

The Nova Scotian

CELEBRATING DEMOCRACY WEEK, SEPTEMBER 12TH - 18TH, 2011

NOVA SCOTIA: CRADLE OF CANADIAN PARLIAMENTARY GOVERNMENT

Compared to the rules prevailing in the England of George III, those established by the Nova Scotia assembly were quite liberal – perhaps even a little too liberal. In 1797, the assembly reconsidered and tightened the rules once again. In future, those occupying Crown land by virtue of an occupancy permit would no longer have the vote, nor would freeholders who had not formally registered their property at least six months before an election; owners of 100 acres of land or more would no longer have the vote unless they were farming at least five acres of it.

It was not until 1839 that the assembly changed the rules again. It upheld the right to vote of freeholders owning property generating annual revenue of 40 shillings but withdrew it from owners of 100 acres of land and those who owned a dwelling with their land. However, property owners who met the same conditions as freeholders could now vote. In addition, mortgagors and co-owners were now eligible to vote, as were tenants, if they owned an interest in real property that earned them at least 40 shillings annually.

In 1851, Nova Scotia took the significant step of detaching the right to vote from land ownership. The assembly declared that anyone age 21 or older who had paid taxes (in any amount) in the year preceding an election could vote. In ridings where taxes were not yet collected, only freeholders with property yielding 40 shillings a year could vote. The same law stipulated, however, that no woman could vote even if she met the legal requirements regarding taxes or

property. The assembly added this clause because, during an election held in 1840, a candidate in Annapolis County had tried to get some 30 women who had the necessary qualifications to vote, common law notwithstanding.

In 1854, Nova Scotia became the first colony in British North America to adopt universal male suffrage – and it would be the only one to do so before Confederation. That year, the assembly adopted a law to the effect that British subjects age 21 or older who had lived in the colony at least five years could vote. It kept the rule allowing freeholders with property generating minimum annual revenue of 40 shillings to vote; this enabled a number of immigrants of British origin to vote even though they had not lived in the colony for five years.

Like the electoral law of 1851, the 1854 act contained a restrictive clause stating that “Indians” and people receiving financial assistance from the government could not vote.

Further change, more conservative this time, came a decade later: the elimination of universal suffrage and a return to more restrictive rules. In 1863, Nova Scotia limited the right to vote to British subjects at least 21 years old who owned property assessed at \$150 or more, or personal and real property assessed at \$300 or more. The number of eligible British subjects was expected to increase, however, at least in theory, as immigrants now had to live in the colony for only a year to be declared British subjects.

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- 1758** First elected assembly. Eligible to vote: Protestants age 21 or older who own a freehold of any value.
 - 1783** Assembly gains statutory control of representation and the franchise.
 - 1789** Assembly removes religious restrictions on eligibility to vote.
 - 1848** First responsible government in British North America inaugurated.
 - 1851** Right to vote separated from land ownership, extending the franchise to men over 21 who have paid taxes in the year preceding an election; number of electors increases by 30 percent.
 - 1854** Universal male suffrage adopted (though it does not include Aboriginal people or people receiving financial assistance from government); number of electors increases by 50 percent. Nova Scotia is first colony in North America to adopt male suffrage and the only one to do so before Confederation.
 - 1863** Restrictive rules reintroduced – property ownership again a criterion for eligibility.
 - 1867** Rules in place at Confederation: to vote in a federal election held in Nova Scotia, electors have to be male, age 21 or older, and own property of a specified value.
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Such were the rules that defined the Nova Scotia electorate in August and September of 1867, when the first Canadian federal election was held.

Cape Breton:

A Colony Without Voters

With the capitulation of the fortress of Louisbourg in July 1758, Île Royale came under the control of the British. Five years later, after the Treaty of Paris, London joined Cape Breton with the colony of Nova Scotia; now Nova Scotia's electoral laws applied to Cape Breton.

To reserve the operation of the coal mines and fisheries for the Crown, authorities in England had decided to give residents of Cape Breton occupancy permits, not freeholds. Suddenly, no Cape Breton resident could vote, since only freeholders could vote in Nova Scotia.

By 1763, Cape Breton was still occupied by a handful of Acadians who had evaded deportation. Between then and the end of the American Revolution, however, immigrants from the British Isles, particularly Scotland, settled there. Then, in 1784, several hundred Loyalists arrived in Cape Breton, founding the city of Sydney. The same year, London separated Cape Breton from Nova Scotia, making it a separate colony with its own governor and executive council.

No legislative assembly was established, apparently for two reasons. First, the population was deemed to be too poor to support such an institution. Second, the vast majority of Cape Breton's

population was made up of Catholic, Gaelic-speaking Scottish settlers and Acadians, also Catholic, who spoke only French. To participate in the proceedings of a house of assembly under the British system of the time, an individual had to speak English and be a non-Catholic.

Cape Breton gradually became fairly prosperous. Early in the nineteenth century, residents began to demand a house of assembly, but London turned a deaf ear. In 1820, with the population of Cape Breton nearing 20,000, London decided to merge it with Nova Scotia again. The annexation occurred shortly after Nova Scotia's assembly had adjourned. As the laws of Nova Scotia did not yet apply to Cape Breton, the governor and his councillors decided who would have the vote in the newly annexed territory.

Giving the vote only to freeholders, as in the rest of Nova Scotia, would be tantamount to denying it to virtually the entire population of Cape Breton, as only a handful of speculators had been granted land under its system of tenure since 1784. Nearly all residents were therefore tenants or tenant farmers, leasing Crown land or land belonging to a land speculator. The governor and council finally decided to give the vote to tenants on Crown land, a decision that was subsequently ratified by the Nova Scotia assembly. Elsewhere in Nova Scotia, Crown land leaseholders would not obtain the right to vote until 1851, some 30 years later.

THE ELECTIONS ACT: THEN AND NOW

On October 2, 1758, the Nova Scotia House of Assembly met for the first time in a modest wooden building at the corner of Argyle and Buckingham streets in Halifax.

It was an assembly of twenty-two men, some of whom were from as far away as Britain, Germany, and New England, who together deliberated as a parliament on questions affecting the land in which they lived.

It was a modest beginning with the majority of citizens denied the vote. But it was an important beginning nonetheless. It was the first elected assembly of its kind in what is now Canada.

As the birth place of parliamentary democracy, as well as the birthplace of freedom of the press and responsible government in our country, Nova Scotia's pioneering role in shaping our nation's democratic institutions has helped secure the rights and freedoms Canadians today embrace.

It's a story Nova Scotians can be proud of and all Canadians should celebrate.

This year, the Nova Scotia Legislature passed Bill 59, the *Elections Act*, (An Act Respecting the Election of Members to the House of Assembly and Electoral Finance). The Act for the better Regulation of Elections (1789) reflects that voters – English-speaking male, Protestant land owners – voted by declaring the preference out loud before the county sheriff at a poll that was open for voting for six days.

Today, the *Elections Act* provides that all Nova Scotia residents who are Canadian citizens who are at least 18 years of age and were resident in the province at least six months prior to the call of the election are eligible to vote regardless of sex, religion, or ethnic origin. Moreover, it goes much further to help ensure that all eligible voters have ample opportunity to exercise their right to vote.

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- 1763** Cape Breton is merged with Nova Scotia and becomes subject to its electoral law; no resident can vote, as no freeholds are permitted on Cape Breton, and only freeholders can vote in Nova Scotia.
- 1784** The colonies are separated again, but no legislative assembly is established.
- 1820** The colonies are rejoined; tenants on Crown land in Cape Breton gain the vote after 57 years without it.
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NOVA SCOTIA FIRSTS

A native of Sydney, Nova Scotia, **Gladys Porter** moved to Kentville on her marriage. She became an active member of several social services organizations and supporter of many charitable causes, while taking a leading role as an executive member of various organizations at the community, county and provincial levels. In 1943 she became a town councillor in Kentville and three years later won the election

for mayor, making her the first woman in the Maritime Provinces to do so. She was re-elected for a total of 11 years and only resigned after winning King's Centre in the provincial election of 1960, becoming the first woman to be elected to the Nova Scotia Legislature. At her death in 1967 she was still a member.

Delmore (Buddy) Daye first came to public attention as a champion boxer. Always a popular and prominent member of Halifax's African Nova Scotian

community, he was involved in the formation of the city's Neighbourhood Centre of which he became Program Director for Youth. In 1971, he was appointed Manager of Province House and on January 1, 1990 Buddy became the first African Nova Scotian to hold the post of Sergeant-at-Arms.

Wayne Adams was first elected to the Assembly for Preston in 1993, becoming the first Black to be a member and
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DEMOCRACY

Democracy is a form of government in which all eligible people have an equal say in the decisions that affect their lives. The term comes from the Greek: (d mokratía) "rule of the people", which was coined from (dêmos) "people" and (Kratos) "power", in the middle of the 5th-4th century BC to denote the political systems then existing in some Greek city-states, notably Athens following a popular uprising in 508 BC.

While there is no specific, universally accepted definition of 'democracy', equality and freedom have both been identified as important characteristics of democracy since ancient times. These principles are reflected in all citizens being equal before the law and having equal access to legislative processes. For example, in a representative democracy, every vote has equal weight, no unreasonable restrictions can apply to anyone seeking to become a representative, and the freedom of its citizens is secured by legitimized rights and liberties which are generally protected by a constitution.

Majority rule is often listed as a characteristic of democracy. However, it is also possible for a minority to be oppressed by a "tyranny of the majority" in the absence of governmental or constitutional protections of individual or group rights. An essential part of an "ideal" representative democracy is competitive elections that are fair both

substantively and procedurally. Furthermore, freedom of political expression, freedom of speech, and freedom of the press are considered to be essential, so that citizens are adequately informed and able to vote according to their own best interests as they see them. It has also been suggested that a basic feature of democracy is the capacity of individuals to participate freely and fully in the life of their society.

During the Middle Ages, there were various systems involving elections or assemblies, although often only involving a small amount of the population and so may be better classified as oligarchy. Most regions in medieval Europe were ruled by clergy or feudal lords.

The Parliament of England had its roots in the restrictions on the power of kings written into Magna Carta, explicitly protected certain rights of the King's subjects, whether free or fettered - and implicitly supported what became English writ of habeas corpus, safeguarding individual freedom against unlawful imprisonment with right to appeal. The first elected parliament was De Montfort's Parliament in England in 1265.

However only a small minority actually had a voice; Parliament was elected by less than 3 percent of the population, as late as 1780, and the power to call parliament was at the pleasure of the monarch (usually when he or she needed funds). The power of Parliament increased in stages over the succeeding centuries. After the Glorious Revolution of 1688, the English Bill of Rights of 1689 was enacted. It codified certain rights and increased the influence of Parliament.

The franchise was slowly increased and Parliament gradually gained more power until the monarch became largely a figurehead.

Canada's Parliamentary Democracy

Parliamentary democracy is a representative democracy where government is appointed by parliamentary representatives as opposed to a 'presidential rule' wherein the President is both head of state and the head of government and is elected by the voters.

Under a parliamentary democracy, government is exercised by delegation to an executive ministry and subject to ongoing review, checks and balances by the legislative parliament elected by the people. Parliamentary systems have the right to dismiss a Prime Minister at any point in time that they feel he or she is not doing their job to the expectations of the legislature. This is done through a Vote of No Confidence where the legislature decides whether or not to remove the Prime Minister from office by a majority support for his or her dismissal.

The Prime Minister can also call an election whenever he or she so chooses. Typically the Prime Minister will hold an election when he or she knows that they are in good favor with the public as to get re-elected. By law, governments in Canada have to submit themselves to the judgement of the people in an election no less frequently than every five years.

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also the first Black to be named to the Cabinet on his appointment as Minister of and also the first Black to be named to the Cabinet on his appointment as Minister of Supply and Services in June of that year.

In 2000, when **Myra Freeman** was sworn in and installed as the 30th Lieutenant Governor of Nova Scotia since Confederation, she became the first woman to hold that office; additionally, she was the first Jewish Lieutenant Governor in Canada. During her term as Lieutenant Governor she was Honorary Patron of more than 50 not-for-profit organizations.

In 2000, the office of Sergeant-at-Arms was advertised for the first time. An all-party committee selected **Noel Knockwood**, a Korean War veteran, who became the first Aboriginal to hold this office.

Mayann Francis became the first Black person to hold the office of Lieutenant Governor and the second Black in Canada to be appointed to that office. Before becoming Lieutenant Governor, she had been Director and Chief Executive Officer of the Nova Scotia Human Rights Commission and Provincial Ombudsman, being the first woman to hold those positions.

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ELECTIONS ACT

The first noticeable difference is the length of the two Acts, then and now. The original *Elections Act* was about three pages long (see the folio for a copy). The Act passed by the Legislative Assembly this spring is more than 140 pages long.

Among the provisions in the new *Elections Act* are: ways of having young Nova Scotians who are not yet eligible to vote, participate as election workers;

Cabinet The political executive that develops and promotes the passage of government policies and legislation. In Canada today, the prime minister selects Cabinet ministers, who each usually head a department (for example, the Department of Finance). Cabinet members work together to determine the administrative and financial priorities of the government. Before responsible government, the responsibilities of today's Cabinet were usually carried out by the Legislative Council of the British North American colonies, which was made up of members selected by the governor.

This system led to nepotism and the abuse of powers of the governor embodied in the Family Compact of Upper Canada and the Château Clique in Lower Canada.

Constitution A system of rules and/or principles upon which a nation, state or other group is governed. In Canada, the constitution is composed of written documents and unwritten conventions. In the words of the Supreme Court of Canada: "constitutional conventions plus constitutional law equal the total constitution of the country." Some acts that make up Canada's constitution include the Royal Proclamation, 1763, the Québec Act, 1774, the Constitutional Act, 1791, the Act of Union, 1840, the British North America Act, 1867 (now renamed the Constitution Act, 1867), the Statute of Westminster, 1831, the Canada Act, 1982 and the Constitution Act, 1982. British Acts such as the Magna Carta, 1215, are also included.

Enfranchise To give full status to a person as the citizen of a country or member of a group.

Executive A person, group or branch of government that has the power and responsibility of putting laws into effect. In pre-Confederation Canada, the executive was made up of the governor and the Legislative and Executive Councils.

Executive Council Under the Constitutional Act, 1791, the governor was assisted by an Executive Council appointed by, and only responsible to, the

Crown. In practice, these positions were often awarded to friends and family members of the governor. In modern terms, the Executive Council is made up of the prime minister and the Cabinet.

Fathers of Confederation Generally refers to all of the people who represented the British North American colonies at one or more of the three conferences that paved the way for the birth of the Canadian federation (held in Charlottetown, Québec City and London, England between 1864 and 1867).

House of Assembly (also Legislative Assembly)

Prior to Confederation, the elected body of government in the British North American Colonies that had powers to pass legislation, especially on matters of finance. Until the granting of responsible government, the Legislative Councils were appointed and could overrule the Houses of Assembly. The provincial legislatures and the House of Commons are the modern equivalents.

MLA A Member of the Legislative Assembly in all provinces and territories except Ontario and Québec, where the designation Member of Provincial Parliament is used. After a general provincial or territorial election is called, the person who wins the most votes in a riding becomes its MLA.

Responsible government A term used for government responsible to the electorate (for example, through elections). In Canada, the term was coined in the 1830s in Upper Canada to refer to a government that was responsible to the elected members of the House of Assembly. Prior to 1848, governors could select the Executive Council (the equivalent of today's Cabinet) without the support of the Assembly. On the instructions of the colonial office in Britain, the first responsible government in British North America was formed in Nova Scotia in 1848.

changes that will facilitate Nova Scotians to vote from home or at any returning office during the election period at their convenience. As well, the *Elections Act* has been written to facilitate adopting new technology once it is proven to meet standards of integrity and security voters rely on.

The new *Elections Act* is focussed as

much on safeguarding the rights of people with disabilities that make it difficult to participate fully in elections as it does with the rights of the majority of electors.

It contains rules and regulations that ensure a level playing field among people who participate as candidates, the parties that sponsor them, and the people who support them.