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ACCESS TO ELECTORAL RIGHTS *CANADA*

Willem Maas

July 2015



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European University Institute, Florence
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Access to Electoral Rights

Canada

Willem Maas

1. Introduction

Canada has a Westminster-style system of government and, like the bicameral British Parliament, members of Canada's upper house, the Senate (Senators), are appointed while members of the lower house, the House of Commons (Members of Parliament, MPs), are elected in single-seat constituencies.¹ Each MP is elected to represent a specific constituency in a plurality, first-past-the-post election for a term not to exceed five years. When a seat becomes vacant between general elections, a by-election is held and the winner serves until the next general election. Federal elections are governed under federal legislation, the *Canada Elections Act*, and administered by an independent agency, Elections Canada.

Elections in Canada's ten provinces and three territories are governed under the legislation of each respective province or territory, each of which has its own elections administration body. Elections to the unicameral² provincial and territorial legislatures follow the calendars of the respective jurisdiction, with many having adopted fixed election dates, though these are subject to deviation. Members of the Legislative Assembly (MLA, most provinces and territories), Provincial Parliament (MPP, Ontario), National Assembly (MNA, Quebec), or House of Assembly (MHA, Newfoundland and Labrador) are elected in single-seat constituencies in plurality, first-past-the-post elections. Municipal and local elections are governed under the legislation of the respective province or territory and, with some variation, are usually held on a fixed date every four years. Elections for First Nations are governed under the provisions of the *Indian Act* or by procedures determined by each First Nation, though the *First Nations Elections Act*, 2014, which entered into force in April 2015 for First Nations which opt in, proposes to standardize procedures. The right to vote in referendums depends on the legislation of the jurisdiction organizing the referendum.

¹ This research was supported by a Marie Curie International Incoming Fellowship within the 7th European Community Framework Programme. Thanks to the European University Institute for hosting my research and to Semra Sevi (author of an opinion piece on expatriate voting, cited below) for sharing a list of readings.

² At the point of Confederation, six provinces had an upper house but all have since been abolished: Manitoba's upper house was abolished in 1876, New Brunswick's in 1891, Prince Edward Island's in 1893, Nova Scotia's in 1928, Newfoundland's (it was then a self-governing Dominion subordinate to the British government in London; Newfoundland joined Canada in 1949, and was renamed Newfoundland and Labrador in 2001) in 1934 and finally Quebec's in 1968.

2. Historical background

At Confederation, the *British North America Act* (1867) that established Canada stated (in section 41, “Continuance of existing Election Laws until Parliament of Canada otherwise provides”) that all electoral rules, including the federal franchise, would remain a provincial matter until the federal Parliament decided otherwise. Since the provinces differed greatly, there was great variation in the electoral laws, and the right to vote – including the definition of the electorate for federal elections – diverged greatly between the provinces.

The first federal electoral legislation, the *Electoral Franchise Act* (1885), standardized the qualifications necessary to vote by retaining three basic conditions common to all provinces (being male, age 21 or over, and British subject by birth or naturalization) alongside a property-based qualification that differed between those living in urban or rural constituencies. After years of Conservative rule, a new Liberal government of Prime Minister Wilfrid Laurier passed amendments which took effect in 1898 and returned to provinces the responsibility for electoral lists and control of the federal franchise; significant differences once again resulted between the different provinces in terms of the right to vote.

Some of the variation introduced or reintroduced discriminatory elements. Thus, for example, British Columbia in 1901 restricted the right to vote to those who could read the provincial election legislation, written in English; the effect was primarily to disenfranchise citizens of Asian origin. The following year (1902), Manitoba determined that only those who could read the Manitoba elections act in English, French, German, Icelandic, or a Scandinavian language could vote, shutting out many immigrants of Polish, Ukrainian, and Russian origin from the federal franchise.³

The *War-time Elections Act* (1917) enfranchised spouses, widows, mothers, sisters, and daughters of anyone (male or female) who was serving or had served in the Canadian Armed Forces; at the same time, it disfranchised citizens of “enemy-alien” origin naturalized after 31 March 1902 unless they had a son, grandson, or brother on active duty; it also disenfranchised conscientious objectors, primarily Mennonites and Doukhobors (see below).⁴ It was coupled with the *Military Voters Act* (1917), which enfranchised any British subject ordinarily resident in Canada who was on active duty in Europe in the Canadian, British, or any other allied army, thus enfranchising approximately 2000 military nurses.⁵

The 1920 *Dominion Elections Act* once again ended provincial responsibility for the federal franchise and provided universal access to the vote without property qualifications or gender restrictions; women gained the unrestricted right to vote in federal elections, as age (21 or older) and citizenship (British subject) remained the only criteria. (Women had won the federal right to vote in a law passed on 24 May 1918, but this was restricted to women “not alien-born” (thereby excluding naturalized citizens) who also met the property requirements in provinces with such restrictions.) Despite its generally universalizing effect, however, the 1920 Act contained a clause stating that anyone disenfranchised by provincial legislation “for reasons of race” would also remain disenfranchised from the federal vote. When the Act was passed this affected two provinces: Saskatchewan, which had laws

³ Elections Canada, *A History of the Vote in Canada*, 2nd ed. (Ottawa: Published by the Office of the Chief Electoral Officer of Canada, 2007), 57–58. One wonders who took the initiative to translate the Manitoba elections act into these Scandinavian languages so that prospective voters could be tested.

⁴ *Ibid.*, 58. See also John English, “Wartime Elections Act,” *The Canadian Encyclopedia*.

⁵ *Ibid.*

preventing voting by citizens of Chinese origin, and British Columbia, which had disenfranchised citizens of Chinese and Indian (Aboriginal)⁶ origin from the very beginning (when British-origin individuals constituted a minority of under 30% of BC's population while Aboriginal and Chinese-origin individuals constituted over 60% of the population), citizens of Japanese⁷ origin from 1895, and citizens of Hindu⁸ origin from 1907.

The prerogative of provinces to deny the vote to citizens on the basis of ethnic origin was sustained by the Judicial Committee of the Privy Council in London (the highest judicial authority for Canada at the time), which distinguished between citizenship and the right to vote, stating that naturalization (which was a federal competence) did not necessarily imply any particular privileges, such as the right to vote (which remained provincial competence).⁹ This distinction between citizenship and the right to vote was at the heart of the federal government's defence of the 1920 "reasons of race" clause: solicitor general Hugh Guthrie stated that "citizenship in no country carries with it the right to vote. The right to vote is a conferred right in every case [...] No Oriental, whether he be Hindu, Japanese or Chinese, acquires the right to vote simply by the fact of citizenship."¹⁰

Alongside exclusion on ethnic grounds in some provinces, there were also exclusions on grounds of religion or pacifism. For example, in 1917 (as discussed above) and again from 1934 to 1955, Doukhobors lost the federal franchise, ostensibly because their faith prescribed pacifism, but more likely because governments and publics in the western provinces feared their social views (communal living and, particularly among the Sons of Freedom in British Columbia, mass nudity as a protest against materialism).¹¹ After the Second World War, public opinion became less favourable to restrictions based on ethnicity or religion. Travel and other restrictions on Japanese Canadians were lifted in 1948, and ethnic and religious conditions for the franchise were gradually dropped, culminating in the 1955 repeal on disenfranchisement of conscientious objectors.¹²

One group of people remained outside the postwar liberalization of the franchise: First Nations people across most of Canada had the right to vote in federal elections from Confederation, but only through a process defined in the *Indian Act* as "enfranchisement," which involved relinquishing their status.¹³ Those who joined the military gained the right to vote without having to give up their status, but only if they continued to reside off-reserve;

⁶ *Qualification and Registration of Voters Act, 1871* (SBC 1872 c.39 s.12) disqualified "Chinese or Indians" from the provincial franchise. Subsequent legislation extended the disqualification to municipal and school trustee elections.

⁷ *Provincial Voters' Act Amendment Act, 1895* (SBC 1895 c.20 s.2) provided that no Chinese, Japanese, or Indian would vote.

⁸ *Provincial Elections Act Amendment Act, 1907* (SBC 1907 c.16 s.3) added "Hindus" to the list of those excluded from the franchise. Legislation passed the following year (1908) clarified that "Chinese, Japanese, other Asiatics or Indians" were excluded from municipal voting rights in British Columbia.

⁹ Mr Tomey Homma, a naturalised citizen of Japanese origin, had applied to be placed on the list of voters for Vancouver but was refused on the basis of BC's election legislation. BC's Chief Justice ruled that this refusal was wrong (that is, that Mr Homma should indeed have the right to vote) and the BC Supreme Court declined to hear an appeal (thereby again sustaining Mr Homma's right to vote). However, the Judicial Committee of the Privy Council in London overturned both BC's Chief Justice and the BC Supreme Court: *The Collector of Voter for the Electoral District of Vancouver City and the Attorney General for the Province of British Columbia v Tomey Homma and the Attorney General for the Dominions of Canada (British Columbia)* [1902] UKPC 60 (17 December 1902).

¹⁰ House of Commons, *Debates*, April 29, 1920.

¹¹ Elections Canada, *A History of the Vote in Canada*, 82.

¹² *Ibid.*, 83.

¹³ This paragraph draws on *Ibid.*, 83–87.

the *Dominion Franchise Act* (1934) explicitly disqualified First Nations persons living on reserves and Inuit people from voting in federal elections. In 1960, the federal government extended the franchise to all “Indian persons” as well as the right to vote and all rights of citizenship to any remaining Inuit – most of whom had been enfranchised in 1950¹⁴ – who, without special efforts starting with the 1962 federal election to bring ballot boxes to remote Inuit communities in the Arctic, had been prevented from voting by their geographic isolation.

Until the 1982 *Canadian Charter of Rights and Freedoms* (discussed below), the right to vote at the federal level did not automatically translate into the right to vote at provincial or municipal level. For example, the right to vote was delayed in Quebec both for women (1918 at federal level; 1940 in Quebec) and for members of First Nations (1960 at federal level; 1969 in Quebec).¹⁵ In the other provinces, members of First Nations were never disenfranchised (though they were certainly not encouraged to vote) in Nova Scotia, Newfoundland, and the Northwest Territories for provincial or territorial elections;¹⁶ in provinces where they had been disenfranchised from provincial elections, members of First Nations regained the right to vote first in British Columbia (1949),¹⁷ then Manitoba (1952),¹⁸ Ontario (1954),¹⁹ Saskatchewan (1960),²⁰ Prince Edward Island (1963), New Brunswick (1963),²¹ and Alberta (1965).²²

Most provinces enfranchised women for provincial and municipal elections around the First World War. Manitoba (1916) was the first province to grant women the right to vote, followed that same year by Saskatchewan and Alberta. British Columbia and Ontario followed the next year (1917). Nova Scotia, New Brunswick, and Prince Edward Island subsequently authorized women to vote in 1918, 1919 and 1922 respectively.²³ In Quebec, it was only in 1940 that women gained the right to vote, thereby ensuring that women would have the right to vote in all Canadian provincial elections, but it was not until 1961 that the first woman (Marie-Claire Kirkland-Casgrain) was elected to Quebec’s National Assembly, the provincial legislature.²⁴ The first woman elected to a provincial legislature was Louise McKinney, running for a farmers’ socialist party and elected to the Alberta legislature in 1917; she was the first woman elected to a legislature anywhere in the British Empire.²⁵

Meanwhile, ownership qualifications on the right to vote persisted at provincial level until 1967, when New Brunswick was the last province to abolish the requirement that

¹⁴ *Dominion Franchise Act*, SC 1950, c.35.

¹⁵ *An Act to Amend the Election Act*, SQ 1969, c.13, §1.

¹⁶ Pierre Lepage, *Mythes et Réalités Sur Les Peuples Autochtones*, 2nd ed. (Quebec: Commission des droits de la personne et des droits de la jeunesse, 2009), 28.

¹⁷ *Provincial Elections Act Amendments Act, 1949*, SBC 1949, c.19 §2,3.

¹⁸ *An Act to Amend the Manitoba Election Act*, SM 1952, c.18, §15,16.

¹⁹ Ontario SO 1954, c.25.

²⁰ *An Act to Amend the Saskatchewan Election Act*, SS 1960, c.45, §1.

²¹ *An Act to Amend the Elections Act*, SNB 1963, c.7.

²² *An Act to Amend the Election Act*, SA 1965, c.23.

²³ <http://www.parl.gc.ca/Parlinfo/compilations/ProvinceTerritory/ProvincialWomenRightToVote.aspx>

²⁴ Although women had been elected to provincial legislatures early in western Canada (Alberta in 1917, British Columbia in 1918, Saskatchewan in 1919 and Manitoba in 1920) it took much longer for women to be elected in central and eastern Canada: 1930 in Newfoundland (then not yet part of Canada), 1943 in Ontario, 1960 in Nova Scotia, 1961 in Quebec, 1967 in New Brunswick, and 1970 in PEI.

²⁵ Catherine Cavanaugh, “Famous 5,” *The Canadian Encyclopedia*. McKinney would later become one of the “Famous Five” women who successfully appealed a 1928 Supreme Court of Canada ruling that women were not “persons” under the *Constitution Act*, and hence could not sit in the Senate. That ruling was reversed by the British Privy Council in 1929.

voters must own land in order to vote provincially (although potential voters who did not own land could pay a poll tax and vote). This fits with the general narrative of the expansion of the franchise across Canada: at first it was only certain property-owning men, then more property owners (including women in rare cases), then all men, then women.

The right to vote in Canada was standardized at federal and provincial/territorial level by Section 3 of the *Canadian Charter of Rights and Freedoms* (1982), which specifies that “Every citizen of Canada has the right to vote in an election of the members of the House of Commons or of a legislative assembly and to be qualified for membership therein.”

In terms of referendums, at the federal level there have been only three referendums, on prohibition (1898), conscription (1942), and the Charlottetown Accord (1992). Provincial referendums are more common – most notably the 1980 and 1995 Quebec referendums on secession – and are governed by provincial legislation.

3. Eligibility: Who has electoral rights under national law?

3.1. Citizen residents

Citizens who reside in the country and are present on election day are today the default category of voters and in most countries are normally enfranchised in all elections, with exclusions only in exceptional cases. In Canada, the historical restrictions noted above have been gradually eliminated and today the only two citizen residents of voting age who are explicitly disqualified from voting are the Chief Electoral Officer and the Assistant Chief Electoral Officer.²⁶ Judges, people imprisoned for a term of less than two years, and certain persons with mental disabilities had been ineligible to vote in federal elections, but court rulings in 1988 overturned those restrictions in time for the 1988 federal election, and the elimination of the restrictions were formalized in the 1993 amendments to the *Canada Elections Act*.²⁷ The Act still provides that “every person who is imprisoned in a correctional institution serving a sentence of two years or more”²⁸ is not eligible to vote but, as discussed below (section 3.1.3), this restriction was overturned in 2002 by the Supreme Court and thus is not applied.

Age

Since Confederation, the voting age across Canada was traditionally 21, although there was some variation between the provinces. In 1970, the voting age was lowered to 18 for federal elections. For provincial elections, British Columbia first lowered the voting age from 21 to 19 in 1952, then to 18 in 1992.²⁹ Quebec lowered the voting age to 18 in 1963, Manitoba in 1969, Ontario in 1971, Nova Scotia to 19 in 1970 and then 18 in 1973. The 1990 Royal Commission on Electoral Reform and Party Financing (Lortie Commission) recommended

²⁶ *Canada Elections Act*, §4 (a) and (b).

²⁷ The case on judges was *Muldoon v Canada* [1988] 3 FC 628 T.D. The disability case was *Canadian Disability Rights Council v Canada* [1988] 3 FC 622 T.D.

²⁸ *Canada Elections Act*, §4(c).

²⁹ <http://www.elections.bc.ca/index.php/resource-centre/electoral-history-of-bc/>

keeping the voting age at 18 rather than lowering it further. There have been several private members' bills (proposed legislation in the House or the Senate, sponsored by individual MPs rather than the government; such bills do become law when they pass) proposing to lower the voting age to 16, but none have passed.

Mental disabilities

Individuals with mental a disease or disability were ineligible to vote or run as candidate while confined in an institution or while under the protection and supervision of a guardian until 1993, when the *Canada Elections Act* was formally amended to remove this restriction. However, an October 1988 Federal Court of Canada ruling had already declared the restriction to violate *Canadian Charter of Rights and Freedoms* Section 3 (“Every citizen of Canada has the right to vote in an election of the members of the House of Commons or of a legislative assembly and to be qualified for membership therein”); thus those previously disqualified were entitled to vote in the 1988 federal elections.

For elections in the provinces and territories, only Quebec and New Brunswick still have laws that disqualify certain persons with disabilities from voting in elections, though presumably these laws would need to be amended if challenged on the basis of the *Charter*. In Quebec, a person who is under curatorship (a court ruling that a person is permanently unable to care for himself or administer his property) is not eligible to vote. This status is usually for those with a degenerative illness, mental disability, or mental health concern, some 42,500 individuals.³⁰

Persons convicted of criminal offences

The 1993 amendments to the *Canada Elections Act* removed the disqualification for prisoners serving sentences of less than two years (which, to repeat, had not been applied since 1988), but it remained in effect for prisoners serving terms of two years or longer. In its decision in *Sauvé v. Canada (Chief Electoral Officer)* in 2002, the Supreme Court of Canada ruled in a 5-4 opinion that prisoners serving terms of two years or longer could not be disqualified from voting, stating that legislation infringing on prisoners' right to vote did not constitute a reasonable limit of that right: “The right to vote is fundamental to our democracy and the rule of law and cannot be lightly set aside.”³¹ The minority of four justices held that “the disenfranchisement of serious criminal offenders serves to deliver a message to both the community and the offenders themselves that serious criminal activity will not be tolerated by the community. Society may choose to curtail temporarily the availability of the vote to serious criminals to insist that civic responsibility and respect for the rule of law, as goals worthy of pursuit, are prerequisites to democratic participation”³² – but they were overruled by the majority of five justices; as a result all prisoners in Canada, regardless of length of sentence, have been eligible to vote in Canada since 2002.

³⁰ http://www.curateur.gouv.qc.ca/cura/publications/curateur_public_role_mission_en.pdf

³¹ *Sauvé v. Canada (Chief Electoral Officer)*, [2002] 3 SCR 519, 2002 SCC 68.

³² *Ibid.*

3.2. Citizens abroad

The historical section above mentioned the *Military Voters Act* (1917), which enfranchised any British subject, male or female and independent of any residence requirement, who was an active or retired member of the Canadian Armed Forces, including Indian persons and those under the regular voting age of 21, and also enfranchised any British subject ordinarily resident in Canada who was on active service in Europe in the Canadian, British, or any other allied army³³ – including some 2000 “Bluebirds”; Canadian female nurses with officer status serving in Europe, so named because of their blue dresses with white veils.³⁴ A key provision of the Act provided that military voters could assign their votes to any constituency in which they had previously resided or, failing that, the political party for which they voted could decide in which constituency their vote would be counted. Furthermore, the several hundred thousand military votes would be counted only 31 days *after* the election – allowing the party to select strategic constituencies (also known as ridings) in which to attribute the votes; in the December 1917 election, the military vote was more than 90% for the Conservative party and the “Conservatives won at least 14 additional seats by redistributing the military votes to ridings where opposition candidates had a slight lead.”³⁵

Such a decisive role for votes by citizens abroad was not restricted to federal elections: British Columbia enabled soldiers overseas to vote in its 1916 provincial referendums on women’s suffrage and on the prohibition of alcohol. While the referendum on women’s suffrage passed easily, the result of the prohibition referendum was very close and the votes of overseas military personnel were critical to its rejection. After allegations of malpractice by prohibition supporters, a commission of inquiry recommended disallowing most of the overseas votes; this was done and the referendum result changed, so that prohibition was enacted.³⁶

Public servants (mainly diplomats) and their dependants posted outside Canada became eligible to use the Special Voting Rules previously available only to military personnel and their dependants in 1970, while civilian employees of the military (most importantly teachers and administrative support staff at schools on Canadian Forces bases abroad) gained this eligibility in 1977.³⁷ The ability for proxy voting was also gradually extended to various categories of voters but was repealed in 1993, when any otherwise qualified voter who happened to be away from home and unable to cast a ballot either on polling day or at advance polls gained the ability to vote by mail.³⁸

The *Canada Elections Act* now provides the right to vote to those serving in the Canadian Forces, including individuals employed as teachers or administrators in overseas Canadian Forces schools, who will have their vote counted in their place of ordinary residence in Canada.³⁹ Canadians temporarily (see below for discussion of the meaning of

³³ Elections Canada, *A History of the Vote in Canada*, 58–59.

³⁴ <http://www.veterans.gc.ca/eng/remembrance/those-who-served/women-and-war/nursing-sisters#sisterhist2>

³⁵ Elections Canada, *A History of the Vote in Canada*, 61. See also pages 58-61.

³⁶ Andrew Ellis, “The History and Politics of External Voting,” in *Voting from Abroad: The International IDEA Handbook*, ed. Andrew Ellis et al., Handbook Series (Mexico City: International IDEA; Federal Electoral Institute of Mexico, 2007), 42.

³⁷ Elections Canada, *A History of the Vote in Canada*, 91–92.

³⁸ Ibid.

³⁹ *Canada Elections Act*, §190-194.

“temporarily”) resident outside Canada are also entitled to vote by mail and have their vote counted – as specified in *Canada Elections Act* § 223, subsection 1(e) – in “the elector’s last place of ordinary residence in Canada before he or she left Canada or the address of the place of ordinary residence in Canada of the spouse, the common-law partner or a relative of the elector, a relative of the elector’s spouse or common-law partner, a person in relation to whom the elector is a dependant or a person with whom the elector would live but for his or her residing temporarily outside Canada.”⁴⁰

Eligibility criteria for voting

For federal elections, as discussed further below in section 3.2.3, Canadians residing *permanently* outside Canada do not currently have the right to vote; the *Canada Elections Act* distinguishes between: 1) voters who are temporarily outside Canada but continue to maintain their official residence in Canada, 2) Canadian Forces electors, and 3) voters who reside temporarily outside Canada:

1. Many Canadians for travel or other purposes are temporarily outside Canada during elections. The largest single group may be the so-called “snowbirds”⁴¹ – Canadians who spend part of the year in warmer climates but whose official residence (for purposes of taxation and access to health, pension, and other benefits) remains in Canada. Votes cast by citizens temporarily outside Canada are attributed to a constituency based on the voter’s “place of ordinary residence” in Canada – which is defined in the Act as “the place that has always been, or that has been adopted as, his or her dwelling place, and to which the person intends to return when away from it.”⁴²
2. A “Canadian Forces elector” is defined in the Act as including members of a “regular force of the Canadian Forces,” members of the “reserve force of the Canadian Forces on full-time training or service or on active service,” members of the “special force of the Canadian Forces,” and anyone “employed outside Canada by the Canadian Forces as a teacher in, or as a member of the administrative support staff for, a Canadian Forces school.”⁴³ Canadian Forces electors – whether located inside or outside Canada – may select the constituency in which their vote will be counted from among:
 - (a) the place of ordinary residence of the spouse, the common-law partner, a relative or a dependant of the eligible elector, a relative of his or her spouse or common-law partner or a person with whom the elector would live but for his or her being enrolled in or hired by the Canadian Forces;
 - (b) the place where the member is residing by reason of his or her performance of services as a member of the Canadian Forces; or

⁴⁰ *Canada Elections Act*, §220-230.

⁴¹ Various advocacy groups have emerged for such individuals. For example, the website of the Canadian Snowbird Association – which as of 2015 lists membership fees ranging from \$25 for one year to \$325 for a lifetime membership and declares that the Association has 70,000 members – claims that the “CSA was instrumental in getting Canadians the right to vote in federal elections while outside of Canada.”

<http://www.snowbirds.org/about-us> accessed 27 March 2015.

⁴² *Canada Elections Act*, §8 (1).

⁴³ *Canada Elections Act*, §191.

(c) the elector's place of ordinary residence immediately before being enrolled in or hired by the Canadian Forces.⁴⁴

3. Finally, the *Canada Elections Act* affirms the eligibility to vote of “an elector, other than a Canadian Forces elector, who resides temporarily outside Canada.”⁴⁵ This category of voters includes those who:

- (a) at any time before making the application, resided in Canada;
- (b) has been residing outside Canada for less than five consecutive years immediately before making the application; and
- (c) intends to return to Canada to resume residence in the future.⁴⁶

This category does not include those “employed outside Canada in the federal public administration or the public service of a province,” those “employed outside Canada by an international organization of which Canada is a member and to which Canada contributes,” those who live with such an employee, or those who live with a Canadian Forces elector.⁴⁷

Individuals satisfying all three criteria may apply for registration on the register of electors temporarily outside Canada. Among other information, this application must include “the date on which the elector intends to resume residence in Canada.”⁴⁸ The Chief Electoral Officer sends “a special ballot, an inner envelope and an outer envelope to every elector whose name is entered in the register,” and it is the responsibility of the elector temporarily outside Canada to return the completed ballots by the day of the election.⁴⁹ For more discussion, please see section 3.2.3. below on court decisions concerning the voting rights of Canadians resident abroad.

Provinces differ in terms of their legislation. For example, in order to vote in Quebec, an otherwise eligible voter temporarily outside the province must have resided in Quebec for at least twelve months, intend to return to Quebec, and have been absent for two years or less, in order to vote by mail.

In Saskatchewan, voters typically vote in person only, although advance ballots possible for those absent on election day. “3 months prior to the election, enumerators will go door-to-door around Saskatchewan attempting to get all of the eligible voters on the official list of voters.” The register of voters is the federal one, though a separate Saskatchewan registry may be created after the next provincial election.⁵⁰ In Manitoba, voters are eligible to vote if they intend to be away for no more than six months, though there are special exemptions for those working in the military, students, those working for the Canadian or Manitoba governments and posted outside the province, and anyone living with such people.⁵¹

⁴⁴ *Canada Elections Act*, §194 (4).

⁴⁵ *Canada Elections Act*, §220.

⁴⁶ *Canada Elections Act*, §222 (1).

⁴⁷ *Canada Elections Act*, §222 (2).

⁴⁸ *Canada Elections Act*, §223 (1) (f).

⁴⁹ *Canada Elections Act*, §227-230.

⁵⁰ <http://www.elections.sk.ca/voters/common-voting-questions/>

⁵¹ <http://www.electionsmanitoba.ca/en/Voting/Absentee>

In New Brunswick, the local Returning Officer may issue a special ballot to be completed before the election; these may be mailed in, including for soldiers serving overseas. The Elections New Brunswick website answers the question “How do I vote if I am overseas with the Canadian Forces?” with the answer “Members of the Canadian Forces have special voting rules when voting in a federal election. In NB, there are no special provisions, and soldiers who are unable to vote at the ordinary or advance polls may use a Special Ballot to cast their vote.” The answer to the question “I will be away from my home/I am leaving for a trip... How can I vote?” is “You may vote at the Returning Office if not leaving before the date when Special Ballots may begin to be issued. If not, arrangements may be made by the Returning Office to provide a mail-in Special Ballot once they become available.”⁵²

In Newfoundland and Labrador, the provincial legislation provides that voters must have their permanent residence in the province in order to be eligible to vote. Those who reside in the province are entered onto a Permanent List of Electors.⁵³ Those who believe they may be unable to vote in person on election day may apply to vote by Special Ballot; this is described as for “An elector who believes that he/she will have difficulty voting at the advance poll or on polling day”; “A student attending a recognized university or college either inside or outside the Province”; “An elector temporarily residing outside the Province for a continuous period of less than 6 months who is unable to attend either the advance or regular poll”; “An elector who is incarcerated at a correctional facility”; or “A patient in hospital who is unable to attend either the advance or regular poll.”⁵⁴

Eligibility criteria for standing as candidate

There is no requirement that candidates must reside in the constituency in which they stand as candidate (see below), but they must reside in Canada. This requirement that candidates must reside in Canada was introduced in 1948,⁵⁵ but there had been earlier concerns that representatives should reside in Canada; for example, in 1890 a Member of Parliament explained that he had moved his residence to England but did not intend to resign his seat, leading to consternation.⁵⁶

It is relatively common for members of both the federal parliament and the provincial legislatures to reside outside the constituency they represent. This is particularly true for leaders of political parties, who may be selected between elections but who by convention should take a seat in the parliament or legislature as soon as feasible. This can be illustrated by examples from the federal Liberal Party: when Prime Minister Pierre Trudeau concluded on the basis of dire opinion polls that he should resign, the resulting June 1984 leadership race was won by John Turner, who had been Trudeau’s Minister of Finance until he resigned in 1975. Turner had since been working as a corporate lawyer and, as he was neither a Member of Parliament nor Senator when he was sworn in as Prime Minister (30 June 1984), he could not appear on the floor of parliament. The convention would have been that a Liberal MP from a “safe seat” (a constituency in which party votes significantly outnumbered those for other parties) would resign, allowing the new party leader to win a

⁵² <http://www1.gnb.ca/elections/en/faq/faq-e.asp?CATEGORYID=17&TYPE=2>

⁵³ <http://www.elections.gov.nl.ca/elections/Voters/voterslist.html>

⁵⁴ Elections Newfoundland & Labrador, “Special Ballot Voting” web pamphlet available at <http://www.elections.gov.nl.ca/elections/PDF/brochures/2011/GE2011.SB.Voting.PAMPHLET.WEB.pdf>

⁵⁵ *Dominion Elections Act*, SC 1948, c.46 §6,12.

⁵⁶ *Debates*, 11 April 1890, cols. 3197-8.

by-election and thereby take a place in parliament. However, Turner decided instead to call early elections; the result (4 September 1984) was devastating for the Liberals, who were reduced to 40 seats, from 147 in the previous election – though Turner himself won a seat in Vancouver, one of only two Liberal MPs from western Canada. Turner faced a leadership review at a November 1986 Liberal convention; his main opponent was Jean Chrétien, who had been MP since 1963, served in various ministries under Trudeau, placed second to Turner in the June 1984 leadership race, and had then served as Turner’s Deputy Prime Minister. Chrétien despised Turner and resigned his seat in February 1986 in order to prepare his bid to topple Turner. When that bid failed – the intra-party animosity between Turner and Chrétien supporters ran so high that police were called to break up fistfights on the floor of the convention centre, but Turner ultimately prevailed⁵⁷ – Chrétien waited until Turner resigned in 1990. This followed the 1988 election, in which 83 Liberal MPs were elected, an improvement over the 1984 result but still far fewer than the 169 Progressive Conservatives (PCs), and disappointing given that opinion polls had been predicting a Liberal majority in light of the unpopular Free Trade Agreement with the United States. Chrétien won the 23 June 1990 leadership convention, defeating Paul Martin (who was seen as Turner’s successor and who years later, following similar intra-party conflict, would replace Chrétien as Prime Minister). Initially intending to wait until the next election to take a place in Parliament, Chrétien was advised that to “have credibility, you’ve got to be in the House. You can’t afford to wait two more years until a general election.”⁵⁸ Since Chrétien’s “home” constituency in Quebec had been won by a PC candidate, he instead asked a Liberal MP from the constituency of Beauséjour in the province of New Brunswick to step aside. Following the convention that other parties do not field a candidate in such a by-election, in order to guarantee a party leader will be able to take a place in parliament, the PCs did not run a candidate and Chrétien served as MP for Beauséjour until the next general elections, when he returned to his home constituency by defeating the incumbent PC MP.⁵⁹

There are no restrictions on the right to stand as candidate on those who hold multiple nationalities, who were naturalized, and/or were born abroad. Indeed, former Prime Minister John Turner holds both Canadian and British citizenship, and many Members of Parliament, Senators, and political figures in provincial, territorial, or municipal politics also hold dual citizenship. However, former Governor General (2005-2010) Michaëlle Jean renounced her French citizenship days before her swearing-in, ostensibly because French law prohibits its citizens from serving in a foreign military (the Governor General is commander-in-chief of the Canadian Forces).⁶⁰ Political opponents sometimes attempt to use dual citizenship as a wedge issue. For example, commenting on the leader of the New Democratic Party (and former Quebec cabinet minister) Thomas Mulcair’s dual Canadian and French citizenship, Prime Minister Stephen Harper said: “In my case, as I say, I’m very clear. I’m a Canadian and only a Canadian” – to which Mulcair replied “I think a lot of the cultural communities who have been so assiduously courted by the Conservatives over the

⁵⁷ Brooke Jeffrey, *Divided Loyalties: The Liberal Party of Canada, 1984-2008* (Toronto: University of Toronto Press, 2010), 86.

⁵⁸ The advice came from Herb Gray (1931-2014), who had been MP since first being elected in 1962, had in 1969 become Canada’s first Jewish federal Minister, would later become (record still unmatched as of 2015) Canada’s longest-serving MP in history, and was in the fall of 1990 serving as Chrétien’s House Leader. Cited in Lawrence Martin, *Iron Man: The Defiant Reign of Jean Chrétien* (Toronto: Viking Canada, 2003), 51.

⁵⁹ The New Democratic Party did run a candidate against Chrétien in the Beauséjour byelection and captured 37.4% of the votes, up significantly from its previous result of 10.2%.

⁶⁰ Décret du 23 septembre 2005 portant libération des liens d’allégeance à l’égard de la France. *Journal Officiel de la République Française*, Legifrance, 24 September 2005. Available at <http://www.legifrance.gouv.fr/affichTexte.do?cidTexte=JORFTEXT000000447553&dateTexte=>

past six years are going to be surprised to learn that the Conservative prime minister believes that you're more Canadian if your family doesn't have a dual background."⁶¹ Previously, the Conservative government criticized successive leaders of the Liberal Party for holding dual citizenship (Stéphane Dion)⁶² or for spending too much time outside Canada (Michael Ignatieff).⁶³

Non-resident Canadian citizens who own or rent property in a municipality may vote in local elections in many Canadian municipalities: this is true for all municipal governments in Manitoba, Saskatchewan, and British Columbia (voters resident elsewhere within the respective province), and in Ontario (voters resident anywhere in the world). However, exercising this right to vote usually means voting in person on election day or appearing in person at an advance poll.

Municipal elections are governed by provincial legislation and administered by local municipal authorities, so there is considerable variation in how they are carried out.

Mode of Representation

Given the structure of political representation in Canada – single-member constituencies at both federal and provincial level – the mode of representation for expatriates in Canadian democratic institutions is that of assimilated representation: external voters are registered in a constituency to which they have a previous connection through residence, rather than any special representation through discrete seats for external voters, as is found in some European states such as France or Portugal.

Court Decisions Concerning Voting Rights of Canadians Resident Abroad

Although the *Canada Elections Act* had provided since 1993 that otherwise eligible Canadian citizen voters residing abroad could vote only if they had resided outside Canada for less than five years, this provision was not applied stringently by Elections Canada, which asked those applying for an overseas ballot only to attest that they had the intention of eventually returning to reside in Canada. In his 2005 report to parliament, Chief Electoral Officer Jean-Pierre Kingsley advocated eliminating the five-year restriction, on the basis that this restriction was likely contrary to the Charter, a view endorsed in 2006 by a unanimous vote of the parliamentary committee responsible for reviewing the report.⁶⁴ Indeed, the committee went further: whereas Kingsley had recommended retaining the

⁶¹ Canadian Press, "Thomas Mulcair defends dual citizenship," 17 January 2012. Available at <http://www.cbc.ca/news/politics/thomas-mulcair-defends-dual-citizenship-1.1184291>

⁶² Steve Paikin, "Stephane Dion's Citizenship," 8 December 2006. Available at <http://theagenda.tv.org/blog/agenda-blog/stephane-dions-citizenship>

⁶³ In response to Conservative campaign advertisements criticizing his time outside Canada, Ignatieff retorted: "At any given time, there may be two million Canadian citizens living and working overseas. Is the Conservative party saying these people are less Canadian?" "Ignatieff strikes back at attack ads," *Toronto Star*, 15 May 2009, available at

http://www.thestar.com/news/canada/2009/05/15/ignatieff_strikes_back_at_attack_ads.html See also "Harper defends 'just visiting' attack ads," *Toronto Star*, 25 June 2009, available at

http://www.thestar.com/news/canada/2009/06/25/harper_defends_just_visiting_attack_ads.html

⁶⁴ And formalised in the committee's report, *Improving the Integrity of the Electoral Process: Recommendations for Legislative Change*, available at <http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=2287023&Language=E&Mode=1&Parl=39&Ses=1&File=9>

specification that voters residing outside Canada must have the intention of returning to reside in Canada, the committee recommended that the “requirement that there be an intention to return to Canada should be dropped.”⁶⁵ However, this suggestion has not yet been implemented, and the Conservative government’s controversial *Fair Elections Act* (2014) retained the restriction.⁶⁶ The Fair Elections Act was heavily criticized for being partisan legislation.⁶⁷

Meanwhile, on 2 May 2014, the Ontario Superior Court in the case of *Frank et al. v. Attorney General of Canada* ruled that the five-year provision does indeed contravene the Canadian Charter of Rights and Freedoms. The case generated sympathetic media coverage, including editorials.⁶⁸ However, the federal government appealed the ruling, which was heard by Ontario’s appeal court in January 2015.⁶⁹

3.3. Foreign residents

There are currently no voting rights for non-citizens anywhere in Canada, for any kind of election. Given Canada’s electoral history, discussed above, non-citizen residents who were British subjects did in the past have voting rights. Canadian citizenship was introduced in the *Citizenship Act*, which came into effect on 1 January 1947; previously, most of those living in Canada were “British subjects,” subject to British rule; British subjects generally had to be resident in Canada for only one year before they could vote. The introduction of Canadian citizenship changed the situation but it was not until 1970 that the *Canada Elections Act* was amended to provide that British subjects who had not become Canadian citizens would lose the right to vote unless they adopted Canadian citizenship by 1975. Before then, all British subjects (either from the United Kingdom or British subjects from elsewhere, typically within the Commonwealth) from anywhere in the world could vote in all Canadian elections as long as they were “ordinarily resident in Canada.”⁷⁰

The end of voting rights for British subjects at the federal level did not immediately translate into similar provisions in the provinces. For example, it was only because the *Canadian Charter of Rights and Freedoms*, which came into effect in 1982, prohibits discrimination based on national origin that the Ontario government was prompted to revoke the voting rights of Commonwealth citizens who had not become Canadian; the legislation was passed in 1985 and took effect in 1988.⁷¹ In British Columbia, “British subject” likewise ceased being a qualification to vote in 1985.⁷² Similar legislation took effect in New Brunswick between the 1995 (when British subjects were still entitled to vote) and 1999 provincial elections (when Canadian citizenship was required). The last jurisdiction in Canada to eliminate voting rights for British subjects or Commonwealth citizens was Nova

⁶⁵ Section 1.16 of the report.

⁶⁶ Available at <http://www.parl.gc.ca/LegisInfo/BillDetails.aspx?Language=E&Mode=1&billId=6398775>

⁶⁷ A brief summary of the debate about the legislation is at

<http://www.theglobeandmail.com/news/politics/what-is-the-fair-elections-act/article17648947/>

⁶⁸ Semra Sevi, “Canadian expatriates should never lose the right to vote,” *The Globe and Mail*, 30 June 2014.

⁶⁹ “Feds fight to deny long-term expats right to vote as case heads to appeal,” *The Globe and Mail*, 5 January 2015, Available at <http://www.theglobeandmail.com/news/politics/feds-fight-to-deny-long-term-expats-right-to-vote-as-case-heads-to-appeal/article22305476/>

⁷⁰ Elections Canada, *A History of the Vote in Canada*, 92.

⁷¹ *Equality Rights Statute Law Amendment Act*.

⁷² *Election Amendment Act*, 8 May 1984.

Scotia, which, through a 2001 amendment to its *Elections Act*, removed being a British subject as a qualification for registration as an elector but provided that the change would not be implemented until the second general election following adoption; thus British subjects retained the right to vote in the 2003 and 2006 Nova Scotia elections.⁷³

Recent years have witnessed efforts in several Canadian cities to enfranchise residents who do not hold Canadian citizenship but are permanent residents of Canada; such efforts have been reported for Toronto and Kitchener (Ontario), Halifax (Nova Scotia), and Saint John (New Brunswick). For example, in June 2013, following a spirited six-hour debate, Toronto's City Council voted 21 to 20 to ask the Ontario authorities (under whose jurisdiction municipal and any other non-federal elections in the province fall) to allow Toronto to enfranchise permanent residents.⁷⁴ The issue had come to prominence when Toronto's Elections Services office announced weeks before the 2006 elections that it was dropping 246,924 people – almost one in seven names on the list – from the list of eligible voters because, though they owned or rented property in Toronto, they were not citizens of Canada and thus ineligible to vote under prevailing legislation.⁷⁵ The case of Canadian cities fits into a global debate in which the “extension of voting rights to resident migrants seems like another battle for democratic and universal franchise, using the vocabulary of citizenship to question once again the criteria upon which political rights are distributed in a polity.”⁷⁶ There is some coordination of local initiatives; thus the interest group City Vote reports that its “mission is to include all permanent residents of Canada in municipal elections. This would allow the hundreds of thousands of permanent residents across Canada to vote for their mayor, city councillor, and school board trustee.”⁷⁷ However, since the right to vote in municipal elections depends on provincial legislation, only the provinces (or the federal government through national legislation) have the power to authorize municipalities to enfranchise non-citizens.

⁷³ *Elections Act (Amended)*, 25 November 2001.

⁷⁴ Myer Siemiatycki, “Non-Citizen Voting Rights and Urban Citizenship in Toronto,” *Journal of International Migration and Integration* 16, no. 1 (2015): 93.

⁷⁵ *Ibid.*, 81. A 2009 supportive editorial in the *Toronto Star* asked: “How can it be fair that a Canadian citizen from another province can vote in a Toronto election the day they move here, while an immigrant who has contributed to this city for years is barred from the ballot box? How can it be fair that voting is allowed for a citizen who doesn't even live in Toronto but owns property here, whereas someone who sends kids to a Toronto school can't vote for a trustee? As Mayor David Miller puts it, “Those people who have chosen to make Toronto their home ... should have the right to vote in municipal elections exactly the same way as Canadian citizens.” Right now there are entire neighbourhoods in our city that politicians don't bother to canvass because there are so few votes to be found. It corrodes our civic society if elected officials can cavalierly write off parts of our city, particularly when they tend to be the areas of greatest need. Granting permanent residents the municipal vote would give these neighbourhoods an equal voice at city hall. It would also show immigrants they are valued and that their participation in civic society is expected. The faster we integrate immigrants, the better – for them and for the city.” Available at http://www.thestar.com/opinion/2009/06/20/a_right_to_vote_for_noncitizens.html

⁷⁶ Luicy Pedroza, “Denizen Enfranchisement and Flexible Citizenship: National Passports or Local Ballots?,” in *Multilevel Citizenship*, ed. Willem Maas (Philadelphia: University of Pennsylvania Press, 2013).

⁷⁷ <http://cityvote.ca/> accessed 16 March 2015.

3.4. First Nations

The First Nations are aboriginal peoples of Canada who are neither Inuit nor Métis; as of 2015 approximately 900,000 persons in 634 distinct Nations (communities with their own territories, also called reserves), with the greatest number in the provinces of British Columbia (198), Ontario (126), and Saskatchewan (70).⁷⁸ Of these 634 First Nations, approximately 235 hold elections under the *Indian Act* and the *Indian Band Election Regulations*, 38 are self-governing, while the remaining First Nations select their leaders – a chief and councillors – according to their own community leadership selection process.⁷⁹ Elections held under the *Indian Act* empower the federal Minister of Aboriginal Affairs and Northern Development to approve the First Nation council’s choice of electoral officer, to train and support electoral officers throughout the electoral process, act as final arbiter in receiving, investigating, and deciding election appeals.⁸⁰ Community or custom leadership selection processes are determined according to each community’s election code, vary depending on the First Nation and are often unique to each specific community. Self-governing First Nations are not governed by the *Indian Act*, and establish their own laws and policies in a broad range of matters, including leadership selection. For example, the Nisga’a Nation has both a national and a local government; the national government is responsible for governance of the Nisga’a Nation as a whole and represents the Nation in intergovernmental relations, while each of the four Nisga’a Villages acts through its Nisga’a Village Government.⁸¹ Election processes held under community or custom leadership selection processes, or by self-governing First Nations, are not supervised by Aboriginal Affairs and Northern Development Canada. The *First Nations Elections Act*, and the First Nations Elections Regulations, which entered into force in late April 2015, propose to standardize procedures for First Nations which opt in.⁸²

⁷⁸ Assembly of First Nations, “Description of the AFN,” available at <http://www.afn.ca/index.php/en/about-afn/description-of-the-afn> The numbers for the provinces are from the AAND list of 617 First Nations, available as “First Nations People in Canada” at <https://www.aadnc-aandc.gc.ca/eng/1303134042666/1303134337338>

⁷⁹ Government of Canada, Aboriginal Affairs and Northern Development Canada, “Fact Sheet - Understanding First Nation Elections,” available at <http://www.aadnc-aandc.gc.ca/eng/1323193986817/1323194199466>

⁸⁰ Government of Canada, Aboriginal Affairs and Northern Development Canada, “Backgrounder: *Indian Act* Elections,” available at <http://www.aadnc-aandc.gc.ca/eng/1100100016233/1100100016234>

⁸¹ See the description available at <http://www.nisgaanation.ca/about-3> The Nisga’a Elections Act is available at <http://nisgaalisims.ca/files/nlg/Nisga%27a%20Elections%20Act%20-%20Unofficial%20Consolidation%20%28Feb%2024%202012%29.pdf>

⁸² See the AAND backgrounder, “*First Nations Elections Act*,” available at <https://www.aadnc-aandc.gc.ca/eng/1323195944486/1323196005595>

4. Exercising electoral rights

4.1. Registration Procedures: Becoming a voter

Citizen residents

Elections Canada uses data from the National Register of Electors to produce a preliminary list of electors, and many provincial jurisdictions also use this information, although an increasing number of jurisdictions have been establishing their own electoral registers. The National Register is updated continually with data from the Canada Revenue Agency (responsible for tax collection) for tax filers who consent to share their information with Elections Canada; Citizenship and Immigration Canada for new citizens who consent to share their information; provincial and territorial driver's licence and vital statistics agencies; provincial electoral agencies with permanent lists of electors; and electors themselves when they register to vote or update their registration during and between elections.⁸³ Provincial agencies follow similar protocols. For example, Elections Nova Scotia states that the agency “selectively uses data from a number of sources including the Registry of Motor Vehicles, Vital Statistics, the Nova Scotia Civic Address File, Elections Canada, municipal elections and field work done by Returning Officers and Elections Nova Scotia staff. Many electors contact our office directly to be registered on the List. During enumeration we go physically from door-to-door to update the List.”⁸⁴

Non-citizen residents

Not applicable, because only Canadian citizens are eligible to vote.

Non-resident citizens

As set out in the Special Voting Rules of the *Canada Elections Act*, Elections Canada maintains the International Register of Electors, a database containing the names of Canadian electors living outside Canada. To be included in the International Register of Electors, an elector whose home is abroad must be qualified to vote (i.e. a Canadian citizen at least 18 years old on election day) and must have resided in Canada at any time before applying.⁸⁵ These procedures may change, pending the outcome of current court proceedings (see section 3.2.3 above).

4.2. Registration procedure: becoming a candidate

Under the *Canada Elections Act*, every person who is eligible to vote may run as a candidate, except: a member of the legislative assembly of a province; a sheriff, clerk of the peace or county Crown Attorney in any of the provinces; a federal judge (except a

⁸³ Elections Canada, “National Register of Electors,” available at <http://www.elections.ca/content.aspx?section=vot&dir=reg/des&document=index&lang=e>

⁸⁴ Elections Nova Scotia, <http://electionsnovascotia.ca/faq#generalfaq3>

⁸⁵ <http://www.elections.ca/content.aspx?section=vot&dir=reg/etr&document=index&lang=e>

citizenship judge appointed under the *Citizenship Act*); a person imprisoned in a correctional institution; an election officer; and a person who was a candidate in a previous election and for whom a return, report, document or declaration has not been provided, if the time and any extension for providing it have expired. Furthermore, a person convicted of crimes under the *Canada Elections Act* may not be elected to the House of Commons for five years following conviction for illegal practice and seven years following conviction for corrupt practice.⁸⁶ Non-resident citizens may not run for office, because all candidates must reside in Canada. However, Canadians residing outside Canada can simply return to Canada and immediately establish residency.

4.3 Casting the vote

Residents

The most widely-used method of voting is in-person at a polling station on the day of the election. Voters usually vote at a designated polling station located close to their residential address. Furthermore, most elections – certainly those organized by the federal or provincial authorities – include the opportunity for an “advance ballot” several days or weeks before election day, at select locations in the voter’s home constituency. Because the ballot differs from constituency to constituency (different candidates running in each constituency) it would not be feasible to allow voting at a polling station elsewhere, as happens in many countries with less geographically-determined elections. Absentee voting through mail-in ballot is also common, as long as the elector meets the criteria for eligibility to vote, but proxy voting does not occur; instead, voters vote under the Special Voting Rules of the *Canada Elections Act*, which apply to: voters temporarily away from their electoral districts; voters who cannot or do not wish to go to an ordinary or advance poll; voters residing outside Canada; Canadian Forces electors; and incarcerated electors. “In all these cases, the elector must have a civic address for his or her place of ordinary residence in Canada, for electoral purposes,” in which the elector’s vote will be counted.⁸⁷ E-voting has nowhere been implemented in Canada.

Non-residents

Certain categories of non-resident citizens may vote in federal elections by means of a mail-in ballot. However, very few voters avail themselves of this possibility. According to former Chief Electoral Officer Jean-Pierre Kingsley, of the 1.5 million or so ballots cast under Special Voting Rules in the 2006 election, only 6000 to 9000 were cast by Canadian citizens residing abroad who were not Canadian Forces Electors or covered under the exemption for Canadians working for Canadian government or international organizations.⁸⁸ See section 3.2.3 for the current court challenge.

⁸⁶ These practices are defined in §503 of the Act.

⁸⁷ Elections Canada, “Special Voting Rules,” available at <http://www.elections.ca/content.aspx?dir=bkg&document=ec90540&lang=e§ion=vot> This is covered in part 11 of the *Canada Elections Act*, <http://laws-lois.justice.gc.ca/eng/acts/e-2.01/FullText.html#h-73>

⁸⁸ Affidavit of Jean-Pierre Kingsley, court file CV-12-453976, *Frank et al. v. Attorney General of Canada*.

5. Conclusion

Canada's electoral history and traditions are inspired by its British legacy and are thus more comparable to elections in the United Kingdom and other Commonwealth countries than the majority of countries in the Americas. As a federal state, there is a separation of responsibility for federal elections and referendums (governed under federal legislation, the Canada Elections Act) and provincial or territorial elections (governed under the legislation of the respective province or territory). Municipal, school board, and other local elections are likewise governed under the legislation of the respective province or territory, meaning that there can be significant variation within Canada.

Web Resources:

Federal:

Canada: <http://www.elections.ca/>

Canada Elections Act: <http://laws-lois.justice.gc.ca/eng/acts/e-2.01/FullText.html>

Provinces:

British Columbia: <http://www.elections.bc.ca/>

Alberta: <http://www.electionsalberta.ab.ca/>

Saskatchewan: <http://www.elections.sk.ca/>

Manitoba: <http://www.electionsmanitoba.ca/>

Ontario: <http://www.elections.on.ca/>

Quebec: <http://www.electionsquebec.qc.ca>

New Brunswick: <http://www.electionsnb.ca>

Nova Scotia: <https://electionsnovascotia.ca/>

Prince Edward Island: <http://www.electionspei.ca/>

Newfoundland and Labrador: <http://www.elections.gov.nl.ca/>

Territories:

Northwest Territories: <http://www.electionsnwt.ca/>

Yukon: <http://www.electionsyukon.gov.yk.ca/>

Nunavut: <http://www.elections.nu.ca/>

Many municipalities and localities also post electoral information and election results online; all such elections are governed by the legislation of the respective province or territory:

British Columbia: http://www.cscd.gov.bc.ca/lgd/gov_structure/elections/

Alberta: http://www.municipalaffairs.gov.ab.ca/mc_elections.cfm

Saskatchewan: <http://www.municipal.gov.sk.ca/administration/elections-general>

Manitoba: http://web5.gov.mb.ca/mfas/mfas_elections.aspx

Ontario: <http://www.mah.gov.on.ca/Page219.aspx>

Quebec: <http://www.electionsquebec.qc.ca/english/municipal/>

New Brunswick: <http://www.electionsnb.ca/content/enb/en.html>

Nova Scotia: <http://www.novascotia.ca/dma/government/elections.asp>

Prince Edward Island: <http://www.electionspei.ca/>

Newfoundland and Labrador: <http://www.miga.gov.nl.ca/makeyourmarknl/>

Northwest Territories: <http://www.maca.gov.nt.ca/home/for-community-governments/community-government-toolkit/governance/>

Yukon: <http://www.electionsyukon.gov.yk.ca/>

Nunavut: <http://www.elections.nu.ca/apps/docs/DownloadFile.aspx?documentId=283>

