

The background of the entire page is a collage. It features a variety of people's faces, mostly smiling, in different shades of blue and white. Overlaid on these faces are numerous circular symbols, each containing a stylized cross or plus sign. These symbols are in various colors including blue, orange, green, and purple, and are arranged in a way that they appear to be floating or layered over the people's faces.

Recommendations for Legislative Change

Report of the
Chief Electoral Officer



**ELECTIONS
NOVA SCOTIA**

**38th Provincial General Election
June 9, 2009**

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October 2009

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October 9, 2009

The Honourable Charlie Parker
Speaker of the House of Assembly
Legislative Assembly of Nova Scotia
Province House
Halifax, Nova Scotia

Dear Mr. Speaker:

The *Report of the Chief Electoral Officer on the Proceedings of the 38th Provincial General Election* held June 9, 2009 is presented in two volumes: *Volume I, Statement of Votes & Statistics* provides a recapitulation of the election, summarizes the election results, and provides detailed statistics of the vote. It was presented to the Nova Scotia Legislative Assembly on September 25, 2009. *Volume II, Financial Information & Statistics*, to be published during the fourth quarter of 2009 once all of the information is available, will provide financial information on election expenses, candidate reimbursement, election administration costs and financial statistics. The report, *Recommendations of the Chief Electoral Officer Following the Provincial General Election of 2009*, is a companion publication that records the experiences of the 2009 general election and the recommendations based on that experience.

I am proud of the excellent work of my staff, returning officers and election workers across the province and in particular with the level of election readiness they maintained over the past year.

I am honoured to present the *Recommendations of the Chief Electoral Officer Following the Provincial General Election of 2009*, to the Legislative Assembly, in accordance with Section 172 of the *Elections Act*.

Sincerely,

Christine McCulloch, Q.C.
Chief Electoral Officer



Table of Contents

Introduction.....	2
1. Election Readiness.....	3
<i>Fixed Dates for Elections.....</i>	3
<i>Training Electoral Staff.....</i>	4
<i>Deployment.....</i>	5
<i>Call Centre Support.....</i>	5
<i>Compliance Assistance Program.....</i>	6
<i>Appointment of Returning Officers.....</i>	6
2. Voter Registration.....	9
<i>Privacy.....</i>	9
3. Voting Options.....	10
<i>Mobile Polls.....</i>	11
4. Public Information and Communications.....	13
5. Conflicts Between the <i>Elections Act</i> and the <i>Members</i> <i>and Public Employees Disclosures Act.....</i>	14
Recommendations for Amendments to the <i>Elections Act</i> , and <i>Members and Public Employees Disclosure Act</i>	15

Introduction

Elections Nova Scotia is dedicated to helping Nova Scotians exercise their democratic right to vote in provincial elections. The agency's goal is to make voting as accessible as possible to all electors, using modern technology appropriately –that is, usefully– while maintaining the integrity of the process and confidence in the results.

We carry out the mandate entrusted to us by:

- maintaining a constant state of readiness to conduct elections, by-elections and liquor plebiscites
- delivering these electoral events
- continually updating and maintaining an accurate Permanent List of Electors
- offering public education and information programs for various stakeholders
- providing support to recognized parties, candidates and their official agents
- providing mapping products and lists of electors to support municipalities and school boards for their elections
- continually assessing and improving processes, policies and procedures and recommending legislative change as required in this regard.

The Legislative Assembly known as the Sixtieth Legislative Assembly was dissolved on May 5, 2009 and writs ordering the 38th Provincial General Election to be held on June 9, 2009 were issued on May 5, 2009. All writs were returned on June 19, 2009 as required by the *Elections Act*.

1. Election Readiness

Since the 37th Provincial General Election held on June 13, 2006 returned a minority government, Elections Nova Scotia has maintained a constant state of election readiness and we have continued to expand our information and educational programs.

The ability of Elections Nova Scotia to conduct elections and by-elections depends on maintaining this constant state of readiness. Because the precise timing of these events cannot be predicted, we must make sure that our computer systems and equipment are tested regularly, the information contained in the Permanent List of Electors database is kept as current as possible, and that an encrypted version of the database as well as the Returning Office Application software are ready for installation at all returning offices.

Election readiness requires restocking election materials, including manuals, paper for printing ballots and other essential components of the electoral process and preparation for shipment within hours of the writs being issued. It includes establishing the networks and communication lines and arrangements for information technology at all returning offices prior to the first day of an election period. It also means a cycle of pre-event assignments conducted by 52 returning officers and two assistant returning officers including finding returning offices, assessing polling station accessibility, identifying key personnel, targeted and revision planning.

Fixed Dates for Elections

While there are political and philosophical arguments for and against fixed dates for elections, for practical administrative reasons, election officials prefer fixed date elections. It is easier and less expensive to plan, order and pack materials; order and set up computers, Internet, telephones and other equipment; find, hire and train staff; and find and rent office space and furniture when we know the date the writs of election will be issued. Nova Scotia is among the 40% of jurisdictions in Canada that have not legislated fixed date elections, along with Quebec, Manitoba, Alberta and Nunavut. Among the constituencies that have adopted fixed election dates in Canada, all have opted for 4-year terms between elections. It should be noted that, in cases of minority government, sitting governments can advise the dissolution of

their legislatures at any time prior to the stipulated election date in the event of a vote of non-confidence. In this situation, an election would be called immediately with the subsequent election being scheduled for 4 years thereafter.

The growing use of computer technology in election administration requires more highly skilled election workers. In the absence of fixed date elections, we may find that the time to set up technology, to implement systems and to properly train staff using them will limit our ability to modernize and to meet the growing expectations of electors.

Fixed date elections would facilitate coordination with the Department of Education and the 8 school boards in the province so that school gymnasiums could be used for polling locations and students could be available to work at the polls.

Schools were once commonly used as polling locations. Today, for a variety of reasons, they are not used to the extent they could be. However, school buildings are perfectly designed and located to be polling locations. The substantial investments the province has made to provide secure Internet connections at most schools would facilitate the use of computers at school-based polling locations. Schools are accessible, visible within the local community, have ample parking, and provide washrooms and other amenities important to polling locations. Using school buildings in the election process would also increase the exposure of our children to the process.

Training Electoral Staff

The desire to ensure transparency, accountability and fairness in the electoral process in every poll in the province has led to growing sophistication in electoral administration. As a consequence, more time is needed to select staff and, in particular, to provide specialized training in the evolving election systems, roles and procedures.

For an electoral event, Elections Nova Scotia swells from a core of 17 people in the Halifax administrative office, and the election officers that direct the 52 returning offices and 2 satellite offices in the electoral districts, to more than 6,000 workers on Ordinary Polling day. During the Provincial General Election of June 9, 2009 as in the past, Elections Nova Scotia relied on the recognized parties to nominate election workers to be enumerators, revising agents and to work at Advance polls and on Ordinary Polling day. However, the recognized parties are finding it increasingly difficult to identify and nominate qualified workers.

A factor that deters some potential election workers is that payment for election work must be claimed as income for government support programs such as social assistance and employment insurance. As a consequence, workers on such programs may find that their election pay adversely affects their income.

In the months leading to this past election, Elections Nova Scotia developed and delivered training programs tailored for returning officers and core field staff and will continue to explore ways of growing the professional knowledge and skills of election workers at every level of participation from returning officer to poll clerk.

Deployment

Elections Nova Scotia maintained a high level of election readiness in the time leading to the 38th Provincial General Election and was able to deploy all materials and equipment to ensure that all returning offices and satellite operations were fully operational and open to the public within 72 hours of the issuance of the writs. In addition, in the time leading to the call of the election, the Chief Electoral Officer met with the Chief Medical Officer of Nova Scotia, and with staff at the Nova Scotia Department of Health Promotion and Protection, to discuss appropriate measures for the protection of election workers and electors in light of the likelihood of a H1N1 virus pandemic.

Elections Nova Scotia arranged for the deployment of information and training materials as well as health protection resources to each returning office and for each of the more than 2,000 polling locations across the province. Health protection supplies included hand sanitizers, sanitizing wipes for equipment and furniture, and a limited supply of masks for voters who self-identified as feeling ill.

Call Centre Support

For the June 9, 2009 Provincial General Election, Elections Nova Scotia set up two call centres. The first was within the Elections Nova Scotia offices on Mumford Road in Halifax and was staffed by trained and experienced election officers who provided support to staff in the 52 returning offices and 2 satellite offices in the field, and to party and candidate representatives. The experience was very positive. The internal call centre fielded more than

11,000 in and outbound calls and consistently met the industry standard of answering 80 per cent of the calls received in less than 25 seconds.

As well, Elections Nova Scotia contracted call centre services from a Nova Scotia supplier to respond to “frequently asked questions” from electors. Questions that went beyond the FAQ category – questions particular to the elector and those that needed subject matter knowledge and experience – were transferred directly to an Elections Nova Scotia staff person for resolution. The trained call centre staff handled more than 10,000 inbound calls from every part of the province and met the contract standard for answering the calls received.

Compliance Assistance Program

The role of the official agent of a candidate is an important and expanding one and a clear understanding of the reporting and disclosure requirements under the *Elections Act* and the *Members and Public Employees Disclosure Act and Political Contributions Disclosure Regulations* is critical to the smooth functioning of a candidate’s campaign. In the weeks prior to the call of the election, Elections Nova Scotia developed handbooks and guides for official agents and delivered a series of seminars for official agents of candidates around the province. More than 100 official agents, representing approximately 70% of the nominated candidates, took part at the seminars. Their comments and the quality of the post-election reports received from those who participated at the seminars supports the value of this initiative. Official agent training and assistance will continue to be an ongoing program of Elections Nova Scotia.

Timely filing of financial reports by official agents of candidates was an issue in the 2009 Provincial General Election likely due to a variety of factors including complexity or perceived complexity of the requirements and failure to appreciate the importance of timely filing.

Appointment of Returning Officers

Returning officers in Nova Scotia are Order in Council appointments. In the event of an emergency, the Chief Electoral Officer may make *pro tempore* appointments. In the days immediately before the issue of the writs for the 38th Provincial General Election, the Chief Electoral Officer appointed a returning officer for Kings West to temporarily fill a vacancy and,

during the election, two election clerks, members of the returning office core staff and next in seniority to the returning officer, were appointed *pro tempore* due to illness of the returning officers as indicated in Figure 1-1 following.

Figure 1-1: Returning Officers for the 38th Provincial General Election

Electoral District	Returning Officers	Appointment Date
01 Annapolis	Sandra Meers (5 May-4 June) Kamile Karsey (5 June-9 June) ¹	05/01/2003
02 Antigonish	William Meehan	05/01/2003
03 Argyle	Daniel Muise	05/01/2003
04 Bedford-Birch Cove	James Sullivan	04/29/2006
05 Cape Breton Centre	Cotter (Joseph) Oliver	05/03/2006
06 Cape Breton North	Alden MacLeod	05/01/2003
07 Cape Breton Nova	John Shaw	05/05/2005
08 Cape Breton South	John Newell	09/15/1992
09 Cape Breton West	Ann Polegato	09/15/1992
10 Chester-St. Margaret's	Daisy Dauphinee	09/15/1992
11 Clare	Nora Saulnier	01/15/2008
12 Colchester-Musquodoboit Valley	Valeria Shupe	05/01/2003
13 Colchester North	Lorraine Dawson	09/15/1992
14 Cole Harbour	Michael Hodgson	04/10/2003
15 Cole Harbour-Eastern Passage	Malcolm Macdonald	04/10/2003
16 Cumberland North	Elizabeth Rushton	09/15/1992
17 Cumberland South	Gail Maddison	04/25/2003
18 Dartmouth East	Caroll Ann MacDonald	04/10/2003
19 Dartmouth North	Heather Collins	09/15/1992
20 Dartmouth South-Portland Valley	Murdock Morrison	04/10/2003
21 Digby-Annapolis	Lee (James) Eisan	07/08/1999
22 Eastern Shore	Reginald Mannette	09/15/1992
23 Glace Bay	Wayne Howie	08/05/2005
24 Guysborough-Sheet Harbour	Marcia Connolly	04/25/2003
25 Halifax Atlantic	Bruce Cooke	03/26/2008
26 Halifax Chebucto	Rupert Fisher	03/31/2005
27 Halifax Citadel-Sable Island	Brian Phillips	05/05/2005
28 Halifax Clayton Park	Stephen Clancey	06/27/2003

¹ In response to illness of returning officer, the election clerk assumed the returning officer position for the period noted

29 Halifax Fairview	John Hart	11/12/2008
30 Halifax Needham	Kenneth Eisan	04/02/1996
31 Hammond Plains-Upper Sackville	Nancy Dempsey	09/15/1992
32 Hants East	Lawrin Armstrong	02/10/2006
33 Hants West	Ken Sears	04/29/2008
34 Inverness	Catherine Conrad	05/01/2003
35 Kings North	Albert Kingsbury	04/25/2005
36 Kings South	Gary Murray	04/10/2003
37 Kings West	Linda Kelly ²	05/04/2009
38 Lunenburg	Anne Cosgrove	11/12/2008
39 Lunenburg West	Helen Chisholm	03/31/2005
40 Pictou Centre	Scott Clow	05/01/2003
41 Pictou East	Sue Uhren	03/26/2008
42 Pictou West	Josephine MacDonald	05/01/2003
43 Preston	Tony Melski	09/15/1992
44 Queens	Edward Bulley	05/01/2003
45 Richmond	Raymond LeBlanc	05/01/2003
46 Sackville-Cobequid	James Drolet (5 May - 5 June) Deborah Babin (6 June - 9 June) ³	04/10/2003
47 Shelburne	Joann Swimm	09/15/1992
48 Timberlea-Prospect	Bernard Conrad	01/15/2008
49 Truro-Bible Hill	Christine Blair	02/18/1998
50 Victoria-The Lakes	Philip MacRae	09/15/1992
51 Waverley-Fall River-Beaver Bank	Floyd Baker	05/13/2005
52 Yarmouth	Marie Atkinson	05/09/2003

² Appointed as returning officer by the Chief Electoral Officer for the duration of the 38th Provincial General Election, to fill a vacancy

³ In response to illness of returning officer, the election clerk assumed the returning officer position for the period noted

2. Voter Registration

The Permanent List of Electors is a database of Nova Scotians who are qualified to vote in provincial elections. This register contains basic personal information about each elector – name, address, gender and date of birth. Nova Scotians may apply to have their name struck from the register.

The information in the Permanent List of Electors is used to produce the preliminary lists of electors for provincial elections, by-elections and liquor plebiscites. It may also be used to produce lists of electors for municipalities and school boards that have signed data-sharing agreements with the Chief Electoral Officer.

Before the creation of the Permanent List of Electors, new lists of electors were created for each provincial electoral event through door-to-door enumeration – an expensive, time-consuming and labour-intensive process that often produced lists that were less satisfactory because they contained far fewer of the electors. The Permanent List of Electors is simpler and easier for electors and easier for Elections Nova Scotia to monitor and maintain currency. Sharing the lists of electors with federal and municipal electoral agencies reduces duplication, results in higher quality lists of electors, and creates savings for taxpayers.

Privacy

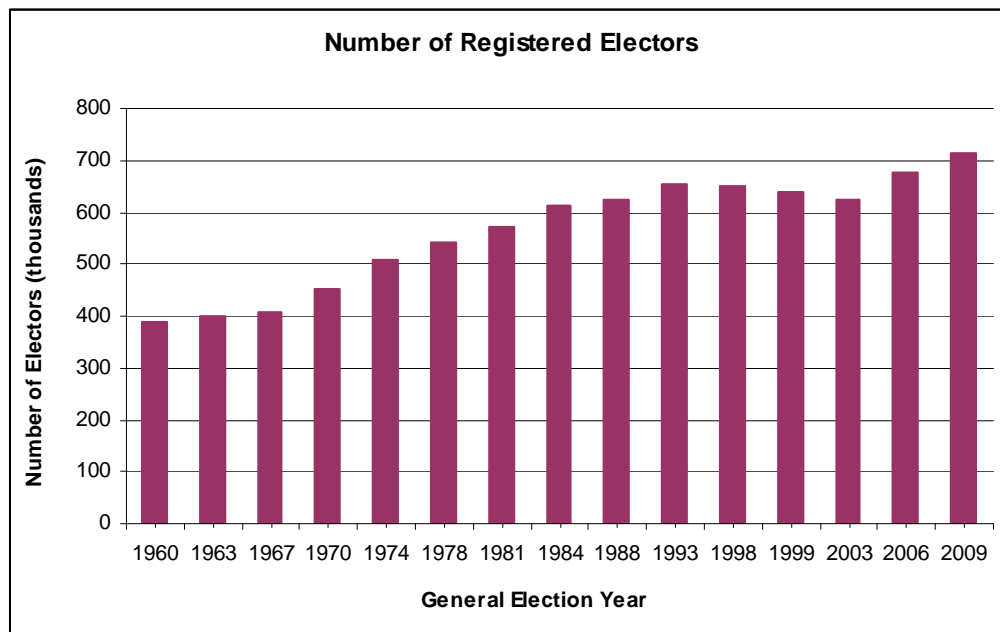
The privacy of all information in the Permanent List of Electors is protected by the *Elections Act* and the *Freedom of Information and Protection of Privacy Act*. Information in the Permanent List of Electors can be used only for electoral purposes. Improper use of the information is an offence. Electronic and procedural safeguards have been put in place to ensure the security of elector information.

In accordance with the *Elections Act*, the list of electors is shared with recognized parties each year as well as with candidates during an electoral event. The personal information shared consists only of electors' names and addresses. By law, parties and members of the House of Assembly may use this information for electoral purposes only. Improper use of the information contained in an electors list is an offence. Depending on one's perspective, the meaning of "electoral purposes" varies giving rise to concerns related to the use of information in the Permanent List of Electors.

Every elector has the right to exclude his or her name from the Permanent List of Electors and to prevent the transfer of his or her name to the federal or a municipal government. An elector who chooses to be excluded from the Permanent List of Electors still has their right to vote protected. At the time of a provincial general election, by-election or plebiscite, such an elector must add his or her name to the list of electors by registering at the office of the returning officer during the revision period, at a Special poll, at an Advance poll, or on Ordinary Polling day.

At the call of the 38th Provincial General Election, the Permanent List of Electors captured 94% of Nova Scotian electors based on Statistics Canada's estimate of the Nova Scotia eligible population of 758,822.

Figure 1-2: Registered Electors Post Provincial General Elections 1960-2009



3. Voting Options

Elections Nova Scotia has worked to remove obstacles electors encounter at the polls by constantly making improvements to administrative practices. As well, recommendations have been made very recently by the *Select Committee on Participation in the Democratic Process*

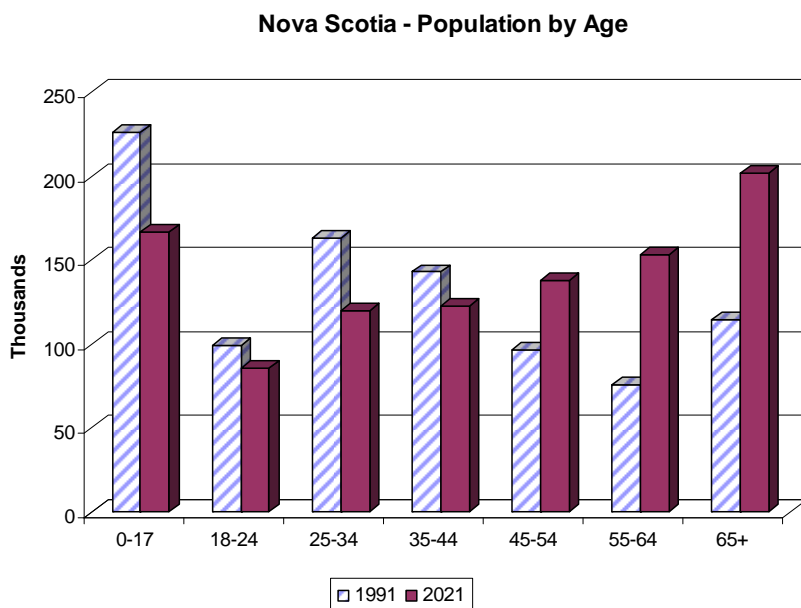
and by the *Election Commission* which has reviewed the *Elections Act* over the years. Several amendments to the legislation have produced services that are better adapted to the needs of the electorate, particularly persons with disabilities. These improvements include provisions for assistance in voting, level access requirements at polling locations, transfer certificates to accommodate disabled electors, and Braille templates for the vision impaired. However, there remain many legal limitations to how Elections Nova Scotia can serve Nova Scotians in tertiary care facilities and short-term and long-term care facilities, shut-ins, those physically unable to vote and the homeless. As well, while advocacy groups with whom Elections Nova Scotia has worked on behalf of persons with disabilities have applauded the improvements in removing obstacles to voting, they have called for increased efforts to ensure that all Nova Scotians can vote *independently*. The limitations of the *Elections Act* should be addressed in a review of the *Act* and associated statutes and regulations. It is critical that such a review be comprehensive in scope. Continuing to address issues on a piecemeal basis as in the past, would not serve Nova Scotian electors well.

There are currently four ways to vote: by Write-in ballot, at a Special poll, at an Advance poll or on Ordinary Polling day. Electors can now register at returning offices, at Special polls, at the Advance polls, as well as on Ordinary Polling day. The polls are open on Ordinary Polling day for 11 hours.

Mobile Polls

Mobile polls are conducted on Ordinary Polling day in many institutions throughout the province, mainly long-term care facilities, hospitals, nursing homes and special care homes for seniors, to ensure that residents in such facilities have the opportunity to exercise their right to vote. The system works reasonably well as far as it goes, but with an aging population (see Figure 1-3), new varieties of residential facilities being developed to meet the needs of a growing senior population and a desire to have seniors live independently and in their own homes for as long as they choose, more flexibility is needed in the Mobile poll voting system.

Figure 1-3: Trends in Nova Scotia Population by Age 1991- 2021⁴



At present Elections Nova Scotia is restricted under the *Elections Act* to providing Mobile polls to nursing homes and special care homes licensed by the Department of Health that house ten or more residents who are electors. Inconsistent provision of Mobile polling services occurs in some facilities licensed by the Department of Community Services. Inadvertently, the statutory threshold excludes electors in smaller-sized transitional and supportive housing arrangements that would also be best served by a redesigned Mobile poll process. Conversely, there are a number of special care homes where the residents are physically able and would prefer to go to regular polls on Ordinary Polling day, but the *Elections Act* requires that we hold a Mobile poll at their facility, where they must vote.

The Write-in ballot, through the use of a unique system of envelopes that protects the secrecy and integrity of the vote, allows Nova Scotians to vote by mail or in person at their local returning office. While all electors can use the Write-in ballot, it was designed for use by those Nova Scotians who were out of their electoral district at the time of the election (serving with the Canadian Forces, at an educational institution, at work, on vacation and, more recently, incarcerated.)

⁴ Nova Scotia Demographic Trends into the Twenty First Century, 1997

During the Provincial General Election of 2009, it was used as a “best available measure” for persons with disabilities and for shut-ins who would have difficulty reaching a polling location and, while useful, the procedure is complex and far from ideal. To extend the reach of the Write-in ballot, Elections Nova Scotia introduced the position of Write-in Ballot Coordinator for this election to assist returning officers in administering the Write-in ballot process. Advertising to encourage friends and relatives to assist in the Write-in ballot process was extensive and use of the Write-in ballot during the 2009 Provincial General Election was 54% greater than the experience during the 2006 Provincial General Election.

4. Public Information and Communications

Elections Nova Scotia produced and published a complete package of information advertisements required by statute and others designed to make it easier for Nova Scotians to participate in the election using the voting opportunity that was most suitable to them.

In addition, Elections Nova Scotia prepared brochures, advertisements and other communications products to aid understanding of the election process and voting opportunities for electors generally and for targeted segments of the electorate including first-time electors, the visually impaired, incarcerated electors and friends and relatives of electors needing assistance to vote.

One of the new communications and education programs of Elections Nova Scotia is the *Growing Great Citizens* initiative.

The *Growing Great Citizens* initiative has three elements: the first is a website for parents and children focusing on the importance of voting. Elections Nova Scotia developed an advertising campaign that made the statement that “Great citizens are made, not born” inviting parents to visit the website and to take their children with them when they went to vote. The last two elements are *Future Voter* stickers and *Growing Great Citizens* bookmarks that were given to children who accompanied their parents to the polls.

Thousands of children left the polls proudly wearing *Future Voter* stickers. Moreover, we’ve heard from parents across the province who took the opportunity to talk about elections, and the importance of voting with their children and who visited our *Growing Great Citizens* website.

Elections Nova Scotia was a lead sponsor of the Family Expo held at Exhibition Park on May 29-30, 2009. Our agency had a booth, featuring the *Growing Great Citizens* program and the *RunVoteWin* on-line election game developed by Elections Nova Scotia for teens not yet eligible to vote.

The *Help your Relative/Neighbour Vote* advertisements published during the 2009 Provincial General Election supported the Write-in ballot voting opportunity encouraging relatives and near-neighbours of shut-ins to help by volunteering to act as an agent to facilitate the process. As mentioned in relation to the addition of a Write-in Ballot Coordinator, use of the Write-in ballot in 2009 was 54% greater than the experience during the 2006 general election. The very prescriptive nature of the Write-in ballot provisions in the *Elections Act* were a deterrent to developing this program further.

For the 2009 general election, Elections Nova Scotia developed a pilot information program in conjunction with *VoicePrint*, a division of The National Broadcast Reading Service, a registered charity. *VoicePrint* serves all Canadians, but particularly the many who can't independently access printed materials — people who are: vision restricted, in need of literacy skills or who are mobility impaired. Elections Nova Scotia wrote scripts specifically for *VoicePrint* broadcasts and webcasts and provided written material for adaptation by *VoicePrint* volunteers.

5. Conflicts Between the *Elections Act* and the *Members and Public Employees Disclosure Act*

The *Elections Act* and the *Members and Public Employees Disclosure Act* have not evolved at the same pace or under the same principles and do not work effectively together as a single regime. The current legislation does not resolve potential conflicts between regulations governing loans and contribution limits to a campaign in the event of default. There are many deficiencies a review would expose and new legislation would remedy.

RECOMMENDATIONS FOR AMENDMENTS TO THE *ELECTIONS ACT* AND *MEMBERS AND PUBLIC EMPLOYEES DISCLOSURE ACT*

The experience of the 38th Provincial General Election points to areas in which the *Elections Act* and other statutes of the Province of Nova Scotia as they relate to elections and electoral finance can be redrafted to improve consistency, access, efficiency and, in the words of the *Select Committee on Participation in the Democratic Process*, “to modernize the act, making it as voter-friendly as possible, while maintaining the integrity of confidentiality and impartiality that it currently embodies.”

Recommendation 1: It is recommended that a review of the *Elections Act* and other statutes and regulations of the Province of Nova Scotia as they relate to elections, be conducted with the purpose of enacting a new *Elections Act* that will improve access, accommodate new technologies, remove ambiguities and improve clarity. As well, it is recommended that the statutes of Nova Scotia dealing with electoral finance, including the *Members and Public Employees Disclosure Act*, be reviewed and consolidated to address anomalies and deficiencies in the provisions for administering and enforcing the electoral finance regime.

Recommendation 2: During the 2009 Provincial General Election, a number of complaints were made to the Chief Electoral Officer regarding the nature of advertising by third-parties, that is, individuals or groups other than candidates and recognized parties. The complaints sought redress based on the possibility that third-party advertising could be used to circumvent limits on contributions and election expenses.

Effective regulation of contributions and election expenses calls for regulation of third-parties participating in election campaigns and incurring advertising and other expenses not authorized by an official agent of a recognized party or candidate. Regulation should include registration of third-parties as well as expressed limits on spending and reporting requirements with limits and penalties for exceeding limits and for failure to report.

It is recommended that the electoral finances regime include provisions for regulating third-parties – individuals and groups other than candidates, recognized parties, or their electoral district associations.

Recommendation 3: During the 2009 Provincial General Election, a number of complaints were registered with the Chief Electoral Officer regarding alleged offences under the

Elections Act and the *Members and Public Employees Disclosure Act and Political Contributions Disclosure Regulations*. The Chief Electoral Officer made inquiries, interviewed persons involved and followed up on each allegation to the extent of the resources available. The absence of statutory authority for such investigation, prosecution or other manner of disposition of charges under the *Acts* is a severe limitation.

For example, the Chief Electoral Officer received a large number of complaints regarding election advertising, in particular, newspaper advertisements or signs that did not include the authorization of a recognized party's or candidate's official agent. Investigation by Elections Nova Scotia revealed that in some cases, the authorization was inadvertently left off, too small to read or a dated authorization from a previous election. In other instances, the advertisement was the product of a third-party and not authorized by any official agent.

In several jurisdictions in Canada, legislation assigns responsibility to conduct investigations into matters which might constitute an offence under election law and to decide whether or not to institute a prosecution for the alleged offence.

To ensure that Nova Scotia's election law is complied with and enforced in a timely and practical manner, the Chief Electoral Officer recommends that legislative authority be given to the Chief Electoral Officer or a Nova Scotia Commissioner of Elections to conduct investigations, prosecute offences, apply to the court for injunctions (during an election), where a prosecution is not required, issue a formal caution and enter into compliance agreements.

Recommendation 4: At the call of the 38th Provincial General Election, the Permanent List of Electors captured 94% of Nova Scotian electors but only 65% of eligible Nova Scotians 18-24 years of age (compared to 99% of all electors 55+).

The Chief Electoral Officer recommends enlisting the cooperation of the Department of Education to register Nova Scotia high school students at age 16 while they are still attending school and to use the registration process as an opportunity to deliver a civics curriculum unit to underscore the importance of voting. This recommendation is contemplated in Recommendation #1 of the *Select Committee on Participation in the Democratic Process* "That a working committee be struck with representation from the Department of Education, the Nova Scotia Teachers Union, Elections Nova Scotia, and the Office of the Speaker to explore what currently exists in the P-12 curriculum and how it is being implemented, and to

see what, if any, changes need to be made in order to ensure that all Nova Scotian public school students are exposed at some point in their schooling to the mechanics and importance to a healthy society of the electoral process.”

Section 31B of the *Elections Act* provides for the Chief Electoral Officer to update the Permanent List of Electors using personal information held by a public body as defined in the *Freedom of Information and Protection of Privacy Act* as well as personal information listed in public telephone directories.

It is recommended that the Chief Electoral Officer also have access to personal information held in databases of public utilities, including power utilities and cable companies, to improve the quality of the information in the Permanent List of Electors.

Recommendation 5: A growing segment of the population has called for electronic or Internet voting and many electoral agencies, including Elections Nova Scotia, are investigating e-voting in various forms. The consensus of Canadian electoral agencies is that Internet technology has not yet advanced to a point that meets the basic security requirements to protect the integrity of the vote. Elections Nova Scotia will continue to be involved in these voting initiatives and to monitor progress in this regard.

While on-line e-voting is not an immediate option, on-line registration of electors that preserves professional election standards, accountability and security has been in use elsewhere in Canada and internationally.

As discussed under Recommendation 4, the Permanent List of Electors captured 94% of Nova Scotian electors but only 65% of eligible Nova Scotians 18-24 years old. In addition to the school-based registration recommended, the Chief Electoral Officer recommends investigation and development of on-line registration and verification of the List of Electors.

Recommendation 6: The experience of the Chief Electoral Officer in preparation for and during the 2009 Provincial General Election has underscored that current administrative arrangements undermine the independence of the office. Specifically, recent events have pointed to the importance of authority to procure goods and services independent of government administrative procedures as well as to have unregulated access to independent legal counsel. As well, the effective management of the electoral process by the Chief Electoral Officer requires standards of accountability that include the recruitment, selection, training, professional development and performance evaluation of returning officers.

Federal legislation recognized this critical requirement as have a number of provincial elections acts. As expressed by Jean-Pierre Kingsley, a former Chief Electoral Officer for Canada:

While impartiality goes to the particular decision-maker's own subjective attitude or mind set towards a particular decision to be made, independence goes to structural issues which may impact on the ability of the decision-maker to perform his or her mandate. To be independent ... is to work within an administrative or legislated structure which does not intrude upon or otherwise impede the due performance of one's statutory office according to the law. Independence, in other words, refers to the administrative structures which may be necessary to ensure that the performance of one's statutory mandate is not influenced by factors foreign to legal process itself.

The Chief Electoral Officer recommends that the independence of the office of the Chief Electoral Officer as an officer of the legislature be established by statute and that administrative arrangements be put in place to preserve the independence of the office.

The Chief Electoral Officer further recommends that the responsibility for recruitment, appointment and retention of returning officers on a merit-based system replace the appointment by Order in Council with accountability, training and professional development managed by the Chief Electoral Officer.



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