

LAW REFORM COMMISSION



COMMISSION DE RÉFORME DU DROIT

521 - 405 BROADWAY
WINNIPEG, MANITOBA R3C 3L6
TEL: (204) 944-2896

REPORT
ON
SYSTEMS OF VOTER REGISTRATION

November 26, 1979

Report #37

MG-3750

The Manitoba Law Reform Commission was established by "*The Law Reform Commission Act*" in 1970 and began functioning in 1971.

The Commissioners are:

C.H.C. Edwards, *Chairman*
Robert G. Smethurst, Q.C.
Val Werier
Patricia G. Ritchie
Prof. A. Burton Bass
David G. Newman
Evan H.L. Littler

Legal Research Officers of the Commission are: Ms. E.-Kerrie Halprin, Ms. Leigh Halprin, and Ms. Donna J. Miller. The Secretary of the Commission is Miss Suzanne Pelletier.

The Commission offices are located at 521 Woodsworth Building, 405 Broadway, Winnipeg, Manitoba R3C 3L6, Tel. (204) 944-2896.

TABLE OF CONTENTS

	<u>Page</u>
I. INTRODUCTION	1
II. SYSTEMS OF VOTER REGISTRATION	3
1. Enumeration	5
2. Permanent Lists	8
3. Continuous Rolls	12
(a) Voluntary registration	13
(b) Compulsory registration	14
III. COMPARATIVE ADVANTAGES AND DISADVANTAGES	16
IV. THE BEST SYSTEM FOR MANITOBA	19
V. IMPROVING THE ENUMERATION OF VOTERS	23
VI. SUMMARY OF RECOMMENDATIONS	29
FOOTNOTES	31

I. INTRODUCTION

The subject of this Report is voter registration in and for the electoral process. Voter registration is the process of electing Members of the Legislative Assembly of Manitoba by which electors are identified and recorded as being entitled to vote in provincial elections. This subject is comprehended by the broad terms of reference prescribed for the Commission by the Attorney-General, that is, in part:

I would appreciate the Law Reform Commission examining the Manitoba Elections Act with a view to making reform of the provisions therein respecting the holding of elections in Manitoba.

. . . regardless of what generalized review might be made, but I think it would be very helpful if a thorough review was made of the technique of the holding of elections.

One observation that has been made that ought to be considered would be the possible implementation of a policy whereby there would be in effect a perpetual voters' list, similar to that which applies in England, which among other things provides for abbreviated election timing.

Regarding the last quoted passage of the terms of reference, as expressed, one notes at least two ingredients to which this Commission had to address its study and recommendations. One is the notion of a perpetual voters' list; and the other is the matter of shortening the time in which elections are held. Both questions imported considerations of administrative efficiency and policy directions.

The Commission is grateful to Mr. J.R. Reeves, Manitoba's Chief Electoral Officer, and to Mr. Andrué J.

Anstett, former Deputy Chief Electoral Officer, for their help in guiding us through the maze of administrative organization and technical detail which go into the orchestration of an election in general, and voter registration in particular. We are pleased to acknowledge their indications of practical avenues of common sense reform in this regard, for they are the knowledgeable experts in our present system of voter registration, to say the least.

Subsequent to our meetings with Messrs. Reeves and Anstett we issued a Working Paper in May 1977 entitled *Voter Registration: The Alternatives To Enumeration* setting out our tentative recommendations and seeking comments and criticisms. We received very few responses and these were, on the whole, supportive. In August 1979 we retained Mr. Peter J.E. Cole, the former Senior Research Officer of the Commission, to assist us in the writing of this final Report as he had been heavily involved in research in this area during his years of service with the Commission.

One of the hallmarks of modern populist democracies is their adoption of the principle of universal suffrage, that the right to vote should not be restricted by such qualifiers as the ownership of a certain amount of property or membership in an exclusive social caste. Nevertheless, even with universal suffrage, not everyone can be given the right to vote. There are always such barriers as minority, citizenship, residence, mental capacity and because of these barriers it is necessary to screen voters to ensure that only those who qualify actually cast ballots on election day.

The almost universal method of accomplishing this is through registration on some form of voters' list, a variously laborious, costly and time-consuming process, depending on the method used. One of the principal goals of virtually everyone interested in the machinery of conducting elections is to come up with a method of listing voters that will be simple, cheap, quick and accurate to a fraction of a percentage point. This oft-chased chimera can be realized in one or more of the listed qualities but not, it seems, in all, at least not to date. Since the right to vote is based on the presence of a voter's name in correct form on the list the question of accuracy must take priority although here as elsewhere the law of diminishing returns gives ample room for other considerations to intrude. In Canada, and in Manitoba, the major complaint of our present system is that it stands in the way of a shorter and thus cheaper campaign period. This is no slight matter to those directly involved in the electoral contest nor, indeed, to those who must administer the cumbersome machinery of voter registration. And yet where the democratic participation of all our citizens is at stake there must be more to tax our minds than simple considerations of efficiency and cost. Voter registration lies at the very heart of our democratic process and like all other components of that process, the method by which registration is achieved must be measured in terms of its contribution to the system as a whole.

II. SYSTEMS OF VOTER REGISTRATION

In his book, *The Election Process in Canada*, T.H. Qualter identifies the various methods of registration as follows:

The registration systems can be classified in several ways, with permutations possible among the different classification schemes. One can, for example, begin by considering the time at which lists are prepared, and here there are two basic principles. A list may be prepared only when an election has been called: a list which will apply solely to that election and which will be discarded as soon as the election is over. This can be called a "temporary list," and it is the system which operates in federal and most provincial elections in Canada. Or there may be a list which is prepared at some fixed interval of time, independently of whether or not an election is to be held. The annual British Register of Electors is a typical example of such a system. One variation of this scheme requires that a new list be drawn up every few years and that in the interval between the preparation of lists, the one in force be kept up-to-date by a continuous process of additions, amendments, and deletions. Such a list, called, obviously, a "continuous" list and the British type of periodic list are both varieties of a "permanent" list.

Registration can also be looked at from the point of view of the responsibility for compiling the list. Under one system the responsibility for preparing voters' lists is assumed by the state and various paid officers (temporary or permanent) go out and collect the names of every available voter. This is the procedure followed in the enumeration of voters in Canada. Under another procedure the state provides facilities — registration offices and officials — and leaves it to the initiative of the citizen to become a registered voter. This initiative may be a completely voluntary action in which it is entirely up to the individual to decide whether or not to register. This system is found in many of the American states. Finally, there may be, as in Australia and New Zealand, a legal obligation on the citizen to register himself.⁶³

A third classification, which is particularly important where there are permanent lists prepared perhaps some time before an election, categorizes lists as "open" or "closed." An open system is one in which names can be added after the list is printed or which permits people to vote, under certain specified circumstances, even though their names are not on the lists; while a closed list confines the right to vote to those formally registered as voters.

From these three two-part classifications it is possible to derive eight basic systems of voter registration, although it should be noted that in practice most actual registration laws will combine the elements of more than one system.

There is, first of all, the periodic list, compiled by election officials, and subject to constant updating until close to election day. Secondly, there is a similarly compiled list, but one that is closed off at a specified date so that no new names may be registered until the new list is prepared. The British permanent Register of Electors is of this type.⁶⁴ A third system is that in which there is a temporary list, prepared for a particular election by a set of state employees (including temporarily appointed enumerators),

but which, after some specified period for revision or correction, is closed so that only those listed may vote. This system applies at the federal level for urban polls. The fourth system, a variation of the third which applies to rural polls at federal elections, is the open list under which those eligible voters whose names are not on the list may still vote after the completion of certain formalities. The four remaining systems are similar to those already described except that, in each case, the responsibility for adding a person's name to the list falls on the individual voter. 1

1. Enumeration

The traditional method of compiling voters' lists in Canada is by door-to-door canvass conducted immediately after the issue of the writ of election. This is known as enumeration and it is the method currently in use in Manitoba. Under "*The Election Act*", C.C.S.M. c. E30, once the writ is received by a returning officer, he must immediately subdivide his electoral division into as many polling subdivisions as he deems necessary and then appoint "a competent and reliable person" to be the enumerator in each polling subdivision. In rural areas the enumerators may obtain the information for their lists from municipal or other voters' lists or from any available source, and only if necessary must they engage in a house-to-house canvass. In urban subdivisions the enumerators must carry out a house-to-house canvass, and may supplement the information thus gathered by resort to such other sources as may be available. The lists must be completed, dated and signed by the enumerators at least ten days before nomination day, which in effect gives them a minimum of eleven days and, depending on the date set for the election, a maximum of twenty-six days, in which to do their work. At the last provincial election in 1977, they were given the minimum of eleven days.

In addition to the general enumeration, if there

is an "extended treatment hospital" in a particular electoral division, a special enumeration is carried out in which the particulars of each patient eligible to vote are recorded on a separate card. The cards are then forwarded to the returning officers of the various electoral divisions in which the patients have their residences and the names are entered on the voting lists of the appropriate polling subdivisions.

On the third and second days before nomination day, the lists, as prepared by the enumerators, are subject to revision by the addition, deletion or alteration of voters' names and particulars and any appeals from the decisions of the revising officers are disposed of as soon as possible after the close of the revision. The corrected lists are forwarded by the returning officers to the Deputy Returning Officers, on the second day before polling day, and these lists then constitute the final voters' lists for the purposes of the election. Upon completion of the election the lists, unless otherwise directed by Cabinet, remain valid as preliminary lists for two years, and are then abandoned as obsolete.

The basic problem with the preparation of voters' lists in a parliamentary democracy is that the timing of elections is not a regular and foreseeable process. With a cabinet system of government, the executive is responsible to the legislative assembly and can only function if it has the approval and confidence of that assembly. A successful vote of no confidence is sufficient to topple the government and precipitate an election, perhaps within months or even weeks of the previous election. And although the maximum term of any legislative assembly in this province

is five years it is rare for a government not to seek a renewal of its mandate by at least the fourth year of its term in office. Thus there is no guarantee that even a strong and stable government will last out the fullness of its potential term, and this uncertainty is deepened by the fact that the calling of an election and the establishment of a specific date for polling day are matters solely within the prerogative of the government. If an election is in the air, the political pundits can usually detect its scent, and thereafter the news media will abound with their rumours and guesses. But until the government of the day actually makes its formal announcement, the election itself and the specific date of polling day will remain matters of speculation only.

Given the rapid obsolescence of un-maintained voters' lists, this means that little can be done to prepare for the elaborate task of identifying and accrediting eligible voters. Consequently, when the election is called, sufficient time must be allowed for the process of enumeration, and this has the unavoidable effect of making for a long campaign period of anywhere from thirty-five to fifty days. The financial and physical burden of such a long lead time is the principal cause of the dissatisfaction so frequently expressed in recent times in regard to our present electoral machinery. The effort to find a simpler, more rapidly available voters' list has become a central part of the drive for electoral reform, and while the basic ideas and suggestions put forward are not new, their appeal has been enormously enhanced by the almost overnight development of super-sophisticated computers and computer-fed data banks.

2. Permanent Lists

The most noteworthy example of such a list among the Anglo-Saxon family of countries is to be found in the United Kingdom where an annual list is prepared and used for all national and local elections which occur during that year. The list is maintained permanently and updated each year by a mail and door-to-door canvass. The names of newly eligible voters are added and the names of those who have died or changed residence are removed. The responsibility for maintaining the list is placed on the existing local government authorities under the overall supervision of the Home Office in London. In each electoral district an electoral registration officer, usually the Town Clerk, is designated to attend to the revision of the voters' list. He has a very wide discretion in the carrying out of his duties having a statutory responsibility to do all that is "reasonable" to maintain full registration. The Home Office issues general guidelines but these are advisory only, and it is up to each electoral registration officer to attend to the annual canvass as he sees fit, although it must be completed in time for the preliminary list to be published on November 28.

Annually, the registration officer in each electoral district in the United Kingdom sends by post to each householder a form showing the names of the electors residing in that household whose names appear on the lists of electors of the electoral district. The householder is then required by law to inform the registration officer by a fixed date, as follows:

- (i) if such electors still reside in that household;
- (ii) the names of the electors shown on the form who have ceased to reside in that household;
- (iii) the name of any person now living in that household who would be qualified as an elector but whose name does not appear on the form.

After that fixed date a reminder is sent by the registration officer, setting a new deadline for those householders who have not complied with the law. Subsequent to the new deadline, follow-up canvassers are sent by the registration officer to obtain the information from the householders who have not replied.

The sending of a form by post is not done for collective-type housing, such as institutions, hotels, or large lodging houses, for experience has shown that there are some difficulties inherent in mailing a form to unrelated people living in group quarters. In general they have to be treated as individuals rather than as members of households, and there is little hope of being certain that all residents of such quarters have been contacted. In the case of institutions this is not a problem, in that administrative records of the institution provide a check on the number of inmates. However, the incapacity of some inmates of certain types of institutions makes self-enumeration by means of the mailing of a form impractical. In rooming houses, by contrast, the possibility of obtaining complete coverage by mail is very slim, since for this group the inaccuracies due to second-hand reporting must be widespread. Therefore, the practical method to obtain the required information is to send canvassers to all such places at the outset.

Once that annual review is completed, the preliminary lists of electors are printed, a period of revision takes place during which names can be added to or removed from the preliminary lists, and then the printing of the Permanent Lists is completed. The Permanent Lists come into force on February 16 for a period of one year and serve for all elections ordered during that period. Names of electors cannot be added or removed during that period. The process is repeated each year.

Employing this method of registration the minimum time in which an election may be held is approximately three weeks.²

It is estimated that at the end of the one year period the lists are approximately 80-85% accurate. This compares with an estimated accuracy in Manitoba with the enumeration process of 92% or better.

A "permanent" list is also employed in France where it is compulsory for a person qualified as an elector to register although failure to register is not described

as an offence in "*The Election Act*" nor is there a penalty provided. The annual period of revision, as in the United Kingdom, extends from November to February, and after the permanent list is closed on the last day of February, it remains in force until the last day of February of the following year, except for certain alterations expressly provided for in "*The Election Act*". These include, for example, civil servants and military personnel who are transferred or retire and electors omitted as a result of clerical error or misprint.

When a citizen registers as a voter he is given a voter's card which must be presented on election day to establish his identity. In addition to information about the voter, the card indicates where he is to vote, and it is stamped each time the voter exercises his franchise. A new card is sent to each registered voter every three years.

One other example of a permanent list is worthy of mention. In 1934 the *Dominion Franchise Act* (Canada) was enacted to provide for the establishment of a basic list of electors that year, followed by an annual revision each year thereafter between May 15 and July 1 during which registration was voluntary. Once the lists were printed they were to be used at all federal elections for a period of one year after July 1, and names of electors could not be added or removed until the next annual revision. The permanent lists were used for one election in 1935, and then quickly abandoned because of their inaccuracy. The Special Committee on the Elections and Franchise Act considered the possibility of compulsory voting and compulsory registration but reported to the House of Commons, that

. . . it cannot recommend either to the favourable consideration of the House. With regard to the former, it is of the opinion that it could not be enforced without continuous registration, a large staff of permanent officials, an annual house-to-house check-up of the names of the electors on the lists, and by other means, and your committee believes that the cost would be prohibitive under such circumstances. With regard to compulsory voting your committee has carefully considered the evidence submitted and, in view of the high percentage of electors who voted in Canada at the last two general elections, and of the doubtful value of compelling unwilling electors to cast their votes, together with the probable additional cost, has concluded that it would be inadvisable to adopt that system in Canada at this time.

Your committee is unanimously of the opinion that the system of the annual revision of lists of electors, as provided in the Dominion Franchise Act, 1934, has proved unsatisfactory. Experience has shown that the basic lists prepared in 1934 were almost obsolete within six months after they were completed, and that the annual revision held in the year 1935 was not adequate to remedy the situation. The conclusion arrived at is that the yearly revision under the provisions of the Dominion Franchise Act, 1934, could not produce satisfactory results, and that only through voluntary efforts on the part of members of parliament, candidates and political organizations, involving great cost in time and money, could the lists of electors be brought up to date and thoroughly purged. Your committee is unanimously of the opinion that it would be advisable to return to the system of preparation and revision of the lists of electors immediately after the issue of the writs of election, with closed lists in urban polls, and open lists in rural polls, as in 1930.

Your committee recommends that the Dominion Franchise Act, 1934, be repealed, and the provisions relating to the preparation and revision of the lists of electors be again embodied in the Dominion Elections Act.³

Although permanent lists can effect a reduction in the length of time required between the issue of an election

writ and polling day, their accuracy as reflected in the percentage estimates of the United Kingdom lists leaves much to be desired in comparison with the lists prepared in Manitoba under the present enumeration procedure. Given the mobility of our population as compared with that of the United Kingdom, the disparity between the two methods, if employed in our province, would probably be even greater.

3. Continuous Rolls

Unlike the method of keeping "permanent" lists, the continuous roll allows for revision at any time although usually the list is "closed" at a fixed date before polling day. It is similar in effect to the enumeration method employed in Manitoba, but without the necessity of conducting an enumeration after the writ is issued. A continuous roll should ideally be in a constant state of readiness and with a degree of accuracy equivalent to the final lists prepared after enumeration in a system such as our own. In addition to doing away with the necessity for an enumeration after the writ is issued, a central, continuous roll allows for absentee and postal voting. The basic problem with a continuous roll is keeping the list up to date, and the various methods employed are the chief distinguishing characteristics between the continuous rolls presently in use around the world. The principal distinction is between systems which rely on voluntary registration, with the onus on either the state or the individual to ensure that qualified voters are registered, and those which rely on compulsory registration by qualified voters, with penalties for failure to comply, although it should be pointed out that these divisions are by no means mutually exclusive.

(a) Voluntary registration

The most important example of a purely voluntary registration system relying solely on voter initiative is provided by the United States. Under the Constitution voter registration and voting are reserved to the States. As a consequence, there is a bewildering variety of electoral laws and voter registration is commonly left up to the voters themselves and the political parties which mount voter registration drives. There is no enumeration such as we have in Manitoba nor is there compulsory registration, such as in France or Australia, with the result that the voters' lists are far from complete. Apathy, oversight and ignorance ensure that at any one time a large proportion (approximately one quarter) of the American electorate is disfranchised. Because in many States there is no on-going or continuous revision of the lists, a voter who moves frequently could be on several lists at once, a situation rife with the possibility for fraud. Beyond its relative economy in terms of state expenditure there is very little to recommend this system as an alternative to enumeration.

The Province of British Columbia provides a home-grown example of a voluntary continuous roll in which both the voter and the state have come to share a responsibility for ensuring that the lists are kept up to date. Technically it is up to the voter to ensure that he or she is duly registered on the list but, as in the United States, leaving the voter to his or her own devices results in a very inaccurate and incomplete list. Consequently an intense registration campaign usually takes place in the media before an election to encourage voters to get out and register. Between elections

the method usually employed to keep the lists up to date is to cancel the lists for certain electoral districts and have a door-to-door canvass carried out by enumerators to compile new lists for those districts. In other electoral districts there may be a partial cancellation with registration centres set up at convenient places for the use of electors. The government has, on occasion, cancelled all of the lists and carried out a complete registration. During the 1972 election it abandoned the continuous roll entirely and resorted to an enumeration. Despite the active intervention of the state however, British Columbia's voluntary continuous roll has proven to be by far the least accurate in Canada as can be seen from the following comparison of the percentage of voting-age population in each province and in Canada as a whole registered for the provincial election held closest to the 1966 census date.

Jurisdiction	Voting Age	Voting Age Population According to 1966 census	Number of Electors on Voters' Lists	Election Date	Registered Electors as a Percentage of Voting-Age Population
New Brunswick	21	319,052	314,996	May 1967	98.7
Nova Scotia	21	415,257	405,704	May 1967	97.6
Newfoundland	19	249,572	239,616	Sep 1966	96.0
Saskatchewan	18	580,317	549,256	Oct 1967	94.6
Alberta	19	848,926	795,034	May 1967	93.7
Quebec	18	3,494,538	3,222,302	Jun 1966	92.2
Manitoba	21 ^(a)	552,960	509,469	Jun 1966	92.1
Canada	21	11,260,202	10,274,904	Nov 1965	91.2
Ontario	21	4,051,603	3,685,755	Oct 1967	90.9
Prince Edward Island	18	64,001	56,941	May 1966	89.0
British Columbia	19	1,172,849	873,927	Sep 1966	74.5

(a) The voting age in Manitoba was lowered to 18 in October, 1969. ⁴

(b) Compulsory registration

This rather draconian feature has become most

is
have
mpile
istricts
entres
he
and
lection
to an
ate
as
be
voting-
e

closely associated with the system of continuous rolls employed in the Commonwealth of Australia, perhaps the most elaborate and successful of all the continuous rolls, although, as we shall see, its success derives from a lot more than simply compulsory registration. The Australian system was adopted, not for reasons of cost or the length of election campaigns, but primarily because voting in that country is compulsory, and if voting is to be compulsory then at all times the voter's name must appear on the electoral roll. If a voter was missed in an enumeration he would have a reasonable excuse for not voting, hence the law places an onus on the voter to see that his name is added to the roll upon becoming eligible to vote, and that any subsequent changes of address are reported.

red
as
tage
Age
ion

The Commonwealth Electoral Act provides that there shall be a roll of electors for each State and a separate roll for each Electoral Division and for each Subdivision. The subdivisional rolls are grouped together to form the roll for an electoral division and the rolls for all the Electoral Divisions constitute the roll for the State. Because of the time required to print the rolls, it is not possible to have them printed as at the issue of the writ for an election, so supplemental rolls must be prepared to bring the main lists up to date. The rolls for an election are closed at six o'clock in the afternoon of the day of the issue of the writ. Thereafter there can be no further revision of the list until after polling day. Australian election campaigns generally average approximately 32 days although the time period has varied from 21 to 40 days.

Although compulsory registration undoubtedly contributes to keeping the Australian continuous roll up

to date, it is by no means effective enough by itself to ensure an accurate list. Large numbers of voters still neglect to register or notify the electoral authorities of changes in address and input from other government departments and agencies simply cannot keep pace with the rate of change in the electorate, with the result that the Australians have had to fall back on the house-to-house canvass in order to keep their lists accurate. Each year a complete review of habitations is carried out in urban areas and in rural areas an Electoral agent is employed to note all changes in his district in a "Field Book" which is an interleaved Roll of Electors for the district.

Thus although the Australians are able to keep a reasonably accurate continuous roll (albeit still not as accurate as under our enumeration system) and as a result keep their election campaigns down to a minimum length of time, the cost is high and the procedure complex with compulsory registration providing only part of the required input.

III. COMPARATIVE ADVANTAGES AND DISADVANTAGES

Of the three major systems of registering voters - enumeration, the permanent list and the continuous roll - by far the most complete and accurate in terms of the number of eligible voters registered and those qualified to vote is enumeration immediately following the issue of the writ. The major drawbacks of this system to its critics are that: (a) it is an administrative headache to the election officials who are called upon to supervise the enumeration in a very short period of time; and (b) it adds, in Manitoba, approximately

10-14 days to the length of time required from the issue of the writ of an election to polling day.

Permanent lists and continuous rolls would both offer a reduction in the length of time required to conduct a provincial election and would, in addition, be available for use in municipal elections and possibly federal elections, assuming the qualifications for voting were uniform for all three levels of elections.

Permanent lists of the United Kingdom variety offer the simplicity of a closed list with no further revision required after preparation of the initial list each year, but they rapidly become out of date as people become eligible to vote or die, or above all, move, a particularly critical consideration in a society with a highly mobile population such as ours. Such permanent lists, as well as being progressively inaccurate, are also inherently unfair, in that large numbers of people are disfranchised for up to a year for no other reason than the technical necessity to close the list. There is also, of course, the question of cost, since a permanent list must be revised fairly frequently, certainly at no longer than yearly intervals if any kind of accuracy at all is to be preserved. Experience in other jurisdictions has shown that nothing can adequately replace a direct canvass of the electorate by mail and ultimately by personal visitation, all of which costs money, and all of which must be done frequently, rather than simply at each election. The costs of printing and paying for the staff required to supervise the annual revision must also be borne in mind.

A continuous roll is the most obvious alternative to our present enumeration procedure, since it offers a

much better opportunity than the permanent lists to achieve the kind of accuracy which we are accustomed to in voters' lists. The basic problem is keeping the lists up to date, a task of considerable administrative complexity and cost. There is no one method of ensuring consistent accuracy, short of a rigidly policed compulsory registration, of all citizens, which is out of the question in a democratic society.

Those jurisdictions which rely solely on voter initiative for registration have the least accurate lists of all, with a large percentage of the eligible voters disfranchised through apathy and ignorance. This is not a method to be recommended for Manitoba, especially as we have traditionally relied on the state to attend to voter registration. In other jurisdictions where there is a continuous roll and the state does assume responsibility for registration, the lists are kept up to date through cross-reference with other government departments and agencies, extensive advertising campaigns to encourage voters to register, compulsory registration and compulsory voting, and finally and inevitably the door-to-door canvass which is by far the most accurate way to record eligible voters. Such canvasses, however, cannot be done much more than once a year because of the time required to conduct the personal visitations and revise the lists, and because of the comparatively heavy costs involved. The experience of other jurisdictions would suggest, however, that they are absolutely essential to maintaining an acceptable level of accuracy in the lists.

The primary benefits of a continuous roll would be a reduction in the election period of approximately 10-14

days, and the possibility of having a reasonably accurate common list for electors at the municipal, provincial and federal levels, but these benefits would require a permanent electoral bureaucracy, the maintenance of records either in address-plate form or in a computer memory bank and frequent printing of the lists, all of which clearly will cost far more than the present election-time-only enumeration. We were informed by the Chief Electoral Officer that the cost of enumeration has already risen from \$102,237.24 in 1973 to \$183,544.70 in 1977, and this would be subject to a much greater increase if the above bureaucracy were to be introduced.

IV. THE BEST SYSTEM FOR MANITOBA

If a reduction in the time required to conduct elections in this province is a matter of priority, then a continuous roll, similar to that used in Australia, could be adopted in Manitoba, so that there would be a reduction in our campaign period of approximately 10-14 days. It would be feasible to prepare and maintain such a roll through the use of computers so that the list could be produced quite rapidly at any time in printed form. Keeping the list up to date could be accomplished through the input of data from other government agencies such as Manitoba Medical, the Motor Vehicle Branch, Autopac, the Vital Statistics Branch, etc., through mail canvasses, and through encouraging the public to notify electoral officials of pertinent changes in their circumstances. We have no doubt that a full habitation review such as is carried out in Australia would also be required in Manitoba to produce an acceptable level of accuracy in the lists, and it would also probably be found necessary to introduce compulsory registration although this should be

resorted to only if the other methods suggested proved insufficient.

Needless to say a very high degree of cooperation from the public at large would be required to obtain the level of accuracy we are accustomed to in our present lists prepared at election time.

The cost of maintaining a continuous roll would be high, as is evidenced by the following quote from the Report of the Representation Commissioner, Nelson Castonguay, to the House of Commons in 1968, regarding the possible adoption of a continuous roll at the federal level:

. . . it is my belief that the adoption of such a system would prove to be very costly. The setting up of a permanent office in each electoral district, the recruitment of a great many permanent and casual employees, and an annual house-to-house canvass by review officers in order to purge and update the existing list of electors, would be the major items of expense. In addition, problems would arise with the enforcement of compulsory registration, and the prosecution of electors failing to register.⁵

In our opinion the cost would be prohibitively high if such rolls were to be used only for provincial elections. We think it imperative that if such a method of voter registration is adopted it be done with a view to its being used at municipal and federal elections as well, and that there be cost-sharing between the three levels of government. Although, no doubt, a computer could be programmed to collate the qualifications of each registrant for his or her eligibility to vote in elections at the three different levels of government, we think it would be much simpler and cheaper to make those

qualifications as uniform as possible. If a continuous roll is to be adopted in Manitoba then we would suggest that full advantage be taken of it to allow absentee and postal voting so that as many electors as possible have the opportunity to exercise their franchise.

Having stated that a continuous roll would be feasible in Manitoba, albeit at some cost in accuracy and at no small expense, and that it would indeed reduce the election period by some 10-14 days, we turn to the question of whether it would be worth the effort. In our opinion, the answer is no.

If a high level of completeness in voter registration is to be a key consideration and if the onus of securing registration of the voter is to be shared between the voter and the state, then compulsory registration seems unavoidable. The experience of the United States (and other countries) has shown the utter hopelessness of expecting a high level of registration where the onus to register is on the voter and is voluntary. Even compulsory registration, it seems, will not obviate the need for such other state-sponsored aids as enumeration. Manitobans, we suspect, would react unfavourably to the suggestion that they must register with an electoral authority and we think their unfavourable response would be amplified by the realization that it was being done simply to obtain a shorter campaign period for the election.

The creation of a central, computerized list of all citizens, maintained through access to the information stored by other government departments and agencies would be

an immensely useful and powerful tool in the hands of any government, and especially in the hands of a government, or even a bureaucracy intent on implementing its policy through coercion and manipulation. No matter what legislative and administrative controls were applied there would still be opportunity for the invasion of privacy. We believe that nothing should be done which might in any way increase government intrusion into the private lives of individuals.

Enumeration may be an administrative nightmare for the Chief Electoral Officer and his present, almost non-existent staff, but it is relatively cheap and accurate, and when all is said and done, remarkably speedy. It is also intensely political in that it induces community participation, and this, we think, is a good thing. Perhaps the use of only one enumerator in each polling division is an invitation to the manipulation of lists, but this could be cured by the adoption of the federal system of using two enumerators, each nominated by one of the two leading parties. Whether this is really needed or not, is debatable, but if it lends more public credence to the system then it should be considered. As for the candidate fatigue, financial strain and public impatience that are cited as the much-to-be-avoided side effects of lengthy campaign periods, we consider that a great deal of the ammunition for this kind of complaint is provided by federal elections and not by provincial elections. The recent federal campaign dragged on for 58 days; in 1977 the Manitoba provincial election was completed in just 35 days, which surely compares favourably with the Australian average of 32 days. There is

much to be said for longer campaign periods, in terms of the political interest and awareness generated in a population that at times tends to be somewhat apathetic in its participation in democracy. If people can go into polling booths on election day after one of our "long" campaigns without even knowing who the candidates are in their ridings, then an even shorter campaign is hardly going to improve their democratic participation.

We suspect that much of the complaining is rooted in the heavy drain on financial resources caused by saturation advertising campaigns, a phenomenon which could be appreciably eased by the introduction of reasonable and enforceable election expense laws. As for the public we perceive little or no popular resentment over the length of Manitoba elections. When the balance sheet is drawn on the advantages and disadvantages of our present enumeration system and its most likely rival, the continuous roll, we are compelled to recommend that the enumeration procedure be retained in Manitoba as the voter registration system most in tune with our democratic process as a whole.

V. IMPROVING THE ENUMERATION OF VOTERS

One of the features of enumeration at the federal level which might be of benefit in Manitoba for provincial elections is the employment of dual enumerators. The two enumerators who conduct the enumeration owe their respective appointment to two different sources. One is designated by the victorious candidate (or Party) in the previous election, and the other is designated by the runner-up candidate (or Party). For obvious reasons, they are more likely to perform

a thorough, indefatigable enumeration than a sole enumerator. The dual system is one element in obtaining accuracy but it does double the remuneration cost component.

To give an idea of the likely cost of adopting the dual enumerator system, one could cite costs incurred in the 1977 general election in Manitoba. These are not fixed by detailed statutory provision but are established by Order-in-Council for each election. In any event, according to information received from the office of the Chief Electoral Officer, for the last general election enumerators' fees and costs were:

Urban enumerators (Winnipeg only)	\$ 90,694.99
Rural enumerators	<u>92,849.71</u>
Total	\$183,544.70

or approximately 30¢ per eligible voter. A comparison of other Canadian jurisdictions would also indicate that Manitoba has one of the lowest, if not the lowest fee schedules for enumerators. Whatever fees and costs may be set for forthcoming elections, they are unlikely to be less than the above at least in the foreseeable future. As mentioned, teams of two enumerators would create a doubled expense total.

We also understand that it is no easy task at present to recruit the required number of enumerators so that adopting a dual enumerator system could present an enormous task of recruitment in the limited time available. We have no evidence of single enumerators deliberately distorting the lists, although, of course, the possibility does exist especially since enumerators, like other election officials, are generally

r. appointed from the ranks of sympathizers of the party in power. However, in the absence of any evidence of distortion of the electoral lists and bearing in mind the doubling of the costs which, as already stated, have increased dramatically, we recommend that enumeration continue to be conducted by a single enumerator.

r- We considered one other feature of the federal enumeration process, namely the provision of a copy of the electoral list for a polling subdivision to each household within the polling division. This again is an aid to accuracy but only if those persons in each household who are eligible voters bother to read the list and check for inaccuracies. At present in Manitoba, the lists are posted up in some conspicuous place in the polling division, such as on a telephone pole or in some public building, a procedure which we consider to be largely useless as an aid to revision. We doubt that providing a copy of the list to each household would be any more effective, and the cost would obviously be much greater. We note with interest that the federal government is now considering doing away with this provision in the *Canada Elections Act* in favour of cards to be sent to each household confirming that those occupants eligible to be on the voters' list have been registered. Improving the accuracy of the list in the initial preparation stage, ie. during the enumeration itself, would, in our opinion, be more effective and in this regard, we recommend that call-back cards be instituted as a permanent part of the enumeration procedure.

ther
s
ng
east
e-
sent
ing
ence
ally

We are informed that the call-back cards have been used on an experimental basis in Manitoba with considerable success. Such cards should be left at dwelling units where, after at least two visits - one day-time and one evening -

the enumerator is unable to secure the necessary information. In essence the card would simply notify the occupant to contact the enumerator in order to be recorded in the list of electors for the polling division. In addition, we would also recommend that there be a fair-sized advertisement in the daily and local newspapers circulating in the district advising the habitants whom to contact in order to be recorded on the list of electors.

Lest there be any doubt about the enumerators' right of access to all dwelling units such as apartment blocks with controlled access lobbies, universities' or nurses' residences or rooming houses, we recommend that the enumerators' right of access to such dwellings be expressed in legislation. We wish to point out that such a right does exist for candidates or their authorized representatives for the purpose of canvassing or distributing election material under section 96 of "The Landlord and Tenant Act", C.C.S.M. c. L70.

A recurrent problem with the printing of lists of electors is the time it takes to have type set and obtain copies of the printed lists. The lists are of crucial importance to all concerned: to those charged with the administration of the election; to those concerned with the necessary revisions; and to the candidates and their election workers. A faster and less expensive method of producing the lists is to be encouraged, if possible. Both the federal and Ontario Chief Electoral Officers, as we are informed, have adopted a photo-offset method of producing electoral lists, using the original copy typed by the enumerators. We think that this new method of producing electoral lists would be acceptable to the electoral administration in Manitoba, even though it would require a higher standard of neat work on the enumerators' part. This method has another advantage;

it would permit the returning officer in each electoral division to provide photocopies of the "official" list for the candidates, even before the printing has begun and thereby enable them to check for any inaccuracies. We recommend that electoral lists be printed by photo-offset taken directly from the enumerators' typed copy.

The process of revision of the lists of electors is described in sections 23 to and including 27 of "*The Election Act*". In urban areas the returning officer sets two days for revision in the most convenient and central suitable building in the electoral division, while in rural areas revision is to be held one day each at two different central and convenient places. For the purposes of rural revision, the electoral division is to be divided into revision districts, each encompassing a number of polling subdivisions. Revision is closed at 10:00 p.m. on the second day, which is described to be the second day before nomination day, unless it is a holiday. (Of course, under section 76 it is still possible for a person whose name has been omitted from the voters' list, to vote while the polls are open if such person be vouched for by an already listed elector in the electoral division.)

We believe that this process could be improved to accord greater public access to proper revision, to diminish paper work and simplify and clarify the procedures. A perusal of the above-mentioned sections of the Act convinces us that some of their technical complexities are outdated, and the process could be reformed with good effect. We recommend:

That revision should be held for two full days in all locations (rather than one day at each location in rural electoral divisions);

That the dividing of electoral divisions into revision districts should be abandoned in favour of

authorizing all revising officers to process all enquiries directed to their office regardless of polling subdivisions, such that in rural areas each revising officer should be authorized to revise any portion of the list for the electoral division;

That larger and more informative notices regarding revision should be formulated for posting by the enumerators; and

That the returning officer should be empowered to continue revising the list after formal revision, if and as needed, until five days before polling day.

In December 1977 the *Canada Elections Act* was amended to repeal the requirement with regard to federal elections that the occupation of an elector be shown on the list next to his name. The Chief Electoral Officer of Canada, in his 1979 Statutory Report states:

In addition to being extremely well received by the population, this amendment has made it possible to adopt a new format for the printed preliminary lists of electors. As a result, the preliminary lists of electors could be printed much more rapidly than in the past and at a substantially reduced cost.

We would recommend the repeal of this requirement in Manitoba and on the basis of the above Report believe that this would result in the preliminary lists of electors being printed more quickly and at a greatly reduced cost. We also note that in this province the enumerators had to designate the sex of the elector and we believe that this practice should be discontinued.

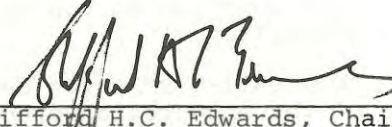
SUMMARY OF RECOMMENDATIONS

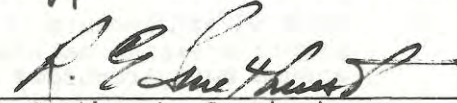
For ease of reference, the Commission's recommendations are summarized as follows:

1. That the enumeration procedure be retained in Manitoba as the voter registration system most in tune with our democratic process as a whole.
2. That enumeration continue to be conducted by a single enumerator.
3. That call-back cards be instituted as a permanent part of the enumeration procedure.
4. That advertisements be placed in daily and local newspapers advising habitants whom to contact in order to ensure being recorded on the electoral list.
5. That enumerators' right of access to dwelling units such as apartment blocks, universities' or nurses' residences or rooming houses, be expressed in the legislation.
6. That electoral lists be printed by photo off-set taken directly from the enumerators' typed copy.
7. That revision should be held for two full days in all locations (rather than one day at each location in rural electoral divisions).
8. That the dividing of electoral divisions into revision districts should be abandoned in favour of authorizing all revising officers to process all enquiries directed to their office regardless of polling subdivisions, such that in rural areas each revising officer should be authorized to revise any portion of the list for the electoral division.
9. That larger and more informative notices regarding revision should be formulated for posting by the enumerators.
10. That the returning officer should be empowered to continue revising the list after formal revision, if and as needed, until five days before polling day.

11. (a) That the requirement that occupation of an elector be shown on the list next to his name be abolished.
- (b) That the practice of designating the sex of the elector be discontinued.

This is a report pursuant to section 5(3) of "The Law Reform Commission Act", dated this 26th day of November 1979.


Clifford H.C. Edwards, Chairman


R.G. Smethurst, Commissioner


Val Werier, Commissioner


Patricia G. Ritchie, Commissioner


David G. Newman, Commissioner


A. Burton Bass, Commissioner


Evan H.L. Littler, Commissioner

FOOTNOTES

1. Qualter, T.H., *The Election Process in Canada*, 1970, pp. 18-19.
2. Report of the Representation Commissioner on Methods of Registration of Electors and Absentee Voting, Ottawa, 1968 (known as the Castonguay Report), pp. 7-8.
3. Report of the Representation Commissioner, p. 10.
4. Qualter, T.H., *op. cit*, p. 29.
5. Report of the Representation Commissioner, p. 63.
6. Statutory Report 1979, The Chief Electoral Officer of Canada, p.10.