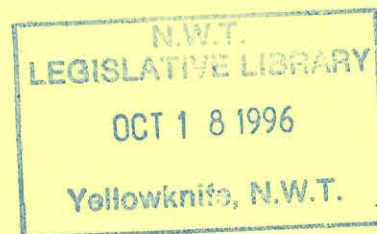


**Report of the Standing Committee on
Government Operations**

on

**Looking to the Future:
the Report of the Chief Electoral Officer of
Canada
on the Election of the Thirteenth Legislative
Assembly of the NWT 1995**



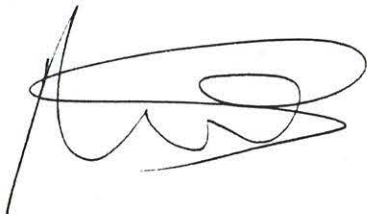
October 18, 1996

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HONOURABLE SAM GARGAN
SPEAKER
LEGISLATIVE ASSEMBLY OF THE NWT

Mr. Speaker,

Your Standing Committee on Government Operations has the honour of presenting its Report on Looking to the Future: the Report of the Chief Electoral Officer of Canada on the Election of the Thirteenth Legislative Assembly of the NWT 1995, and commends it to the House.



Roy Erasmus
Chair
Standing Committee on Government Operations



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Report of the Standing Committee on Government Operations

on

Looking to the Future: the Report of the Chief Electoral Officer of Canada on the Election of the Thirteenth Legislative Assembly of the NWT 1995

Introduction

The report of the Chief Electoral Officer was tabled in the Legislative Assembly in May 1996. In October 1996, the Standing Committee on Government Operations reviewed the report with public hearings.

The Committee would like to thank Jean-Pierre Kingsley, the Chief Electoral Officer of Canada, and David Hamilton, Clerk of the Assembly, for appearing before us to discuss the recommendations in the report.

The Chief Electoral Officer made a number of recommendations for change to the current elections system. In many cases, similar recommendations were also made in his previous report in 1991 but were not acted on by the previous Assembly. As a result of recent history, members of the Standing Committee see a clear need to implement these recommendations to avoid some of the significant difficulties which have arisen out of the 1995 election, particularly in the areas of complaints and enforcement and proxy voting.

Delegation of Responsibility to the NWT for its own Elections

During the 1995 election, the majority of the elections administration was handled in the north by northern election officials. However, overall control of the process and many of the special approvals were still handled by the Chief Electoral Officer in Ottawa. In his last two reports, there have been recommendations that the NWT should assume responsibility for its own elections. Elections Canada could provide support and advice only on request, as it does for other jurisdictions, both within Canada and elsewhere.

The Standing Committee agrees completely that the administration of elections should be the responsibility of northerners. The Chief Electoral Officer has already made this recommendation to the Federal Government. It is now time for the Territorial Government to follow up on his recommendation. Negotiations should begin immediately to ensure the responsibility is transferred prior to the 1999 elections.

Funding for Territorial elections are currently fully covered by the Officer of the Chief Electoral Officer. There is no specific budget for these elections which could be transferred. Instead, the elections are funded by the Federal Government through statutory authority money. The Chief Electoral Officer suggested during his appearance before the Standing Committee that these funds could be rechanneled through the Government of the Northwest Territories. He further suggested the amount in question was probably about one million dollars for the two territories combined.

Recommendation 1

The Standing Committee on Government Operations recommends that the Government of the Northwest Territories immediately begin negotiations with the Federal Government for the transfer of full responsibility and the financial resources for the administration of Territorial Elections and further that the Legislative Assembly appoint a Chief Electoral Officer well in advance of the next election.

Complaints and Enforcement

The area of complaints and enforcement was a major concern to the Committee. Recent history has demonstrated that there is a lack of clarity in who has jurisdiction in dealing with serious allegations or complaints. As one member stated, "it is apparent that our current system is extremely vulnerable. When it is brought into question,, it quickly hits gridlock. A disgruntled individual can have two arms of the Federal government - the Chief Electoral Officer and the RCMP - stumbling in confusion with no clear lines of authority." Members raised concerns about how easily the system can be brought into question; particularly when many of the ridings are won by a very small margin.

As the Chief Electoral Officer stated to the Committee, the enforcement provisions of our current *NWT Elections Act* provide very limited authority for him to prosecute electoral offenses. He acknowledged that there is a division of the authorities to prosecute and as a result, the criteria for deciding whether to prosecute may be inconsistent. The Chief Electoral Officer said it needs to be clear who has responsibility to investigate. Now some complaints go to him, others to the RCMP and still others are just left in the air. He said the area of enforcement is lacking and carries a price. Members agreed.

At the national level, there is a Commissioner of Elections who is responsible for dealing with complaints and investigating as necessary. This position would be independent from the government and would be appointed by the Chief Electoral Officer. This type of position may provide an expeditious avenue for dealing with complaints and should be one of the options considered.

In his last two reports, the Chief Electoral Officer has raised concerns about complaints and enforcement. Members believe strongly that it is time to go forward with solutions in this area.

Further to the concerns about complaints and enforcement, there is a need for clear procedures for resolving complaints. In the last election, there were a number of grey areas which may require clarification. It is important that there be consistency in dealing with complaints and that those with concerns can understand the process for raising those complaints. It is also important that the procedures protect the rights of the innocent, by providing mechanisms for dealing with complaints in a timely and conclusive way. This would reduce the possibility for an individual or group to cast suspicion on a candidate which could have an impact on the outcome of the election, whether the complaint is founded or not.

Recommendation 2

The Standing Committee on Government Operations recommends that the NWT Elections Act be amended to create a mechanism for dealing with complaints and enforcement and further that procedures for resolving complaints be developed prior to the next elections.

Public Education

The Chief Electoral Officer stressed to the Committee the need for public education. Under his office, there are a number of initiatives designed to increase the awareness of the elections process among both current and future voters. For example, the NWT elections officials are preparing an educational package for children ages five to seven which will familiarize them with the process of running for office.

As a result of this report's recommendations to change the *NWT Elections Act* and changes arising from division, there will be an increased need for public education.

Recommendation 3

The Standing Committee on Government Operations recommends that public education efforts on the election process should continue.

Election Expenses

With a consensus government system, the NWT is unique in how elections are called. In other jurisdictions, while there may be rumours about a pending election, elections begin as soon as the dates are formally announced. In the NWT, the date for the election is often the subject of discussion within the Assembly. Dates are set often well in advance of the signing of the writs. For example, in the last election, the dates were set in May although the election day was in October.

The current system of accounting for election expenses does not take this extended time into account. In some cases, candidates had set up offices and were actively spending campaign funds prior to the official election period. In order to provide a level playing field for all candidates, the Chief Electoral Officer suggests extending the spending limitation period. The Committee agrees.

Recommendation 4

The Standing Committee on Government Operations recommends that the spending limitation period be extended to include the entire period from the date an election is announced by the Legislative Assembly until polling day.

Although it was not raised specifically in the Chief Electoral Officer's report, members of the Committee also raised concerns about the current levels allowed for campaign expenses. The maximum amounts allowable were set in the late 1980's. The Committee believes it is time to review the limits.

Recommendation 5

The Standing Committee on Government Operations recommends that the current provisions in the NWT Elections Act regarding election expense amounts be revisited and appropriate revisions brought forward.

Review of Time Frames

The electoral system in the NWT was originally based on a southern Canada model. However, we have a small population spread over a very large area. Difficulties in reaching all residents are compounded by transportation, communication and even weather complications. As a result, some of the deadlines and time periods used during the election have been modified over the years.

During this last election, there were more time frames identified which could be revised to better support the NWT elections process. Some of these will require legislative changes while others are of an administrative nature.

Recommendation 6

The Standing Committee on Government Operations recommends that the time frames set out in the NWT Elections Act be reviewed in light of operational realities and revised accordingly.

Residency Requirements

In order to better accommodate the lifestyle of residents of the NWT, the enumeration procedure was modified for the last election. It was held well in advance at a time when most people would be in their communities rather than on the land or away on holidays. While this change was very effective in developing a more comprehensive electors list the first time around, there were some complications.

There were some problems for those who moved between enumeration and polling day and who failed to register during revision. While people can register to vote on polling day, they can only do so in the riding where they lived during enumeration. This left some people unable to vote. This was an unintentional side effect of another change and one which needs to be corrected.

The Chief Electoral Officer had proposed an amendment to address this situation. However, the Committee had strong concerns about the implications of the proposed amendment. While the amendment would solve one problem, members saw it creating others. There is the potential for it to become another way to circumvent the enumeration process and be open to abuse in the same way which proxies have been in the past.

Members were also concerned about enumeration and subsequent voting rights of students attending college in another part of the Territory. During the last election, some students were enumerated while at school. They were unable to vote in their home riding in the fall. The Committee believes these students should be able to vote in their home riding. With the recommendations regarding special ballot voting, it will be possible for students who are away to vote at home. Accommodation for these students would have to be found in the enumeration process.

While the Committee understands the issue raised by the Chief Electoral Officer, members are not willing to close one loophole only to open others. Members would like to consider an amendment which would address all of the issue relating to the extended period of time between enumeration and polling day.

Recommendation 7

The Standing Committee on Government Operations recommends that amendments to the NWT Elections Act be developed to address the problems arising from the extended period of time between enumeration and polling day.

Eligibility of Land Claims Officials to Run as Candidates

Currently, the Government can provide leave without pay to allow people to run for office. According to the Chief Electoral Officer, the *NWT Elections Act* currently does not have a provision allowing an organization to give the same consideration to its staff. During the last election, some individuals had to decided to either resign from seats on land claim boards or not run. The electoral system should not knowingly deny opportunities to one potential candidate over another.

Recommendation 8

The Standing Committee on Government Operations recommends that Section 51(3) and (4) of the NWT Elections Act be amended to ensure consistency with the Canadian Charter of Rights and Freedoms.

Special Ballot and Experimental Voting Techniques

The unique circumstances of the NWT require some innovation in how people register their ballot. We are dealing with individuals in isolated areas, extreme weather conditions and very high transportation and communication costs. Anything which could correct a situation where it can cost over \$1000 for an individual in an isolated situation to cast a ballot would be positive. The Chief Electoral Officer believes that a mail-in special ballot system, used elsewhere in the world, could help overcome some of the barriers faced by voters in the NWT. He would also like other options such as tele-voting to be considered.

As well, there have been many problems with the current system of proxy voting which is supposed to allow those who cannot get to the polls to vote. Recent developments in the NWT highlight the abuse possible with the current proxy system. Across the NWT, returning officers have indicated a general lack of understanding of the true purpose of a proxy vote. Issues such as what defines solicitation of a proxy vote are unclear and cause difficulties for both candidates and election officials. Many seats are won with narrow margins. The use of proxy votes and the potential for misuse under these circumstances heightens the need for a better way to deal with those who cannot get to the polls personally.

Recommendation 9

The Standing Committee on Government Operations recommends that special ballot voting be introduced, together with the testing of other voting procedures.

The Chief Electoral Officer indicated that the use of special ballot voting should eliminate the need for proxy voting. The Committee strongly encourages the development of special ballot voting which would ensure proxy votes were no longer required in any circumstances. However, if there will still be any need for the use of proxy votes, Members of the Committee believe strongly that the procedures for proxy votes should be clarified and made much more restrictive.

Recommendation 10

The Standing Committee on Government Operations recommends that procedures for proxy voting should be revised to minimize the potential for misuse.

Duties of Returning Officers

There were some concerns raised during the 1995 election about the availability of returning officers. In order to provide more consistent service to the public, the Chief Electoral Officer has suggested that there is a need to set operating hours for the local offices of returning officers.

Recommendation 11

The Standing Committee on Government Operations recommends that the NWT Elections Act should be amended to allow the Chief Electoral Officer to prescribe the opening hours for the offices of returning officers.

List of Electors

During the 1995 election, a new system of electronic voters lists was used. This system proved very successful. With electronic lists and revision available from the first day of the election period, it is possible to provide revised lists for candidates and at the polls. However, the legislation needs to be amended to reflect this new, more effective form of voters list.

The creation of the electronic lists was very effective for elections officials and candidates. However, the information was gathered for a specific purpose and there is a need for rules to limit the use of that information.

Recommendation 12

The Standing Committee on Government Operations recommends that the provisions of the NWT Elections Act defining the official lists of electors be amended to address the use of electronic voters lists as well as to restrict the use of those lists for political and electoral purposes only.

Preparing for the 1999 Elections

For voters, the elections in 1999 are still far in the distance. However, there is significant work to be done to prepare the election administration. This is made more complicated by the need for not one, but two separate election offices to support the elections in each of the two new territories.

Some steps have been taken to prepare for the first elections in the new territories. The Legislative Assembly has considered legislation establishing Electoral Boundaries Commissions in both territories. There is also ongoing work under the authority of the Chief Electoral Officer to prepare public education material for elections.

However, in order to ensure the smooth operation of the 1999 elections, there is a need to set up the election administration in 1997. While negotiations to transfer responsibility for elections to the NWT may not be complete at this time, the offices will still need to be established.

Recommendation 13

The Standing Committee on Government Operations recommends that the two electoral offices for the new territories be in operation by April 1997 with the appropriate interim funding in place to April 1, 1999.

Timing of Legislative Amendments

In some cases, the recommendations of the Standing Committee may require legislative changes to the *NWT Elections Act*. The Committee would like to see those changes made well in advance of the next elections.

Recommendation 14

The Standing Committee on Government Operations recommends that any legislative changes necessary to implement these recommendations be introduced during the Fourth sitting of the Legislative Assembly.

The recommendations in this report will produce changes to the process for elections in the two new territories in 1999. There may be areas for change where different rules would be appropriate for each territory such as time frames. In developing the amendments, there should be thought given to potential sections dealing strictly with one territory or the other.

Recommendation 15

The Standing Committee on Government Operations recommends that, in addressing these recommendations, to the possibility of separate sections of the NWT Elections Act be considered for Nunavut and the new western Territory.