their own lists at the end of the enumeration, which then have to be typed at the returning officer's office with the numerous errors that such a process necessarily entails. There would also no longer be any need to supply 10 copies of each list to every candidate; one printed copy or a copy on diskette is sufficient.

Recommendation 2.1.5

We recommend that

- (a) enumerators submit completed enumeration forms with the names and addresses of voters to the office of the returning officer as directed by the supervisory enumerator or returning officer for entry on the voters lists; and**
- (b) one copy of the preliminary list for each polling division in each constituency be made available in machine-readable form or printed format to the candidates in each constituency two days after the enumeration ends.**

On a separate matter, provision should be made to protect the privacy of the addresses of those who, especially for reasons of personal security, do not wish their address to be included on any lists made available to candidates. Australia uses a practice of 'silent lists' in which the addresses of voters on voters lists need not be publicly available. Such a provision would meet the legitimate requests of several interveners at our hearings, especially as this applies to women who live alone or at community shelters.

Recommendation 2.1.6

We recommend that, on request, the address of the office of the returning officer be given as a voter's address for all lists made available to candidates.

Enumeration Procedures

In urban polling divisions, enumerators must visit every residence at least twice and at different hours (though not different days) for each visit. They may also use other sources of information, such as names supplied by neighbours. In rural polling divisions, enumerators post a notice of enumeration and assemble voters lists using any information available. A rural enumerator may visit residences, but this is not required. Given that many rural polling divisions contain suburban areas, it is no longer appropriate that enumerators not visit residences. Elections Canada has therefore decided to require such visits at the next election except in remote rural areas.

Three issues must be addressed. First, the current distinction between urban and rural polling divisions no longer makes sense from the perspective of coverage or integrity. Second, returning officers should have some discretion to decide whether enumerators may use methods other than visits to residences. For example, many enumerators whose polling divisions include multiple residency buildings find that the most effective method of enumeration is to post an announcement in the lobby of a building and enumerate residents there. This method is not only more productive,

but also often more efficient. Third, enumerators' visits must occur at different times but not on different days. This allows enumerators to conduct the second visit on the same day; indeed, the visits could be less than three hours apart. In some circumstances it makes sense to return the same day; voters not at home during the day may well be home in the evening. In other cases, however, this may not be appropriate. Judgement based on knowledge of the area being enumerated is required. The matter should be decided by returning officers, in consultation with supervisory enumerators if applicable. It is not a matter that can be addressed effectively in law or regulation.

Recommendation 2.1.7

We recommend that returning officers determine the methods and hours of enumeration to be used by enumerators in their constituencies.

Increasingly, enumerators in many areas find that they are unable to gain access to multiple residency buildings to conduct a door-to-door canvass. As is the case in seven provinces and the two territories, the *Canada Elections Act* should state clearly that enumerators have a right of access upon presentation of identification as an enumerator.

Recommendation 2.1.8

We recommend that every enumerator, upon producing proper identification and during reasonable hours, be given free access to the entrance door to each dwelling unit in any multiple residence building in order to conduct an enumeration of voters.

As we have noted, a special problem of enumeration is created by the Act's rules on the 'residence' of voters as they apply to the homeless. The Act requires anyone living in a hostel to have resided there for 10 consecutive days immediately preceding the enumeration date but many hostels limit the number of consecutive days which a person can stay to give the greatest access to as many people as possible. In its municipal elections Toronto has allowed homeless voters to be registered by using shelters as their address, and in the 1990 Laurier-Sainte-Marie federal by-election Elections Canada permitted voters to be enumerated at soup kitchens if they used them frequently. The Committee for Aboriginal Electoral Reform recommended that homeless Aboriginal voters be able to identify a local Aboriginal community office, such as a band office or Métis friendship centre, as their place of residence. These approaches help ensure that voters are not disfranchised simply because they are homeless. This requires that

enumerators (and revising agents) visit shelters or soup kitchens frequented by the homeless during times when the greatest number are likely to be present. This process would be simplified if a community worker were appointed as enumerator for these locations.

Recommendation 2.1.9

We recommend that homeless voters be permitted to give the address of a shelter, soup kitchen, Indian band office or Métis friendship centre as their place of residence.

Mail-in Enumeration

If enumerators in urban polling divisions do not receive an answer on the second visit to a residence, they leave a notice of final visit that includes the telephone number of the returning officer and the last date of revision. Not surprisingly, many voters who call to be enumerated shortly after the end of enumeration are unhappy to find that they cannot be enumerated by telephone and that enumerators cannot make another visit. In these cases a revising agent visits the voter to complete a revision application or the voter applies in person at the returning officer's office (or sub-office).

Improved revision will help to address this issue, but a more effective extension of enumeration would be to institute mail-in enumeration. When enumerators do not receive an answer on their second visit, they would leave a mail-in enumeration card in place of the notice of final visit. To assist those with reading disabilities and those who have difficulty reading English or French, this card should contain the phone number of the returning officer as well as the Canada Elections Commission's logo. Addressed to the returning officer and postage-paid, the card would be numbered so that enumerators could note an identifying number on their record of addresses where cards were left. The voter would write in the name and address of all voters at that residence, certify that all information is correct by signing the card, and return the card by mail or in person to the office or sub-office of the returning officer. The deadline for receipt of this card at the office of the returning officer would be 6 p.m. on the fifth day before election day when the revised voters lists are finalized. This approach has worked well in the United States and the integrity of the system has not been questioned. (Citizens' Commission on Civil Rights 1988)

In provinces with Aboriginal constituencies, the mail-in enumeration card should inform Aboriginal voters of their right to register to vote in an Aboriginal constituency. The card should also contain a box where an Aboriginal voter could indicate that he or she, along with any other Aboriginal voters at the same residence listed on the card, wished to be registered to vote in the Aboriginal constituency. These cards, once received by the returning officer whose address would be shown on the front of the card, would then be forwarded to the returning officer for the appropriate

Aboriginal constituency so that the voters listed on the card could be added to the voters list for the Aboriginal constituency. The converse would also hold for Aboriginal people in areas predominantly populated by Aboriginal people who wanted to be registered in the general constituency.

Recommendation 2.1.10

We recommend that

- (a) voters not contacted by enumerators be left a numbered mail-in enumeration card, containing the phone number of the returning officer and the Canada Elections Commission's logo, with which they can register by listing the name and address of all qualified voters at their residence, certifying that the information on the card is correct, and returning the card by mail or in person to the returning officer's office or sub-office, provided that the card is received by 6 p.m. on the fifth day before election day; and**
- (b) in provinces with Aboriginal constituencies, mail-in enumeration cards**
 - (1) contain information pertaining to the right of Aboriginal voters to register to vote in an Aboriginal constituency or a general constituency;**
 - (2) provide a place for voters to mark that it be forwarded to the returning officer for the Aboriginal constituency, if applicable, when dropped off in an area predominantly populated by non-Aboriginal people; and**
 - (3) provide a place for voters to mark that it be forwarded to the returning officer for the general constituency, if applicable, when dropped off in an area predominantly populated by Aboriginal people.**

Payment of Enumerators

Enumerators' remuneration is based on the number of names on the lists they submit at the close of the enumeration. The assumption is that all polling divisions have similar numbers of eligible voters and non-eligible persons, and that enumerators have an equal incentive to make extra visits to residences to secure additional names.

For enumerators working in polling divisions with a high percentage of ineligible persons, this payment structure is both discouraging and a disincentive to thoroughness. These enumerators are not compensated for visiting residences with no voters, and there is no recognition of the time and effort spent attempting to communicate with persons whose knowledge of English or French is limited or who are uneasy with visitors from a government agency.

A more appropriate payment structure would be to compensate enumerators for each address called at, with a differential payment for the number of voters enumerated, the number of recorded visits to residences without voters, and the number of residences where no one answered. This system would reimburse enumerators for actual work performed and thus encourage them to be thorough in their enumeration.

Recommendation 2.1.11

We recommend that enumerators be paid according to a fee structure based on the number of visits made, as indicated by the number of names of voters collected, addresses without voters, and addresses at which mail-in enumeration cards were left.

Length of Enumeration Period

The enumeration period is now set at seven days, from the thirty-eighth to the thirty-second day before election day. Not all constituencies need the full period to prepare preliminary lists, but some do. Those that do often experience difficulties in recruiting enough competent enumerators with the industry and incentive to complete their assignment in less than seven days. Enumerations at the provincial level vary in the time required by law from four to 10 days, although in Ontario it can be less than four days at the discretion of the chief election officer.

With the procedural changes we recommend, the period required to compile the preliminary voters lists may well be reduced. The length of the enumeration period should thus become a matter of administrative judgement to be exercised by the Canada Elections Commission. The Commission would assess the circumstances known or anticipated at the time the election writ is issued; it would also have the benefit of experience with procedures tried in previous elections. Except under unusual circumstances, the enumeration period should be the same for all constituencies in each province or territory. In some cases, it might become necessary to extend the enumeration period in certain constituencies or parts thereof. Whenever this occurs, the chief electoral officer should both inform the candidates in the constituency and publicize the extension.

Recommendation 2.1.12

We recommend that

- (a) the length of the enumeration period for each province and territory be designated by the Canada Elections Commission immediately following the issue of writs;**
- (b) the length of the enumeration period be designated the same for all constituencies in a province or territory;**

- (c) the chief electoral officer be authorized to extend the enumeration period for one or more constituencies or one or more polling divisions as deemed necessary; and
- (d) where the chief electoral officer deems it necessary to extend the period of enumeration in one or more constituencies or one or more polling divisions, the candidates and voters in these constituencies be informed.

Revision

The current revision process for urban polling divisions is cumbersome, unnecessarily complicated and not conducted under the authority of returning officers. Revision for urban polling divisions should be simplified, made more accessible, and organized as the second stage of registration for those not on the preliminary list.

Revising Officers

To better manage the revision process, revision should be placed under the authority and responsibility of returning officers who would appoint revising officers, as well as revising agents. Most returning officers at our returning officers' symposiums favoured assuming this responsibility. Revising officers should be familiar with the process and capable of directing the work of revising agents. Whenever possible, it is preferable that revising agents be appointed from those who have served as supervisory enumerators or as regular enumerators but, contrary to the current Act, they should be appointed to work anywhere in the constituency as required and directed by revising officers or the returning officer. This would increase flexibility in the administration of the revision process. They should continue to work in pairs and not represent the same political interest. Constituencies would be subdivided into revision divisions with a revising officer responsible for each. In addition, the returning officer and the assistant returning officer should be able to perform the functions of revising officers when necessary.

Revising officers would be responsible for:

- processing mail-in enumeration cards, and entering the names of voters on the appropriate voters list;
- responding to telephone or written requests for revision by visiting households that have not been enumerated or did not receive mail-in enumeration cards, and entering the names of voters on the voters list;
- upon the direct instruction of the returning officer, conducting an enumeration in lieu of a revision, in any area or areas where the returning officer deems a new enumeration to be necessary and more efficient than revision;
- processing requests for registration made in person by voters, or on behalf of a voter by a relative, at the returning officer's office (or sub-office);

- sending revising agents to any residence they know enumerators have not visited and taking the names of voters there; and
- processing any requests for corrections or deletions from the list, the latter being restricted to the deleting of a name by the voter in person, and the deleting of the name of a deceased voter on the advice of a member of the immediate family.

Recommendation 2.1.13

We recommend that

- (a) returning officers appoint revising officers in revision divisions approved by the chief electoral officer and revising agents for the constituency;**
- (b) revising officers (or returning officers and assistant returning officers) enter the names of voters on the voters lists as requested by voters at the office(s) of the returning officer or revising officer, at the residence of voters, or after receiving mail-in enumeration cards;**
- (c) revising officers direct revising agents, who shall work in pairs and not represent the same political interest, to visit residences that were not visited by the enumerators;**
- (d) revising officers, when so directed by the returning officer, conduct an enumeration, in lieu of revision, in any area where the returning officer deems this to be necessary; and**
- (e) revising officers make corrections to the voters list when requested by a voter to revise the names or addresses of a voter or voters; and delete the name of a voter when requested to do so by the voter in question or by a member of the immediate family in the case of a deceased voter.**

Registration at the Office(s) of the Returning Officer

Finally, as an extension of revision, voters should be able to register in person at the office (or sub-office) of the returning officer, upon presentation of prescribed identification, up to 6 p.m., the fifth day before election day. These voters could also register on election day, but the administration of the vote and the convenience of the voter would be enhanced to the degree that the lists for each polling division were complete and accurate before election day.

Voters should also be able to register qualified voters of their immediate family or those living at the same residence provided that they present the prescribed identification of these voters.

Recommendation 2.1.14

We recommend that voters be able to register, with identification, or to register voters of their immediate family or those living at the same residence provided that they present identification for these voters, at their returning officer's office (or sub-office) up to 6 p.m., the fifth day before election day.

Verification of Voters Lists

Voters who register for the special ballot, by revision, at a returning officer's office or on election day, with only a few exceptions, must register in person and provide prescribed identification. An election official is thus able to ascertain that the voter is a qualified voter and is a resident of the polling division for which he or she is registered. In the case of voters registered by enumeration, including mail-in enumeration (or who are listed on a voters list supplied by a province, as discussed in Chapter 4 of this volume), no identification is required, and the voter need not be contacted by an election official in person. In addition to the check that is provided by the right of a candidate or candidate's representative to challenge the eligibility of a voter at a polling station at an advance poll or on election day, a process is required to verify the eligibility of those names on the preliminary voters lists as well as the names of voters who are added to the lists by mail-in enumerations up to the close of registration on the fifth day before election day.

In the case of the preliminary voters list, the returning officer would make a copy of the certified preliminary list for the constituency available to every candidate who requests it no later than the second day after the close of the enumeration period. Any voter would then have the right to object to the inclusion of a person on the list on the ground that the person does not have the right to vote in the polling division for which he or she is registered. Such an objection would have to be made in writing, stating the grounds for the objection, and it would have to be received by the returning officer no later than the seventeenth day before the election. The returning officer then would inform the person being objected to and inform each candidate of the receipt of the objection and of the time and place where any such objections would be decided on by revising officers. On the twelfth day before election day, each revising officer would conduct a hearing and decide on the objections in her or his revision district. The persons being objected to and candidates or their representatives would have the right to attend these hearings and make presentations. The person making the objection would have the burden of proving that the person being objected to should be removed from the voters list.

Recommendation 2.1.15

We recommend that

- (a) any voter be permitted to object to the inclusion of a person on a preliminary voters list on the ground that the person does not have the right to vote in the polling division for which he or she is registered;
- (b) a voter who objects to a person on a preliminary voters list be required to send a written objection to the returning officer no later than the seventeenth day before election day;
- (c) the written objection state the name, address and phone number of the person making the objection, the name of the person being objected to, and the grounds for the objection, and be dated and signed by the person making the objection;
- (d) any person objecting to the inclusion of a person on a preliminary voters list have the burden of proving that the person should be removed from the list;
- (e) the returning officer, on receipt of an objection, be required to inform the person being objected to and each candidate in the constituency of the receipt of the objection, their right to attend a hearing and make presentations, and the place and time of the hearing; and
- (f) each revising officer conduct a hearing on the twelfth day before election day to hear presentations, and decide on any objections.

When registration closes at 6 p.m. constituency time on the fifth day before election day, the returning officer would prepare a list of all voters who were added to the voters list since the certified preliminary list was prepared at the conclusion of the enumeration period. On the fourth day before election day, the list of the names added would be made available to each candidate who requests it, and revising officers would meet with any candidates or their representatives before noon on this day to review the list and to enable candidates or their representatives to make objections. Where issues cannot be resolved, the revising officer would make a reasonable effort to inform the person or persons being objected to that they may be challenged at the polls when they go to vote. These persons would not, however, be deleted from the voters list since they must be given an opportunity to respond; this would be accomplished at the polling station.

Recommendation 2.1.16

We recommend that

- (a) following the close of registration on the fifth day before election day, the returning officer prepare a list of all voters added to the certified preliminary voters list and, on the fourth day before election day, make this list available to any candidate who requests it; and
- (b) each revising officer, before noon constituency time on the fourth day before election day, meet with candidates or candidates' representatives to review this list of voters and, where an objection cannot be resolved, make a reasonable effort to inform those objected to that they may be challenged at their polling station when they appear to vote.

Election-Day Registration

The *Canada Elections Act* allows only voters in rural polling divisions to register on election day. Seven Canadian provinces and the Northwest Territories allow any voter to register on voting day. Ontario allows voters in rural polling divisions to register on election day and urban voters to register up to the day before election day. Only Quebec, British Columbia and the Yukon do not provide election-day registration. Internationally, France and a small number of U.S. states provide election-day registration.

No Canadian jurisdiction except Manitoba collects statistics on election-day registration. In the 1990 provincial election, approximately 5 per cent of Manitobans who voted did so after registering on election day. In the 1986 British Columbia provincial election, the last election before this provision was removed, the figure was 11.8 per cent of those who voted. In the U.S. states that provide this opportunity, turnout in the last four presidential elections averaged almost 14 per cent higher than in states without this provision.

Our survey of constituency association presidents indicated that 71 per cent of respondents were in favour of election-day registration. (Carty 1991a RC) At our public hearings, support ran seven to one in favour of this provision.

Election-day registration is essential if every reasonable effort is to be made to secure the right to vote. It builds on the existing federal practice in rural polling divisions, and it is the norm in the provinces. Moreover, it need not interfere with the administration of the vote. Central polling places combining several polling stations are now common in urban areas; at these locations, election-day registration could be administered separately from and prior to voting. The function could be assigned to registration officers appointed from among those who have been revising officers and whose other duties have been completed. At locations where there is only one polling

station, including temporary mobile polling stations, the returning officer could make arrangements, as necessary, to ensure that registered voters are not inconvenienced unduly by those who must register before they vote.

Nor should election-day registration interfere with the distribution of nearly complete voters lists to candidates and parties. Would the procedure discourage many voters from being enumerated or registered by revision? The evidence from rural polling divisions and the provinces suggests not. In some cases voters registering on election day could have been registered through regular enumeration or revision; but voters moving from one constituency to another during the election period also account for a percentage of those registering on election day.

For a voter who wishes to register, appropriate identification, including confirmation of the voter's address, should be sufficient to safeguard the integrity of the vote. The practice of vouching should be eliminated because it can lead to election fraud.

Recommendation 2.1.17

We recommend that

- (a) voters be permitted to register on election day provided they present prescribed identification, including confirmation of their address, and swear an oath or make an affirmation that they are a qualified voter and reside in the polling division;**
- (b) the provision whereby a voter may be vouched for by another registered voter from the same polling division be removed from the *Canada Elections Act*; and**
- (c) returning officers appoint revising officers at central polling locations to provide for an efficient election-day registration that does not hamper the conduct of the vote.**

Information to Voters

The system for informing voters that they have been registered and providing information on voting times and places could be more efficient and cost-effective. The enumeration slip now left at each residence does not include polling information because poll locations may not have been confirmed by this time. A Notice of Enumeration card is thus mailed to each enumerated voter with the required polling information. This card also serves to verify that a voter on the list actually resides at the address to which the card is mailed. When cards are returned to the office of the returning officer by Canada Post, a check can then be made. This final check has never been used systematically, however, given the short time available. With the shorter election period we recommend, this procedure could not be effectively utilized.

Our recommendation that the Canada Elections Commission engage returning officers well before the election is called should enable returning

officers to confirm most, if not all, polling locations by the time of enumeration and the locations and phone numbers of their offices. Thus a card left with enumerated voters and a mail-in enumeration card could provide polling information in most cases. In addition, voters added to election lists by revision or registration at the office(s) of the returning officer could be given cards with the required polling information when they register. This card would provide information on the following: the location of the voter's regular polling station and whether barrier-free access is available; the location of the voter's advance polling station; the hours of the voter's mobile polling station where appropriate; and the phone number and location of the office and sub-office(s) of the constituency returning officer.

The Notice of Enumeration, or the 'vote-at card' as it is commonly called, would no longer be mailed to voters who are enumerated because returning officers would have prepared the required information in advance. Thus Voter Information cards could be left with voters when they are enumerated. They could also be given to voters who register at an office of the returning officer or who are registered by revising agents. The cost of mailing Notice of Enumeration cards in 1988 was almost \$6 million. Even though there would be a need to mail Voter Information cards to a few voters who would not have been contacted at their residences, major savings would be achieved by having enumerators distribute them.

Recommendation 2.1.18

We recommend that

- (a) Voter Information cards be given to those enumerated, given to those registered by revising officers or at the office(s) of the returning officer and mailed to voters registered by means other than visits to residences; and
- (b) Voter Information cards provide information on the location of the voter's regular polling station and the availability of barrier-free access (using the international symbol for such access), the location of the voter's advance polling station, the hours of the voter's mobile polling station where appropriate, and the phone number and location of the office and sub-office(s), if any, of the constituency returning officer.

Special Registration for Specified Groups

In addition to those who vote at advance or election day polling stations using the ordinary procedures of voting, voters may vote by *special ballot*. For some voters, the special ballot will be obtained in person from the office(s) of their local returning officer after they are enumerated or when they register. For those who are away from their home constituency, however, this approach is not feasible. Special registration procedures are

therefore necessary. There are essentially two categories of voters to whom these special registration procedures apply: (1) voters living abroad and (2) voters away from their home constituency.

In each case, it is necessary that there be a definition of 'home constituency' for these voters. Under the current *Canada Elections Act*, the provisions for Special Voting Rules define an 'ordinary residence' for Canadian forces electors and public service electors and their dependants, and for veteran electors. An 'ordinary residence' is either (1) that place of residence (with or without a street address) immediately before enrolment or transfer, commencement of full-time training or service, being placed on active service, the time of joining the public service, being posted or appointed to serve outside Canada, admission to hospital or institution, or (2) the residence of a person who is her or his spouse, dependant, relative or next of kin. For those who now would be entitled to register and to vote in their home constituency while living abroad or being away from their home constituency, we propose that a general definition of home constituency be simply the constituency that includes the voter's ordinary residence if he or she is temporarily away from home (as in the case of persons travelling, in hospital or at a temporary workstation), the voter's last place of residence before he or she took up residence elsewhere (including persons living abroad or away studying full-time) or the residence of a voter's spouse, dependant or next of kin.

Recommendation 2.1.19

We recommend that a voter's home constituency be one of the following as selected by the voter: the constituency that includes the voter's ordinary place of residence, the voter's last place of residence before assuming a residence elsewhere, or the residence of a voter's spouse, dependant or next of kin.

Voters Living Abroad

Voters living abroad are now registered and able to vote only if they qualify under the Special Voting Rules of the *Canada Elections Act*. Our recommendation that Canadian voters living abroad be qualified to vote requires new procedures so that they may register and be issued a special ballot. The most effective and efficient method to accomplish these two tasks, while preserving the integrity of the vote, is to have the Canada Elections Commission maintain a register of voters living abroad. Voters living abroad would have their names and their home constituency entered on this register in one of two ways.

All voters living abroad, except for personnel of the Canadian forces and their spouses and dependants living abroad with them, would register with the Commission by mail. Applications would be obtained from the Commission or from any Canadian government office abroad. We expect

that most voters moving abroad would obtain the required forms before leaving Canada. The Commission, therefore, should establish a program to provide information and application forms to businesses and organizations, as well as federal government departments and agencies, that regularly assign their personnel to work abroad. This registration would require: the name and signature of the voter; her or his last place of residence in Canada or the address of her or his spouse, dependant or next of kin; and her or his current address and identification as prescribed by the Commission (passport, citizenship card or any other identification acceptable to the Commission).

Voters would be assigned a personal voter registration number to be placed on the certificate envelope that is part of the return of the special ballot. Sections 46(2) and 50(1) (Special Voting Rules) of the *Canada Elections Act* authorize the use of the Social Insurance Number (SIN) in the preparation of voters lists for the Canadian forces. Similarly, all voters living abroad could be identified through their SIN. The use of the SIN for such purposes, to be consistent with Treasury Board guidelines, would require a specific amendment to the *Canada Elections Act*. Current federal policy requires that any authorized use of the SIN must be achieved through legislative amendments. As well, the use of the SIN as a means of identifying voters living abroad would have to meet specific conditions in the federal *Privacy Act*. Current federal policy requires that individuals must be notified when their SIN is used, for what purposes and whether there are specific sanctions involved if the SIN is not disclosed to the government department or agency requesting it. If the SIN is used in a personal information bank, the operating government agency "must so indicate and must cite the authority under which the number is collected and describe the purposes for which it is used in the *Index of Personal Information*". (Canada, Treasury Board of Canada 1989, 3) Under the *Privacy Act*, the Privacy Commissioner of Canada has the authority to examine the collection, use, disclosure and management of personal information acquired by government agencies. The registration of a voter living abroad would be valid for three years, subject to renewal providing that he or she continued to qualify as a voter.

Canadian forces personnel and their spouses and dependants who are qualified voters and living abroad would also have their names and home constituencies entered on the Commission's register. However, as there may be security reasons for not identifying the addresses abroad and given that the Department of National Defence (DND) maintains lists of its personnel and employees abroad, the most efficient method of registering these voters would be to have DND maintain the register for those voters on behalf of the Commission and provide it with a master list of all such voters abroad at the time an election writ is issued, in the format determined by the Commission.

The names and addresses of all voters on this Commission register for each constituency would be made available to candidates in each

constituency, although the current addresses of Canadian forces voters could be only a post office address.

Recommendation 2.1.20

We recommend that

- (a) the Canada Elections Commission maintain a voter register of Canadian voters living abroad;**
- (b) voters living abroad register by mail by sending a completed registration form to the Commission;**
- (c) Canadian forces voters abroad be on the list of voters abroad maintained by the Department of National Defence on behalf of the Commission and be provided to the Commission at the time the writ is issued;**
- (d) applications contain a signature, Social Insurance Number, identification as prescribed by the Commission, the last address in Canada or the Canadian address of the spouse, dependant or next of kin, and the voter's current address;**
- (e) each registered voter be assigned a unique voter registration number;**
- (f) the *Canada Elections Act* authorize the use of Social Insurance Numbers to provide voter registration numbers;**
- (g) this registration be for three years and renewable, provided that the voter remains qualified by not voting in a foreign national election since taking up residence abroad; and**
- (h) following the issue of the writ, the Commission make available to candidates the list of voters (name and address only) from their constituency on the register.**

Voters Away from Their Home Constituency

All other voters away from their home constituency, including those living abroad but not on the Commission's register at the time a writ is issued, must apply in person to register for their home constituency and to receive a special ballot to vote. This process of registering and applying for a special ballot would constitute one step, using a single application form. This application would be available from the office of any returning officer in Canada and at Canadian government offices abroad.

These voters must apply in person and present identification with a signature, as prescribed by the Commission. The application must include the address of her or his home constituency, the current address (if different from the former) and a declaration that he or she will vote only by special ballot. The election official at the office of the returning officer or designated Commission agent at a Canadian government office abroad must certify on the application that the prescribed identification with signature

was presented and that a special ballot was received by the voter, as well as note the number on the certificate envelope. The election official or designated agent would then send by facsimile the completed registration-special ballot application to the returning officer in the home constituency. The name and address of the voter would then be added to the voters list for the polling division in question with an indication that the voter has received a special ballot and the number of the certificate envelope.

For designated Canadian offices abroad or in Canada, such as RCMP offices in remote areas, the Commission should consider the use of their internal telecommunication facilities to help relay these registration applications to returning officers.

Voters who register in this manner must ensure that they register in time for their completed registration application to be received by the returning officer in their home constituency by 6 p.m. eastern time on the fifth day before election day.

Recommendation 2.1.21

We recommend that

- (a) voters away from their home constituency be permitted to register and apply for a special ballot at any office, including any temporary office, of any returning officer in Canada, at designated Canadian government offices in Canada or abroad;**
- (b) all such voters apply in person, provide a signature, present identification as prescribed by the Commission, provide their address in their home constituency and sign a declaration that they will vote only once in the election;**
- (c) the election official or agent who registers every such voter certify on the application form for registration and the special ballot that the prescribed identification was presented and that a special ballot was given to the voter, and record the number of the certificate envelope;**
- (d) the completed application be forwarded forthwith by mail or facsimile by the official or agent who registers the voter to the returning officer in the home constituency of the voter;**
- (e) on receipt of a completed and certified application, the returning officer enter the name of the voter on the voters list for the appropriate polling division, note that the voter has received a special ballot and the number of the certificate envelope; and**
- (f) registration be accepted only if received by the office of the returning officer in the home constituency of the voter by 6 p.m. eastern time on the fifth day before election day.**

With the exception of inmates in federal institutions, as discussed below, and of certain voters in hospitals, the above procedures and requirements for registration apply to all voters away from their home constituency. However, certain groups of such voters are found in clusters in many locations, and the Canada Elections Commission should take measures to facilitate their registration and application for a special ballot. These clusters of voters away from their home constituency include full-time students at post-secondary educational institutions, inmates in provincial and local institutions, workers at temporary worksites and Canadian forces personnel on training in Canada at other than their normal posting.

In the case of the first three clusters of voters, the Commission should instruct the local returning officer in whose constituency such educational institutions, prisons or worksites are located to establish a temporary office one week or so before election day so that these voters can register and apply for a special ballot. For Canadian forces personnel on training, the returning officer should designate an officer as election agent at such bases to accept applications for registration and for the special ballot. These election agents would assist these clusters of voters to register and apply for a special ballot and, as at any election office accepting applications, transmit the completed application form by facsimile to the office of the returning officer in the voter's home constituency.

The provision of this service would facilitate access to registration and the special ballot for these voters. In the case of post-secondary students studying away from home, for example, this service would facilitate access to the ballot for up to half a million students. Groups representing students at our hearings were critical of the restrictive and cumbersome rules for proxy voting, which is the only way students far away from home may now vote in their home constituency, as well as the fact that for many students their first vote must be cast by a proxy. The special ballot would make voting more accessible to students away from home because they would be able to register, apply for and obtain a special ballot at their place of study.

In the case of inmates in provincial and local prisons who obviously cannot leave their institution to register with a local returning officer, a temporary office would enable the local returning officer to register all those who would be qualified to vote in their home constituency by special ballot during a one-day period.

In the case of Canadian forces personnel on training in Canada but away from home, the local returning officer could simply designate a Canadian forces personnel officer as an election registration agent who would then register any voter on training away from home and provide special ballots at any time up to the deadline on the fifth day before election day.

For major temporary worksites where the local returning officer has reason to believe that voters away from their home constituency are present, the local returning officer would have an election official set up a temporary election office to provide registration and special ballots.

Voters at any of these locations who were unable to avail themselves of this service would still be able to register and apply for a special ballot by applying in person at any office of the local returning officer or to an election agent designated by the local returning officer (for instance, at Canadian forces bases or in provincial and local prisons) as long as their completed application was received by the returning officer in their home constituency by 6 p.m. eastern time on the fifth day before election day. Whenever election officials assist in returning a ballot to the office of the returning officer in a voter's home constituency, responsibility for delivery of the ballot by the deadline remains that of the voter.

Recommendation 2.1.22

We recommend that returning officers in whose constituency are located major clusters of voters who must vote by special ballot, including inmates in provincial and local prisons, full-time students at post-secondary institutions, workers at temporary worksites and Canadian forces personnel on training, make provisions, as the chief electoral officer deems appropriate, for registration and the provision of special ballots.

In the case of voters who are inmates in federal institutions, it would be administratively most efficient if Correctional Service Canada provided the Canada Elections Commission with a certified list of the names and home constituencies of all qualified voters in federal institutions at the time of the issue of the writs. This procedure would also be most effective for prison security. The Commission would then send each voter on this list a special ballot. Any qualified voter who becomes an inmate in a federal institution after the list has been sent to the Commission may apply up to the regular deadline to an election agent designated by the Commission in each institution and receive a special ballot.

Recommendation 2.1.23

We recommend that

- (a) Correctional Service Canada provide the Canada Elections Commission with a list of all qualified voters who are inmates in federal institutions at the time of the issue of the writs;**
- (b) this list contain the names of the home constituencies of each such voter; and**
- (c) the Canada Elections Commission designate an election agent in each federal institution to register and accept applications for special ballots for any inmates in these institutions who are qualified voters and who were not on the list provided to the Canada Elections Commission.**

Finally, we must consider voters in hospital on election day who have not voted at an advance poll or who have not applied for and received a special ballot. We propose that these voters be allowed to register and vote by special ballot on election day in their hospital. The process for this is discussed in Chapter 2 of this volume. We consider this particular provision necessary given that a large number of persons in this circumstance cannot be expected to have been able either to anticipate their admission or to have taken the necessary steps to be registered for the special ballot.

Recommendation 2.1.24

We recommend that voters in hospital on election day be permitted to register and vote by special ballot in their hospital.

VOTERS LISTS

Voters lists are required to ensure that only eligible voters are permitted to vote and that each voter votes only once. In addition to the requirement that voters and candidates or their representatives be able to object to the inclusion of names on preliminary voters lists as well as those names added by way of mail-in enumeration, voters lists are required for election administration for advance voting and election day.

Under our proposals, the revision period will end on the fifth day before election day. This means that voters lists must be prepared for the first day of advance voting on the eighth day before election day and also for the second day of advance voting and election-day voting. The first lists we call the advance poll voters lists; the second, the voters lists.

The advance poll voters lists will be used for advance voting on the eighth day before election day. These lists will include all voters who are on the preliminary voters lists, as corrected, and those added up to and including the twelfth day before election day. These lists will also indicate those voters who have received a special ballot. Voters who come to vote at this first day of advance voting may be challenged at their polling station. This opportunity to challenge the eligibility of voters is especially important in the case of those who have registered by mail-in enumeration.

The voters lists used for the second day of advance voting on the second day before election day will include all voters on the advance poll voters lists as well as those added up to and including the fifth day before election day. These lists will also indicate all those voters who voted at the first day of advance voting and all those who received special ballots. For election day these lists will be modified to indicate all those voters who voted on the second day of advance voting. Voters may be challenged at either the advance poll on the second day before election day or on election day.

With computerized entry of names and addresses to voters lists, particularly those added after the establishment of the preliminary voters lists, successive generations of voters lists can be provided both to election officials and to candidates and their representatives.

The final voters lists for each constituency will include the voters list used for election day, all voters added to it through election-day registration and those lists managed centrally by the Canada Elections Commission. These lists will constitute the voters list in each constituency and will be used to determine the electoral quotients in each province and territory and for election finance purposes.

APPENDICES: CANADA ELECTIONS COMMISSION CALENDARS

Figure 1.1
47 day election campaign, based on federal enumeration

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			47 Election campaign begins	46 Applications for special ballots begin when election offices open	45	44
43	42	41	40	39 Enumeration period begins ¹	38	37
36 Election advertising begins	35	34 Enumeration period ends	33	32 • Preliminary lists available • Revision period begins	31	30
29	28	27	26	25	24	23
22	21 Close of nominations (2 p.m.)	20	19	18	17 Objections in writing to names on preliminary voters list	16 Voters notified of objections
15	14	13	12 • Decisions made on objections • Advance poll voters list closed	11 • Advance poll voters list to CEO, DROS and candidates	10	9
8 First day of advance poll	7	6	5 • Revision period ends • Last day for registration at office of ROS and mail-in enumeration • Last day to apply for special ballot	4 • Review of names added to advance poll voters list • Voters lists to DROS	3	2 • Second day of advance poll • Election advertising ends (midnight)
1 Inform DROS of names of voters who voted at advance poll on Day 2	0 Election day • Registration at polling stations	Determination of number of names on final voters lists				

Source: Royal Commission Research Branch.

¹The length of the enumeration period is based on the period set for the 1988 federal election.

Figure 1.2
40 day election campaign, based on federal enumeration

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			47	46	45	44
43	42	41	40 Election campaign begins	39 Applications for special ballots begin when election offices open	38	37
36	35	34	33	32	31	30
Enumeration period begins ¹						
29 Election advertising begins	28 Enumeration period ends	27	26 • Preliminary lists available • Revision period begins	25	24	23
22	21 Close of nominations (2 p.m.)	20	19	18	17 Objections in writing to names on preliminary voters list	16 Voters notified of objections
15	14	13	12 • Decisions made on objections • Advance poll voters list closed	11 • Advance poll voters list to CEO, DROS and candidates	10	9
8 First day of advance poll	7	6	5 • Revision period ends • Last day for registration at office of ROS and mail-in enumeration • Last day to apply for special ballot	4 • Review of names added to advance poll voters list • Voters lists to DROS	3	2 • Second day of advance poll • Election advertising ends (midnight)
1 Inform DROS of names of voters who voted at advance poll on Day 2	0 Election day • Registration at polling stations	Determination of number of names on final voters lists				

Figure 1.3
47 day election campaign, based on federal enumeration in some provinces

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			47	46	45	44
43	42	41	40 Election campaign begins	39 Applications for special ballots begin when election offices open	38 Preliminary voters lists received from provinces and territories	37
36	35	34	33	32	31	30
Revision period begins for provincial and territorial preliminary voters lists / Vote-at cards mailed to voters on these lists						
Federal enumeration as necessary						
29	28	27	26	25	24	23
• Enumeration period ends • Election advertising begins		• Preliminary lists from enumeration available • Revision of these lists begins				
22	21	20	19	18	17	16
	Close of nominations (2 p.m.)				Objections in writing to names on preliminary voters list	Voters notified of objections
15	14	13	12	11	10	9
			• Decisions made on objections • Advance poll voters list closed	• Advance poll voters list to CEO, DROs and candidates		
8	7	6	5	4	3	2
First day of advance poll			• Revision period ends • Last day for registration at office of ROs and mail-in enumeration • Last day to apply for special ballot	• Review of names added to advance poll voters list • Voters lists to DROs		• Second day of advance poll • Election advertising ends (midnight)
1	0	Determination of number of names on final voters lists				
Inform DROs of names of voters who voted at advance poll on Day 2	Election day • Registration at polling stations					

Source: Royal Commission Research Branch.

Figure 1.4
40 day election campaign, based on federal enumeration in some provinces

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
			47 Election campaign begins	46 Applications for special ballots begin when election offices open	45 Preliminary voters lists received from provinces and territories	44
43	42	41	40	39	38	37
		Revision period begins for provincial and territorial preliminary voters lists / 'Vote-at cards mailed to voters on these lists' as necessary				
36 • Enumeration period ends • Election advertising begins	35	34 • Preliminary lists from enumeration available • Revision of these lists begins	33	32	31	30
29	28	27	26	25	24	23
22	21 Close of nominations (2 p.m.)	20	19	18	17 Objections in writing to names on preliminary voters list	16 Voters notified of objections
15	14	13	12 • Decisions made on objections • Advance poll voters list closed	11 • Advance poll voters list to CEO, DROs and candidates	10	9
8 First day of advance poll	7	6	5 • Revision period ends • Last day for registration at office of ROS and mail-in enumeration • Last day to apply for special ballot	4 • Review of names added to advance poll voters list • Voters lists to DROs	3	2 • Second day of advance poll • Election advertising ends (midnight)
1 Inform DROs of names of voters who voted at advance poll on Day 2	0 Election day • Registration at polling stations	Determination of number of names on final voters lists				

2

THE VOTING PROCESS



INTRODUCTION

REFORMS TO THE voting process must aim to increase the level of voter participation. The voting process should be made as voter-friendly and accessible as possible while preserving the integrity of the vote. Canadians should not be complacent about this aspect of the democratic system: roughly one-quarter of eligible voters did not exercise their franchise at the last federal election. Of these, many did not have a choice; they were disfranchised because of statutory constraints or for administrative reasons. It is our objective to ensure that no Canadian voter is deprived of the right to vote because of the administrative aspect of voting procedures. Our comparative research on international experience demonstrates that electoral systems that make it easier for voters to exercise their franchise enjoy higher voter turnout. (Black 1991 RC)

Our major recommendation regarding the voting process is to extend the current procedures known as Special Voting Rules (SVR) to all Canadians by introducing the 'special ballot'. The SVR are now restricted to members and certain employees of the Canadian forces and public servants posted abroad and their spouses and dependants, veterans in certain hospitals, and members of the Canadian forces in Canada.

The rationale for the special ballot is best understood against the backdrop of the ordinary voting procedure. The *Canada Elections Act* relies almost totally on ordinary voting, either on election day or at an advance poll. The ordinary vote is cast at a specific time and at a fixed polling station; voters mark a ballot in secret that is then placed in the ballot box under the scrutiny of the voter, election officials, and representatives of the candidates.

The ordinary voting procedure is effective and economical and permits most Canadians to vote a short distance from home. Lengthy delays at the polls are uncommon. Above all, the process is familiar, well understood and widely accepted, because its basic procedures are common to elections at all three levels of government.

The Act also provides for circumstances not covered by the ordinary vote. Students, certain categories of workers, such as fishers and mariners, and voters with an illness or physical incapacity can cast their ballot by proxy; in large hospitals where polling stations are set up, the ballot box can be removed from the polling station to allow bedside voting; voters who have reason to believe they will be unable to vote at a regular or advance

poll can vote at the returning officer's office at pre-determined times; and certain categories of Canadians vote under the SVR.

In some cases, however, these procedures are unduly restrictive; in others, they are contrary to the fundamental objectives of providing a secret ballot under a system that is user-friendly and accessible to all Canadian voters. For example, patients in smaller institutions may not be able to vote if no poll is set up there, while voting by proxy compromises the secrecy of the ballot. Rather than working to improve this patchwork of procedures to encompass the needs of a greater number of voters and cover a broader set of circumstances, our proposal is to extend the scope and nature of the Special Voting Rules.

The special ballot would serve the needs of people unable to vote at their regular poll on election day or at an advance poll. For example it responds to the concerns of persons with disabilities, who recommended in the report of the Special Committee on the Disabled and the Handicapped "that the Federal Government proceed in developing legislation, together with the appropriate machinery and programs, to establish a postal vote system similar to the one that is successfully in effect in Manitoba". (Canada, House of Commons 1982, 15) The names of the candidates are not printed on the special ballot. Rather, the voter fills in the name of the candidate or party she or he wishes to vote for; thus, the special ballot is also referred to as a write-in ballot.

The special ballot would serve a variety of voters with special needs and provide an alternative for voters unable to get to an ordinary or advance poll. Similar systems are already used successfully in other Canadian jurisdictions, including British Columbia, Manitoba, Quebec, New Brunswick, Saskatchewan and the Yukon. The 'absentee ballot' is widely used in the United States and similar procedures also exist in Australia, Germany and Sweden. In Great Britain, the absentee voting provisions allow several groups of voters, including those who cannot reasonably expect to vote in person the day of the election, to vote by mail. We use the term 'special' ballot to avoid the impression that the ballot could be sent only by mail.

Unlike an ordinary ballot, a special ballot would not have to be cast at a specific time or place, so long as it was returned in time to be counted on election day. The integrity and secrecy of the vote would be protected through application procedures for the special ballot, through a system of sealed envelopes and through the process for receiving and counting special ballots. The system has proved reliable elsewhere and should give the voting process the necessary flexibility, accessibility and secrecy to enhance Canadians' access to the vote significantly.

Table 2.1 summarizes current voting procedures and the changes we propose.

Table 2.1
Voting procedures, present and proposed

Present system	Commission proposals
I. Ordinary vote	
a. Election day <ul style="list-style-type: none"> • at permanent polling station • by proxy • at mobile polls (restricted use) 	a. Election day <ul style="list-style-type: none"> • at permanent polling station • at mobile polls (expanded use)
b. Advance voting <ul style="list-style-type: none"> • at advance polling station (subject to statutory limitations) 	b. Advance voting <ul style="list-style-type: none"> • at advance polling station • at mobile polls
II. Special vote	
a. RO's office	a. By transmittal
b. Special Voting Rules (SVR) (Schedule II)	b. By tendering ballot in RO's office or a sub-office in voter's home constituency
SVR can be used by <ul style="list-style-type: none"> • Members and certain employees of Canadian forces • Public servants living abroad • Their spouses and dependants if living abroad • Veterans in certain hospitals 	Can be used by: any voter

THE ORDINARY VOTE

Election-Day Voting

Voting Procedure

At the 1988 election, 95 per cent of Canadians who voted did so by casting a ballot at a local polling station on election day. A typical polling station serves 300 to 350 voters in urban areas and a somewhat smaller number in rural areas. Ordinary voting on election day would remain relatively unchanged under our proposals. Canadians registered on the voters list would go to a polling station in their neighbourhood. Two election officials – a deputy returning officer and a poll clerk – would be at the poll to take their vote, and scrutineers representing the candidates would be present to further ensure the integrity of the process.

We propose changes to the ballot and in the polling station to facilitate voting by people with special needs, but these changes would not affect the basic process of marking and casting a ballot. Voting may also be somewhat quicker as a result of our proposals to streamline election procedures and to computerize voters lists.

No major changes are needed in ordinary voting; the present election-day procedures work effectively and are widely accepted by Canadians.

Their use in provincial and municipal elections reinforces their familiarity among voters, election officials and party workers. There were almost no comments at our hearings regarding the basic process of election-day voting, except with regard to the need to serve people with disabilities or language difficulties. The need to facilitate voting by persons with physical disabilities was raised in both the 1986 *White Paper on Election Law Reform* (Canada, Privy Council Office 1986) and the chief electoral officer's 1989 report (Canada, Chief Electoral Officer 1989). The changes recommended were designed to improve the present process rather than to change it radically; this is our approach as well.

Recommendation 2.2.1

We recommend that

- (a) the basic process of ordinary voting on election day be retained, with the improvements recommended in this report; and**
- (b) voting on election day continue to take place at polling stations serving a defined group of voters in a limited geographic area.**

Depositing the Ballot

Under current procedures each ballot is initialled by the deputy returning officer and has a serial number on the counterfoil for identification. After the voter marks the ballot, the deputy returning officer (DRO) checks the counterfoil and initials to ensure that it is the same ballot paper that was delivered to the voter. The DRO then removes the counterfoil and puts the ballot in the ballot box. Allowing voters to deposit the ballot themselves is contrary to the procedures in the Act.

The practice of having the deputy returning officer deposit the ballot is followed in most provinces, but Quebec and New Brunswick allow voters to deposit their own ballots. This is also the practice in France, Great Britain and Australia. There is no threat to the integrity of the process in allowing voters to place the ballot in the ballot box instead of giving it to an official. After marking the ballot, the voter should give it to the deputy returning officer to allow verification of the counterfoil and initials; after the DRO tears off the counterfoil, the voter should be allowed to deposit the ballot in the ballot box if desired.

Recommendation 2.2.2

We recommend that each voter be allowed to deposit his or her own ballot in the ballot box after the deputy returning officer has checked the initials and serial number.

The Mobile Polling Station

The Act requires that voting take place at a polling station that is open for either the full 11-hour voting period on election day or for three 8-hour periods for an advance poll; in both cases, the polling station stays at a fixed location. There are two exceptions. In chronic care hospitals or similar institutions, election-day polling stations can be closed temporarily while the ballot box is being taken from room to room to allow bedside voting. Under the Special Voting Rules, mobile voting places may be established during the second week prior to election day where Canadian forces voters, their spouses and dependants or public service voters, their spouses and dependants cannot conveniently reach the voting place established at their unit or post.

In our hearings and other consultations we encountered strong arguments in favour of making procedures more flexible and voting more accessible for people in nursing homes and other small institutions. Many people living in institutions are confined to bed or have difficulty getting out to vote or arranging for a proxy vote. At the same time, the numbers in each institution are too small to justify a permanent polling station. The consequence is that people who should be able to vote are denied that right or have great difficulty arranging to vote.

This need can be met with temporary polling stations or mobile polls similar to those now used in Manitoba, New Brunswick, Quebec, and the Northwest Territories, as well as in Australia and Germany. The majority of returning officers at our two symposiums on election administration supported the idea, which also received unanimous support from interveners at our hearings. It was also supported by more than two-thirds of the constituency association presidents we surveyed. (Carty 1991a RC)

Voting at a mobile poll is similar to voting at an ordinary poll, except that voters vote during a specified period rather than any time during election day. Voters are registered on a voters list for the mobile poll, are served by the same election officials, and deposit their ballots in a regular ballot box. Candidates have the same right to appoint scrutineers, and the count at the end of the day is carried out just as in a regular polling station. Each mobile poll can cover a number of locations on election day, stopping for as little as 15 minutes or as much as several hours, depending on the number of voters at each location. This is more efficient and considerably less costly than placing a polling station at each location for the entire day.

We propose that institutions or areas to be served by a mobile poll be designated before the election begins. Voting at mobile polls should be organized in co-operation with authorities at the institutions concerned. Well before voting day the returning officer should set the schedule for each mobile polling station and ensure that voters in each mobile poll are informed where and when they can vote. The same information should also be given to candidates.

As in hospital polling stations, election officers for mobile polls should be permitted to take the ballot box to the bedside of voters who cannot come to the area where the vote is being taken. Normally a mobile poll should not move on until everyone who wishes to vote at each stopping point has done so.

Mobile polls could also be useful in other circumstances, such as small isolated communities where a polling station would not need to stay open all day or where a mobile poll could serve several communities in a day. Australia's Aboriginal and Northern Settler vote program, for example, makes voting accessible to people living in small isolated communities using mobile polls. In Canada, perhaps the best example was the mobile poll that travelled by train on election day along the string of small communities on the railway line between Thompson and Churchill. This service contravened the *Canada Elections Act*, however, and was withdrawn in the 1988 federal election. We see no purpose in such limitations, which result in administrative disfranchisement of many voters.

Another use for mobile polls would be to permit homeless people to vote at shelters, soup kitchens, Aboriginal community centres or other locations where they congregate. This follows from our recommendation in Chapter 1 of this volume, that returning officers should consult with those responsible for such community centres to recruit potential enumerators from among their staff. This would help to overcome the reluctance of some homeless people to use ordinary polling stations. Homeless people may face obstacles to voting if they are unfamiliar with the electoral system, lack knowledge of where or how to vote, or fear being embarrassed by going to an ordinary polling station.

Recommendation 2.2.3

We recommend that

- (a) mobile polls be established where they will make voting more accessible for groups of voters who would have difficulty going to an ordinary polling station;**
- (b) with the exception of the hours of voting, voting procedures and the right of candidates to be represented at mobile polls be the same as at ordinary polls;**
- (c) mobile polls not be required to remain open for the same period as ordinary polling stations on election day, provided that voting at any mobile poll end no later than voting at ordinary polling stations in the constituency;**
- (d) mobile polls be permitted to move to several locations on election day, provided that the schedule of opening hours and locations be made available in advance to candidates and voters in that mobile poll;**

- (e) voting in mobile polls be organized in co-operation with the appropriate authorities of any institution, such as hospitals, shelters, soup kitchens or Aboriginal community centres, where a mobile poll is located;
- (f) when a residence or institution has been designated to be served by a mobile poll, the people living there be registered for the mobile poll and not for the ordinary polling division where the institution is located;
- (g) ballots from mobile polls be counted at the same time as the ordinary polls are counted; and
- (h) the count take place at the returning officer's office or at another location approved by the returning officer, with prior notification to candidates.

The Advance Poll

Voting Procedure

Advance voting is well established in Canadian elections. It is also used widely in other countries, including Australia, New Zealand and the Scandinavian countries. Advance voting is a useful extension of the ordinary voting process, is simple for the voter to use, and gives voters an accessible alternative to voting on election day. These are all reasons to retain this procedure.

Voting data indicate that Canadians accept the concept of advance voting, but most still prefer to cast their vote on election day, when the campaign has ended. At the 1988 election, just over 500 000 Canadians went to the advance poll, or 3.8 per cent of the total number who voted; in 1984, the figure was 4.6 per cent.

Under the Act, voters can vote at the advance poll because they expect to be absent from their polling division and unable to vote on election day; because of "advanced age, infirmity or the probable termination of pregnancy"; or because of religious beliefs. Advance polls are held on the Saturday, Monday and Tuesday that fall nine, seven and six days before election day; advance voting hours are from noon to 8 p.m.

For the 1988 election there were 2463 advance polling stations across Canada, a ratio of about one advance poll for every 23 ordinary polls. Each ordinary polling division is assigned to an advance poll, so that voters wishing to vote report to the advance polling station for their polling division. Voters lists for all the polling divisions covered by the advance polling station are available at the advance poll.

The voting card sent to every registered voter provides advance poll locations and voting times. Casting an advance ballot follows the same process as casting an ordinary ballot on election day. The voter gives his or her name and address, receives a regular ballot, and marks it; the ballot is then deposited in an ordinary ballot box. Representatives of the candidates are present as scrutineers, and the poll is staffed by a deputy returning

officer and a poll clerk. The voter does not have to produce identification unless challenged as to his or her right to vote.

Voters' names are crossed off the voters lists and recorded; this information is transferred to the voters list prepared for election day to prevent double voting. After the advance poll, the ballot boxes are kept sealed until one hour after the close of voting on election day. The ballots are counted at the place indicated in a notice published by the returning officer, usually where the advance poll was located, and the results are transmitted to the returning officer as for any other polling station.

We propose to maintain most of these procedures. However, the timing of advance polls should be changed; votes from advance polls should begin to be counted at the same time as those from ordinary polls, and greater flexibility is needed in locating advance polls. Voters in non-urban areas should also have greater choice in where they can cast an advance vote. We also propose to broaden the Act's conditions for advance voting. These conditions are adhered to in some constituencies, but in others, election officials allow any voter to vote at the advance poll. We propose that any registered voter who finds it more convenient to vote at an advance poll be eligible to do so. This effectively leaves the decision up to the voter.

Over the three days of advance polling for the 1988 election, the average number of votes cast at an advance poll was 266 in urban areas and 129 in rural areas during the 24 hours the polls were open. This compares with 254 votes in an average urban poll and 202 votes in a rural poll over the 11-hour period on election day. Using Elections Canada data, we estimate the cost of a vote at an advance poll averages about \$3.42, compared with \$1.38 on election day.

One of the reasons for the higher cost of advance voting is lower voter turnout. Turnout appears to be influenced by the days on which advance voting takes place. If a voter has difficulty going to vote because the election is held on a Monday, that voter may also have difficulty going to an advance poll on a Monday. In addition, there is no provision for voters to vote at an advance poll if they realize during the final week of the campaign that they will be unable to vote on election day.

Our research indicated that the largest number of advance votes are cast in the first few hours of the first day of advance polling – the Saturday nine days before election day. Some voters may be casting an advance vote before leaving on a trip; others may choose the Saturday because this is more convenient than a day during the work week. The returning officers we consulted generally agreed that advance voting turnout tends to be much lower on the second and third allotted days; more than two-thirds supported changing the advance polling period. It appears the greatest need for advance voting is on a day during the second weekend prior to election day and on the weekend just prior to election day.

We propose that the advance polling days should be changed to the Sunday of the second weekend before election day and the Saturday

immediately prior to election day. These two days would give voters sufficient access to advance voting while leaving enough time to mark off the names of advance voters on the voters lists used at regular polling stations on election day.

Advance polls are open between noon and 8 p.m. The intention was to accommodate people in the work force but the result is that people cannot vote at an advance poll on a Saturday morning, one of the most convenient times in the week for many voters. We therefore recommend that the hours for advance polls held on a Saturday be 9 a.m. to 6 p.m.

For Sunday, we recommend maintaining the current hours of noon to 8 p.m. Earlier opening of advance polls on a Sunday does not appear warranted, but voters may find it convenient to cast an advance ballot in the evening, for example, if they are returning from a weekend away. These changes in hours should not cause confusion if they are well publicized; on balance, they should make advance voting much more accessible than at present.

As is now the case, the deputy returning officer would secure the ballot box and advance poll records for the period between the advance polling days. In urban areas, this could be done by depositing the ballot box with the returning officer; elsewhere it would have to be placed in safekeeping, for example, at the local bank or police station.

Advance Mobile Polls

The Act requires three days of advance polling in every city, town, or village with a population of 1000 or more. This can lead to duplication if several small municipalities are located close to each other and to underutilization because of the small number of voters served.

Given our proposal for the special ballot, which would give voters a convenient alternative to voting on election day, we do not believe that advance voting will need to be available in small communities for the same length of time as at present. Returning officers should therefore have greater discretion to determine the location and timing of advance polls, particularly in sparsely populated areas.

Two days of advance polling are justified in urban areas and should be required in every municipality or area with a population of 5000 voters or more. For communities with fewer than 5000 voters, the RO should have the discretion to determine whether a day of advance voting is warranted. In instances where the decision is made not to provide an advance poll, a mobile advance poll, which would visit such communities during the nine days before election day, should be provided and its schedule publicized well in advance.

The Act permits returning officers to create advance polling districts in rural areas and to determine which ordinary polling divisions should be placed in each advance district. We believe ROs should have the same flexibility to arrange advance polling districts in urban areas as well. Plans

should be made available to registered parties or candidates that request it, and the plan should be subject to review by the chief electoral officer on the request of any candidate or registered party.

Recommendation 2.2.4

We recommend that

- (a) every voter who would find it more convenient to vote at an advance poll than at an ordinary polling station be eligible to do so;**
- (b) there be two days of advance polling in areas of more than 5000 voters; in areas with fewer than 5000 voters, the returning officer have the flexibility to determine whether an advance poll is warranted;**
- (c) a mobile advance poll be provided during the nine days preceding election day to serve any community of fewer than 5000 voters where they would not otherwise have reasonable access to an advance poll;**
- (d) the days set aside for advance polling be the Sunday of the second weekend before election day and the Saturday immediately before election day;**
- (e) the hours for advance polling be noon to 8 p.m. on Sunday and 9 a.m. to 6 p.m. on Saturday; and**
- (f) the plan for advance polling in each constituency be made available to the candidates and registered parties and subject to review by the chief electoral officer on the request of any candidate or registered party.**

VOTING BY SPECIAL BALLOT

Overview

The special ballot we propose differs from the ordinary ballot in that it does not have to be cast at a specific time or place. Once voters have received and marked a special ballot they would be responsible for transmitting it to an election office. Voters who request a special ballot in their home constituency would have the option of marking the ballot and handing it back to the election official immediately. This practice, called 'tendering', would replace the current procedure for voting in the returning officer's office.

The special ballot borrows heavily from existing procedures under the Special Voting Rules. These rules were established during the First World War for two reasons: first, the hundreds of thousands of Canadian soldiers in Europe would not have been able to vote; second, the number of voters on large military bases in Canada would have unduly affected election results in the constituencies where these bases were located if military personnel

had been required to vote in those constituencies. During the 1988 election, some 53 000 votes were cast under the Special Voting Rules, but at least three-quarters were cast by members of the forces at military bases within Canada.

People who qualify under the current Special Voting Rules would be able to vote in much the same way as at present. In addition, they would be able to vote by special ballot in by-elections and postponed elections, which they cannot do now under the SVR. Thus, the special ballot eliminates the requirement for the Special Voting Rules.

Further, because it would apply to a broader group of voters, the special ballot would provide a flexible option for voters who cannot go to an ordinary poll. These include voters away from their home constituency, Canadians living abroad, persons with physical disabilities, voters living in remote areas, and those with chronic illnesses. The special ballot would also be more efficient and effective than the proxy vote, which is restricted to (1) certain categories of workers whose employment requires them to be away from home on a regular basis, such as fishers, prospectors and trappers; (2) people who are ill or physically incapacitated; and (3) full-time students away from home. The limited availability and use of the proxy vote provoked a large number of complaints at our hearings. With the introduction of the special ballot, proxy voting would no longer be required. Our survey of constituency association presidents revealed that close to 60 per cent were in favour of replacing proxy votes with a system similar to the special ballot we propose. (Carty 1991a RC) More than three-quarters of returning officers also supported the special ballot.

Our recommendation that any voter who finds it more convenient be allowed to vote at an advance poll is intended to ensure that a voter who wishes to use the advance poll cannot be prevented from doing so by an election official. For the same reason, we recommend that the special ballot be available to any voter who prefers it to voting by ordinary ballot on election day or at an advance poll.

The special ballot system would involve a series of envelopes to protect the secrecy of the ballot, verify the voter's identity, and provide for delivery to the election office. Under our proposal, *three envelopes would be used*.

The first envelope would be unmarked and known as the *secrecy envelope*. The second one, the *certificate envelope*, would allow election officials to verify the identity of the voter to ensure the integrity of the vote and avoid fraud. It would require the voter's name, address, signature and constituency and an attestation by the voter that he or she will not cast vote more than one ballot. For Canadians living abroad whose names are on the non-resident voters register, it would also require their unique identification number and an attestation that they have not voted in a foreign national election since leaving Canada. The certificate envelope should be numbered to allow the Canada Elections Commission to administer the distribution of the special ballot more efficiently, to allow a better record of its use throughout the election system, and to allow more efficient tracing in the event of theft or

fraud. The third envelope, the *return envelope*, would be used to transmit the special ballot to the appropriate election office for checking and counting. This procedure has proved workable; Manitoba uses a similar three-envelope system for its mail-in ballot.

Voters voting by special ballot would place the marked ballot in the secrecy envelope and seal it, fill in the certificate on the second envelope and seal the secrecy envelope inside it, then put the certificate envelope in the return envelope for delivery to the returning officer in their home constituency or, in certain cases, the Canada Elections Commission.

Special ballots would not list the candidates but would simply provide a blank space for the voter to fill in with the name of a candidate or party. This would reduce the possibility of fraud and the administrative load involved in special voting and would allow people to vote in the first weeks of the campaign before the regular ballots are printed. Those who wish to vote by special ballot before the closing date for nominations, which we recommend be the twenty-first day before election day, could simply mark a special ballot for either a candidate or a party. The vote would be counted unless the candidate was not nominated or the party specified by the voter did not put forward a candidate in the constituency.

Recommendation 2.2.5

We recommend that

- (a) every voter who would find it more convenient to vote by special ballot be eligible to do so;**
- (b) three separate envelopes be issued with each special ballot: the first to preserve the secrecy of the ballot, the second to allow election officials to identify the voter and verify the voter's eligibility, and the third to allow delivery of the special ballot;**
- (c) special ballots take the form of blank ballots on which voters mark the name of a candidate or party;**
- (d) the Special Voting Rules be deleted from the Act; and**
- (e) the proxy vote be abolished.**

Obtaining a Special Ballot

Canadian voters do not have to sign an application when registering to vote. As a result, our voting system has not developed the procedures found in many other jurisdictions that rely on the use of the voter's signature on a permanent register to verify identity and safeguard the integrity of the vote. Our challenge is to develop voting procedures that achieve these purposes in the context of a different approach to voter registration.

U.S. voters are commonly allowed to apply for absentee ballots by mail, without having to appear in person before an election official. The integrity

of the vote is protected, however, by checking the signature on the voter's application form against the voter's original registration card, either when the ballot is applied for or when the ballot is cast. This procedure has generally proved reliable, even in elections where a very high percentage of votes are cast by mail.

We have concluded that in Canada the best way to maintain the integrity of voting by special ballot is to require people to apply for the ballot in person and to provide satisfactory identification and a sample signature at that time. It would be up to the Canada Elections Commission to determine what constitutes satisfactory proof of identity. When voters transmit the special ballot back to the Commission or the returning officer, they would sign the certificate envelope; this signature could then be verified against the signature on file with the voter's application. If a voter applied for a special ballot at a returning office or designated government office outside his or her home constituency, the application would be sent by mail or facsimile to the home constituency to permit verification of the special ballot before the count.

An exception should be made for voters confined to home because of illness or disability. The returning officer should send a representative to the voter's home at least five days before election day. Alternatively, a spouse or close relative should be permitted to deliver a signed application, with the required identification, to an election office.

The special ballot would be available as soon as a constituency returning officer's office has opened officially after a writ has been issued. To assist in meeting the demand for special ballots, returning officers should delegate authority to certain members of their staff to receive applications and to issue special ballots. Special ballots should also be available at a returning officer's sub-offices, as well as at designated government offices in remote areas. The deadline for receiving a special ballot at an office of the returning officer in one's own constituency would be 6 p.m. local time on the fifth day before election day. As noted in Chapter 1 of this volume, special ballots would also be available at any returning officer's office in Canada and at embassies and other Canadian government offices abroad for voters away from their home constituency.

Voters should be able to register to vote and apply for the special ballot at the same time. This would accommodate voters who wish to vote by special ballot before enumeration has been completed or who apply to an election office other than their own. It corresponds to our proposal to allow voters who have not been enumerated to register at their ordinary polling station on election day.

In some U.S. states, political parties and candidates have become involved in encouraging voters to apply for special ballots, distributing application forms, and even delivering completed applications to election officials. This practice could lead to abuse and would not be workable in Canada because we do not have a permanent register with each voter's signature. To protect the security of the vote and limit the opportunities to

exert undue influence on voters, the role of parties and candidates should be limited to giving voters information about voting by special ballot.

Recommendation 2.2.6

We recommend that

- (a) voters be required to apply in person for a special ballot at any returning officer's office or at other designated government offices in Canada or abroad;**
- (b) if a voter is unable to go to an election office because of illness or disability, the returning officer be allowed to accept a signed application from the voter with suitable identification delivered by a member of the immediate family or to send an election official to the voter's home to allow the voter to apply for and tender a special ballot;**
- (c) where a voter is unable to provide a signature and indicate his or her voting choice on the special ballot, a witnessed mark constitute an acceptable signature, the witness be allowed to complete the special ballot on the voter's instruction and the witness be sworn to secrecy;**
- (d) to qualify for a special ballot, voters be required to provide satisfactory identification, as determined by the Canada Elections Commission, and a signature, and attest that they will not vote more than once; in addition, Canadians abroad be required to certify that they have not voted in a foreign national election since taking residence abroad;**
- (e) any election official or agent designated by the returning officer or the Canada Elections Commission be authorized to receive and process applications for special ballots and thereafter issue special ballots;**
- (f) special ballots be available as soon as the returning officer's offices open at the beginning of an election campaign;**
- (g) voters be allowed to apply for a special ballot at any office of the returning officer in their own constituency or designated government offices in remote areas up to 6 p.m. on the fifth day before election day;**
- (h) voters away from their home constituency be allowed to apply for a special ballot at an office of any returning officer or at embassies or other Canadian government offices abroad provided that their application is received at the office of the returning officer in their home constituency by 6 p.m. eastern time on the fifth day before election day;**

- (i) the role of parties and candidates be limited to providing information about the special ballot; and
- (j) the exercise of undue influence or violation of the secrecy of the vote be an offence under the *Canada Elections Act*.

Voting Procedures

Election day is the final day when voters can cast ballots using ordinary voting procedures. The deadline for the receipt of special ballots should be this day, when all votes must be counted by election officials with candidates' representatives present. Special ballots sent directly to constituencies shall be accepted until the close of polling stations in the constituency. In the case of special ballots returned to the Canada Elections Commission, the results must be forwarded to returning officers across the country and added to the count in each constituency. Receipt of special ballots by 6 p.m., eastern time, on election day would allow these procedures to be completed.

We propose this late date and time deliberately to give voters using the special ballot the greatest opportunity to exercise their franchise and have their vote counted. We recognize that some ballots may be received after this deadline and would thus be invalidated; but there is a trade-off between giving voters the opportunity to return their special ballots up to the times proposed on election day and the risk that their vote will be invalidated if not received by this deadline. This election day deadline is justified because votes must be counted and the results made available on election night. This is to ensure that Parliament can be convened as soon as necessary, especially in a time of political crisis.

We are aware that some U.S. states allow absentee ballots to be accepted after the polls close if they are postmarked on or before election day. Canada's system of government differs from that of the United States, however. Candidates elected in U.S. elections do not take office formally until a fixed date, usually about two months after the election. Therefore any changes to election outcomes a week or so after election day would not affect the legitimacy or conduct of the executive or legislative branches of government. This is not the case in Canada, where the election determines which party will be called upon to form a government.

If the deadline we recommend was challenged successfully by a voter whose special ballot envelope was postmarked on or before election day but arrived after the deadline, the only alternative would be to push back the deadline to a point where it would be reasonably certain that all ballots could be received in time for election day. But this would merely restrict the opportunity for voters to cast a vote using the special ballot. This is contrary to our objective of giving voters maximum opportunity to vote using the special ballot.

Recommendation 2.2.7

We recommend that

- (a) voters who receive special ballots be responsible for ensuring that the ballot is delivered to the appropriate election office by the closing of the polls on election day for a special ballot sent directly to the voter's constituency and 6 p.m. eastern time for a special ballot sent to the Canada Elections Commission;**
- (b) voters who apply for a special ballot in their home constituency be able to tender a special ballot at any office of the returning officer in that constituency by delivering it in person; and**
- (c) any special ballot received after the deadline on election day not be opened, counted or considered valid, regardless of why it was not received on time.**

Ensuring Integrity and Secrecy

Although the circumstances of voters using the special ballot will vary, there should be common procedures to protect the integrity and secrecy of the vote.

We cannot predict how many special ballots might be cast in each constituency; presumably voters would deliver their ballots over the course of a campaign, not all at once. Verification could thus be spread out as well. As special ballots were received, they would be checked against the voter's application to verify that the voter's signature and other particulars match the information on the certificate envelope. The sealed envelope should be set aside if no record of an application from the person named on the certificate envelope is on file, if the signatures do not match, or if the person was not registered to vote. On election day, the ballot should be ruled invalid if it does not pass any one of these tests. A special ballot that has been sent to the wrong constituency should be redirected if time permits.

Valid ballots should be kept in the sealed certificate envelope until 30 minutes after the close of polls on election day, again to ensure against double voting. The voters list for each polling station would identify voters who have applied for a special ballot. If a person who has received a special ballot seeks to vote on election day, he or she should be allowed to do so upon presentation of appropriate identification and signing a declaration promising not to vote more than once. In the absence of proper identification the voter could take an oath or make an affirmation as to her or his identity. This is the same procedure that applies to voters who seek to vote on election day but find that their name has already been crossed off the list for one reason or another.

The incidence of double voting in recent Canadian elections has been virtually non-existent; hence we expect that the process of checking special

ballots against the poll book on election day would not be onerous. Once checking was completed, the secrecy envelopes would be removed from the certificate envelopes. The secrecy envelopes would have to be mixed together before opening so that no individual ballot could be identified.

When someone who has received a special ballot votes at an ordinary polling station, the DRO would advise the returning officer's office within 30 minutes of the close of the polls. The special ballot issued to that voter would then be invalidated. Because all special ballot applications would be made no later than the fifth day before election day (except for voters in hospitals outside their home constituency on election day), this system to protect against double voting would be highly effective.

We have designed the special ballot system to respond to concerns that the use of such ballots could lead to electoral fraud or double voting. The three envelopes are an essential part of that control. The envelope system also ensures the secrecy of the vote, because secrecy envelopes containing marked ballots would be separated from certificate envelopes bearing voters' names, addresses and signatures before the secrecy envelopes are opened. Ballots would not be counted until this procedure had been completed for all special ballots, whether at the Commission, for ballots counted centrally, or at the returning officer's office, for ballots counted in the constituency. The wide use of absentee voting in other jurisdictions shows that voters are satisfied that an envelope system does protect secrecy. In the provinces that use the postal ballot, no incidents of voting fraud have been reported.

The process could be abused if partisans or relatives pressure voters to use the special ballot to vote a particular way. We do not see this as a major problem; the number of cases where this could occur would likely be small, and, with only a very few exceptions, voters using a special ballot would be required to apply for it in person. The Act should make it clear, however, that it is an offence to exert undue influence over someone casting a special ballot or to violate the secrecy of their vote.

Votes cast at advance polls are reported separately from those cast on election day. We recommend that votes cast by special ballot also be reported separately. There is a legitimate interest in knowing how heavily this new form of voting is used.

Recommendation 2.2.8

We recommend that

- (a) a special ballot be invalid if the voter does not register by the deadline for the special ballot in the constituency in which the vote is cast, if the signature on the certificate envelope does not match the signature on the voter's application, or if the special ballot is not received by the deadline;**

- (b) a person who seeks to vote on election day and whose name is on the list as having applied for a special ballot be allowed to vote upon production of satisfactory identification as prescribed by the Canada Elections Commission and upon signing a declaration promising not to vote more than once; in the absence of satisfactory identification, the voter be required to swear an oath or make an affirmation as to his or her identity and sign a declaration promising not to vote more than once; the DRO be required to notify the RO of that voter's name and the special ballot issued in that name be invalidated;
- (c) certificate envelopes containing special ballots not be opened until 30 minutes after the close of polls on election day, so that any special ballots that duplicate votes cast in person on election day can be invalidated;
- (d) if more than one special ballot is cast in the name of a voter, all these special ballots be ruled invalid;
- (e) candidates be permitted to have scrutineers present on election day to validate special ballot envelopes and ensure that the count of special ballots is carried out fairly and accurately;
- (f) votes by special ballot be recorded separately from ordinary votes in the returns for each constituency; and
- (g) it be an offence to exercise undue pressure on someone casting a vote by special ballot or to violate the secrecy of a vote by special ballot.

Voting in the Returning Officer's Office

The special ballot would allow voters to tender a vote at the returning officer's office in their home constituency. This would simplify the process of voting at the returning officer's office, reduce the administrative burden, and extend the period when this form of voting can take place.

Under the Act, votes can be cast at the returning officer's office over a 21-day period prior to election day, except for Sundays and advance polling days. A double envelope procedure is used, requiring the returning officer or a deputy to fill out certificates and witness the voter's signature. Voters must give their reason for voting at the returning officer's office, and their names must be marked off the voters list before they can vote.

The returning officer's office must be open from noon to 6 p.m. and from 7 p.m. to 9 p.m. on each day that voting is permitted, regardless of whether there is a significant demand. Voting is not permitted at a returning officer's sub-office, even if it was established to serve a part of a constituency distant from the main office.

We heard many complaints about these rules during our hearings and in our symposiums on election organization for returning officers and party officials. At the same time, however, there was substantial support for the concept: in a questionnaire distributed at the symposiums, 95 per cent of

participants agreed that voting at the returning officer's office should be permitted. Returning officers were concerned about the time and resources required, however, and many recommended that a deputy returning officer and poll clerk be hired specifically to receive such votes.

Voting at returning officers' offices has been increasing in urban areas where people can reach the office easily, but there is much less use of this vote in rural constituencies. Elections Canada data show that just over 100 000 votes were cast in this way at the 1988 election, or 0.7 per cent of total voter turnout. This figure had risen from 0.2 per cent at the 1979 election, when voting at the returning officer's office was permitted for the first time.

Applying for a special ballot would not depend on a voters list, thus permitting voters to apply for a ballot at the returning officer's office as soon as a writ was issued. Because applications would be accepted until the fifth day before election day, the number of days when a ballot was available from the returning officer's office would increase significantly.

The special ballot would also be easier to administer because any authorized person on the returning officer's staff would be entitled to process applications and check a voter's identification. Moreover, applications would take less time to process because the voters list would not have to be checked before a special ballot was issued; this would be done later.

The current restrictions on how and when people can vote at a returning officer's office could also be eliminated with the special ballot. Voters would be able to apply for a special ballot at any time the returning officer's office is open, but the returning officer would not be required to keep the office open just so people can vote. The prohibition on applying for a ballot at a returning officer's sub-office would also be eliminated.

Recommendation 2.2.9

We recommend that the use of special ballots replace the present procedures for voting in the returning officer's office.

SPECIAL BALLOT VOTING PROCEDURES FOR SPECIFIED GROUPS

For two categories of voters, the special ballot would be the only way to vote: eligible voters living abroad, and voters away from their home constituency.

Voters Living Abroad

Most Canadians living abroad are now disfranchised. We propose that these voters be entitled to vote using the special ballot. When an election is called, the Canada Elections Commission would mail a special ballot to everyone enrolled on its register of non-resident voters. The voter would mark the ballot and return it to the Canada Elections Commission by 6 p.m. eastern time, on election day. In the case of voters with the Canadian forces, special arrangements

could be made at each base or unit abroad to distribute ballots to eligible voters and to ensure that completed ballots are delivered back to the Canada Elections Commission. While some government offices abroad may offer to transmit ballots back to the Commission, responsibility for ensuring that their ballot is received in time to be counted would remain with voters.

The experience of the United States and other countries is that about 30 days are required to send ballots to voters outside the country and receive them back by mail. This means that a vote would be received by the deadline, even if the length of the election period were shortened from its current minimum of 50 days, as long as the register of voters was closed the day a writ was issued.

Names on the Commission's register of non-resident voters would be identified by home constituency. Special ballots would be verified and counted centrally and the results transmitted to the home constituency returning officer by the Commission. The counting would begin on a date to be fixed by the chief electoral officer, at the earliest on the fifth day before election day, and continue as special ballots were received. Signatures should not have to be checked in most cases, however, because Canadians voting from abroad would enter a unique voter number on the certificate envelope. This number, obtained upon registering on the register of non-resident voters, would not appear on any item in the ballot package sent by the Commission; a vote could therefore be deemed valid if the voter mailed it back with the correct voter registration number. In cases where the certificate envelope did not bear the voter's signature or the envelope was received after 6 p.m. on election day, the certificate envelope would be put aside unopened.

To expedite delivery to distant countries, the Canada Elections Commission could store ballot packages at Canadian embassies and other government offices. This is feasible because the special ballot procedure relies on blank ballots. We recommend, however, that the Canada Elections Commission attempt to send a list of candidates for each constituency to offices where special ballots would be available.

Recommendation 2.2.10

We recommend that

- (a) voters living abroad vote in their home constituency using the special ballot;**
- (b) special ballots be mailed to voters on the Commission's register of non-resident voters shortly after the writ is issued;**
- (c) ballots be returned to the Commission, verified and counted centrally and the results transmitted to home constituency returning officers;**
- (d) the chief electoral officer invite each registered party to appoint scrutineers for the count of special ballots;**

- (e) counting of special ballots begin on a date to be fixed by the chief electoral officer, at the earliest on the fifth day before election day; and
- (f) special ballot envelopes sent from abroad be verified by comparing the unique voter number on the certificate envelope against the number on the voter's registration; and that, in cases where the voter's signature is missing or the envelope is received after 6 p.m. on election day, the certificate envelope be put aside unopened.

Voters Away from Their Home Constituency

Canadian voters away from their home constituency, whether in Canada or abroad, would follow the same voting procedures. The differences for voters in Canada would be twofold: first, they would not be listed on a central register (with the exception of prisoners in federal institutions); unlike registered non-resident voters, the onus would be on them to register in person during the election period and apply to receive a special ballot.

Second, these voters away from their home constituency would have to return the special ballot to the office of the returning officer in their home constituency by the close of polls on election day. These voters would not be permitted to tender their ballot to the election official or designated agent from whom they receive the ballot since they are outside their home constituency. In some cases, especially for voters outside Canada, a designated agent might offer to assist the voter by returning the ballot by diplomatic bag or government courier. They would not be required to do so, however, and if they did so, responsibility for ensuring that the ballot was received by the deadline would remain with the voter.

We recognize that the deadlines are tight for those who apply at the last moment. We recommend that the deadline be close to election day to allow voters the greatest possible chance of registering and voting. The voter may have to make a special effort to return the ballot on time, such as sending it by courier rather than by mail. Given that voters would have at least 40 days to vote, if they left it too close to the deadline, they would do so at their own risk.

For voters incarcerated in federal institutions, Correctional Service Canada would give the Canada Elections Commission a certified list of qualified voters and their home constituencies at the time an election writ is issued. The Commission would send each voter on this list a special ballot which the voter would return directly to the Commission. These ballots would be counted centrally by the Commission and the result included with the count of the votes from voters on the register for non-resident voters and transmitted to returning officers in the appropriate constituencies.

Recommendation 2.2.11

We recommend that

- (a) votes cast by Canadians who are away from their home constituency, whether in Canada or abroad, be returned to the returning officer's office in their home constituency and be counted along with the other special ballots cast in that constituency, except for votes cast by inmates registered on the list provided to the Canada Elections Commission by Correctional Service Canada;**
- (b) voters away from their home constituency be responsible for delivering the ballot back to the home constituency by the close of the polls on election day; and**
- (c) ballots cast by inmates in federal prisons who are registered on the central list provided to the Commission by Correctional Service Canada be returned to the Canada Elections Commission by 6 p.m. on election day and be counted centrally by the Commission and the results reported to each constituency along with the votes of Canadians registered with the Commission as non-resident voters.**

VOTERS WITH SPECIAL NEEDS

Many interveners at our hearings described how to improve access to the vote for persons with disabilities or special needs. Several groups of voters were identified, including persons with physical disabilities, people with reading deficiencies or with a limited knowledge of English or French, and people needing assistance to vote. We recommend a range of provisions to meet their needs, consistent with our desire to ensure optimal access to the electoral process for all Canadians.

Not every need can be anticipated, however. For this reason, we believe that the Canada Elections Commission should be on the lookout for opportunities and take all reasonable steps to serve people with special needs. For instance, returning officers should work with community groups before and during the election period to identify means and develop ways to facilitate access to the electoral process. Training for returning officers and election-day officials should include information on serving voters with special needs. In addition, to ensure that voters with special needs have every opportunity to vote, enumerators should be instructed to report whether there are voters with special needs who have asked to use specific voting provisions.

Voters who cannot go to a polling station, or who are reluctant to go because of a disability, are now excluded from voting unless they meet the stringent conditions for using a proxy vote. This would no longer be the case under our proposals for a special ballot. Thus, in addition to the specific steps we propose, people with special needs would be able to apply for a special ballot as an alternative to voting on election day or at an advance poll.

Recommendation 2.2.12

We recommend that

- (a) the training of returning officers and election officials include training on how to serve voters with special needs; and**
- (b) enumerators be instructed to report whether there are voters with special needs who have asked to use specific voting provisions.**

Voters with Physical Disabilities

Elections Canada has a policy of providing barrier-free access to all its offices and polling places except where no means exist to provide such access to an ordinary polling station and no alternative location is available. There is no legal requirement, however, to provide barrier-free access to the returning officer's office or to ordinary polling stations. The Act does specify that level access be provided at one polling station in each urban constituency.

In the 1988 election, Elections Canada instructed returning officers that all advance polling stations, central polling places (places where two or more polling stations are located), and returning officers' offices and sub-offices must provide level access. Elections Canada required that ordinary polling stations provide such access whenever possible and instructed returning officers to provide reasons to any voter who asked why a poll was not accessible to people with physical disabilities.

As a result, polling stations were moved from traditional locations to accessible buildings, and temporary ramps were built to provide access at many polling stations. Elections Canada estimates that in 1988, 92 per cent of its 55 000 polling stations provided barrier-free access. However, in certain cases, returning officers in some remote communities reported polling stations as accessible without having inspected them personally. Testimony at our public hearings revealed cases where there was barrier-free access to the building but not to the rooms where the polls were located. These cases notwithstanding, Elections Canada has made substantial progress in providing barrier-free access; this improvement was acknowledged by interveners representing groups serving persons with disabilities. But the situation can and should be improved further.

One difficulty in ensuring barrier-free access for people with physical disabilities is that, as noted by the chief electoral officer in his 1991 report, Elections Canada has received an independent legal opinion that returning officers are neither agents nor employees of Elections Canada, although they are "public officers employed by the Crown". (Canada, Chief Electoral Officer 1991) As a consequence, the chief electoral officer's authority with respect to returning officers is not clearly established; although the chief electoral officer has powers to direct returning officers, the chief electoral officer lacks the necessary sanctions if the directives are not followed. To resolve this situation,

the chief electoral officer's authority over returning officers must be clearly established. This matter is considered in detail in Chapter 3 of this volume.

Our overall goal is to ensure to the greatest extent possible that voters with disabilities and elderly people can vote on election day without making special arrangements. Several people who appeared before the Commission emphasized that it is unfair to oblige these voters to cast a ballot before election day, possibly missing important developments at the end of the campaign. It is also cumbersome to make voters go out of their way to vote at a special polling place by obtaining a transfer certificate from the returning officer of their constituency, rather than voting at their local polling station.

The United States enacted a federal law in 1984 (*Voting Access for the Elderly and Handicapped Act*) to promote barrier-free access for elderly people and persons with disabilities to registration facilities and polling places for federal elections. As a result, there was a marked increase in the number of polling places evaluated that were accessible – from 73 per cent in 1986 to close to 84 per cent in 1990. The major problem among those that remain inaccessible is the lack of a ramp at the front entrance or leading to the polling place.

Providing barrier-free access should be a matter of law rather than policy, and the Canada Elections Commission should be responsible along with its returning officers for implementing this provision. Barrier-free access should be mandatory for returning officers' offices and sub-offices, for advance polling stations, for central polling places containing five or more polling stations, and their polling booths. In addition, efforts should be made to ensure that central polling places and other polling stations are equipped with appropriate tables to allow persons with physical disabilities to vote conveniently and comfortably.

At ordinary polling stations, it may not be possible to provide barrier-free access at every location. In some areas, such as remote communities and older urban areas, suitable premises may not be available, even with the use of temporary ramps. In apartment buildings large enough to have their own polling station, it may make more sense to have residents vote inside the building than to move the polling station to a building with barrier-free access from the outside but located several blocks away.

Limited exceptions to the barrier-free access rule should therefore be permitted for ordinary polling stations; but in these cases the returning officer must be prepared to justify the location of the polling station.

Special attention should be paid to notifying voters with disabilities about where they can vote. The voter information card that we recommend be given to voters when they are enumerated or registered in other ways should indicate whether the voter's polling station has barrier-free access. Where it does not, voters should be able to transfer their names to alternative polling stations with such access, either by a request to the enumerator or revising officer, or by telephoning the returning officer's office.

This procedure would be simpler than the transfer certificates now provided for under the Act, which would no longer be needed.

During our hearings it was suggested that in addition to informing individual voters, returning officers should also be required to publish lists of polling stations without barrier-free access. In view of our other recommendations, we believe that this proposal is not needed and would result in unnecessary costs.

The special ballot would give voters with disabilities an alternative means of voting. In exceptional cases, a voter confined to home should be able to ask that an election official come to the house to enable the voter to apply for and tender a special ballot. The request in this case would have to be made no later than the fifth day before election day, and the returning officer should not have to comply if the request appears frivolous or if it would be unreasonably difficult to fulfil.

A final assurance of access would be to permit election officials to take the ballot box outside the polling station to enable anyone who cannot enter to vote. This practice, known as 'curbside voting', takes place now, even though it is technically illegal. It should be seen as a last resort for cases where a voter inadvertently goes to a polling station without barrier-free access, where a polling station designated accessible proves not to be accessible, or where there is no accessible alternative place to vote. This is already the practice in several jurisdictions, including Ontario, Manitoba and the Yukon.

Recommendation 2.2.13

We recommend that

- (a) the Canada Elections Commission be responsible, along with local returning officers, for ensuring access to the vote for voters with physical disabilities;**
- (b) barrier-free access be available at all ordinary polling stations and their polling booths except where no suitable premises exist and ramps cannot be built; and that barrier-free access be available to the returning officer's office and sub-offices and all advance polling stations and their polling booths;**
- (c) if barrier-free access is not provided at a polling station, the returning officer be required to justify his or her decision to locate the poll at that place;**
- (d) the voter information card given to voters indicate whether their ordinary polling station has barrier-free access and provide the telephone number of the returning officer, in both cases using international symbols;**
- (e) if barrier-free access is not provided at a polling station, voters be able to transfer their names to the voters list for**

- a polling station that is accessible, through a simple request to the enumerator or to the returning officer;
- (f) the system of transfer certificates be abolished; and
 - (g) election officials be permitted to take the ballot box to a voter outside the polling station if barrier-free access is not available.

Voters with Reading Deficiencies

An estimated 4.5 million Canadians, or one quarter of the adult population, are functionally illiterate. Voters who cannot read or whose reading comprehension is poor will obviously have difficulties finding out about the electoral process and casting a vote.

People who discussed literacy problems at our hearings focused on the need to provide non-written forms of communication about the election before the campaign begins, during the election period, and on election day. The use of the telephone, international symbols, photographs, videos, and material written in plain English or French were all suggested as means of helping people with reading deficiencies to participate in the electoral process.

Most people with reading difficulties can use the telephone and can understand telephone numbers on written material if the numbers are prominent and accompanied by a telephone symbol. Written material about the electoral process is widely available during elections; voters who have difficulty with written material should have access to a free telephone service that provides the same information.

Finding the returning officer's office or a polling station can be difficult for someone who cannot read. The Canada Elections Commission should publicize its logo and use it prominently during elections to assist people in identifying election offices and polling stations.

The ballot contains the name of each candidate along with the candidate's party affiliation in English and French. Apart from the space to mark a vote, the rest of the ballot is black. To help people who cannot read, the ballot should show the party's initials or logo next to the name of each candidate representing a party. This proposal was strongly supported at our hearings and was approved by almost 80 per cent of the local party officials we surveyed.

Parties' initials or logos used on ballots should be in a standard form for each party and should be subject to approval by the Canada Elections Commission at the time the party is registered or allowed to be identified on the ballot. Any changes in a party's initials or logo would also have to be submitted to the Commission, which could request changes if they were similar to ones already registered for another party. To avoid disputes over the use of unofficial logos, we recommend that independent candidates not be permitted to use a logo on the ballot.

Several interveners suggested photographs of candidates on the ballot or on a poster at each polling station. We prefer the use of posters, as is the

current practice in the Northwest Territories. Posters are less expensive and easier to produce than ballots with photographs and offer better quality reproduction; photos would also be much larger than they could be on a ballot. Posters should show the name and photograph of each candidate in the constituency and the name and logo of the party if applicable. Posters should also be in the form of a ballot and displayed at every polling station and advance polling station, as well as in the office of the returning officer.

To be fair to all candidates, there must be clear rules about when and how candidates' photos are to be submitted. Some interveners suggested that candidates might feel that the use of photographs could harm them electorally; this might be the case in certain circumstances. We recommend that candidates be free to choose whether to submit a photograph for the poster. Those who wish to do so should be required to submit a photograph upon filing their nomination papers.

Recommendation 2.2.14

We recommend that

- (a) the Canada Elections Commission publicize its logo and use it prominently during election periods to assist people in identifying election offices and polling stations;**
- (b) the ballot include a party's initials or logo next to the name of each candidate representing a party that is registered or allowed to be identified on the ballot;**
- (c) parties' initials or logos used on ballots be in a standard form for each party and subject to approval by the Commission;**
- (d) logos not appear beside the names of independent candidates;**
- (e) a poster in the form of a ballot be displayed at every polling station, advance poll, and returning officer's office showing the name and photograph of candidates in the constituency and the name and logo (or initials) of their parties (if authorized to be identified on the ballot); and**
- (f) candidates who wish their photograph to be used on the poster be required to submit it upon filing their nomination documents.**

Voters with Language Difficulties

Voters who have difficulty understanding English or French may face problems similar to those people who cannot read. Elections Canada publishes material about the electoral process in many languages, but the signs and forms used at polling stations contain only the two official languages. Interpreters are seldom used, and the manual for returning officers makes no mention of the needs of voters that speak neither English nor French.

It was suggested at the hearings that election material and ballots be available in different languages in multilingual areas. We have decided not to recommend a multilingual ballot, given the potential for confusion and the fact that French and English are Canada's official languages. The use of party logos or initials on ballots and posters should assist voters of all languages.

Nonetheless, the need for better communication with voters who speak neither English nor French should be recognized. For instance, more effective registration of Aboriginal people and better access to the vote could be achieved by appointing more Aboriginal election officials. Appointing multilingual election officials and providing election information in other languages in areas where members of ethno-cultural communities are concentrated could also help to meet this objective. Our proposals would give returning officers greater latitude in appointing election-day officials, particularly poll clerks. The best means of assisting people with difficulties communicating in English or French is to have a deputy returning officer or poll clerk who speaks their language. Returning officers in several urban areas already follow this practice, and it is one that should be encouraged. Where polling stations are located in central polling places, it should be possible to provide service in several languages by choosing election-day officials who speak the languages used in the area or by making greater use of interpreters if needed.

Recommendation 2.2.15

We recommend that where polling divisions have a concentration of voters from a language group other than English or French, the returning officer assign to the polling stations election-day officials able to speak that language, or when that is not possible, interpreters be used.

Persons Needing Assistance to Vote

The Act allows voters to have assistance to vote if they cannot read or are unable to vote without help because of a physical disability. The voter must take an oath of incapacity to vote, and the friend or relative assisting the voter to mark the ballot must also take an oath. Alternatively, the voter may have the deputy returning officer mark the ballot, but this must take place in the presence of the poll clerk and any candidates' agents who are present. Apart from election officials, no one may assist more than one voter at any election.

These rules and the need to take an oath to obtain assistance may deter some people from voting. The rule allowing a relative to help only one person can also be restrictive. People seeking assistance to vote should not be required to swear an oath. The procedure does not affect the integrity of the vote and is potentially embarrassing to those who must request it.

Friends or relatives who wish to assist a voter should be required to sign a declaration, undertaking to preserve the secrecy of the vote and not to coerce the voter. The name of a person who assists a voter should be recorded in the poll book as is the current practice. A person should be able to assist only one voter per election, except in the case of members of the immediate family.

The law allows a deputy returning officer to assist a voter, but specifies that this be done in the presence of the poll clerk and candidates' representatives. These people are sworn to secrecy, but in fact the vote is not truly secret if it is witnessed by as many as half a dozen people.

This procedure fills a need for people who do not have the assistance of a friend or relative to help them vote and should therefore be continued. However, we do not see the need for additional witnesses; it is sufficient to have the deputy returning officer and poll clerk assist the voter. This would also ensure better protection for the secrecy of the vote.

Recommendation 2.2.16

We recommend that

- (a) voters not be required to swear an oath to obtain assistance to vote;**
- (b) a friend or relative who assists a voter be required to sign a declaration, in the form established by the Commission, to keep the ballot secret and not to coerce the voter and have her or his name recorded in the poll book;**
- (c) no person assist more than one voter at an election, except for an election official or a person assisting members of his or her immediate family; and**
- (d) a voter be entitled to have the assistance of a deputy returning officer in the presence of the poll clerk only.**

Voting in Hospitals

The Act takes very little account of the special needs of voters temporarily or permanently in hospitals or other chronic care institutions. Polling stations can be established, but are not required by law, in chronic care institutions and homes for the aged but not in active treatment hospitals except in wings reserved for chronic care patients; the rules of ordinary residence, requiring a person enumerated in a hospital to have been there at least 10 days, exclude anyone who has recently entered hospital. Voters in active treatment hospitals can vote only via proxy.

Our proposals would provide people in all hospitals and chronic care institutions with the opportunity to vote. Polling stations should be set up in any hospital or institution where people may have difficulty getting out to vote, and should be designated as mobile polls so that the hours of voting

can be set by the returning officer in consultation with the institution. Election officials could then close the poll after everyone who wishes to vote has done so. Returning officers should determine the type of poll or other arrangements needed for each institution. They should work out these plans with the institution's administration well in advance of the election. This point was emphasized at our hearings by a number of interveners. The Act should continue to allow bedside voting for people who find it difficult to leave their room. Voters in a hospital in their constituency who did not get on the voters list in their constituency before entering hospital should be able to register and vote at the mobile polling station, as at any other poll.

Voters admitted to hospital can be excluded from voting if the hospital is not in their own constituency, they are in the hospital on election day, and they were admitted after the deadline for obtaining the special ballot. Even if they are registered to vote, they cannot obtain a special ballot after the deadline. This is a common situation for persons admitted to acute treatment or obstetrics hospitals because these institutions are regional rather than local facilities. Manitoba has overcome this problem: in that province, patients in these institutions are able to vote because a group of election officials, along with representatives of parties, establish polling facilities in each hospital and enable voters to register and vote with the equivalent of our proposed special ballot.

We propose a similar approach. Voters in such hospitals would be able to register and vote by special ballot on election day and to tender their vote to the deputy returning officer responsible for the hospital polling station. These polling stations would be created by returning officers for constituencies where such hospitals were located. Although this would be an exception to our deadline for registration and application for the special ballot, it is justified by the circumstance in which these voters find themselves. This exception also does not threaten the integrity of the vote. In these cases, the verification procedures for the special ballot would simply require that the application form be transmitted through facsimile or verified by telephone with the returning officer concerned on election day. Moreover, registration and special ballot applications would be forwarded to each returning officer so that the documents would be retained in the case of a contested election result. Voters who are in a hospital that is in their polling division and are not already registered could register on election day, in the same way as all voters, and vote via regular ballot.

At the close of the polls, the deputy returning officer and poll clerk, in the presence of the party representatives, would count the vote from the special ballots and transmit the count to the Canada Elections Commission, which would transmit the results of the special ballot, along with those of other centrally counted ballots, to each returning officer. This procedure is required to protect the secrecy of the vote.

Recommendation 2.2.17

We recommend that

- (a) returning officers ensure that voting procedures are accessible in any hospital or institution where people may have difficulty getting out to vote at an ordinary polling station;
- (b) mobile polling stations be used in hospitals and similar institutions and be open long enough that everyone in the institution who wishes to vote can do so;
- (c) bedside voting continue to be permitted in any institution served by a regular or mobile poll;
- (d) arrangements for voting in hospitals and institutions be worked out in advance between the returning officer for the area and the institution's administration;
- (e) voters in a hospital not in their constituency on election day be permitted to register and vote by special ballot on election day;
- (f) returning officers establish adequate polling facilities for each hospital in their constituency for registering and providing special ballots to voters;
- (g) persons voting in this manner tender their ballots to the deputy returning officer in charge of the polling station; and
- (h) the vote be counted at this polling station at the close of the poll and the results be transmitted to the Canada Elections Commission, which will communicate them to the constituency.

Voters with Visual Impairments

A template that fits over the ballot, developed by Elections Canada in cooperation with the Canadian National Institute for the Blind, permits people with visual impairments to cast a secret ballot without assistance. Such a template is available at every polling station, but its use is not provided for in the Act. In Quebec, Manitoba, Saskatchewan and Alberta, the provincial election law provides for such a template.

Recommendation 2.2.18

We recommend that the Act provide for the use of a template at every polling station for voting by persons with visual impairments.

Voters with Hearing Impairments

Hearing-impaired and deaf voters face several obstacles to participating in the electoral process. They may not hear the doorbell when enumerators

call, and they may have difficulty communicating with the office of the local returning officer. Moreover, about 60 per cent of deaf Canadians are functionally illiterate. (Canadian Association of the Deaf, Brief 1990)*

During our hearings several groups asked that Elections Canada make sign-language interpreters available to assist people with hearing impairments in voting. We do not believe there is enough demand for this service to justify its general availability; returning officers should be encouraged to work with groups representing deaf and hearing-impaired people, however, and to provide interpretation at locations where there are concentrations of deaf or hearing-impaired voters. People with impaired hearing would of course have the same rights as other voters to assistance in voting, to use advance voting and to use the special ballot.

Recommendation 2.2.19

We recommend that returning officers work with groups representing deaf and hearing-impaired persons in their constituency to establish whether and how sign-language interpreters should be provided to help with voting or to provide other assistance that may be required by voters with hearing impairments where warranted.

Voters in Remote and Isolated Areas

The *Canada Elections Act* makes almost no special provisions for voters in remote and isolated areas, despite conditions that can have a dramatic effect on access to the vote. One witness told us that her party had rushed voters from the airport to the returning officer's office in Yellowknife while they were between planes because there was no other way for them to vote before election day. In Newfoundland, a returning officer from the riding of Burin-St. George's estimated that it would take a voter 48 hours to travel from the far end of her constituency and back in order to vote at the returning officer's office before election day. The Act does not permit voting at a returning officer's sub-office, even in a large constituency.

Several constituencies in different parts of the country have long distances, transportation and communication difficulties, and isolated communities in common; the difficulties are compounded when election procedures are inflexible and not suited to their needs. Our proposals are designed to make election procedures more flexible; further refinements are needed for constituencies designated as remote and isolated. The aim is to make access to the vote in remote areas correspond as much as possible to conditions in more populated areas, while making it easier for returning officers to conduct an election within the shorter campaign period we recommend.

* Briefs submitted to the Royal Commission are identified in the text only. They are not listed in the list of references at the end of this volume.

At our hearings, party and election officials from remote constituencies pointed to the difficulty of conducting an election if the campaign period were less than its current length of 50 days. We recognize their concern, but we believe it should be met by making election procedures in remote constituencies more flexible rather than by retaining an election period that most Canadians consider too long. In addition, we propose that returning officers be permitted to start organizing for an election before a writ is issued. This should be of significant help in preparing for an election in remote constituencies.

Definition of Remote Constituencies

Schedule III of the *Canada Elections Act* lists 25 constituencies that receive special treatment for proxy voting because of their size or inaccessibility: five in Newfoundland, two in Quebec, four in Ontario, six in the Prairies, five in British Columbia, one in the Yukon, and two in the Northwest Territories. Voters in these constituencies can apply for a proxy vote through the deputy returning officer for their poll as well as through the returning officer's office. This procedure can also be extended to remote parts of other constituencies designated by the chief electoral officer.

With the elimination of proxy voting, the special provisions for Schedule III constituencies would no longer apply. There would still be a need, however, to define remote and isolated constituencies for purposes of election administration. The list of remote constituencies established in the new Act should be subject to change by regulation. A proposed list is shown in Table 2.2, corresponding to the constituencies listed in Schedule III. The new Act should contain an initial list, but changes in the list of remote constituencies would be determined by the Canada Elections Commission and subject to review by the House of Commons.

Recommendation 2.2.20

We recommend that remote constituencies where special provisions for voting apply be designated in an appendix to the *Canada Elections Act* but be subject to change by regulation.

Voting Procedures in Remote Constituencies

Most people in remote constituencies live in towns or villages where the process of ordinary voting would be similar to that in more populated areas. The necessary changes affect mainly smaller communities and voters living in hamlets.

Our proposals for advance voting would allow returning officers in remote constituencies to provide advance polls in communities now too small to be served and to organize mobile advance polls to serve people in very isolated areas. People would be able to apply for a special ballot at any advance polling station; this was requested by a number of interveners from northern constituencies. In smaller communities voters would also

be entitled to apply for a special ballot through the deputy returning officer for their polling division. This would be an alternative to voting at an advance poll and would avoid the cost of travelling to the returning officer's office.

Table 2.2
Proposed list of remote constituencies

Ontario	Alberta
Cochrane-Superior	Athabasca
Kenora-Rainy River	Peace River
Thunder Bay-Nipigon	Yellowhead
Timiskaming	
Quebec	Newfoundland
Abitibi	Bonavista-Trinity-Conception
Manicouagan	Burin-St. George's
	Gander-Grand Falls
	Humber-St. Barbe-Baie Verte
	Labrador
British Columbia	Yukon
Cariboo-Chilcotin	Yukon
North Island-Powell River	
Prince George-Bulkley Valley	
Prince George-Peace River	
Skeena	
Manitoba	Northwest Territories
Churchill	Nunatsiag
	Western Arctic
Saskatchewan	
The Battlefords-Meadow Lake	
Prince Albert-Churchill River	

People living far from the returning officer's office may have difficulty applying for a special ballot. We therefore recommend that returning officers in remote constituencies designate additional places where people can apply for a special ballot, such as government offices or RCMP detachments. Special ballots would also be available from any sub-office of the returning officer.

In urban areas, voters can count on a special ballot being delivered to the returning officer by mail within two or three days. In remote constituencies, however, the rule requiring voters to return special ballots to the returning officer's office by election day may not always be workable. If delivery to that office within the allotted time is problematic, voters in remote ridings should be permitted to tender a ballot to the deputy returning officer or poll clerk for their polling division. These special ballots should be verified, then counted along with the ordinary votes on election day.

For the Yukon territorial elections, no polling station is required in remote communities where there are fewer than 25 registered voters. These voters use a postal ballot. This practice should be followed in federal elections as well. In polling divisions with fewer than 25 registered voters, everyone should vote by special ballot; the enumerator for the poll should

act as an election official, issuing and receiving special ballots up to 6 p.m. the fifth day before election day. On election day these ballots should be verified and counted in the presence of the candidates' representatives or, if they are unavailable, at least two voters called in to act as witnesses.

There may be exceptional circumstances where it is not possible to communicate with a voter except by telephone, radio or facsimile. In these cases a returning officer should be able to take the voter's vote or authorize the deputy returning officer to do so by one of these means and register it as a special ballot. The procedure should be recorded in the poll book. We see this as a provision of last resort, since the vote would be known to the returning officer; it would remain a secret ballot, however, since the returning officer is bound by oath to keep it confidential. This procedure is similar to the situation when a deputy returning officer and a poll clerk give assistance to a voter. For such a vote to be accepted, the Act should require that the returning officer be satisfied as to the voter's identity.

Recommendation 2.2.21

We recommend that

- (a) voters in remote constituencies and in other remote areas designated by the Canada Elections Commission be able to obtain a special ballot through local election officials or through a designated government office in their area;**
- (b) if it would be difficult to deliver a special ballot to the election office by election day, voters in remote constituencies be permitted to tender ballots to the deputy returning officer so that they can be counted with the votes for that poll on election day; and**
- (c) a returning officer be able to take a voter's vote or authorize the deputy returning officer to do so by telephone, radio or facsimile and to register it as a special ballot if there are no other means of taking the vote and if the returning officer is satisfied as to the voter's identity; and that a record of such a vote be entered in the poll book.**

Administrative Issues

The widespread use of telephones and facsimile machines has made it easier to organize election campaigns in remote areas, and any obstacles to their use should be removed from the Act. For isolated polling divisions, even the distribution of ballots should be permitted by facsimile; the potential for election fraud is limited in small villages where every voter is known to election officials.

The Act establishes uniform hours of operation for all polling stations. This requirement may be too rigid for some polling divisions in remote

constituencies with very few voters. In these cases, the returning officer should be able to close the polling station before the official end of polling, provided that voters could still tender a special ballot to the deputy returning officer up until the normal poll closing time.

Recommendation 2.2.22

We recommend that

- (a) returning officers in remote areas be allowed to distribute election documents by facsimile where this is required to serve polling stations in isolated areas; and
- (b) returning officers be allowed to designate polling stations in isolated areas as mobile polls and to vary the hours of voting at these polls, provided that voters and candidates are told in advance.

Changing Communication Technologies

Communication technologies have been changing rapidly, and the pace of change has been accelerating. The widespread introduction and use of facsimile machines is a good example. The *Canada Elections Act* must not impede the appropriate use of new technologies in the electoral process as they become available; this will help to ensure that the voting process remain user-friendly and cost-effective. Specific developments in communication technologies may be difficult to anticipate, however. The Act should not freeze voting and other election procedures at the level allowed by current technologies; but at the same time the integrity of the electoral system must be maintained. The *Canada Elections Act* should therefore authorize the Canada Elections Commission to introduce new means of communicating election documents, including ballots, by regulation under the procedures we recommended in Volume 1, Chapter 7.

Recommendation 2.2.23

We recommend that the *Canada Elections Act* authorize the Canada Elections Commission to introduce new means of communicating election documents as these means become available and that such changes be introduced through regulation.

ADMINISTERING THE VOTE



THE ELECTION PERIOD

ONE OF THE STRONGEST messages we received at our hearings was that Canadian election campaigns are too long. By a margin of six to one, interveners favoured shortening the election period. Shorter campaigns were also identified as a major benefit of adopting a central register of voters.

Interveners also proposed that elections be held at fixed intervals – for example, on a set date every four years. Some suggested this would be fairer because it would remove the governing party's potential advantage in choosing an election date. Other interveners suggested that holding elections on fixed dates would allow more time to train enumerators and to carry out enumeration and other election preparations.

The constitution provides for a fixed maximum term for the House of Commons. The *Canadian Charter of Rights and Freedoms* stipulates that “no House of Commons ... shall continue for longer than five years from the date fixed for the return of the writs at a general election of its members”.¹ Once five years have elapsed Parliament is dissolved and a date must be set for an election (although neither the constitution nor the *Canada Elections Act* stipulates the maximum duration of the campaign). An election may be called earlier, however, on the recommendation of the prime minister. In addition, based on constitutional convention, a defeat in the House of Commons on a motion of non-confidence usually results in an election being called. These provisions are shared by other parliamentary democracies, although in some cases the maximum term is shorter. For example, in both Australia and New Zealand, the House of Representatives must be dissolved after three years have elapsed (although, as in Canada, an earlier dissolution is possible). A study of 83 parliaments showed that 47 lower (or only) chambers had a maximum term of five years and 26 had a maximum term of four years. (Inter-Parliamentary Union 1986)

In contrast, the legislatures in a number of non-parliamentary systems have fixed terms: elections are held at fixed intervals and cannot be called earlier or later than a set date. As a rule, these systems are characterized by the separation of powers; the executive is not chosen by the legislature and cannot (with rare exceptions, such as impeachment) be removed by a vote of its members. The United States has the oldest – and to Canadians, the best-known – form of government based on these principles.

A fixed term for the House of Commons would diminish the potential advantage to the governing party of choosing the most opportune moment

to call an election and would be fairer to all political parties. A government would not be able to call an election well before its term was up – for example, because of its favourable standing in the polls or the weak condition of opposition parties. Such snap elections have not been common at the federal level (where the average term of a government since 1945 has been 3.1 years), but they have occurred on occasion in the provinces during recent decades. In some cases, this has led to a different result from the one expected!

This being said, the proposal for fixed terms presents several major problems. First, the issue raises constitutional considerations. It might be possible to adopt fixed dates for federal elections and retain the constitutional principle that defeat on a motion of non-confidence leads to a government's resignation, but the result could well be an unsatisfactory hybrid. If a government fell, an election would have to be held earlier than the fixed date. (And this would be a more likely event in the case of minority governments.) In addition, a government could take steps to engineer its own defeat in the House of Commons if it judged that the timing of an election would serve its interests. To implement a system of fixed terms with no exceptions, a constitutional restructuring of our federal legislative and executive institutions would be required. Even if agreement on the necessary amendments could be achieved, it is not at all certain that this would lead to more responsive government. In fact, the opposite might occur. At present, the possibility that a government might be overturned by a vote in the House of Commons helps secure accountability. This is particularly the case during periods of political turbulence and minority governments – as during the period between 1962 and 1968, when four general elections were held. With a fixed term, governments could seek to deflect political pressures and wait for the verdict of voters.

A further difficulty is that fixed-date elections would change significantly the length and nature of election campaigns. At present, candidates may be selected and parties begin preparations before an election is called. But the campaign does not start in earnest until the writs are issued. During this relatively short period, the election expenses of parties and candidates are subject to limits that affirm the principle of fairness in electoral competition.

In practice, at least in part because the date of the next election is always known, campaigns last much longer in the United States. Presidential campaigns are often launched 18 months or more before election day, and commentators agree that many members of the House of Representatives, who have a two-year term, never really stop campaigning. In the absence of spending limits, except for presidential campaigns, candidates' expenses are forced upward, and the time devoted to fund raising also rises. Such developments might well follow the adoption of fixed-date elections in Canada. If they did, the objective of our election spending limits would be thwarted if those with more resources spent freely during the weeks or months when campaigning was under way but an election had not actually been called. Paradoxically, adopting fixed terms could lead to longer, not

shorter campaigns. Given their support for election spending limits (see Volume 1, Chapter 6), Canadians would not likely welcome this result. Rather, the evidence indicates clearly that they favour shorter election campaigns.

The major reason offered for shorter campaigns was that Canadians are over-exposed to politics and lose interest as a result. Shorter campaigns would also reduce the cost of election administration and campaigning and would make it easier to mobilize volunteers. Several interveners noted that provincial campaigns are much shorter (see Table 3.1).

Opposition to shortening the campaign came mainly from people in very large constituencies where the logistics of organizing an election would make a shorter campaign difficult. Canada's unpredictable climate and the time needed for party leaders to campaign across the country were also offered as reasons for longer campaigns. Representatives of some smaller parties said that they did not have enough campaign workers to accomplish everything that needs to be done for an election within the limits of a shorter campaign period.

Table 3.1
Federal, provincial and territorial campaign periods
(days)

Jurisdiction	Minimum campaign period	Maximum campaign period	Three most recent campaigns ^a
Newfoundland	21	None	22, 22 and 22
Prince Edward Island ^b	26	32	28, 28 and 28
Saskatchewan ^b	29	34	30, 31 and 31
Alberta	29	29	29, 29 and 29
British Columbia	29	29	38, 29 and 29
Yukon ^b	31	None	31 and 31
Manitoba ^b	35	50	36, 36 and 48
New Brunswick ^b	35	45	39, 41 and 45
Nova Scotia ^b	36	None	40, 40 and 39
Ontario ^b	37	74	39, 41 and 37
Quebec ^c	47	53	33, 41 and 48
Northwest Territories ^b	45	53	63, 61 and 50
Canada	50	None	66, 57 and 52

Source: Royal Commission Research Branch.

^aIn chronological order (last entry refers to most recent election). For example, the campaign period for the last federal election (in 1988) was 52 days; in 1984 the campaign period was 57 days and in 1980 it was 66 days.

^bProvinces that conduct enumeration after the writs for an election have been issued.

^cQuebec may conduct revisions annually. If the writs are issued before June 30 following the preparation of the voters list, the minimum and maximum periods are 36 and 42 days respectively.

The *Canada Elections Act* provides for a minimum of 50 days between the day the writs are issued and election day; there is no maximum. Before 1982 there was no minimum, and campaigns averaged about 60 days.

Provincial and territorial election procedures are similar to those used federally, and seven provinces have comparable enumeration systems. Yet the average duration of 35 recent provincial and territorial campaigns was 36 days, compared to an average of 58 days for the last three federal elections. Provincial and territorial elections are no doubt easier to administer because constituencies are smaller in size and number. But even in Ontario, where conditions closely parallel those in federal elections, the election period is about 10 days shorter than the federal minimum period.

A shorter campaign would help to maintain voters' interest and improve voter turnout. The experience of the provinces has convinced us that the election period can be shortened substantially, even without a central voters register. Changes in technology and communication have accelerated campaign processes; but the media and the parties are forced to follow the pace of the election administration apparatus, with no evident benefit to the voter. Means exist even in remote ridings to speed up the conduct of elections, particularly with the growing availability of facsimile machines.

The length of the election period is determined largely by procedures and deadlines in the *Canada Elections Act*, particularly with respect to enumeration and revision of voters lists. The changes we recommend would shorten the enumeration process and make it more effective. Elections Canada has determined that the election period could be shortened to as little as 39 days with the present enumeration system, but warns that this goal may not be attainable the first time new procedures are introduced.

We conclude that the campaign period can be shortened to a minimum of 40 days, if enumeration is streamlined along the lines we recommend and if the revision process is linked more closely to enumeration (see Table 3.2). The key to achieving this goal is ensuring that returning officers are in place and do most of their preparation well before an election is called. We have therefore recommended that the appointment process for returning officers be changed and that these officials be charged with and compensated for performing certain tasks between elections as well as during the election period.

No radical change in procedures is needed to shorten the campaign to 40 days. The deadline for the official nomination of candidates would have to be changed, however. This deadline is now 28 days before voting day; it should be set at 21 days before election day to give constituency associations time to nominate a candidate if they have not done so before an election is called.

A 40-day campaign using enumeration is close to the minimum that could be achieved with a more flexible system of voter registration. The Canada Elections Commission would have to mail special ballots to voters living abroad a minimum of 30 days before election day if they were

to be received and returned on time. And it would be difficult to run an election in urban Canada in less than 35 days using a central voters register without sacrificing the time needed for revising the list, or to run an election in large or remote constituencies in less than 35 days.

Table 3.2

Comparative timetable of present and recommended systems

(days prior to voting day)

	Issue of the writs	Appointment of enumerators	Enumeration begins	Enumeration ends	Preliminary voters lists ready	Close of nominations	Election day
Present schedule	Day 50	Day 45–39 ^a	Day 38	Day 32	Day 25	Day 28	Day 0
Recommendation (40 days)	Day 40	Day 40–33 ^b	Day 34 ^c	Day 28	Day 26	Day 21	Day 0

^aSource: Royal Commission Research Branch.

Note: Election campaign schedules are counted backward from the election, with the day of the vote as day 0. Thus, for example, setting the issue of the writs at day 50 means the writs must be issued 50 days before voting day.

^aCandidates have up to day 45 to nominate enumerators; appointments cannot be made until this deadline has passed, even if candidates do not nominate sufficient enumerators.

^bParties would be consulted and asked to nominate enumerators before the writs are issued; the returning officer could recruit enumerators before the writs are issued as well as accepting these nominations; appointment of enumerators could be made or confirmed as soon as the writs are issued.

^cThis suggested enumeration period is included here only for illustration and is not part of our recommendations; the Canada Elections Commission would determine this period.

There is no maximum period for a federal election. This gives a government some flexibility in choosing an election date, but it could frustrate the objective of shortening the campaign. A longer election period also affects candidates and political parties because their spending limits remain the same no matter how long the campaign is. Some flexibility in setting an election date is reasonable, for example, if an election is unexpected or occurs in winter, but a maximum period is still required to achieve the goal of shorter campaigns.

Recommendation 2.3.1

We recommend that

- (a) the minimum election period be 40 days and the maximum 47 days; and
- (b) the deadline for official nominations be 21 days before election day.

ELECTION DAY

Three provinces and the territories hold elections on Mondays; no province uses Sunday or Saturday. Federal elections are held on Mondays, except for federal or provincial holidays, in which case the election is held on the Tuesday.

We gave serious consideration to changing election day to Sunday. Some 50 interveners discussed the issue at our hearings, with those in favour outnumbering those against by a margin of three to two.

Supporters of Sunday voting argued that the change would increase turnout, because most Canadians do not work on Sunday, and would eliminate line-ups and delays at the polls that occur when people vote after finishing work. It would also be easier to use public buildings for polling stations and to recruit election-day officials and party workers. In addition, it could be argued that the change would be in line with changes in attitudes among many Canadians, as reflected in the increased acceptance of shopping and other non-traditional activities on Sunday.

Opponents maintained that Sunday voting would reduce turnout and that most Canadians would oppose such a change. They voiced strong concerns about respect for religious beliefs and argued that Sunday is a day of rest, a day set aside for people to spend with their families; it should not be used for elections.

Turnout tends to be higher in countries that hold elections on Sunday, such as France and Germany. Other variables are also at work, but the European experience does suggest that holding elections on a Sunday would likely increase participation in Canadian elections as well.

Our research showed clearly, however, that Canadians are not ready to accept a move to Sunday voting. Our survey of constituency association presidents revealed that 65 per cent opposed holding elections on Sunday. (Carty 1991a RC) In a national polling study conducted in the summer of 1990, more than 70 per cent of respondents expressing an opinion thought that Sunday voting was a bad idea. Asked for an opinion, 52 per cent of the overall sample disapproved of holding federal elections on Sunday, while 39 per cent approved. In Quebec, where municipal elections are held on Sunday, 50 per cent approved of Sunday elections and 40 per cent disapproved; in other provinces the rate of disapproval was as high as 68 per cent (in Saskatchewan). (Environics 1990)

We therefore decided not to recommend a change in the practice of holding federal elections on a Monday. However, the current requirement to hold an election on a Tuesday, if the Monday of the week in which the prime minister wishes to hold an election falls on a provincial or federal holiday, should be eliminated. The prime minister, accordingly, must decide whether to hold an election on a Monday that is a federal or provincial holiday or to select another Monday.

The objections to Sunday voting do not have the same force with respect to advance polls because people can choose when to vote. Holding advance polls on Sunday would provide greater flexibility and improve access to the vote without forcing anyone to vote on a day to which they object.

Recommendation 2.3.2

We recommend that election day be a Monday.

VOTING HOURS

The polls are open on election day between 9 a.m. and 8 p.m., a total of 11 hours, in each time zone. The unofficial results start to become public as soon as the votes cast in regular polling stations have been counted, usually about one-half hour after voting has ended in each time zone.

Because Canada extends over six time zones, election results from eastern Canada can become known in the West well before the polls have closed there (see Table 3.3). The resulting perception that elections are decided before voters have even finished voting prompted several recommendations at our hearings.

Table 3.3
Voting hours, present situation

Province/region	Local time a.m. p.m.	Eastern time a.m. p.m.	Results available (eastern time)* p.m.
Newfoundland	9:00–8:00	7:30– 6:30	7:00
Maritimes	9:00–8:00	8:00– 7:00	7:30
Quebec	9:00–8:00	9:00– 8:00	8:30
Ontario	9:00–8:00	9:00– 8:00	8:30
Northwest Territories (Eastern Arctic)	9:00–8:00	9:00– 8:00	8:30
Manitoba	9:00–8:00	10:00– 9:00	9:30
Saskatchewan	9:00–8:00	10:00– 9:00	9:30
Alberta	9:00–8:00	11:00–10:00	10:30
Northwest Territories (Western Arctic)	9:00–8:00	11:00–10:00	10:30
British Columbia	9:00–8:00	12:00–11:00	11:30
Yukon	9:00–8:00	12:00–11:00	11:30

Source: Royal Commission Research Branch.

*Shaded area shows which results are available before voting ends in British Columbia and the Yukon.

As discussed in Volume 1, Chapter 2, our research suggests that the time zone effect is not a particularly important determinant of non-voting in western Canada. (Eagles 1991b RC) Notwithstanding this finding, western Canadian voters generally may feel that their vote counts for less if the election outcome has been determined before their votes are cast, and some may have decided not to vote for that reason. The 1980 general election provides a good example. By the time the results from Ontario were announced, the Liberals had won enough seats to form the government. Had the results been announced from west to east, Canadians would have had to wait for results from Prince Edward Island to learn who would form the

government. Under those circumstances, the vote would likely have held a different meaning for western Canadian voters.

The *Canada Elections Act* makes it an offence to publish election results in any area before voting ends in that area. This provision, adopted at the time the telegraph was used to communicate election results, has been rendered obsolete by developments in broadcasting and telecommunications technology, which have made controlling the diffusion of election results more difficult. U.S. border stations can broadcast election results from eastern Canada before viewers or listeners in western Canada have finished voting. It is also impossible to stop results being relayed to the West via telephone or facsimile before the polls close and increasingly difficult to block eastern Canadian television stations carrying election news from being received in the West by satellite or cable.

Our research indicated that Canadians feel very strongly about premature release of election results and favour changes in voting hours to eliminate the problem. In a national survey (EnviroNics 1990), 70 per cent of respondents said this was a problem and 41 per cent called it serious. This was echoed at our public hearings. Most interveners on the issue were from western Canada, but several witnesses from Atlantic Canada also underscored the importance of this issue.

Several recommendations were put forward at our hearings. They included delaying the count in eastern Canada until polls close in Alberta and British Columbia, extending the voting period to two days, or using different election hours in each time zone.

Our survey asked whether people approved of having all regions of the country vote at the same time so election results would be announced to everyone at once. More than half the respondents strongly approved, another 29 per cent approved, and only 11 per cent were opposed.

Changing voting hours also drew support in our consultations with returning officers and party officials, although not to the extent shown in the survey. Election officials were concerned about fatigue and security problems if poll officials had to work late into the evening.

Despite the support shown for uniform voting hours across Canada, we hesitate to recommend this for practical reasons. Voting would have to occur between 11:30 a.m. and 10:30 p.m. in Newfoundland, 11 a.m. and 10 p.m. in the other Atlantic provinces, 10 a.m. and 9 p.m. in Ontario and Quebec, 9 a.m. and 8 p.m. in Manitoba and Saskatchewan, 8 a.m. and 7 p.m. in Alberta and the Northwest Territories and 7 a.m. and 6 p.m. in British Columbia and the Yukon.

This would have disruptive effects at both ends of the country. In Atlantic Canada poll officials would have to work as late as midnight on election day, while in British Columbia and the Yukon the proposal would eliminate two hours when voting is traditionally heaviest, between 6 p.m. and 8 p.m. The change would not only be inconvenient; it could also discriminate against voters with jobs that make it more convenient to vote on

their way home from work or after dinner. Closing the polls at 6 p.m. in British Columbia and the Yukon would also affect employers, who must give employees paid time off to vote. The impact on the political parties would probably also be unequal. These are the reasons why Bill C-113, a 1982 draft law that proposed staggered voting hours, proved unacceptable.

The challenge is therefore to devise a solution that responds to concerns in western Canada, is fair to different groups and regions, and is not too disruptive for voters or election workers. We believe this can be achieved if we recognize that the basic problem is ensuring that voters in western Canada do not know who will form the government before the polls close there. This means guarding against premature release of election results from Ontario and Quebec, whose 174 constituencies constitute more than half the seats in the House of Commons. We have concluded that the release of some election results before polls close in the West – specifically, results from the 32 seats in Atlantic Canada – would not constitute a major problem so long as other results from eastern Canada were not available until after the polls closed in the West.

The time difference between the eastern and Pacific time zones is three hours, and it takes about half an hour for poll workers to begin to report results once voting ends. Thus if voting ended at 9 p.m. in Ontario and Quebec, the first results would begin to be aired on radio and television at 9:30 p.m., or 6:30 p.m. local time in British Columbia and in the Yukon. If the count in Ontario and Quebec were delayed by a half-hour, and the polls in British Columbia and the Yukon closed an hour earlier, results would not be known until people in British Columbia and the Yukon had finished voting.

The difficulty with this scenario is that it requires delaying the counting of votes in Ontario and Quebec. After consulting returning officers we have concluded that a half-hour delay in counting the vote from ordinary polling stations would not be workable. Further, if staff had to stay for this additional time, it would appear logical to keep the polls open. Nor would delaying the transmission of election results to the returning officer's office be effective, because party scrutineers at the polls could spread results rapidly once the ballots had been counted.

We propose that polling stations be open from 9:30 a.m. to 9:30 p.m. local time everywhere from Newfoundland to the Ontario-Manitoba border; from 8:30 a.m. to 8:30 p.m. in Manitoba and Saskatchewan; from 8 a.m. to 8 p.m. in Alberta and the Northwest Territories; and from 7 a.m. to 7 p.m. in British Columbia and the Yukon. No polling station would be open later than 9:30 p.m. or close earlier than 7 p.m. While these new voting hours would delay the closing of the polls in certain parts of the country, similar closing hours can be found in other jurisdictions, such as England and several U.S. states. Table 3.4 shows that, based on the count taking half an hour, the only election results available to voters in the rest of Canada before their polls closed would be those from the 32 constituencies in Atlantic Canada; under the present arrangement, results from as many as 262 constituencies are available before the polls close in British Columbia.

Recommendation 2.3.3

We recommend that

- (a) the voting day be extended from 11 hours to 12 hours; and
- (b) local voting hours be from 9:30 a.m. to 9:30 p.m. in Newfoundland, Prince Edward Island, Quebec, New Brunswick, Nova Scotia and Ontario; 8:30 a.m. to 8:30 p.m. in Manitoba and Saskatchewan; 8 a.m. to 8 p.m. in Alberta and the Northwest Territories; and 7 a.m. to 7 p.m. in British Columbia and the Yukon.

Table 3.4
Proposed voting hours, 12-hour voting day

Province / region	Local time a.m. p.m.	Eastern time a.m. p.m.	Results available (eastern time)* p.m.
Newfoundland	9:30–9:30	8:00– 8:00	8:30
Maritimes	9:30–9:30	8:30– 8:30	9:00
Quebec	9:30–9:30	9:30– 9:30	10:00
Ontario	9:30–9:30	9:30– 9:30	10:00
Manitoba	8:30–8:30	9:30– 9:30	10:00
Saskatchewan	8:30–8:30	9:30– 9:30	10:00
Alberta	8:00–8:00	10:00–10:00	10:30
Northwest Territories	8:00–8:00	10:00–10:00	10:30
British Columbia	7:00–7:00	10:00–10:00	10:30
Yukon	7:00–7:00	10:00–10:00	10:30

Source: Royal Commission Research Branch.

*Shaded area shows which results would be available before voting ended in British Columbia and the Yukon.

DEATH OR WITHDRAWAL OF A CANDIDATE

Death of a Candidate

The *Canada Elections Act* requires that a constituency election be postponed if one of the candidates dies between the close of nominations (nomination day) and the close of the polls. Use of this provision has been relatively infrequent; just three candidates have died during an electoral period since 1945 (in 1957, 1962 and 1980). A new nomination date is set between 20 days and one month after the candidate's death, and the election date is set for

28 days after the new nomination day. Thus if a candidate dies after nomination day, the election in that constituency may be postponed by as much as 58 days. Further, there is no provision for the situation where a candidate who has filed nomination papers dies just before the official nomination date.

These arrangements need to be revisited. First, a delay of almost two months in filling the seat could create uncertainty should a minority government result from the general election. Second, a party that has lost its candidate through death just before nomination day could have difficulty recruiting a new candidate and fulfilling the nomination requirements by the statutory deadline.

The timeframe for a new election is also unnecessarily long and should be shortened (see Figure 3.1). In addition, the law should include a provision to cover the situation where a candidate who has filed nomination papers dies on or just before nomination day.

Figure 3.1
Death of candidate, present situation and recommended provisions

Present situation (writ period: 50 days)

Nomination day Day 28				Election day Day 0				Day 28				Day 58			
*															
		Period where death occurs													
				Period where new nomination day will be set, according to day of death											
								New election day period							

*Each block of the first row represents a seven-day period.

Recommended provisions

Nomination day Day 21				Election day Day 0				Day 14				Day 35			
*															
				Period where death occurs											
					Period where new nomination day will be set, according to day of death										
									New election day period						

Source: Royal Commission Research Branch.

*Each block of the first row represents a seven-day period.

Federal elections and by-elections are normally held on a Monday; this should also be used as the day for a special election held as a result of the death of a candidate. To give parties at least a week to find and nominate a new candidate, the new nomination date would be the second Monday after the death of the candidate. The new election day would be set 21 days after the new nomination date. These rules should also apply in the event that a candidate who has filed nomination papers dies in the week preceding nomination day. This will ensure that a party does not lose the right to have a candidate. These provisions would not apply in the case of the death of an independent candidate.

Recommendation 2.3.4

We recommend that

- (a) if a nominated candidate of a registered party dies during the last 21 days prior to the close of the polls on election day, the election in that constituency be postponed;**
- (b) a new nomination day for the postponed election be set for the second Monday after the death of the candidate, and that election day be 21 days after the new nomination day;**
- (c) in the case of a postponed election, the nominations of the remaining candidates stand;**
- (d) the revision period of the voters list be extended; and**
- (e) any special ballots received be destroyed and the returning officer be required to send a new special ballot to all voters who had applied for a special ballot, accompanied by a statement of when the postponed election will be held; further, if the candidate dies after the day of the advance poll, these ballots be destroyed.**

Withdrawal of a Candidate

The withdrawal of candidates after they have filed nomination papers is relatively common – about three or four candidates per election – but generally occurs within the time limit allowed by the *Canada Elections Act*. The Act does not allow candidates to withdraw a candidacy after the twenty-fifth day prior to election day, that is, two days after nomination day. If a candidate of a registered party withdraws after the close of nominations, the withdrawal is final; the party cannot nominate a replacement candidate. At the 1988 general election, one candidate withdrew two days after nomination day. Five days later, an individual who wanted to replace the withdrawn candidate applied to the Federal Court of Canada. The application was rejected. Subsequently, the candidate who had withdrawn sought to re-enter the contest but was refused on the grounds that the time limit for filing nomination papers could not be extended.

No public purpose is served by refusing to allow a candidate to withdraw during the last 25 days of a campaign. Ontario, Manitoba, Saskatchewan and Quebec have much more flexible provisions, allowing candidates to withdraw, in some cases, right up to the close of the polls. We suggest that candidates who wish to withdraw be able to do so until 6 p.m. on the day before election day. This would not provide sufficient time to change the printed ballots, but it would allow the news media to carry the announcement of the withdrawal and give the returning officer time to confirm the withdrawal to poll officials. Further, a candidate's withdrawal could be indicated prominently on the poster of candidates that we recommend be placed in every polling station. The Canada Elections Commission could issue additional instructions about how voters should be informed at the polling station.

No replacement candidate should be permitted, however, if the withdrawal occurs after the close of official nominations. This is to eliminate the possibility of a candidate being pressured to withdraw in favour of another candidate, for example, if a party's election prospects suddenly improved. The no-replacement rule is needed to protect the integrity of the electoral competition. This is in line with the practice in other jurisdictions.

Recommendation 2.3.5

We recommend that

- (a) candidates be allowed to withdraw up to 6 p.m. on the day before election day; and**
- (b) if a candidate withdraws after the close of nominations, the withdrawal be final and no replacement candidate be allowed.**

APPOINTMENT OF RETURNING OFFICERS

Many of our proposals involve new responsibilities for returning officers (ROs), who are the chief representatives of the Canada Elections Commission in each constituency and its only representatives between elections. The election period can be shortened only if the responsibilities of ROs are expanded.

The *Canada Elections Act* makes it almost impossible for returning officers to begin election preparations until a writ is issued. They cannot rent premises or recruit and appoint enumerators, and any preparatory work done before the election is called is unpaid. The consequence is a period of constant crisis in the returning officer's office after a writ is issued, with just 50 days in which to organize an office, hire and train nearly 1000 officials, and conduct the election. Moreover, the requirements of the Act must be met completely and with little room for error.

If the campaign were shortened to 40 days, as we recommend, returning officers would have to do as much preparation as possible before a writ is issued. Preparation should include locating polling places, consulting the

parties, recruiting enumerators, and working with community groups to improve access to voting for people with special needs. Returning officers should be paid for this work on a part-time or retainer basis.

These added responsibilities for ROs underscore the need for qualified and competent people. We therefore propose modifications to the process for appointing them, as well as provisions for dismissal in cases of incompetence, incapacity, insubordination or lack of satisfactory performance.

Returning officers are appointed by the Governor in Council for an indeterminate period or, in practice, until their constituency is affected by boundaries readjustment. Governments have normally preferred to appoint new returning officers after boundaries readjustment instead of trying to keep experienced ROs who have performed well. There is no time limit for filling vacancies resulting from a change in the electoral map, and new appointments have frequently been delayed; as a consequence, each change in the electoral map brings a large number of inexperienced returning officers, many of them named too late to receive complete training. In the 1988 election, for example, which came just after a boundaries readjustment, 86 per cent of the returning officers were first-time appointments; in 1979, the proportion of new returning officers was 54 per cent.

The Act requires normal vacancies to be filled within 60 days, but this provision is often ignored. Moreover, the chief electoral officer has no control over RO appointments and no power to prevent the appointment of someone unsuitable or incompetent.

Chief electoral officers have urged in their reports to Parliament that the system for appointing returning officers be changed. Recommendations have included giving the chief electoral officer the authority to fill RO vacancies not filled by the government within 60 days and making appointments through a competitive application process, as is now the practice in Quebec.

Returning officer jobs were once considered patronage appointments. Our research showed that this view is changing, perhaps because the parties attach more importance to the need for well-run elections at the constituency level. Two-thirds of the constituency party presidents who responded to our survey favoured giving Elections Canada the power to appoint returning officers without requiring nominations by the local MP or the party in power; an almost equal number supported returning officers being paid to work part-time between elections.

We conclude that it would be preferable and more cost effective to build on the present appointment process rather than to change it completely. The current approach has proven to be effective in bringing to the position people with some experience and understanding of how federal elections work at the constituency level and with a commitment to the electoral process. It is now accepted that returning officers perform in an impartial manner after they have been appointed. There is no evidence to suggest that, on average, they perform less well than those appointed by a competitive process. At the same time, the Commission would not have to be involved in

a process of appointing persons who in most cases have a partisan past. In maintaining the current approach, however, the capacity of the chief electoral officer and the Commission to ensure quality in election administration can be strengthened. As we recommend, this capacity should be strengthened by having the chief electoral officer and the Commission involved in evaluating the performance of returning officers after they have been appointed and have established a record in this position. This would be achieved by having returning officers be accountable to the Commission, by giving the Commission the power to recommend on their re-appointment and by enabling the Commission to retain those who perform well when minor changes are made to constituency boundaries. The chief electoral officer and the Commission would then be able to exercise authority and influence over returning officers after they have performed in this position. This is preferable to involving the Commission directly or indirectly in a process of appointment where most candidates for appointment would be expected to have a partisan past, given that such persons are likely to be those most interested and experienced.

The appointment procedure should be changed to require the government to fill vacancies in returning officer positions within 90 days and to give the Canada Elections Commission authority to make appointments after that time. ROs should be appointed for a term of seven years, renewable upon the recommendation of the Canada Elections Commission.

Changes resulting from boundaries readjustment are often relatively minor and should not result in returning officers being displaced. The chief electoral officer should be able to retain a returning officer after a boundaries readjustment if the boundaries are substantially the same as under the old electoral map and if the returning officer continues to live in the constituency. The chief electoral officer should decide which constituencies meet these criteria within 30 days of a boundaries readjustment becoming final; the government would then have 90 days to fill any vacancies. To ensure that ROs are responsive to the needs of voters, attention should also be given to more equitable representation in hiring returning officers, particularly in communities where there are significant numbers of voters whose ethnic origin is neither English nor French, including voters of Aboriginal descent.

Effective election management and supervision of returning officers require that ROs be accountable to the Canada Elections Commission. At present, the chief electoral officer has almost no power over returning officers except the ability to withhold payment for services. The Act does permit the Governor in Council to dismiss a returning officer for incompetence or incapacity, but this power has rarely been exercised. To ensure accountability, the new electoral law should transfer authority to dismiss returning officers from the Governor in Council to the Canada Elections Commission, acting on the advice of the chief electoral officer. Grounds for dismissal should include incompetence, incapacity, insubordination and lack of satisfactory performance.

The Act specifies that returning officers may be dismissed if they are “guilty of politically partisan conduct, whether or not in the course of the performance of [their] duties under this Act.” This section appears to have been intended to rule out party activity by returning officers or any display of partisan bias in the course of their duties, but the new Act should make the partisan neutrality requirement for returning officers much clearer.

Elections Canada is currently reviewing the remuneration of returning officers. ROs should also be compensated for working part-time between elections on outreach activities and preparation for the next election.

Recommendation 2.3.6

We recommend that

- (a) returning officers be appointed by the Governor in Council;**
- (b) if the Governor in Council does not nominate someone to fill a returning officer position within 90 days of the position becoming vacant, the Canada Elections Commission have the authority to make the appointment;**
- (c) returning officers be appointed for a term of seven years by the Governor in Council, renewable for seven years upon the recommendation of the Commission;**
- (d) the chief electoral officer be permitted to retain a returning officer whose constituency has been altered by boundaries readjustment if the boundaries remain substantially the same and the returning officer lives in the new constituency;**
- (e) the Canada Elections Commission have the power, on the advice of the chief electoral officer, to dismiss a returning officer for incompetence, incapacity, insubordination or lack of satisfactory performance;**
- (f) as a condition of office, returning officers be required to refrain from membership in a political party, from making a political contribution, from engaging in partisan political activity, and from demonstrating partisan bias in carrying out their duties;**
- (g) returning officers be engaged by the CEO between elections as necessary to prepare for the next election and to conduct outreach activities on behalf of the Canada Elections Commission; and**
- (h) greater attention be given to hiring returning officers capable of serving the needs of voters who do not speak French or English in constituencies where there is a significant community of such voters.**

ELECTION-DAY OFFICIALS

Returning officers appoint a deputy returning officer for each polling station; the deputy returning officer then chooses a poll clerk. The Act does not provide for deputy returning officers to be nominated by a local candidate or candidates, as is the case with enumerators, but this practice is followed in a number of constituencies, with the nomination generally being made by the outgoing MP or the candidate of the party in government.

The Act provides that the poll clerk, who assists the deputy returning officer in administering and counting the vote on election day, be appointed by the deputy returning officer rather than by the returning officer. As a result, both may be from the same political party, potentially leading to an appearance of bias in the election process.

Some provinces avoid this problem by having deputy returning officers and poll clerks nominated by candidates from different parties. In Ontario and Prince Edward Island, the candidate of the party in government nominates deputy returning officers, while poll clerks are nominated by the opposition candidate whose party had the most votes in the constituency at the last election.

We recommend a somewhat similar approach for federal elections. Deputy returning officers and poll clerks should be appointed by the returning officer on the recommendation of the candidates whose parties stood first and second in the constituency at the previous election. However, the returning officer should appoint these officials if candidates have not submitted nominations by two weeks before election day or have not nominated enough qualified persons to fill the positions available. Local election-day officials must be eligible voters in the constituency.

If a deputy returning officer is ill or fails to report for duty, the poll clerk may not be able to serve as a substitute because poll clerks normally receive no training except from their deputy returning officer. In Quebec, poll clerks are trained alongside deputy returning officers so that they can take over the DRO's duties if required. This practice should be followed federally; it would eliminate the problem of replacing an absent deputy returning officer and would assist in the smooth operation of polling stations on election day.

The Act provides for the appointment of supervisory deputy returning officers in central polling places with five or more polling stations but does not make their appointment mandatory. The role of this official is to keep the returning officer informed and to maintain good order in the polling place.

Quebec provides for a supervisory deputy returning officer in every central polling place. This official, known as a *PRIMO* or *préposé à l'information et au maintien de l'ordre* ("officer in charge of information and order"), helps voters find their correct poll, helps sort out problems that may arise at a polling station, and reports the results of all polling stations to the returning officer's office after the vote is counted. The *PRIMO* also handles all communications with the returning officer's office during voting hours.

For federal elections, it should be mandatory to appoint a supervisory deputy returning officer in central polling places with five or more polls. In central polling places with fewer than five polls, the deputy returning officer from one of the polling divisions should also be assigned supervisory responsibilities.

The Act allows DROs to appoint a constable for a single poll and the RO to appoint constables for central polling places. The *Returning Officer's Manual*, published by Elections Canada, states that up to two constables are permitted for a central polling place with four or five polls, while four are permitted in a polling place with eight to ten polls. Special rules prohibit more than ten polls in one location except where this is accepted local practice and the chief electoral officer approves.

Some confusion surrounds the duties of constables. Although the term denotes some responsibility for maintaining order, constables spend most of their time on election day directing voters to polling stations and responding to simple enquiries – tasks for which they are often not trained. At the same time the Act permits all deputy returning officers to exercise the powers of a constable if these powers are needed to maintain order. If there is a disturbance of the peace or a case of election fraud, deputy returning officers and election constables are under instruction to call the local police for assistance.

The decision to hire constables should normally be made by the returning officer, even in the case of single polling stations. Returning officers should be able to hire people to fill these positions for very busy periods as well as for the full election day. Given their role in explaining the Act and assisting voters, constables should receive the same training as deputy returning officers.

Circumstances may still arise when a deputy returning officer needs assistance to maintain order in a polling station, but not to the extent of needing to call the police. In such cases the deputy returning officer should retain the power to engage a constable, but should consult with the returning officer before doing so if possible.

Recommendation 2.3.7

We recommend that

- (a) deputy returning officers and poll clerks be appointed on the recommendation of the candidates whose parties stood first and second respectively in the constituency at the previous election;**
- (b) returning officers appoint deputy returning officers and poll clerks if candidates have not nominated enough qualified persons to fill the positions available by two weeks before election day;**

- (c) deputy returning officers, poll clerks and constables be required to be eligible voters in the constituency;
- (d) poll clerks and constables be trained so that they can take over the responsibilities of the deputy returning officer in the event that a person appointed to that position is unavailable on election day or at an advance poll; and
- (e) a supervisory deputy returning officer be appointed to all central polling places with five or more polling stations and a deputy returning officer be designated to take supervisory responsibility in all other central polling places.

OFFICIAL LANGUAGES

Elections Canada is governed by the *Official Languages Act* and meets its requirements in the sense that the public can communicate with its Ottawa office and receive its headquarters services in the two official languages. The *Official Languages Act* does not deal directly with the conduct of elections, however, and there is no reference to official languages in the *Canada Elections Act*. Elections Canada therefore has had to develop its own policy with respect to providing bilingual services at the constituency level. The language issue has at times generated controversy, for example, when a unilingual returning officer was appointed in the Moncton constituency in 1988.

The policy of Elections Canada has been to provide service in both official languages in constituencies designated bilingual by the chief electoral officer – a total of 98 constituencies at the 1988 general election (see Table 3.5). Constituencies are designated bilingual if 3 per cent of the population or more belongs to the official language minority group or if they are located in areas automatically designated bilingual for election purposes – the national capital region, metropolitan Montreal and the province of New Brunswick. In these constituencies election information from the returning officer must be bilingual; returning officers must have some bilingual staff at their offices; and deputy returning officers, rural enumerators, and 50 per cent of urban enumerators are expected to be bilingual.

In unilingual constituencies, callers who request service in the other official language are referred to Elections Canada for information or assistance if they cannot be served locally; Elections Canada maintains a toll-free number for this purpose. If there is a concentration of people from the minority official language group – for example, a pocket of one or two villages – the returning officer is to ensure that bilingual service is provided by deputy returning officers for the polls affected and that at least one enumerator for each poll speaks the minority language.

Some 100 official language complaints were filed in connection with the 1988 election. One-third of them concerned information provided for official language minority groups through Elections Canada advertising and on the Parliamentary Channel; the remainder related to a lack of bilingual services at enumeration or at the time of voting. There were no complaints about Elections Canada's services from its headquarters in Ottawa.

Table 3.5
Constituencies designated bilingual by Elections Canada

Province	Number of bilingual constituencies	Total number of constituencies
Newfoundland	0	7
Prince Edward Island	1	4
Nova Scotia	2	11
New Brunswick	10	10
Quebec	47	75
Ontario	25	99
Manitoba	6	14
Saskatchewan	4	14
Alberta	3	26
British Columbia	0	32

Source: Royal Commission Research Branch.

At our hearings the commissioner of official languages acknowledged that some problems with bilingual services are beyond the control of Elections Canada, because the chief electoral officer does not appoint returning officers and assistant returning officers and cannot require that they be bilingual, even if they are appointed in a bilingual area. The chief electoral officer also lacks powers to discipline or dismiss returning officers for failure to provide services in both official languages in bilingual constituencies, although a unilingual returning officer in a bilingual constituency can be denied the 7 per cent bilingual bonus.

In November 1990 the Treasury Board published draft regulations governing the provision of bilingual services by a number of federal agencies, including Elections Canada. The nature of Elections Canada activities, which rely on many temporary workers, was neither addressed nor resolved.

At the local level, returning officers cannot compel candidates and parties to nominate bilingual enumerators in constituencies where bilingualism is required. They can refuse to appoint an enumerator proposed by a candidate if that person is not bilingual, but this is difficult because of the limited time for enumeration and the difficulty of finding bilingual enumerators on short notice.

The *Canada Elections Act* should enshrine the principle of providing bilingual services, while the details should be left to the chief electoral officer and the Canada Elections Commission. The current practice of designating bilingual all constituencies in the national capital region should continue; all constituencies in a province should be bilingual if the province is officially bilingual according to its own legislation. No change is necessary in the present 3 per cent guideline for designating bilingual constituencies. The provision for serving official language minority pockets where the overall proportion

from the minority is less than 3 per cent is adequate; there were no demands for change at our hearings.

Our proposals for increasing the authority of the chief electoral officer to supervise the work of returning officers should help to avoid problems in providing bilingual services at the local level in future elections. Our proposals would also give the chief electoral officer a greater say in the appointment of new returning officers. A clear policy of appointing bilingual returning officers in every bilingual constituency should be implemented. Where this is not possible, or where a unilingual returning officer is now in place, the assistant returning officer should be bilingual.

Failure to provide services in both official languages in a bilingual constituency should be grounds for dismissing a returning officer during or after an election. This would help to avoid the problem experienced in several bilingual constituencies, where returning officers simply refused to make bilingual services available and Elections Canada had no redress. Returning officers in bilingual constituencies should also have greater authority to recruit bilingual election personnel as required by Elections Canada's guidelines without having to depend on the parties. This would be easier to do if our recommendations for recruiting enumerators and election-day officials were adopted.

Elections Canada directives with respect to bilingual services and election officials are administrative in nature and do not have the force of law. These directives would be easier to enforce if the returning officer's responsibility for delivering services in both official languages were more explicit. The Act should specify that services in both official languages are to be available in bilingual constituencies during office hours and should include the requirement that the returning officer or assistant returning officer be bilingual. Canada Elections Commission policy should specify that bilingual enumerators and deputy returning officers are to be hired in these constituencies as a matter of course unless people with the minority language skill cannot be found or unless the minority language group is concentrated in one area of the constituency. If it is impossible to appoint a bilingual deputy returning officer, the poll clerk should be bilingual.

Recommendation 2.3.8

We recommend that

- (a) the Canada Elections Commission designate bilingual for election purposes constituencies where 3 per cent or more of the population is from an official language minority and be required to provide bilingual services to voters in these constituencies;**
- (b) the present policy of providing bilingual services in other constituencies through a toll-free telephone service and the**

- use of bilingual officials to serve small pockets of people from the official language minority be continued;
- (c) all constituencies in any province officially bilingual according to its own legislation and in the national capital region be designated bilingual for election purposes;
- (d) returning officers appointed to bilingual constituencies be bilingual or appoint a bilingual assistant returning officer; and
- (e) specific standards for providing bilingual services in bilingual constituencies be established by the Canada Elections Commission.

PARTY REPRESENTATIVES

Candidates can have two representatives (or scrutineers) at any polling station to monitor the vote and assist their party's efforts to encourage its supporters to turn out to vote. The right to two scrutineers is rarely exercised, but it could result in an unreasonable number of scrutineers crowding a polling station and making it difficult to carry out the vote – particularly in urban constituencies where there may be ten candidates or more.

Most jurisdictions in Canada, including Ontario, Québec, New Brunswick, Nova Scotia, Alberta, British Columbia and Newfoundland, as well as Great Britain and Australia, allow candidates to have only one scrutineer at each polling station when the vote is being taken or counted. This practice should also be followed in federal elections. However, the deputy returning officer should have discretion to allow another scrutineer to enter the poll for a short period, so long as this does not disrupt voting. This would permit candidates' runners to enter a polling station.

Recommendation 2.3.9

We recommend that

- (a) candidates be allowed to have one representative at each regular, advance and mobile poll; and
- (b) on election day candidates be allowed to designate a person for each place where polling stations are established and give the person power of attorney to collect a list of the persons who have already voted.

POLLING STATIONS

Under section 20 of the Act, polling divisions should normally be defined so they contain about 250 voters; this is a guideline, however, and is not mandatory. The 1988 election saw an average of 318 voters per polling division, and Elections Canada is now recommending a range of 350 to 400.

The use of central polling places containing two or more polling stations has increased in recent years, as has the number of voters in each polling division. The number of polling stations fell from 70 841 in the 1979 general election to 57 860 in 1988. This occurred partly to reduce costs and partly because of the difficulty of finding premises with level access.

We see this process continuing as election procedures become more efficient through the use of computers, but we are concerned about the potential effects of too much centralization. The average size of polling divisions should remain small enough to maintain relatively easy access by voters to their polling station.

The Act specifies that polling stations be located where possible in a school or other suitable public building but does not give returning officers the power to require that space be made available. This can create problems because of the need to provide level access at every central polling place and, wherever possible, at every polling station. Some polling stations have had to be located a substantial distance from the voters they are meant to serve because suitable space in public buildings was not available. School boards have on occasion refused to make space available or have even withdrawn space that had been committed, requiring polling places to be relocated a few days before the election. Needless to say, the risk of voters missing their chance to vote rises sharply when the location is changed at the last minute or when a returning officer is refused the use of otherwise suitable premises.

Ontario requires that space for a polling place be made available by a municipality, school board, or provincially funded institution, or by the landlord of a building containing 100 or more dwelling units if a returning officer determines it is needed. The *Canada Elections Act* should be amended to give returning officers a similar power to require that space for a polling place be made available in federal buildings and federally funded institutions and buildings with 100 dwelling units or more. Municipal governments and school boards should be encouraged to make their premises available, especially when they are accessible to persons with limited mobility and other premises are not available nearby. Obviously, as is now the practice, the Canada Elections Commission should pay for the use of that space.

Settling the location of polling places is one of the jobs returning officers could do if they had the authority to begin election preparations before a writ is issued. Returning officers could arrange locations for most polling stations, subject to quick confirmation once the election is called. Practical issues, such as barrier-free access and arrangements for telephones and furniture, could also be resolved in advance rather than during the busy first days of the campaign.

Many polling locations are in buildings where telephone service is not easily accessible. This can create difficulties in emergencies, if there is a need to consult the returning officer on election day, or in reporting results after the ballots have been counted. Changes in technology, particularly the widespread availability of cellular phones, have made it much easier

to equip polling places with a telephone. In future, all polling places that do not already have an accessible telephone should be supplied with one on election day. This practice should also apply to advance polls.

Recommendation 2.3.10

We recommend that

- (a) the number of voters per polling division be kept at a level that ensures that most voters live only a short distance from the polling station; and**
- (b) returning officers have the right to require that space for a polling place be made available in federal buildings, federally funded institutions and buildings containing 100 dwelling units or more.**

PARTY PUBLICITY AT POLLING STATIONS

The Act prohibits the display of party emblems, signs, cards, or campaign literature of any kind in or on a polling station or by any person entering the polling station, but it does not restrict partisan demonstrations or signs a few feet from the polling station entrance. This anomaly should be corrected.

Apart from Ontario, all provinces have restrictions similar to those in the federal law, except that they generally extend the prohibition on party publicity for a distance of 15, 50 or even 100 metres from the polling station door. In Manitoba, the rule is applied within a 50-metre radius, but candidates' representatives are entitled to indicate their party allegiance by wearing a plain coloured ribbon or button. The restriction is in force inside and outside a polling place any day that voting takes place, including advance voting.

The current rule on party publicity should be clarified and should apply to all polling places at times when voting is taking place. It should also apply to the office of the returning officer, because its neutrality must be protected. Moreover, under our proposals, voters would be able to tender special ballots at this office.

Recommendation 2.3.11

We recommend that

- (a) the display of emblems, signs or other partisan material be prohibited within a radius of 50 metres of any entrance to a polling place, as well as in or on the polling place, on election day or any day of advance voting; and**
- (b) these restrictions also apply to the returning officer's office.**

RECORD KEEPING

The Act requires that the name and address of every voter be entered in a poll book at the polling station once it has been determined that the voter is qualified to vote. This is the most time-consuming part of the voting process because the poll clerk must write out in longhand each voter's name before the ballot can be handed out.

This procedure has been part of the Act since its inception in 1874; it is designed to protect the integrity of the vote by ensuring that an accurate record is kept of every person who votes. We are satisfied that the integrity of the vote can be protected by other means and that the poll book does not need to be maintained in its present form. The province of Ontario has already taken this step.

In future, the poll clerk should cross each voter's name off the list for the polling division as the voter arrives to vote. With computerization, the voters list for each polling division should be virtually complete on election day.

The poll book should continue to be used to record transactions that fall outside ordinary voting. These could include voting by a person who registered on election day, taking the ballot box outside the polling station to permit curbside voting, and allowing someone who had applied for a special ballot to vote in person. As at present, the poll book should continue to be used to record the names of voters whose identity or eligibility is challenged by a party scrutineer or an election official. The poll book for each polling division should be available for inspection at the Canada Elections Commission for a fixed period after every election.

These changes would allow poll clerks to spend less time with the poll book and more time helping the deputy returning officer to serve voters. This should result in fewer delays for voters at busy periods or in the event that a poll official has to help a voter needing assistance to vote.

The organization of the polling station should also recognize the role of candidates' workers in helping to mobilize the vote on election day. These workers need to know who has voted so they can encourage those who have not been to the polls to turn out. Each party naturally concentrates on voters they believe support its candidate, but the overall effect of this activity is to increase voter turnout.

To assist candidates and parties, poll clerks should have lists of voter numbers; when someone votes, the number can be recorded quickly by circling it or marking it off the list. If a new sheet is started every hour or two, candidates' workers would have easy access, without disturbing the voting process, to the record of who has voted during periods when they did not have a scrutineer present.

Recommendation 2.3.12

We recommend that

- (a) the use of the poll book to record the names of voters voting at ordinary polling stations on election day be discontinued, but the poll book still be used to note extraordinary transactions, such as voting by voters registering on election day, challenges by scrutineers or election officials, and removal of the ballot box to permit a voter to vote outside the polling station;**
- (b) records continue to be kept in the poll book of the names of people voting at an advance poll; and**
- (c) poll clerks use a list of voter numbers to assist parties and candidates in keeping track of who has voted on election day.**

IDENTIFICATION OF VOTERS

Voters can vote at an ordinary or advance poll simply by giving their name and address. They are not required to produce identification unless they are challenged by an election official or party scrutineer and do not wish to take an oath. Very few voters are challenged.

We agree with the present practice in general but recommend changes in the procedure involved if a voter is challenged. At present, a voter whose identity or eligibility is challenged may either swear an oath or provide satisfactory identification. We would require a voter whose name is on the voters list and who is challenged at an ordinary poll to produce satisfactory identification, with an oath or affirmation as the alternative if the voter cannot or will not produce satisfactory identification. The Canada Elections Commission should prescribe what constitutes satisfactory identification.

Some interveners at our hearings proposed that the Act be made more stringent, requiring voters to produce identification to be enumerated or to vote. This could discourage some people from voting, particularly new citizens from countries with no history of free elections. The Canadian system is based on trust and has worked well; no changes are required.

Recommendation 2.3.13

We recommend that

- (a) the current procedure, allowing people to vote on election day by giving their name and address, be maintained;**
- (b) voters whose names are on the voters list and who are challenged at an ordinary poll be required to provide satisfactory identification or, if they cannot do so, to swear an oath or make an affirmation; and**

- (c) the Canada Elections Commission prescribe what constitutes satisfactory identification.

MARKING THE BALLOT

The Act directs that ballots be marked in the voting booth with a black lead pencil, but it does not disallow a vote marked some other way, so long as there is no 'identifying mark' on the ballot. Voters are meant to mark their choice with an X, but this is not mandatory, provided they make only one mark. A ballot marked with any kind of pen or pencil is acceptable, as is one that is marked with a check, a line or a circle in the space provided to the right of the name of the candidate for whom they intend to vote. However, a signature, initial, word or picture is considered an identifying mark and makes the ballot invalid. These rules are workable and generally acceptable and should be retained in the Act.

Recommendation 2.3.14

We recommend that the Act allow ballots marked with any kind of pen or pencil to be accepted so long as they clearly signal the intention of the voter and do not contain any unusual mark that could identify the voter.

COUNTING THE VOTE

The Act directs how ballots are to be counted and how the vote is to be reported after the polls close. The process begins with an accounting of the used and unused ballot papers to make sure that the number of votes received corresponds to the poll book record. Then the deputy returning officer counts the votes while the poll clerk and the candidates' scrutineers or other witnesses inspect the ballots and keep a tally.

The deputy returning officer then places the ballots for the various candidates in separate envelopes, prepares an official statement of the poll, and places all election material in the ballot box to be returned to the returning officer's office. The preliminary results are phoned in to the returning officer's office; these results are normally used to determine which candidate is the winner.

The process of counting ballots by hand is generally efficient and quick. In most constituencies, results are reported rapidly enough that a winner can usually be determined within 30 to 45 minutes of the close of voting. Recounts normally determine that the initial count was accurate to within a handful of votes.

The counting of the vote on election night was scarcely discussed during our hearings, a sign that the present process is widely accepted. An archaic feature of the Act, however, is its requirement that all election records for a polling division, except the statement of results, be sealed with the ballot box and not be accessible except in the case of a recount or contested

election. Keeping these records is of questionable value if there is almost no way to consult them after the election is over. We would therefore recommend that the poll book and election records not be sealed but be returned separately from the ballots and ballot box and that these documents be available for inspection upon demand to the Canada Elections Commission by candidates' or parties' representatives for a period of one year after the election. They would thus be available throughout the period in which complaints about election irregularities or offences can be filed.

The Act provides that votes from advance polls be counted one hour after the close of polling on election day. This delay does not make sense and should be eliminated. The counting of advance votes should begin at the same time as the counting at ordinary polls. We also question the requirement that advance votes be counted in the location where the advance poll took place. This count should be allowed to take place at any polling station or in the returning officer's office, provided the returning officer has given notice to candidates and their representatives.

The procedure for handling special ballots would be as follows. Before it could be accepted as valid, each ballot would have to be checked to ensure that the voter had applied for it and was registered to vote before the deadline. This verification should be carried out at the returning officer's office on election day with scrutineers present. A second check would be needed after voting ends on election day to guard against double voting. This check, and the subsequent opening of the secrecy envelopes and count of special ballots, should be carried out by one or more teams, each consisting of a deputy returning officer and a poll clerk. Candidates should be permitted to have scrutineers present, as at a regular polling station.

Votes from Canadians on the register of non-resident voters and from prisoners in federal penitentiaries on the central list provided to the Canada Elections Commission by Correctional Service Canada should be counted at Commission headquarters or some other central place. Registered parties should be allowed to appoint scrutineers to monitor the process. The count should take place under secure conditions and should allow a potentially large number of special votes to be counted without unduly delaying the reporting of election results.

The results of these votes should be transmitted to the election office in each constituency a half-hour after counting begins in each time zone to ensure that they are recorded at about the same time that results are received from ordinary polling stations.

Recommendation 2.3.15

We recommend that

- (a) votes from advance polls begin to be counted at the same time as votes from ordinary polls and counting of an advance**

poll be permitted at any regular polling station or at the returning officer's office pursuant to an advance notice to the candidates;

- (b) a team or teams consisting of a deputy returning officer and a poll clerk be appointed to verify and count special ballots on election day in the office of the returning officer in each constituency;
- (c) candidates be invited to send representatives to the count of special ballots on the same basis as they have scrutineers at ordinary polling divisions;
- (d) votes from Canadians on the register of non-resident voters and prisoners in federal penitentiaries on the list provided to the Canada Elections Commission by Correctional Service Canada be counted at Commission headquarters or some other central place and the results communicated to the returning officer's office in each constituency one-half hour after the count begins in ordinary polling stations in each time zone; and
- (e) the poll book and election records for each polling division not be sealed but be deposited with the Canada Elections Commission at the time of the return of the writ or as soon as possible thereafter; and the Commission allow candidates' or registered parties' representatives to inspect them if it is satisfied as to the legitimacy of the request.

OFFICIAL COUNT

Following the election, the returning officer in each constituency must carry out the 'official addition' of the vote. Although often referred to as the 'official count', the process is actually an addition of the results reported in the official return of poll filed by each deputy returning officer; it does not involve an inspection or recount of the ballots. This is the basis for the certificate of the vote and the return of the election writ, in which the returning officer declares the winning candidate elected.

The Act does not specify a date for the official addition except to say that at a general election it should not be earlier than three days after the election. The date set for the official addition must be indicated in the proclamation at the start of the campaign. There is no deadline in the Act, but the addition normally occurs three or four days after election day.

If the ballot boxes containing the official returns from some polling stations are not available, the returning officer must postpone the official addition and recover the missing returns or determine the results by contacting the election officials concerned; these officials can be examined under oath if necessary. Up to two weeks beyond the date set for the official addition is allowed for this process.

The returning officer cannot certify the final result in a constituency until the official addition has been completed. Following the official addition, a defeated candidate has four days to seek a recount. Thus the time allowed for the official addition could affect how long it takes to determine the final result of an election, potentially causing some members to miss the first few days of the first session of a new parliament.

The official addition process could be shortened. The Act could require, for example, that the official addition be held as soon as possible after election day and, except in special circumstances, no later than seven days after election day. The returning officer should be permitted to certify a final result, even if written returns are missing from one or more polling stations. With modern technology this should not present problems.

As we recommend that recounts be the responsibility of the Canada Elections Commission rather than the courts, it should also be possible to shorten to three days the period allowed for this purpose. The returning officer should therefore be in a position to return the writ, thereby making the winning candidate's election official, on the fourth day following the official addition. All candidates should therefore be declared elected by the second Friday following election day. As a result, the new parliament could be called into session two weeks after the election instead of three as at present.

Recommendation 2.3.16

We recommend that

- (a) the period allowed for the official count be set at a maximum of seven days and the process be made simpler as described in this report;**
- (b) the returning officer be permitted to certify a final result even if some written returns are missing; and**
- (c) the period allowed to seek a recount be reduced to three days, allowing all candidates to be declared elected by the second Friday after election day except where a recount was allowed.**

RECOUNTS

Recounts are automatic if candidates are tied for first place or separated by fewer than 25 votes. This occurred in two constituencies in 1988, and none in 1984. A candidate or voter may initiate a recount if it appears that the results declared by the returning officer are in error or that a deputy returning officer has made an error in counting, administering, or reporting the vote. Applications must be made to a county court judge (or the equivalent) within four days of the official addition, and the judge must agree to the request for the recount to take place.

Recounts take place before a judge within four days of an application being granted. The judge has the discretion to base the recount on the

deputy returning officer's returns or on a recount of the ballots and is entitled to accept or disallow any vote. If a judge fails to act on an application for a recount, another court may order that judge to proceed to a recount or may itself start a recount.

The present process is unwieldy, costly, and often long. There were six official recounts in 1988; results were confirmed in all cases except the constituency of York North, where it took 51 days to arrive at a final result. In that case, the recount eventually led to the election being contested and the result overturned because a number of ineligible voters had been allowed to vote.

Automatic recounts are paid for by Elections Canada. Otherwise, the candidate or voter who requested the recount must pay the legal costs of the winning candidate if the result is not changed. A \$250 deposit is required to initiate a recount; if the result is not changed, this money goes toward costs.

All candidates in the constituency should have the right to ask for a recount. However, we see no reason to maintain the provision that a voter can call for a recount if the candidates involved do not ask for one.

Recounts would be carried out by a person designated by the Canada Elections Commission. A candidate requesting a recount should pay a \$500 deposit to the Commission. If the candidate's request was unsuccessful, that is, if the winning margin was 35 votes or more, the money would remain with the Commission toward defraying its costs. If the winning margin was fewer than 35 votes, the deposit would be refunded. However, candidates could specify a partial recount and hence limit the costs. For example, a disputed result in two or three polls could be checked without the cost of a full recount. The Commission would be able to refuse to carry out a recount if it judged the evidence insufficient to suggest that the results of a recount would alter the outcome of the election. Any appeal from the result of a recount should be to the Commission.

We recommend giving returning officers the right to vote while eliminating their power to cast a deciding vote in the rare instances when an election is tied after a recount. If a tie occurred in a future election, the chief electoral officer would declare a new voting day for the constituency, to take place three weeks after the recount. This election would use the same voters list and involve the same candidates unless one of them withdrew; in the case of a withdrawal, however, no replacement candidate would be allowed.

Recommendation 2.3.17

We recommend that

- (a) a recount be automatic if fewer than 35 votes separate the two leading candidates and no costs be charged to any of the candidates;**

- (b) only candidates in the constituency have the right to ask for a partial or total recount; the Canada Elections Commission have the right to refuse a recount if it judges that there is insufficient evidence to suggest that a recount may alter the outcome of the vote;
- (c) the recount be carried out by a person appointed by the Canada Elections Commission;
- (d) the candidate requesting the recount be allowed to specify a total or partial recount and forfeit the \$500 deposit if the margin between the two leading candidates is 35 votes or more following the recount; and
- (e) if an election is tied after a recount, the Canada Elections Commission declare a new voting day for the constituency to take place three weeks after the recount; in such cases the rules for delayed or postponed elections shall apply.

CONTESTED ELECTION RESULTS

If the results of an election are disputed because of fraud or irregularities, the challenge now goes before the courts under the *Controverted Elections Act*. Any candidate or voter may file a petition to contest a constituency election, making a deposit of \$1000. The petition must be submitted within 28 days of the election result being published in *The Canada Gazette* or within 28 days of a candidate or agent being convicted of election fraud.

The election is annulled, or another candidate may be declared elected, if the court determines that there were more fraudulent or irregular votes than the winning candidate's majority. The decision can be appealed to the Supreme Court of Canada. The appeal must be launched within eight days of a lower court decision, and the Supreme Court has 12 days in which to make its decision.

The *Controverted Elections Act* is archaic, and its procedures can be costly and slow; the case of the 1988 York North election took more than four months to go through the courts. We see no point in retaining a separate law; provisions for contesting an election should be incorporated in the *Canada Elections Act*.

The decision to contest the results of an election can be based on almost any aspect of election law; the case can also call into question how the returning officer conducted the election. For these reasons, we believe that contested elections should continue to be handled by the courts, but before the Federal Court of Canada rather than a provincial court.

Complaints should be filed with the Federal Court of Canada within 30 days of the official announcement of the election result in *The Canada Gazette*, or 30 days after any person or party connected with the election in the constituency has been convicted of election fraud. This should allow sufficient time for a complainant to gather information about whether the fraud or irregularities were widespread enough to affect the election result;

this is the central issue in determining whether an election should be controverted or overturned. Under our proposals, complainants would also have access to poll books and other election records.

Any candidate or voter can file a petition to contest an election result; this provision should be continued. The *Controverted Elections Act* allows ten days for the defendant to respond to a petition contesting the election; this right to respond should also be retained.

The law requires a deposit of \$1000 if an election is contested. This deposit should be made refundable if the complaint is successful. If not, the deposit would help defray the other party's costs. The Federal Court judge adjudicating a contested election should be empowered to dismiss a complaint that appears frivolous or unfounded before or during the course of a hearing. This decision should be appealable.

After a hearing the Court could dismiss the complaint, annul the election, or declare another candidate elected. This decision could also be appealed to the Federal Court of Appeal, provided the appeal is launched within seven days. The appeal court should hold its hearing within 14 days and should make its decision immediately after the hearing. Its decision should be final.

Recommendation 2.3.18

We recommend that the *Controverted Elections Act* be repealed and the following provisions added to the *Canada Elections Act*:

- (1) contested election results be adjudicated by the Federal Court of Canada;**
- (2) the grounds for contesting election results continue to be that the result in a constituency was affected by irregularities in the vote or by election fraud;**
- (3) complaints contesting election results and the grounds for the complaint be submitted to the Federal Court of Canada within 30 days after the election result for the constituency has been announced in *The Canada Gazette*, or 30 days after a conviction of election fraud involving that constituency;**
- (4) any candidate or voter be permitted to file a complaint contesting a constituency election result;**
- (5) a deposit of \$1000 be required to file a complaint contesting an election result, and the deposit be refunded if the complaint was justified or the deposit go toward the costs of the other party, if the complaint was not justified;**
- (6) the judge hearing the complaint be empowered to dismiss it prior to or during the hearing if the complaint appears frivolous or unfounded;**
- (7) the judge adjudicating a contested election be empowered to reject the complaint, to annul the election, or to declare another candidate elected;**

- (8) a Federal Court decision on a contested election be subject to appeal within seven days of the judgement to the Federal Court of Appeal, whose decision shall be final; and
- (9) the Federal Court of Appeal be required to hold an appeal hearing within 14 days of the appeal being made and to deliver its decision as soon as possible after the hearing.

RESTRICTIONS ON ALCOHOL SALES

Federal law prohibits any sale or offer of beer, wine or spirits in a store or in licensed premises during polling hours on election day. In by-elections, this prohibition applies within the boundaries of the constituency where the by-election is taking place.

This rule reflects the days when public attitudes about alcohol were more restrictive and alcohol played a more important role in elections than it does today. There are also anomalies in the rules. Sales of alcohol are banned on election day, but not on advance polling days. During a by-election, voters can easily procure alcohol on election day by leaving the constituency. In short, the law is inconsistent and potentially confusing. Most provinces allow the sale of alcoholic beverages on a provincial election day; there have been no reports of problems in jurisdictions that have dropped the restriction.

The law drew strong objections from representatives of the hospitality and beverage industries during our hearings; it was supported, however, by some community workers from downtown areas, who contended that having taverns open on election day could discourage some people from going to vote.

On balance, we believe the Act should conform with current attitudes and the practice in most provinces. The restriction on alcohol sales on election day should therefore be deleted from the Act. Individual provinces could still decide, however, whether to allow alcohol to be sold on the day of a federal election.

No polling place should be located in a tavern or bar; licensed premises, such as a hotel, should be used for a polling place only where there is clearly no alternative. In such cases, it would be up to the returning officer to ensure that an appropriate separation was maintained between the polling station and any lounge or bar on the premises.

The Act prohibits using drink as an inducement to vote. This provision is not designed to outlaw alcohol but to prevent it being used as a bribe. In Chapter 8 of this volume, we recommend that this be dropped as an offence but that the general prohibition on bribes and undue influence be maintained.

Recommendation 2.3.19

We recommend that the restriction on sales of alcohol be deleted from the *Canada Elections Act* and it be left to individual provinces to establish any rules with respect to the sale of alcohol on election day.

NOTE

1. Section 4(2) of the *Canadian Charter of Rights and Freedoms* provides for the following exception: "In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly, as the case may be." Prior to adoption of the Charter, the *British North America (No. 2) Act, 1949* included an identical provision in relation to the House of Commons, but not the provincial legislative assemblies; until 1982, a provincial legislature could thus "prolong its life as often and as long as it please[d]". (Forsey 1960, 604)

A REGISTER OF VOTERS



INTRODUCTION

OUR MANDATE REQUIRED us to report on “the compiling of voters’ lists, including the advisability of the establishment of a permanent voters’ list”. This specific reference to a permanent voters list is not surprising. The current enumeration system, as we have outlined in Volume 2, Chapter 1, has been increasingly criticized. During our public hearings many interveners expressed interest in a permanent voters list. This list, or register of voters, is seen as a way to shorten election campaigns, address increasing difficulties in recruiting qualified federal enumerators and reduce duplication in voter registration – the result of separate enumeration by federal, provincial and municipal governments.* Among the more pronounced criticisms is that the current registration system is costly and time-consuming. Given these considerations, we have approached this part of our mandate guided by the following six principles.

First, registration should be primarily a state responsibility, as it currently is in Canada. This does not preclude that, in certain circumstances, registration be the responsibility of the voter. As a general rule, however, it is the foremost responsibility of democratic governments to ensure that all voters have the opportunity to vote. Second, voters should be able to register after the election writs are issued, including on election day. Third, a register of voters should be adopted only if it is nearly as efficient as an enumeration. A register must provide preliminary voters lists that are comparable to the coverage,¹ accuracy,² currency³ and cost achieved by an enumeration. And the lists must be available when election officials and candidates need them for elections. Fourth, voters should have the right not to be registered and not to inform the state of their movements. Fifth, voters should have the right to have their names or addresses deleted from a voters register at any time. Finally, once the information has been entered into the voters register, it must be managed according to the strictest criteria for preserving privacy and confidentiality.

* In exploring the feasibility of a voter registration process that moves beyond the transitional and labour-intensive features of the current enumeration process, we favour the term ‘register’ rather than ‘list’. Register more fully reflects the concept of permanence. A register is a system designed to manage the information needed to produce a specific voters list.

COMPARATIVE OVERVIEW: PERMANENT VOTERS LISTS IN OTHER COUNTRIES

Permanent voters lists are central to voter registration in most western democracies. They are used, for instance, in the United States, Great Britain, Australia, France and Germany. Among these nations, three major factors affect the coverage, accuracy, currency and cost of voter registration:

1. the degree to which registration is a voluntary act by citizens and the degree to which it is organized and administered by government authorities;
2. the role of national, state and local governments in maintaining and administering permanent voters lists, or, alternatively, the degree of centralization or decentralization; and
3. the degree that the lists are 'closed', that is, voters cannot register after a specific date before a general election and whether the registration process provides for revisions and election-day registration.

These three criteria will be used to assess the usefulness for Canada of the models of permanent voters lists in the United States, Great Britain, Australia, France and Germany.

United States

There is no national voter registration in the United States administered by the federal government. The administrative rules and procedures that govern registration for federal, state and municipal elections are established by each state and Congress. Although these rules and procedures differ considerably from state to state, all states except North Dakota use some form of a permanent voters register. (Courtney and Smith 1991 RC) As a general rule, registration is the responsibility of the individual citizen.

Several critical concerns have been raised about the registration process in the United States. First, almost all states impose a closing date for registration. How close this date is to election day is considered the key to how many voters register and how many actually cast ballots. In California the closing date is 29 days before voting day and in New York it is 30 days before voting day. The three American states that allow for election-day registration traditionally have turnout rates that are about 15 per cent higher than those of other states. Second, the accuracy of the information on the registration lists in many states is frequently questioned. The voter registration process is not designed to delete voters from the register who are no longer qualified to vote because of death or change in address. "Procedures for the timely removal of names from the lists vary among the different states and even on occasion among the counties of a single state. In many instances they have been found wanting." (Courtney and Smith 1991 RC) Third, because voter registration is voluntary, most states do not have in place a credible mechanism to ensure that their registers are continually updated.

For example, 45 states automatically delete names from their register if voters have not voted after a certain number of elections. This indiscriminate deletion of names effectively disqualifies many voters from casting ballots in subsequent elections, unless they re-register. (Mangum et al. 1991, 1) Proposed legislation at both the state and federal level would prohibit the purging of lists for failure to vote.

Consistently low voter turnout in U.S. municipal, state and federal elections has prompted several states to make voter registration more accessible, more flexible and more receptive to the needs of specific groups. In the mid-1980s, state-wide executive orders were issued to public agencies in Texas, Minnesota, Ohio, New York, New Mexico and West Virginia. The core of the executive orders strategy was to use state, municipal and county agencies, which regularly serve the public, as additional sites for voter registration. (Davidoff and Williams 1985) These offices include libraries, schools, unemployment offices, welfare offices and hunting and fishing licence bureaus. Most of the midwestern states have adopted one or several procedures, such as mail-in registration, election-day registration and extended registration deadlines, to facilitate registration. Minnesota has been particularly progressive in reforming its registration process.

From a technical perspective, only a few states have fully operational state-wide automated centralized voter registration systems. The first was implemented by Alaska in 1968, followed by Virginia and Kentucky in 1973 and Wyoming in 1976. Generally, these systems require local government units to send copies of registration affidavits to the central system for direct entry into the data base. The state is then responsible for updating and processing the information. Each local government is responsible for maintaining its local data base using information from the state's central data base. Hence, and as we will see is the case in other countries, the management of a comprehensive register of voters must rely extensively on a heavily decentralized information gathering system; local governments are best positioned to fulfil this role.

Linda Davidoff and Cynthia Williams reported in 1985 that "efforts to carry out ... broad, comprehensive reform are under study in Congress". (1985, 3) They still are. Congress recently considered legislation that would have established national registration standards; the legislation was passed by the House of Representatives, but it was narrowly defeated in the Senate. The legislation (H.R. 2190, *National Voter Registration Act of 1989*) provided for "motor voter" programs where persons are given the opportunity to be registered when they apply for or renew a driver's licence, or when they transact other business with the motor vehicle agency. It also authorized election officials to use the postal service's change of address program as an alternative to current purging procedures. A similar bill was introduced in the 1991 session of Congress. The recent efforts to reform the voter registration process in the United States reflect a growing sensitivity at the federal and state levels to the need for governments to make it easier for citizens to register.

Great Britain

Voter registration in Great Britain is administered through a permanent voters list that is updated annually. The updated list is published every 15 February. Once published, however, the list is effectively closed until the new list is published, even if a general election is called in the interim. Administrative procedures allow voters to have their name added to the list only if they demonstrate that they have been wrongly excluded. Consequently, only a few names can be added to the list after it has been closed. The list is used for local, national and European parliament elections.

Administering voter registration in Great Britain is the responsibility of local officials employed by district councils and boroughs in each of its 650 electoral districts. The act of registration, however, is very much based on the initiative of individual voters. If they are to be listed on the voters register, voters must complete a voter registration card and then mail it to local election officials.

The primary source of consistency in the registration process is the timetable established by national legislation on the compilation and publication of the annual voters register. There are, however, no standardized procedures for revision. For example, although door-to-door canvassing has been effective in updating the register, the quality and availability of canvasses vary considerably among constituencies. The percentage of households canvassed in the inner city constituencies is especially modest. Michael and Shelley Pinto-Duschinsky suggest that, although ethno-cultural groups tend to be more affected by under-registration compared with other groups of voters, this is more a reflection of the relatively high mobility and youth of ethno-cultural groups in Britain than of systemic barriers in the voter registration process. (1987, 18–21)

The accuracy of the permanent voters list in Great Britain has been questioned in recent years. Research suggests that the number of errors on the electoral registers for England and Wales doubled between 1966 and 1981. By 1981 the register contained more than five million inaccuracies. The inaccuracies were equally divided between those wrongly excluded or included. (Pinto-Duschinsky and Pinto-Duschinsky 1987, 3) Together, the inaccuracies accounted for approximately 14 per cent of the names on the list. The highly closed nature of the voter registration process in Great Britain provides voters with relatively few opportunities to seek revisions if their names are not on the list before it has been published.

Australia

Australia maintains a continuous voter register or roll. Voter registration has been mandatory in Australia since 1911. (Voting has been compulsory since 1924.) The register is maintained and updated by the Australian Electoral Commission through approximately 150 divisional offices, which, in turn, report to one of seven Australian electoral officers. A common register is shared by the national government, four of the six states and the northern

territory. The remaining two states maintain separate voters registers, but they are based on data shared with the national government. The registers are used for general elections, referendums and elections held to resolve industrial disputes. They are continually updated, in part, through biennial door-to-door canvassing, known as the 'habitation review', conducted by the divisional offices. The Electoral Commission employs a large, permanent staff in its divisional offices to maintain and administer the voters list, and it manages the procedures and revision processes that keep the list accurate and current.

Australia's Constitution requires that no more than 10 days elapse between the dissolution of Parliament for a general election and the issue of the writs. In 1983 a problem arose because the writs for a general election were issued the day after Parliament had been dissolved. Once the writs are issued, the list is closed. Many voters were thus disfranchised in 1983 because they did not have sufficient time to ensure that they were registered. To rectify this problem, in 1984 the *Commonwealth Electoral Act* was amended to allow seven days between the issue of the writs and the close of the register. Even with this adjustment in the revision process, voters have limited opportunities to ensure their name is on the list after the writs are issued. (Courtney and Smith 1991 RC)

France

As in Great Britain, France maintains a permanent voters list that is updated and published at a fixed date each year. Maintenance of the list is a local responsibility. In contrast to Great Britain, however, there is greater flexibility in revising the list after the closing date. France also differs from Great Britain in the administration of the register: local electoral officials maintain the list in Great Britain; the list in France is maintained by a three-person local commission, which also provides the information to the National Institute of Statistics and Economic Studies. The Institute maintains a central register stored on computer, and it assists the local commissions in updating the list.

Nonetheless, it is very much the responsibility of individual French citizens, as is the case in the United States, to ensure they are on the list and their personal information is accurate and up to date. But unlike the United States, the national government in France takes an active role in the administration of the permanent voters list by issuing voter registration cards that are valid for three years and by informing commissions when made aware that a voter has moved from one area to another.

Germany⁴

Voter registration in Germany is part of a general, mandatory population registration process conducted by municipal governments. These population figures are used by the central and state governments to allocate financial aid to municipalities that qualify for it. The German voter registration process

is among the most decentralized of those in the nations examined here, although the level of decentralization is comparable to other European nations such as the Netherlands and Belgium. Every registered citizen is issued a national identity card that is stamped by local authorities according to the location of the citizen's residence. Voters lists, in turn, are drawn up from the municipalities' general registers; they are closed 35 days before an election and publicly posted from the twentieth to the fifteenth day before an election. Voters who demonstrate that they were unable to register before closing day can do so no later than the date set by local officials (normally very close to election day). (Courtney and Smith 1991 RC)

Summary

Countries such as the United States and Great Britain that maintain voters lists based on voluntary registration and decentralized administration, but, without consistent standards for coverage, accuracy and currency, either produce lists that contain many inaccuracies or have a relatively high level of voter under-registration. The inaccuracies are exacerbated if there is little opportunity for revision once the lists have been published and closed. In those nations where registration is administered by the state, such as Germany and Australia, the permanent voters list tends to be more comprehensive and contain a more technically complex array of information. Voter registration in France is a blend of state involvement and voter responsibility because voter registration is voluntary, but there is close co-operation between local and national authorities in continually updating the list.

With the exception of Australia, the administration of permanent voters lists in these examples is highly decentralized. Primary responsibility for the registration process is assigned to local governments or to local election officials employed by the national government. The level of centralization or decentralization is unrelated to the completeness and accuracy of the permanent voters list.

The most critical factor in the coverage, accuracy and currency of the various lists is whether voter registration is mandatory or voluntary. In democratic nations where voter registration is mostly at the discretion of the individual, administrative complexities and inaccessible or inflexible registration procedures are deterrents. Further, when voluntary registration is coupled with voters lists that are closed well before election day and that also provide for minimal revisions, many citizens often do not register for reasons unrelated to the civic importance assigned to voting. In contrast, registration processes based on mandatory registration require a complex and elaborate administrative machinery to ensure citizens have frequent opportunities to exercise their franchise.

Most western countries that maintain permanent voters list use them for elections at different levels of government. Permanent voters lists in Great Britain, Germany and France are used for local, national and European

parliamentary elections. In Australia, the electoral roll is used for national elections, for elections in four states, for referendum elections and for elections to resolve industrial disputes. The frequent use of the lists increases their cost-effectiveness and provides more opportunities to keep them current and accurate.

Comparative data on the cost-effectiveness of permanent voters lists are limited. Cost-effectiveness is conditioned by the degree to which the permanent lists are used for local, state, national and other elections. The more frequently lists are used, the more cost-effective is their maintenance and administration. The highly localized voter registration process in Great Britain, Germany, France and the United States results in considerable variation in costs. In Germany, the process is part of a general citizen registration system. In the United States, there is wide discrepancy among the 50 states in the level of resources and administrative support for voter registration. Consequently, it is difficult to obtain a general accounting of comparative costs between permanent voters lists and the federal enumeration process in Canada.

Australia, however, provides some basis for comparison because maintaining its permanent electoral roll in four states and two territories is the responsibility of the Australian Electoral Commission. The costs of voter registration per voter in Canada are comparable, even though the administration of the Australian electoral roll relies not only on an extensive permanent bureaucracy, but also on a biennial review that is similar to enumeration in Canada. The cost of enumeration and revision for the 1988 Canadian federal general election was \$27 791 142. With a total electorate of 17 639 001 (excluding Special Voting Rules voters), the cost per voter was \$1.58. For 1988–1989, which included a biennial 'habitation review', the total cost for voter registration in Australia was Can. \$13 003 571 (or \$14 367 000 Australian, based on 1991 currency exchange rates). The cost per voter for an electorate of 10 300 798 was Can. \$1.26 (\$1.39 Australian). (Courtney and Smith 1991 RC) It should be noted that the cost of enumeration in Canada for 1988 was for a single federal election; the Australian electoral roll, however, is used for state, national, referendum and industrial dispute elections. Because Australia uses the roll for a variety of electoral purposes, the voters list is kept current and the cost-effectiveness of the voter registration process is increased.

PERMANENT VOTERS LISTS IN CANADA AND THE PROVINCES

As we noted in Volume 2, Chapter 1, Canada is unique in compiling its voters lists after the issue of the election writs and in conducting an enumeration of its voters. Canada's only federal experiment with a register of voters in the early 1930s was considered a failure in large part because it was a 'closed' list. A former chief electoral officer examined this option again in 1968 and advised against it. (Canada, Representation Commissioner 1968) He suggested that the costs of maintaining a federal permanent voters list

would have been prohibitive. More recently, a *White Paper on Election Law Reform* (Canada, Privy Council Office 1986) also advised against a permanent voters list for federal elections. The white paper argued that a permanent voters list created and maintained by the federal government would be far more costly than the current enumeration process. It was also suggested that Canadians would be unreceptive to providing regularly information needed to maintain an accurate and current list. Concern was expressed in the white paper that a permanent voters list would prompt political parties to use it "for other than political purposes". (Canada, Privy Council Office 1986, 43)

The only province in Canada to manage its voter registration process through a continually updated list of voters is British Columbia. A province-wide door-to-door enumeration is conducted the third year after a general election. Enumerators are given the names of voters currently listed on the voters list. Individual voters, however, are responsible for ensuring that the information contained on the list is accurate and current. Applications for registration are processed in 60 government access offices located across the province and then forwarded to six regional offices, which are responsible for ensuring that the list is updated. All qualified voters are mailed an identification card.

The cost of the continuous voter register in British Columbia for 1987–1990 was approximately \$10 000 000, including \$5.9 million for an enumeration in 1989, which also involved an extensive advertising campaign. Some of these costs, however, are recovered from municipalities that purchase the provincial lists rather than conduct separate door-to-door enumerations; taxpayers thus save money because municipalities are not required to conduct their own enumerations. (Courtney and Smith 1991 RC)

In May 1991, the minister responsible for electoral reform in Quebec expressed interest in establishing a permanent provincial register of voters. (*Le Soleil* 1991) Quebec initiated a permanent voters list in the early 1980s but stopped the project when the provincial government decided that the costs to implement the project and maintain the register were potentially too high. The government of Newfoundland is considering draft electoral legislation that would establish a permanent voters list. The list of voters compiled after the provincial enumeration in 1988 would be the basis for a continually updated register in Newfoundland. The list would be updated by voluntary participation and by using data bases from several government agencies. In the draft legislation, revisions would be conducted at the discretion of provincial returning officers. In Ontario, Revenue Ontario operates a continually updated data base that is used to produce voters lists for municipal and school board elections.

A REGISTER OF VOTERS: PROPOSALS AND CONCERNS

During our public hearings much time was devoted to the issue of a register of voters. There were criticisms of Canada's existing registration process based on enumeration, and concerns about the effects of a register of voters.

These criticisms and concerns echo those that have been raised in previous considerations of a register of voters. They are based, however, on assumptions that do not necessarily stand up to critical examination.

A Register of Voters vs. Enumeration

Those who question the feasibility of a register of voters do so based on the assumptions that an enumeration after the issue of the election writs constitutes the most effective and cost-efficient registration process and that an enumeration conducted properly will also register almost all voters.

These assumptions are questionable. The experiences of Newfoundland, Alberta and British Columbia demonstrate that an enumeration conducted during an election is not the only effective way to compile preliminary voters lists. These provinces, using different methods, compile preliminary lists outside the election period. The experience of the 1980 federal general election – for which the 1979 voters list was used – also proved that preliminary lists could be compiled from other than a post-writ enumeration, and at a much lower cost.

The current approach assumes that an enumeration must be as complete as possible if voter registration is to achieve full coverage. This ignores the fact that revision and election-day registration are integral components of a comprehensive process of registration. The Alberta and Newfoundland approaches, in contrast, are more realistic. They assume that an enumeration is but one part of a total process, however important it may be to register most voters in this manner. Revision and election-day registration acknowledge that, inevitably, there are voters who must be added to voters lists following any initial attempt to obtain the names and addresses of most voters. In the 1980 federal election, there was insufficient time for an enumeration because of the unexpected defeat of the Progressive Conservative government nine months after the 1979 federal election. The chief electoral officer, using his statutory power, decided to use the 1979 voters list as the preliminary list and conduct a registration drive to revise the list. This cost much less than another enumeration and resulted in fewer complaints than usual about the voter registration process. The 1980 experience demonstrated that a properly managed revision could produce a final list of high quality and that enumeration is not necessary when a reasonably complete list of voters already exists.

Another major assumption that underlies support for the current system is that an enumeration, conducted properly, counts almost all voters. This assumption ignores the fact that any 'census' of a large population is always to some degree incomplete and inaccurate. No large population is entirely static, even for short periods, and there are inevitably omissions in contacting voters and errors in the information supplied. The degree to which these limitations can be overcome depends on the capabilities of the enumerators, preparations, procedures and quality control mechanisms. But no census can overcome all these limitations.

Statistics Canada estimates, for example, that it undercounts the Canadian population at the decennial census by approximately 3 per cent. This error exists even though Statistics Canada is able to plan for its census and to give census takers far more in-depth training than Elections Canada and returning officers have the time and capacity to offer. Voter enumeration is subject to even further error, because not all residents of Canada are eligible to vote; some ineligible persons are bound to be enumerated.⁵ Finally, unlike the census, the law does not require that citizens submit to enumeration.

The Responsibility of the State in the Voter Registration Process

Canadians do not favour any process that would reduce or eliminate the responsibility of the state to register voters. They regard any move in the direction of a register of voters as implying this consequence. This concern is based on comparing the record of the U.S. version of a permanent voters list, based on voluntary registration, with the Canadian state-driven enumeration process.

Any changes to Canada's registration process should have as a premise the continuation of the Canadian tradition of state-driven registration. Contrary to the perceptions of some Canadians, this does not automatically rule out a voters register. A voters register neither requires voluntary registration nor precludes state responsibility for registering voters. We cannot subscribe to the mandatory requirements for registration and the associated sanctions found in some countries. However, it must be emphasized that establishing and maintaining a register of voters does not presuppose that the process places the burden and primary responsibility for registration on voters. In fact, as we outline later in this chapter, a voters register enhances the capacity of the state to register those who are most likely to be missed by the current enumeration process.

Voter Turnout

Many Canadians are concerned that a voters register would diminish participation in Canada's electoral democracy. If a voters register were used for preliminary lists, voters already on these lists would not be visited by enumerators. Some have argued that these visits alert voters to the election. This is no doubt the case. Given the volume and reach of election campaign advertising and other information activities, however, few voters are unaware of the election by election day. Further, the administration of a register of voters would require mailing 'vote-at cards' to instruct voters on where to cast their ballots. The advantage of an enumeration over a voters register on this point is thus minimal.

If a voters register were used, enumerators would not be necessary. Some might argue that this would diminish interest in electoral participation, because enumerators are involved in the election, even if as employees of the state. This may have been the case in the past, when local political parties

nominated persons for these positions as rewards for faithful service, as well as to ensure a supply of workers for subsequent canvassing and election-day activities. Recent experience demonstrates, however, that these benefits are decreasing.

Candidates now generally consider the requirement to nominate persons as enumerators as an unwanted chore at best and an impediment to their more pressing concerns at worst. In many constituencies candidates are simply incapable of providing enough names. What was once perhaps an advantage of the enumeration process has become one of its principal liabilities; the process is experiencing difficulties in securing enough competent persons to carry out its single function and this problem is getting worse. The advantage here goes to a voters register by default.

Length of Election Campaign

Almost everyone considers our federal election campaigns too long. The fact that Elections Canada must organize and conduct an enumeration after the writs are issued is considered the major reason for the length of the campaign period. Although there may be other ways to shorten the campaign (and we recommend several in Volume 2, Chapter 1), many advocate, as they did at our public hearings, establishing a federal voters register as a solution to this perceived problem.

The length of federal election campaigns in Canada averages 50 days, compared with as little as 21 days in Britain. In Australia, elections vary between 33 and 58 days; in two of Australia's three most recent elections, campaigns lasted 36 days. The election period is 29 days in British Columbia, the province most experienced in the use of a permanent list. A register of voters could reduce the length of the election by eliminating, at a minimum, the days required to conduct the enumeration.

Shorter federal election campaigns, however, do not necessarily depend on introducing a register of voters. As discussed in Volume 2, Chapter 1, a shorter election campaign is feasible even if the current enumeration process is retained. That said, it is improbable that the campaign could be shortened much beyond 40 days, the minimum period we recommend in Chapter 1 of Volume 2; given the time and resources needed for a competitive campaign that accommodates Canada's size and geography.

Candidates and political parties would clearly gain from the early availability of preliminary voters lists. With these lists, candidates and constituency associations could begin to organize their canvass of voters almost from the start of the election period; they would not have to wait for the enumeration to be completed. In this way, a shorter election period would not diminish the time available to conduct a campaign at the local level.

Revisions and a Register of Voters

Concern has been expressed that a voters register would restrict access to voting. The register could result in many voters being administratively

disfranchised if adequate provisions for the continual updating of the list and for revisions were not in place. The permanent voters lists in most countries that use this system are 'closed' before an election or when the election is called, so that those who do not meet registration deadlines are denied the right to vote. Many thus assume, incorrectly, that closure is a fundamental and inherent prerequisite of this registration process. Although it may be convenient for election administrators, there are no sound technical reasons that require a closed list. A list can be 'open' after an election campaign begins; indeed, it can be open up to and including election day. Our tradition is to give voters the opportunity to be included on the voters list after enumeration and, for those who live in rural polling divisions, to be registered on election day. A voters register would not require rejecting this tradition. Indeed, as we recommend in Volume 2, Chapter 1, an improved revision process and election-day registration for all voters would extend and strengthen this Canadian tradition. Each of these features can and should be included in any use of a register of voters.

Protection of Privacy

In previous considerations of a voters register, objections to the use of certain information as well as the creation of huge data bases of personal information have raised major concerns. There are essentially three reasons for concern.

First, there are concerns about infringing on the right of privacy. These concerns assume that those who manage the register would require access to confidential personal information in government data bases, such as those maintained by Revenue Canada, Taxation, Statistics Canada Census Division, Health and Welfare Canada and provincial departments of health and social services. This need not and should not be the case. A high-quality voters register can be created and continually updated without using personal information from these sources. There is, therefore, no need to consider their use, and our conclusions on the feasibility of a register of voters did not contemplate, or factor in, their use. The information required by those who manage the register can be readily obtained from other sources of information. Such sources could include driver's licence offices and vital statistics.

Second, there is concern that a register of voters would be an unacceptable intrusion by the state into the lives of Canadians. The specific concerns here are that a register would require that citizens be registered, that they inform the state of their movements, and that their names, addresses and other electorally relevant personal information be continually updated and maintained in a central data base.

These concerns are misplaced. If accompanied by adequate revision and election-day registration, a register of voters need not require mandatory registration, constant monitoring of each citizen's movements or the inclusion of personal information on every voter. Voters can and should have the right to refuse registration (as they do now), the right not to inform election officials of their movements and the right to have their names removed from the list at any time. This would not remove their right to

vote; it would merely require them to register for elections in which they want to vote.

Third, there are concerns that copies of the voters register could be obtained outside the election period and that the information could be used for other than legitimate political or electoral activities. By law, returning officers must make the preliminary and revised lists available to all official candidates for use by their agents and constituency associations. The lists must also be available in the office of the returning officer for public inspection. The same provisions apply to provincial, municipal and school board elections throughout Canada. If voters registers were not available except at elections, they would not constitute any departure from current practice. Further, administrative and technical safeguards could ensure the lists were used for electoral purposes only.

Administration of Electoral Law and Voters Registers

A voters register could make it easier to administer and enforce Canadian electoral law. (Carty 1990) Section 23 of the *Canada Elections Act*, for example, states that the nomination of a candidate cannot be considered complete unless he or she has the written support of 25 qualified voters. In Volume 1, Chapter 5, we recommend that only qualified voters participate in the candidate and leadership selection processes. As well, we recommend that political parties seeking to become registered between elections have the declared support of at least 5000 qualified voters who are party members in good standing. A register of voters would allow election officials to verify quickly whether individuals participating in these processes were qualified voters. As a result, public confidence in the administration of electoral law would be enhanced.

THE FEASIBILITY OF A VOTERS REGISTER

Many objections to a register of voters do not stand up to close scrutiny. The litmus test is whether a register would result in voter registration comparable with registration based on the current enumeration process. Any examination of the feasibility of a register of voters in Canada must proceed at three levels. First, we must assess whether a register of voters is a viable alternative to the current enumeration process, based on coverage, accuracy and currency. Second, we must determine if creating and maintaining a federal register of voters would be cost-effective and technically feasible. Third, we must determine whether federal authorities could use voters lists compiled provincially. These lists would have to be reasonably current and need only minimal adjustments to be used to establish preliminary lists for federal elections.

The Feasibility of a Federal Register of Voters

The creation of a voters register by the federal government would require an elaborate administrative structure to ensure the register obtained high

coverage for each province and territory. A study carried out for our research program confirmed that the lists maintained by Revenue Canada, based on personal income tax returns, contained as many voters as the preliminary voters lists of Elections Canada. (Canada, Royal Commission and Revenue Canada, Taxation 1990) Lists prepared from the Income and Deduction data base of Revenue Canada would include an estimated 80 to 90 per cent of the Canadian electorate. The existence of this data base indicates that more than one government agency in Canada is able to compile lists comparable with those based on enumeration. Public sensitivities and the policy concerns with using information from income tax returns, however, complicate the use of these data for election purposes. It is not an approach we would recommend.

The cost of a register of voters maintained exclusively by the federal government without using confidential data bases would far exceed the cost of the current enumeration process, and it would not greatly increase accuracy or coverage. Maintaining a national voters register that meets the criteria of accuracy and coverage requires a mandatory registration of citizens. The experience of other countries conclusively demonstrates this. The level of state intervention in maintaining a centralized register would be incompatible with the traditional approach taken by the federal government in voter registration. The amount of information required for a centralized register is far greater than in the Canadian government's current registration process since the active management of the data base necessitates that voters have a unique identification number. Further, it is improbable that a federal register not used regularly at the provincial and municipal levels could be satisfactorily kept up to date without a comprehensive door-to-door canvass – in effect, a process similar to an enumeration would be required.

Our studies conclude that a national register would be much more expensive than federal enumerations at each general election. As noted, this was the conclusion reached by the federal *White Paper on Election Law Reform*. (Canada, Privy Council Office 1986)

A voters register maintained and used solely by the Canada Elections Commission and comparable in quality to enumeration (to produce preliminary lists of voters) would be more costly for two reasons. First, the continual additions to and deletions from the register would be expensive and a vast computerized data base would be required. In countries that use registers, 'purging' the lists can be the most controversial part of the process. Purging is commonly done to ensure the register is continually updated. Its effectiveness very much depends on the criteria used to initiate purging and the level of refinement that is achieved. It ensures that those ineligible to vote are excluded from the register, or it accommodates voters who move from one polling division to another by deleting them from the old polling division and adding them to the new one.

Second, the lists generated from this register would be used nationally only every three or four years for a federal general election. This would

mean that the least costly way of updating the register, namely by adding the names and addresses of voters who are not already on the register but who registered at an election through revision or on election day, would occur infrequently. Instead, elaborate and expensive procedures would be needed to continually update the lists. These procedures could include obtaining data from revisions during the election period, from information held on existing data bases, from enumerations conducted in areas where data on the register are weak, and from registration-notification cards mailed to new voters. Such a strategy would have to accommodate a highly mobile population. Courtney and Smith estimate that an annual population mobility rate of 20.9 per cent would mean that 3 650 000 entries (based on the 1988 electorate of 17.6 million) would be required every year to keep a federal register of voters current. (1991 RC)

The cost of creating and maintaining a federal register of voters could be absorbed, in part, by selling preliminary lists to the provinces and territories. If the lists could be made technically compatible with provincial polling divisions, provinces could use them instead of conducting a separate enumeration. The provinces and territories using the lists would need to revise them, but the duplication of effort that has characterized voter registration in Canada could be reduced considerably. Such a scheme, however, would require a complex federal data base with information and individual voter profiles that satisfied the voter registration requirements of the provinces and territories.

The technical and administrative resources required to ensure the federal register was continually updated to accommodate these provincial and territorial requirements would be excessive. A federal register used to generate preliminary lists for individual provinces would need the birth dates of individual voters, because of provincial differences in the voting age. Since many provinces have minimum residency eligibility requirements, an individual's period of residency in a province would also have to be recorded. The technical complexities and costs would be further increased if the federal register was used to generate preliminary lists for municipal and school board elections. As noted in our feasibility study, "the addition of a third level of jurisdiction would require the maintenance of an additional file containing the municipal and school board boundaries. This would result in a significant amount of work to keep the register up-to-date." (Gauthier et al. 1991) For school board elections, the religious affiliation of voters would need to be recorded in several provinces. In Quebec, for example, religious affiliation determines if voters can cast ballots for Protestant or for Catholic school board elections. In contrast, a federal register designed exclusively for federal elections would need only minimal information on individual voters. The mandatory information would include address, age and sex. Such information could be readily obtained from provincial and territorial preliminary voters lists but the reverse is less straightforward.

The Feasibility of a Provincial System of Voters Registers

The exclusive creation and maintenance of a register of voters by the federal government would not necessarily meet the objectives of those who support this approach to registration. The limitations of a federal register, however, do not necessarily preclude the creation of provincially maintained voters registers, from which the Canada Elections Commission would purchase preliminary lists for federal polling divisions. In short, the inherent feasibility of a register of voters as an alternative to the current enumeration process does not depend on the federal government assuming exclusive responsibility for its implementation. A careful examination of several key policy and technical issues suggests that a system of provincial registers of voters represents a plausible alternative to the current federal enumeration process.

Duplication of Effort

Canadian voters are normally enumerated by two, even three, levels of government within two or three years. This raises the obvious concern of unnecessary duplication of effort and therefore unjustified additional costs to taxpayers. The duplication also confuses many voters – when have they been properly registered?

During the course of our research, several seminars were held with the federal and provincial chief electoral officers to consider a register of voters. The chief electoral officers supported a register, particularly if it was based on an address registry. They recognized duplication of effort in compiling preliminary lists. They recognized that federal and provincial enumerations have sometimes taken place within months of each other but these lists were not shared, despite the considerable savings that could have been realized.

In the 1988 federal general election, many voters did not use the revision process following enumeration because they believed recent enumerations by their province or municipality qualified them to vote in the federal election. (Courtney and Smith 1991 RC) In Alberta, for example, two enumerations were held within a month of each other. The *Calgary Herald* reported on 22 November 1988 that in Alberta “the principal reason for the confusion was September’s provincial enumeration, which ended just days before the [October] 14 start of the federal enumeration. There were countless incidents of eligible federal voters ignoring the federal enumeration because they thought the earlier provincial enumeration covered the federal vote.” Federal enumeration costs in Alberta for the 1988 election were approximately \$2.4 million. A further \$3.3 million was spent by the government of Alberta for the provincial enumeration. In each case, just over 1.5 million voters were enumerated for both the federal and provincial elections. The duplication or repetition of the process is neither cost-effective nor conducive to an efficient voter registration process. And it does not contribute to public confidence in the electoral process.

Opportunities exist for greater co-ordination and co-operation between federal and provincial governments to prepare accurate and current preliminary voters lists.

If different levels of government shared a continually updated register of voters, many voters would no longer be confused about whether they are properly registered. Federal and provincial governments, as well as many municipalities and school boards, have the authority to conduct their own enumerations, and may have different criteria to determine the eligibility of voters; yet in no respect does the preparation of preliminary lists of voters in these jurisdictions require a consideration of constitutional authority.

Preliminary Voters Lists: Comparing Provincial Data Bases and the Federal Enumeration Process

To determine if currently available provincial data bases could be used to create voters lists comparable with those established by Elections Canada through enumeration, we commissioned four comparative research projects.⁶ (Gauthier et al. 1991)

The first project compared Elections Canada's enumeration lists for the 1990 federal by-election in the constituency of Oshawa, with lists for this district generated by the continually updated data base of Revenue Ontario. This data base was originally developed for municipal assessment. Since 1988 it has been used to generate voters lists for Ontario's municipal and school board elections.

In the study, Revenue Ontario's lists were based on information received by Elections Canada on boundary descriptions of 167 polls in the federal constituency of Oshawa. Based on a random sample of 65 polls, the probability of voters being correctly registered was approximately 85 per cent for both Elections Canada and Revenue Ontario.

The second study compared voters lists produced by Revenue Ontario and by Elections Ontario for the provincial constituencies of Scarborough–Ellesmere and Fort York during the September 1990 provincial general election. Using random samples of 48 polls for Scarborough–Ellesmere and 50 polls for Fort York, the probability of individuals being enumerated by Elections Ontario was 86 per cent in Scarborough–Ellesmere and 75 per cent in Fort York. The respective figures on the voters lists produced by Revenue Ontario were 88 per cent and 74 per cent.

In the provincial constituency of Scarborough–Ellesmere, the voters lists produced by Revenue Ontario and Elections Ontario were similar. The high mobility of the population in Fort York, however, impaired the coverage and accuracy of the lists produced by both Revenue Ontario and Elections Ontario.

The third study compared municipal voters lists in rural Ontario municipalities, prepared by Revenue Ontario for the 1988 municipal elections, with Elections Canada enumeration lists in the same areas for the 1988

federal election. The rural Ontario study was based on a random sample of 19 small towns, villages and townships identified from the 1990 Municipal Directory issued by the Ontario Ministry of Municipal Affairs. Fifteen of the 19 municipalities provided preliminary voters list prepared by Revenue Ontario. In turn, Elections Canada provided 58 corresponding preliminary lists from a random sample of 13 municipalities where comparable lists were available. The probability of being correctly enumerated by Elections Canada in this sample was between 92 and 94 per cent. The corresponding probability of being enumerated by Revenue Ontario's data base register was between 90 and 92 per cent.

The fourth study compared the lists from the continually updated data base of Elections British Columbia with lists from a special enumeration carried out by Elections Canada on behalf of the Commission's research program for a random sample of polling divisions in the province. Elections Canada's enumeration, it should be noted, had coverage comparable with its normal coverage in an election enumeration. To ensure valid comparisons with the provincial lists of Elections British Columbia, provincial poll definitions were used and the eligibility age was set at 19. Based on a random sample of 60 polls, the probability of being enumerated by Elections Canada in British Columbia was 84 to 88 per cent compared with 78 to 82 per cent for Elections British Columbia.

Table 4.1 summarizes the results of the four studies. We found that the continually updated data base of Revenue Ontario provided preliminary lists comparable with those produced by the enumerations of Elections Canada and Elections Ontario. The preliminary lists produced by Elections British Columbia were slightly less complete than the lists based on the enumeration carried out by Elections Canada.

Table 4.1
Voter registration: measuring coverage and accuracy
(per cent)

Study	Probability of being enumerated correctly	Probability of being listed correctly
Oshawa	84-85 (EC)	85 (RO)
Scarborough	86 (EO)	88 (RO)
Fort York	75 (EO)	74 (RO)
Rural Ontario areas	92-94 (EC)	90-92 (RO)
British Columbia	84-88 (EC)	78-82 (EBC)

Source: Adapted from Gauthier et al. 1991.

Note: EC: Elections Canada; EO: Elections Ontario; EBC: Elections British Columbia; RO: Revenue Ontario.

The differences between Revenue Ontario and Elections British Columbia are accounted for, in part, by three factors. First, the former is tied to municipal assessment and taxation, and thus it is likely to be more complete than lists used solely for electoral purposes. Second, voters in British Columbia know that they can be added to the lists by revision following the issue of the writs for a provincial election; until 1986, they could also register on election day. In the 1986 election, approximately 12 per cent of voters registered on election day. Third, Revenue Ontario lists are based on a register of addresses, and Elections British Columbia's lists are based on the names of voters. Because addresses are more stable than people, any continually updated lists based on addresses will be more complete and current than those based on names. The address register thus has a built-in quality control base reference. Further, our research shows that address registers exhibit a substantially lower deterioration in currency than do name-based registers. (Gauthier et al. 1991)

Establishing Voters Registers

Our research suggests that coverage, accuracy and especially currency would increase considerably if voters registers were based on address registers. They would have several internal quality control measurements. The address registers would need to be linked to individual voter profiles that have the information necessary to identify voters. This information would be obtained from data publicly available from other government agencies, and the process would adhere to the strictest standards of privacy and confidentiality.

An address register is a set of data containing all known 'qualifying dwellings' in Canada or in a province or territory. Once implemented, the register would contain the information needed to generate lists of voters' addresses. (Gauthier et al. 1991) An address register could be easily based on data available from public sources.

There are many ways to construct an address register and several exist or are being developed. Revenue Ontario's list, for instance, is an address register. The least costly way to construct such a register for election purposes is to use the final voters list from the previous election. All voters lists should contain the addresses of voters, as well as their names, because Canadian federal and provincial elections are based on geographically defined constituencies. After an election, lists of addresses could be easily entered on a master address file without being dependent on the definition of existing polling divisions and constituencies. The possibility of using information supplied by private sector companies has been investigated. The general conclusion of this survey is that no single source of information could be used to create an address register for electoral purposes. Telephone and electricity companies appear to be the best sources for an address register but they would be most useful as an ongoing source of information, once the address register was created.

The scope and feasibility of a provincial system of voters registers could be greatly enhanced by geographic information system (GIS) technology. GIS is a computer software technology used to generate maps of large and small geographic areas and to manage data bases. It has been used extensively by the Saskatchewan Central Survey and Mapping Agency to establish a province-wide geographical data base. The federal government has entered into a cost-sharing program with Saskatchewan to ensure the application of national standards and to avoid duplication.

GIS technology is also used extensively in the United States and Great Britain, and applications are being studied at Statistics Canada and Energy, Mines and Resources Canada. Changing electoral boundaries to reflect the number of voters, rather than census population – one of our recommendations – would clearly be easier with address registers and GIS technology. (Gauthier et al. 1991)

The provincial elections office in Saskatchewan has pioneered work on the use of GIS technology for election administration, and much can be gained from its experience. The Saskatchewan Electoral Office uses a software-based GIS technology that has the capacity to:

- maintain files of addresses and postal codes;
- generate reports of addresses and postal codes by poll number, constituency and city;
- list locations of polling place for each address;
- produce reports by poll-constituency-city and province or territory;
- redefine postal code lists where boundaries have been changed;
- define voter population by poll and constituency; and
- compute the number of voters in proposed new polls.

When fully operational, the Saskatchewan system will contribute to an enumeration process that is more complete, accurate and efficient. Fewer enumerators will be required and less time will be needed to train them. GIS technology can be used to produce 'vote-at cards'.

A test project was conducted for the Commission on the capacity of GIS technology to produce the maps and voters list required by Elections Canada. The project, carried out in a federal constituency in Saskatchewan, demonstrated that GIS technology could generate maps of polling divisions and assemble the necessary information to create voters lists and identify polling divisions. (Generation 5 Technology 1991)

TOWARD A CANADIAN SYSTEM OF VOTERS REGISTERS

The current voter registration process in Canada is characterized by separate processes at the provincial, territorial and federal levels. Consequently, 13 different governments either conduct separate enumerations or manage permanent voters lists to register what is effectively the same electorate. The cumulative result is a duplication of efforts, resources, personnel and

public bureaucracy. This duplication is not cost-effective and does not necessarily contribute to voter registration that has better coverage, accuracy and currency than alternative approaches.

We conclude from our research studies that voters registers can provide voters lists that are comparable in coverage, accuracy and currency to lists generated by an enumeration after the issue of the writs. Our cost projections show that if the federal and provincial and territorial governments used a common register in each province and territory, the frequency of its use would contribute considerably to maintaining its quality of coverage, accuracy and currency – and justify its cost. If municipalities and school boards used it, its quality and cost-effectiveness would be enhanced even further. It is at the municipal level that officials would be most informed about population mobility and the changing demographics of local communities. The register could also be used to construct lists for referendums outside of elections, as done in Australia.

There would need to be a transition period from the current enumeration process to a fully developed system of voters registers. The transition would begin at the next federal election; there would then have to be agreements between the Canada Elections Commission and provinces that either use a voters register or conduct enumerations within 10 to 12 months of a federal election.

Obtaining Preliminary Voters Lists from British Columbia and Ontario for the Next Federal Election

For Ontario and British Columbia, the Canada Elections Commission should prepare for the next federal election by entering into contractual agreements to produce preliminary lists using Revenue Ontario's and Elections British Columbia's continually updated data bases.

In British Columbia there would be considerable cost savings if the Canada Elections Commission were to acquire preliminary voters lists from Elections British Columbia. To ensure technical compatibility, preliminary voters lists could be generated for both provincial and federal elections in British Columbia by Elections British Columbia's data base and – given that the data base is not based on an address register – it would be preferable for the Canada Elections Commission to adopt British Columbia's polling divisions as the basis for preliminary voters lists for the next federal election.

There are currently 5705 federal polling divisions in British Columbia. Elections Canada estimates that the average administrative cost for a polling division on election day is approximately \$390; the total cost for federal polling divisions is therefore approximately \$2.23 million. British Columbia has 6345 provincial polling divisions; if these polling divisions were used to produce preliminary voters lists for federal elections, the total cost would be \$2.48 million. In short, the cost of shifting from federal to provincial polling divisions in British Columbia would be \$250 000.

The cost of the federal enumeration in British Columbia in the 1988 election was just over \$3 million. Our research into the feasibility of voters registers suggests that the total cost of registration and revision in the event the Canada Elections Commission acquired the preliminary voters lists from the Elections British Columbia register, even if enumeration-type revisions were required in one of five polling divisions, would be approximately half the cost of the current federal enumeration process in British Columbia. Generating preliminary voters lists from Elections British Columbia's register, based on provincial polling divisions, for the next federal election is feasible, as measured by coverage, accuracy and cost.

Revenue Ontario's data base could be used to generate preliminary voters lists for the next federal election. Creating preliminary lists that fit federal polling divisions could be readily achieved through existing computer software. For the next federal election, each federal constituency in Ontario would need a few trained operators to extract the preliminary voters list from computerized municipal lists generated by Revenue Ontario's data base. Because the Ontario data base is based on an address register, staff would be needed to identify the streets on the computerized list that constituted the appropriate federal polling division, and to select the corresponding entries to build an electronic file for that division. Based on eight-hour shifts, four two-person teams could prepare preliminary lists from the Revenue Ontario data base for the average Ontario federal constituency in approximately 43 hours. A nominal level of training would be necessary to ensure individuals were qualified to perform these tasks.⁷

There are 17 067 federal polling divisions in Ontario. For the 1988 federal general election, the average cost of enumeration per division, based on our recommendation in Volume 2, Chapter 1 that each division use one enumerator instead of two, but excluding printing and other administrative costs, would have been \$356.56, for a total of \$6 085 410. Our research shows that the average cost per polling division (labour and computer technology) to generate preliminary voters lists for federal polling divisions from Revenue Ontario's register would be \$56.00. In addition, the total cost to the Canada Elections Commission for acquiring the voters lists from Revenue Ontario would be a maximum of \$100 000 or \$5.86 per polling division. The total average cost per polling division of producing preliminary lists for the next federal election from Revenue Ontario's register would be \$61.86, for a total of \$1 055 765. Even assuming an additional \$1 million for incidental expenses and the costs of supervisory election officials, the total costs of purchasing lists from Revenue Ontario would be approximately \$2 056 000. In contrast to the current enumeration process, then, the savings from buying the lists would be about \$4 million.

Voters in Ontario and British Columbia constituted 47 per cent of the total number of voters enumerated for the 1988 federal general election. Agreements between the Canada Elections Commission and Ontario and British Columbia to acquire preliminary voters lists generated from existing provincial registers would reduce the costs of federal voter registration by

some \$5.5 million. Given the transitory nature of this arrangement, tests should be conducted to identify correctly the detailed procedures and the timeframe required to produce lists for all the polling divisions in the two provinces. With appropriate revisions, 'vote-at cards' and voting-day registration, the current accuracy and coverage in these provinces would be matched or exceeded. As noted, the federal elections of 1979 and 1980 demonstrated conclusively that accurate lists can be established through revisions, even if separate enumerations have not been conducted.

Newfoundland currently conducts an enumeration at the discretion of the provincial cabinet, and the province is considering a permanent register of voters. If Newfoundland establishes a register of voters in the interim, the Commission should enter into the necessary contractual arrangements.

Recommendation 2.4.1

We recommend that the Canada Elections Commission enter into agreements with the provinces of British Columbia and Ontario to acquire preliminary voters lists for the next federal election.

Obtaining Voters Lists from the Provinces and Territories

The procedures outlined above to secure voters lists for the next federal election in the provinces of British Columbia and Ontario are interim measures. In contrast, a long-term agreement should provide for the modification of current software systems to ensure the most current generations of technology are available and that there is compatibility with federal requirements. Moreover, the Canada Elections Commission should acquire as rapidly as possible computer technology and software that would allow it to translate voter registration information from provincial data bases into lists for federal polling divisions. Once the software is in place, information would be identified and assembled to produce lists for federal polling divisions without the need to train staff to directly input the information, as would be the case in Ontario for the next federal election. The computer technology would need the capacity to extract directly from provincial data bases the information necessary to generate preliminary lists. The system should be able to use data generated through an enumeration process, as well as those in a permanent register. This information would include the name, age, address and sex of voters.

Recommendation 2.4.2

We recommend that the Canada Elections Commission develop and use the computer technology and software that would allow federal voters lists to be produced from provincial and territorial data bases established as voters registers, as well as from provincial voters lists prepared through enumeration.

The Canada Elections Commission would have to verify the quality of the data bases from which lists would be generated. This could be done quickly and inexpensively; at one or more intervals between federal elections the Commission could survey random samples of polling divisions based on a random sampling of constituencies. Quality control procedures would be used on every occasion when the Commission considered it possible to procure its lists from a province or territory. If the necessary standards could not be met in specific constituencies or polling divisions in a province or territory, the Canada Elections Commission would conduct an enumeration. For example, enumeration would likely be required in polling divisions that had a high concentration of apartment blocks or high population mobility.

Our research into the registers of Elections British Columbia and Revenue Ontario shows that there is an 80 per cent probability that a voter will be registered either by a provincial enumeration or voters register; the coverage and accuracy is therefore sufficient for provincial lists to be used to generate preliminary federal voters lists. Combined with revisions and election-day registration, the coverage and accuracy of federal voter registration would match or exceed current levels at reduced costs. Registration cards could also be used by voters to voluntarily update the information on the register. The cards could be distributed through post offices, shopping malls and government agencies.

Contrary to what has been assumed in past considerations of a permanent voters list, voters registers would not require a comprehensive federal-provincial agreement that encompasses all provinces and territories. Such a comprehensive agreement is not even desirable. Rather, they would entail separate agreements between the Canada Elections Commission and each of the provincial and territorial governments. If one or more provinces or territories did not want to participate, the costs to the federal government and each province and territory that co-operated in a provincially or territorially based register would not be affected. In each case there would be savings. A voters register for a province or territory should be managed by the provincial election office rather than by the Canada Elections Commission. Although the Commission could decentralize its operations to each province or territory where a common voters register was agreed to, this would merely be a duplication of effort. Compared with the Canada Elections Commission, the provincial election office would have easier access to provincial and municipal government data bases (such as vital statistics, drivers' licences and property assessment records) that would be used to maintain address registers and the voters registers. Provincial or territorial officials would also possess more detailed and current knowledge of developments in the province or territory that might affect the maintenance of the address and voters registers. Provincial and territorial officials would also be more familiar with the information requirements of their own provincial or territorial electoral system, as well as those of their many

municipalities and school boards. And they could use the voter and address registers for their own elections.

Maintaining and administering separate provincial data bases, therefore, would be far less onerous than if the federal government created a national data base to generate both federal and provincial preliminary voters lists. As noted, the amount of information required by the federal government is far less complex than the aggregated information needs of each province and territory. This analysis clearly demonstrates that the savings to Canadians from the adoption of a register of voters and the elimination of substantial duplication in the performance of enumeration can be achieved only if the ownership and responsibility for managing the register remain with the provinces. Moreover, the pursuit of a register based on national standards would accomplish little for such a costly diversion of resources.

For those provinces and territories where there was no register, the Canada Elections Commission would conduct an enumeration, unless there existed a recently compiled provincial voters list. In this case the Commission could procure this list as its preliminary list, assuming agreement from the provincial or territorial government. The computer technology and software we recommend the Commission acquire would be necessary to automatically rearrange the lists in accordance with the polling divisions in the federal constituencies. It is probable that a federal enumeration would be required in specific constituencies or polling divisions if the provincial lists had not been compiled within 10 to 12 months before they were required by the Canada Elections Commission. This is not to suggest, however, that portions of these lists would not meet federal standards for coverage and accuracy.

A clear incentive exists for the provinces to enter such contractual arrangements because costs to produce the lists would be shared by the Commission. The savings would be considerable, especially in the larger provinces. Public expenditures on producing the lists would likewise be reduced with each agreement. The Commission's share of the cost to produce the preliminary lists, however, should not exceed one-quarter of the cost of conducting a separate federal enumeration in the given province. Recourse to this approach would entail increased costs in other areas: postage costs for mailing the vote-at cards, greater revision costs, and greater advertising costs to inform voters how they should proceed to ensure their name is on the list.

Recommendation 2.4.3

We recommend that the Canada Elections Commission enter into an agreement with each province and territory to acquire from either provincial voters registers or provincial voters lists the information to generate preliminary voters lists for federal polling divisions.

NOTES

1. Coverage is the ratio of the number of voters' names on a voters list to the total number of eligible persons residing in a given constituency.
2. Accuracy is the ratio of the number of correctly registered names and addresses of voters on a voters list to the total number of names on the list.
3. Currency is a measure of the relative decay over time of the information following its publication.
4. The section on Germany is based on research completed before German unification. It deals with the registration process in the former Federal Republic of Germany.
5. In the November 1991 Ontario municipal elections, there were media reports of individuals being listed as qualified voters, even though they were not Canadian citizens. Although the registration of non-qualified voters is an inevitable facet of any system of voter registration, the number of cases involved is normally very small. Further, an extensive and longer revision process ensures that there are opportunities for non-qualified voters to be removed from the list prior to election day.
6. The development and implementation of these projects were made possible through the co-operation and assistance of Revenue Ontario, Elections Ontario and Elections British Columbia. The Royal Commission on Electoral Reform and Party Financing would like to thank these offices for their generous assistance and contributions to its research program. The participation of these offices allowed the Commission to acquire a comprehensive understanding of the feasibility of a register of voters and of the relative capacities of different systems to produce preliminary voters lists under a variety of circumstances. In particular, the co-operation between Elections British Columbia and Elections Canada in the production and comparison of preliminary voters lists based on a random sampling of polling divisions suggests that federal-provincial co-operation in the voter registration process can result in the production of preliminary lists based on a provincial voters register that match or exceed levels of coverage and accuracy achieved through federal enumeration.
7. A similar approach could be adopted in British Columbia.