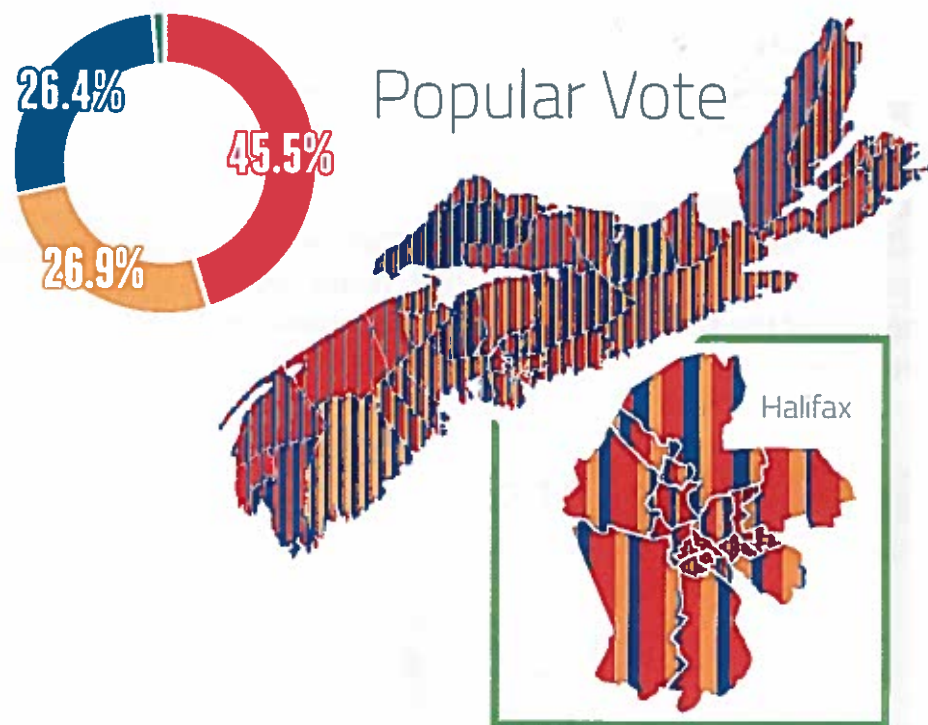
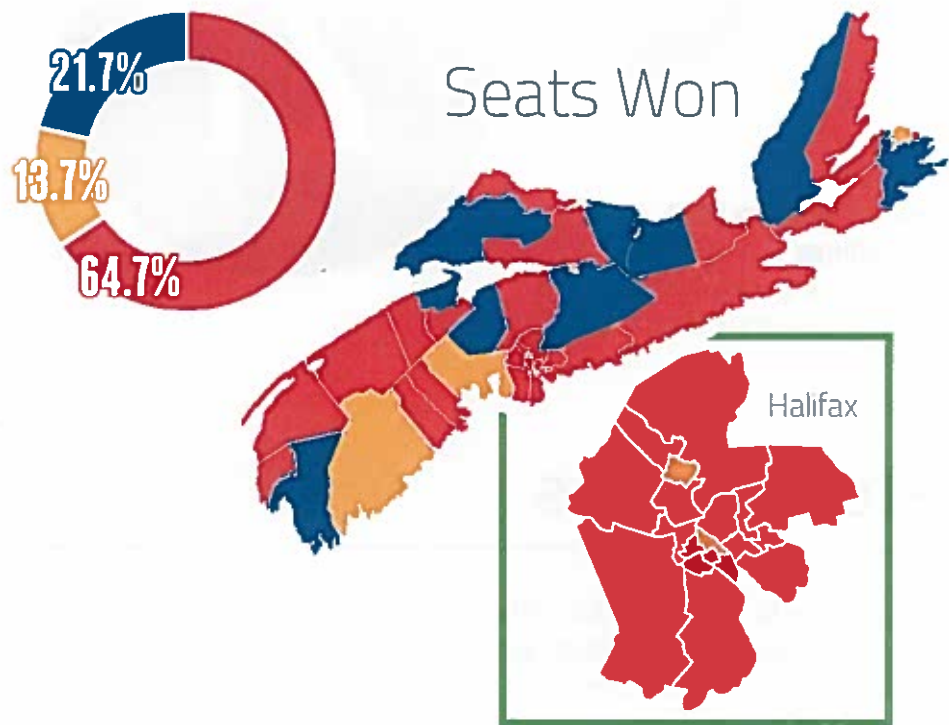


2013 Nova Scotia Election Results Unpacked

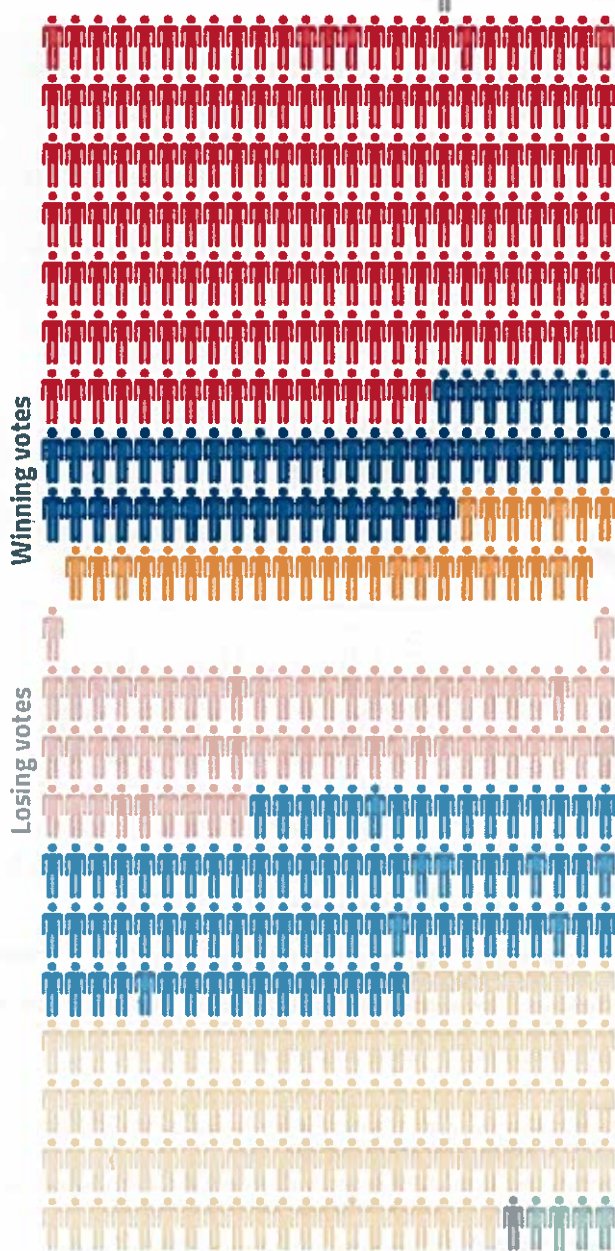


Width of colored bands indicates level of popular support for parties' candidates at the riding level.

Minority Rules

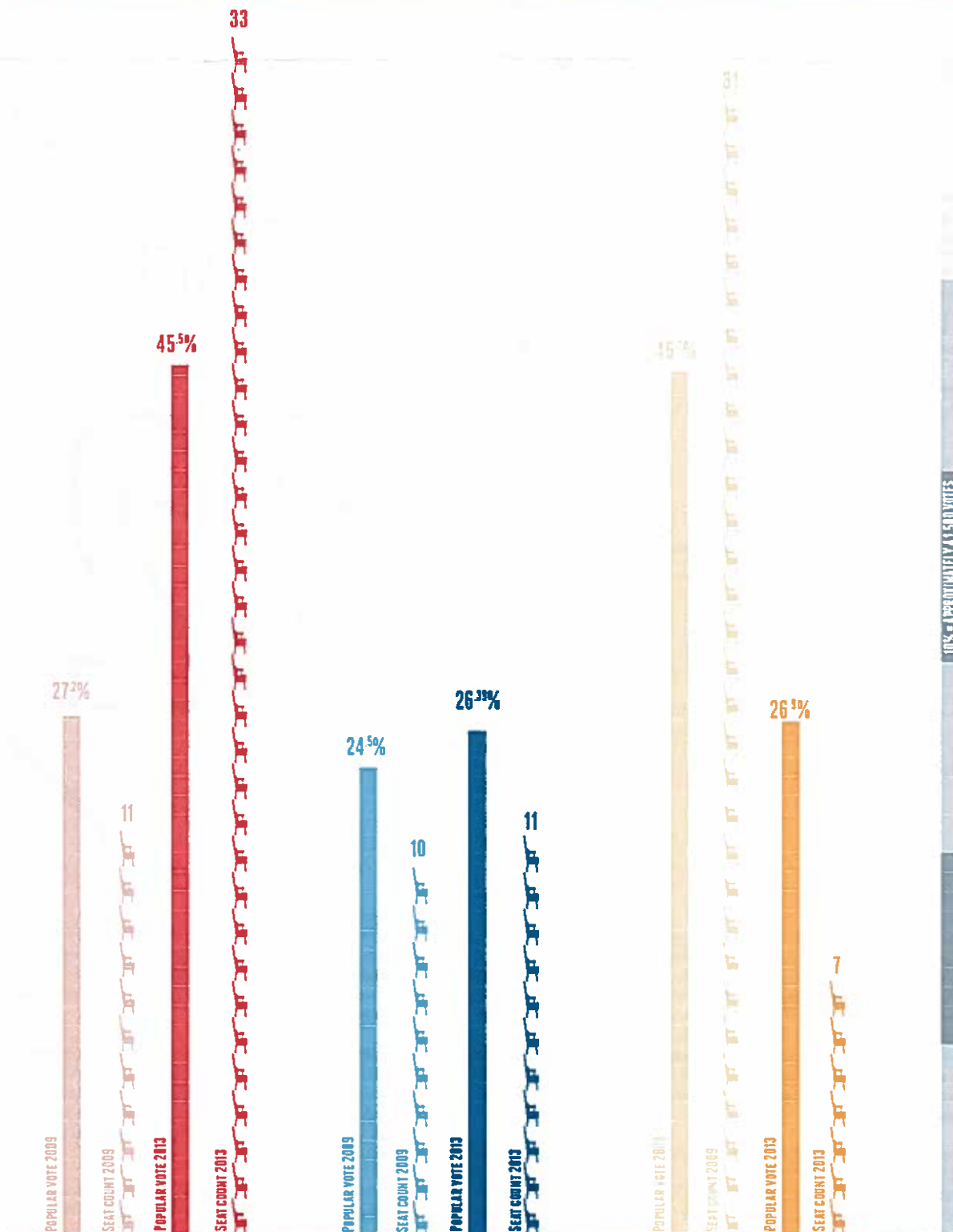
416,241 Nova Scotians cast valid ballots in the 2013 election. **51%** of those people voted for losing candidates.

≈ 800 Voters



Winning votes are votes cast for a candidate that won their election. Losing votes are votes cast for candidates who lost.

Votes and Seats: 2009-2013



10% = APPROXIMATELY 41,624 VOTES

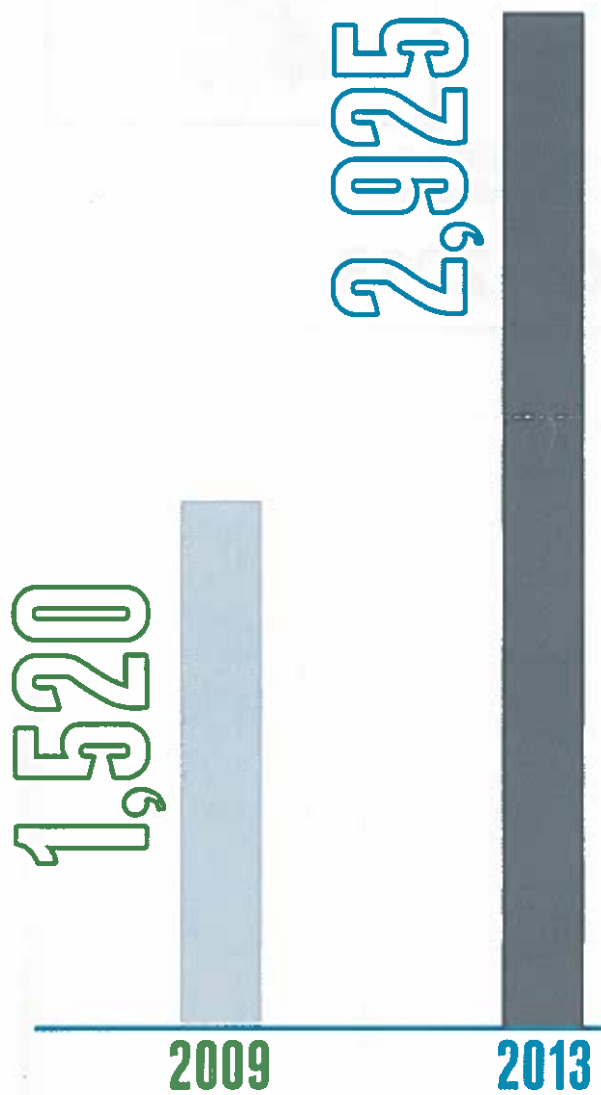
The Biggest Loser

Derek Mombourquette (Liberal) came second place to incumbent Gordie Gosse (NDP) in the riding of Sydney-Whitney Pier, earning 4511 votes (43.8%), **more votes than any other second place candidate and more than 41 of the 51 winning candidates.**

The Smallest Winner

Stephen Gough (Liberal) won in the riding of Sackville-Beaver Bank, with just 2570 votes (40.2%), fewer votes than any other winning candidate across Nova Scotia, and **fewer votes than 26 of the second place candidates across the province.**

Spoiled Ballots



The number of ballots marked as spoiled across Nova Scotia doubled from 2009 to 2013. The 2013 number is equivalent to the entire human population of Inverness and Chester combined.

¹These ridings are: Cole Harbour-Portland Valley (Vote Difference: 21; Switchers to lose: 11), Cole Harbour-Eastern Passage (Vote Difference: 143; Switchers to lose: 72), Sackville-Beaver Bank (Vote Difference: 201; Switchers to lose: 101), Victoria-The Lakes (Vote Difference: 303; Switchers to lose: 152), Lunenburg (Vote Difference: 414; Switchers to lose: 208), Guysborough-Eastern Shore-Tracadie (Vote Difference: 509; Switchers to lose: 255), Halifax Atlantic (Vote Difference: 665; Switchers to lose: 333), Cumberland North (Vote Difference: 732; Switchers to lose: 367). If just over half of the "winning votes" in each riding had voted for second place candidate, the results would be as we've suggested.

²These ridings are: Cape Breton Centre (Vote Difference: 158; Switchers to lose: 80), Chester-St. Margaret's (Vote Difference: 148; Switchers to lose: 75), Halifax Needham (Vote Difference: 277; Switchers to lose: 139), Queens-Shelburne (Vote Difference: 381; Switchers to lose: 191), Sackville-Cobequid (Vote

No Silver Medals



Despite winning only seven seats, **the NDP came second place in 27 ridings** across Nova Scotia. They collected more "losing votes" (votes that did not elect candidates) than any other party - 87,136 in total.

Second Place Switchers

Our electoral system is vulnerable to subtle shifts in voter support in close ridings. Here is what, hypothetically, a small number of voters could have made happen by switching their votes to second place candidates in certain ridings.

1,499

If this many Liberal voters had voted for the runner-up in eight ridings where Liberals won by the narrowest margins,¹ **Liberals would lose eight seats and have only a minority (25 seats) in the legislature** instead of a majority.

1,046

If this many NDP voters marked their ballots for the second place candidates (Liberal or PC) in all seven of the ridings where the NDP won,² **the party would have lost all seven seats in the provincial legislature.**

201

If this many voters chose the NDP instead of the winning candidate in ridings won by the Liberals and PCs with the narrowest margins over the NDP,³ **the NDP would be the official opposition with 11 seats**, the Progressive Conservatives would hold 10 and Liberals 30.

32

the number of ridings where the majority of voters cast ballots for somebody other than the winning candidate.

51

Voter Turnout

59.12%

of eligible voters cast ballots in the election, roughly a percentage point higher than the turnout of 57.95% in the 2009 general election.

Difference: 85; Switchers to lose: 43), Sydney-Whitney Pier (Vote Difference: 550; Switchers to lose: 276), Truro-Bible Hill-Millbrook-Salmon River (Vote Difference: 483; Switchers to lose: 242). If just over half of the "winning votes" in each riding had voted for second place candidate, the results would be as we've suggested.

³These ridings are: Cole Harbour-Portland Valley (Vote Difference: 21; Switchers to win: 11), Kings North (Vote Difference: 32; Switchers to win: 17), Cole Harbour-Eastern Passage (Vote Difference: 143; Switchers to win: 72), Sackville-Beaver Bank (Vote Difference: 201; Switchers to win: 101). ⁴(The percentage was also higher than any of the other second place candidates)

⁵Losing votes: votes that did not elect candidates. Liberal Losing Votes: 51,166 (12.3% of valid ballots); NDP Losing Votes: 87,136 (20.9% of valid ballots); PC

Losing Votes: 68,133 (16.4% of valid ballots); Green Losing Votes: 3276 (0.8% of valid ballots); Independent Losing Votes: 1,238 (0.3% of valid ballots). Winning votes: votes that did elect candidates. Liberal Winning Votes: 139,243 (33.5% of valid ballots); NDP Winning Votes: 24,471 (5.9% of valid ballots); PC Winning Votes: 41,326 (9.9% of valid ballots);

Sources
Elections Nova Scotia (2013). 39th Provincial General Election 2013 Official Results. Accessed online on October 16th 2013.
Elections Nova Scotia (2009). Summary by electoral district and party of valid votes cast June 9, 2009 Nova Scotia provincial general election.

Statistics Canada (2013). Population and dwelling counts, for Canada, provinces and territories, and population centres, 2011 and 2006 censuses: Nova Scotia

Attribution: Researcher & Copy Author- Mark Coffin, Springtide Collective, Halifax.



WHO AM I

- Intro about Springtide:

I'm a Nova Scotian who has been involved in democratic engagement and democratic reform in our province for the last seven years.

- In 2008 I made a report to Elections Canada on ways to improve their outreach to Young voters, and as I understand many of the recommendations in it have been acted upon.

- I've worked as a consultant with Elections Nova Scotia to help roll out similar initiatives here in Nova Scotia, namely polling stations on university and college campuses.

- The last time I spoke at this Committee was when I was here speaking in support of changes I had advocated or in the Municipal Elections act which removed archaic discriminatory clauses that restricted the voting rights of "unmarried university and college students"

- Currently, I'm a witness in an legal case seeking a court injunction to suspend key provisions of the "Fair" Elections Act for the upcoming federal election that a number of Canadians believe violate our charter rights.

Here's why this matters

Elections are the foundation of democracy. If we don't get them right, anything else we get right is in spite of the voting system, not because of it.

These Ammendments.

I fully understand the logic behind the amendments coming forward today. Based on a very high level analysis, I see no reason why they shouldn't come forward.

These changes answer the questions: how can we make voting in elections more accessible to every voter, and how can we remove the barriers that might prevent people from voting.

I commend the Minister for bringing these changes forward, and the leadership at Elections Nova Scotia. The last election in Nova Scotia was as far as I can tell the most accessible election in Nova Scotian history. With a dozen ways to vote, I cannot see how someone could blame their non-participation on the administration of this election.

Yet, by my calculation - the difference in voter turnout between the 2009 and 2013 elections was an additional 216 voters.

Access barriers are not the problem in provincial elections.

In the 2014 Presidential election in Afganhistan, the Afghan people were threatened by the Taliban with death if they voted in the country's national election.

Over 20 civilians and those trying to protect them lost their lives for participating in the democratic process.

As my friend, John Beebe says, *that* is an access barrier.

In Nova Scotia, we don't really have access barriers anymore.

I take no issue with amendments coming forward today, it's important to understand that these changes touch only the surface level of a deep problem with our voting systems.

But, Nova Scotians are looking for new ways of doing politics. A recent report from Samara Canada - the leading national research group studying democracy and political engagement in Canada. Found that, of all Canadians, Nova Scotians are simultaneously the most politically engaged of any province, and - second only to Quebec - the most likely to be dissatisfied with how democracy is working (40%). The closer we get to it, the less satisfied we are with politics.

This is not a niche, academic issue that is only relevant to academics and political geeks like me. A study by EKOS last year found that when Canadians were asked a series of questions to understand what public issues reflected their deepest concerns about the future, "an acute decline of our democratic institutions" was identified as most concerning more often than any other issue - 54% of the time Canadians chose this one - well above environmental degradation or economic decline.

The problem of our time - when it comes to elections - is making elections fair, and making every vote count.

Election Results Unpacked

I've brought enough copies for all of an infographic of the 2013 election results that we created at Springtide that demonstrates some of the deficiencies of our voting system

Consider the results of our October 8th election in 2013. A majority of voters woke up on October 9th to learn that the

party they voted for would not be a part of the government - 55% of voters voted for a PC, NDP, Green or Independent candidate.

This is not meant to be a partisan attack on Liberals. The NDP also had more power than popular support, as did PC governments before that.

"But wait," the critics protest. "We don't vote for parties and premiers, we vote for candidates!"

Well, as you'll see flipping through our infographic, the election from the perspective of candidates doesn't work much better.

We're told three white lies when we learn about democracy as children.

- 1) Every vote counts.**
- 2) Majority Rules.**
- 3) All votes are equal.**

1) Every vote counts.

Consider this: a majority of voters (51%) voted for candidates that did not win. If that majority - 212,000 Nova Scotians - stayed home on Elected Night, we'd still have the exact same legislature.

SO it's not the case that every vote counts, it's that every vote gets counted. That's how we can make all these nice diagrams.

2) Majority Rules.

It's pretty clear that this isn't true. In 32 ridings the majority of voters cast a ballot for someone other than the winning candidate.

3) All votes are equal...

Not exactly. Our electoral system is divided into invisible boundaries - ridings or electoral districts we call them. Because of this a vote in one riding might mean something very different than a vote in another riding...

For example: in 2013 Liberal Candidate in Sydney Whitney Pier - Derek Momborquette = collected 4,511 votes - not enough to beat Gordie Gosse who had a few hundred more - but with 4,511 Momborquette collected more votes than any other second place candidate and more than 41 of the 51 members of this assembly.

By contrast, the member for Sackville-Beaver Bank won his election with just 2,570 votes - fewer than any other candidate - and just over half the votes collected by losing candidate Derek Momborquette in a different riding.

All votes aren't equal. Not even close.

We tell these white lies, because we know they should be true. So I invite members of the committee to consider them as vision statements for our democracy, and join a movement to try to make them a reality.

Here's what I'm not saying: I'm not saying the legislature, any member of it, or this government are illegitimate,

What I'm saying is this: both the legislature, and the government are the legitimate product of what appears to be a flawed system. The legislature and the government we have is the only logical thing that could have been expected based on our system and popular opinion at the time.

The legislature and the government have legislative power that is exactly what our electoral system dictates they should have, but that power is disproportionate to their popular support among voting Nova Scotians.

The system is vulnerable

This system is incredibly vulnerable to subtle shifts in voter support in a few close ridings. Hypothetically, if the right number of people switched their votes from second and first place candidates in the closest of ridings, we would have a very different government or legislature.

Second Place Switchers

- if 1,499 Liberal voters had voted for the runner-up in high ridings where Liberals won by the narrowest of margins, we would have a liberal minority government right now, or perhaps a PC - NDP coalition.
- If 1,046 NDP voters marked ballots for the second placed candidates in all seven of the ridings where they won, the party would have no seats in the provincial legislature.
- If 201 voters chose the NDP instead of the winning candidates in ridings won by the Liberals and PCs with the narrowest of margins over the NDP, the NDP would be the official opposition.

The problem I see it is this:

- Every vote doesn't count.
- The majority of Nova Scotians are unrepresented.
- The votes that *do* count are random, and based on the analysis above, if the right voters change their minds, the instability and volatility of our electoral system are demonstrated.

Let me share with you a quote:

"Elections are a fundamental element of a proud and mature democracy, and the willingness of so many citizens to engage in the public affairs of our province is a source of confidence and optimism in Nova Scotia's future.

However, the reluctance of many others to participate in the electoral process is a source of real concern."

Mr. Chair, these aren't my words, although I do agree with the sentiment.

These are words delivered on behalf of this government by our Lieutenant Governor, the Honorable J.J. Grant in the throne speech delivered in late 2013.

He went on to say: "During the course of my government's mandate, steps will be taken to address this erosion in voter participation. These steps will be based on engaging with Nova Scotians in a discussion about our electoral process."

Any discussion about voter participation is flawed if it doesn't also address the broken elements of our voting system.

Based on our inquiries and queries about when this discussion with Nova Scotians was going to happen, we learned that there has never been an intention of following through on it.

The commitment didn't register on the list of commitments being tracked by the Premier's Office.

So in the spirit of the One Nova Scotia call to action, my organization, and several other community organizations, and small businesses decided that we should engage Nova Scotians in a conversation which we're calling "MakeDemocracyBetter".

We've broadened the discussion to also include democracy outside of elections – public engagement, citizen education and empowerment, and exploring democratic decision making.

Make Democracy Better

Right now the organization I run is wrapping up the first face of that province wide conversation. From the people we've met, it's clear that they care about these issues. Among two dozen ideas we've been proposing to make democracy better, the top idea in nearly every session we've held - from Shelburne to Sydney - has been improve the voting system.

The solution for a better voting system needs to be approached mindfully:

Henry Ford has a great quote about innovation in transportation:

'If I had asked people what they wanted, they would have said faster horses.'

If our first-past-the-post electoral system is like a slow horse. The better solution can't just come from small adjustments to the current system.

The faster horse of voting systems for electing legislatures the world over is Proportional Representation.

Proportional Representation

All proportional representation means the share of the seats a party has in the legislature that more closely resembles the share of the popular support they earned on election night -

the total proportion of people that voted for their party compared to all of the other parties.

Who uses it:

Many Developed Democracies:

- Germany, Denmark, Ireland.
- New Zealand, the Australian Senate
- Most emerging democracies under the guidance of the UN are adopting some form of proportional system.

There are a wide variety of types of proportional systems. I don't have time to go into the details, but we do know this about the countries that use proportional representation.

- Its most important impact is that each vote counts in the allocation of legislative seats:
 - it eliminates wasted votes and vote splitting,
 - it enables elected leaders to reflect the more diverse and plural perspectives, opinions, and interests when creating important public policies.
 - It elects more women (almost double on average) [i] and minorities and generally ensures that the body of legislative representatives reflects the socio-economic and cultural circumstances of its citizens.
- It encourages stronger citizen participation, generating high voter turnout (7.5% on average), stronger citizen satisfaction (17% percent higher), and stronger trust in government. (Lijphart, *Patterns of Democracy*, 285 and 287)
- While some argue that the first past the post system is necessary for strong and effective government the work of Arend Lijphart - who wrote a book called patterns of democracy which is where I'm getting most of my

statistics from – says otherwise.

- In that book he offers statistical proof that there is no tradeoff between effective representation and stable and effective government. In fact more democracies using a proportional voting system have a stronger track record on stable and effective government than first past the post democracies.
- This kind of stability is also good for the economy, it offers more predictability in what government policy will be, and jurisdictions using proportional representation have a slightly better track record in controlling inflation.^[i] It also correlates with lower income inequality.

Even better than good government...

- According to the 2013 World Happiness Report commissioned by the United Nations, the top ten happiest countries in the world were parliamentary democracies eight of which use proportional representation including the top five.^[iv]

So in closing – I certainly don't expect this committee to amend the legislation here today to include a new voting system. I know these changes take time. But my hope is that the government will return on it's commitment, engage in a real discussion with Nova Scotians about our democracy. And ask the smart, talented public servants at Elections Nova Scotia to explore issues of effective representation and improved voting systems to complement some of the great work they're doing on voting accessibility.

I look forward to your questions.

Presentation to Law Amendments Committee
Nova Scotia Legislature
Bill 83: Amendments to the Elections Act
April 13, 2015

Good afternoon, Madame Chairperson. Committee Members. Mr. Temporale.

I will confine my comments to the proposed amendments to Sections 50 and 99, which make it an offense to photograph a ballot.

These proposed amendments arise out of an incident in which I made a spur-of-the-moment decision to photograph and tweet my ballot at the advance poll for Victoria the Lakes in the 2013 election. I did this to make a point about two of the candidates standing for office in my riding. Since I don't usually vote PC, I wanted to *prove* I had done so, in a vivid way, that would generate political discussion. This was a deliberate act of political speech.

Elections Nova Scotia insisted the Elections Act *already* made it an offense to photograph a marked ballot. Based on this false claim, it badgered one citizen into signing a compliance agreement acknowledging he "breached provisions of the Elections Act." The Chief Electoral Officer has since acknowledged there was no breach, but to this day the false confession coerced by commission staff remains on Elections Nova Scotia's website.

Elections Nova Scotia offered me a chance to sign such a confession. I declined, and eventually, the Chief Electoral Officer acknowledged he had no case against me. Had I signed an agreement, I doubt we would be looking at these proposed amendments today.

I hope you will reject these amendments. Banning an act of political speech such as mine would violate the Canadian Charter of Rights and Freedoms, which guarantees free expression, including freedom of the press and other media of communications. The Charter calls these "fundamental freedoms."

The only question is whether these amendments would be considered reasonable limits under Section 1.

Many people think you shouldn't photograph ballots because doing so is undignified, or offends the sanctity of the ballot booth. But courts are unlikely to uphold an infringement of political expression simply because the restricted speech is undignified. Courts protect far ruder speech than this.

In reality, there is really only one serious argument in favor of banning ballot photography. "I am free to *tell* everyone how I voted," this argument goes, "but if I can *prove* how I voted, then my vote can be bought, sold, or extorted."

There are several problems with this position.

Vote buying was widespread in Nova Scotia two or three generations ago, but to all intents and purposes, it has disappeared. There have been no credible accounts of vote buying for decades. Indeed, the only kind of vote buying that takes place these days is the kind governments do with the public's money, and opposition parties do with foolhardy promises. The proposed restriction on free speech would combat behavior that no longer occurs.

The real problem facing our electoral system today is that young people don't vote. This distorts our politics. It gives old people like me disproportionate influence, and diminishes the influence of the very young people we need for this province to survive and prosper. If young people voted as often as old people, the government would never have blundered into killing our film industry.

I applaud Elections Nova Scotia's efforts to encourage young voters. I urge them to take these efforts further. Instead of penalizing people for photographing their ballots, invite them to do so, and encourage them to tweet, text, vine, pin, tumblr and storify their ballots.

There is an even bigger problem with the vote buying argument.

Elections Nova Scotia's website advertises "A Dozen Ways to Vote in Nova Scotia."

- You can vote from home, with a write-in ballot. You can even ask a neighbour, family member, care giver, or friend to "assist" you. It's not hard to see how that could lead to vote buying or extortion.
- You can vote in a long term care facility.
- From a homeless shelter.
- By mail, from anywhere outside Nova Scotia.
- University students can vote by mail from *inside* the province.
- You can vote from a hospital.
- And if you get locked up for photographing your ballot, you can even vote from jail.

So in eight of the 12 voting methods allowed by the act and promoted by Elections Nova Scotia, it would be child's play to prove how you voted, and therefore to buy, sell, or extort a vote. Yet the Act allows it. And Elections Nova Scotia encourages it. And no one abuses it.

In effect, the act leaves eight barn doors wide open to the abuse Elections Nova Scotia says it wants to combat. Only the Free Expression door is slammed shut. This is not a minimal impairment of the Charter right. It is a selective and gratuitous impairment, carried out under the guise of protecting against vote buying, when that protection is otherwise absent or lackadaisical.

You may well take the view that this is a trivial matter. Who cares whether Parker Donham or anyone else can photograph their ballot?

Those entrusted with our democracy should never treat any abridgement of free expression as trivial—especially not one that limits political speech. As the Supreme Court of Canada has counselled, such infringements should only be imposed in the rarest of circumstances for the strongest of reasons.

Freedoms are hard won. Democracy and freedom of political speech are under assault all over the world today. It is so easy to chip away at freedoms. Let this one go, because it doesn't seem all that important, and it will be that much easier to justify the next infringement, and the next, and the next.

The Canadian Charter of Rights and Freedoms is one of the great moral and political achievements of our time. It is, dare I say, a *Liberal* achievement. Don't be a party to its diminution even in a small way.

As legislators, you are guardians of our fundamental freedoms. You should never infringe them lightly, and I urge you not to do so in this case.

Parker Donham
Kempt Head, Nova Scotia

Bill #83
Elections Act (amended)

CHANGES RECOMMENDED TO THE LAW AMENDMENTS COMMITTEE

PAGE 4 - add the following Clause immediately after Clause 11:

12 Chapter 5 is further amended by adding immediately after Section 29 the following Section:

29A (1) Nothing in this Section affects the powers of the Lieutenant Governor, including the power to dissolve the House of Assembly at the discretion of the Lieutenant Governor.

(2) Subject to subsections (3) and (4), and the powers of the Lieutenant Governor referred to in subsection (1), notwithstanding any other enactment, each general election must be held on a Tuesday between March 1st and June 30th, inclusive, as determined by the regulations, in the fourth calendar year following ordinary polling day for the most recent general election.

(3) Where the Chief Electoral Officer is of the opinion that a Tuesday that would otherwise be ordinary polling day is not suitable for that purpose, including by reason of it being in conflict with a day of cultural or religious significance or a federal or municipal election, the Chief Electoral Officer shall choose another day in accordance with subsection (4) and recommend to the Governor in Council that ordinary polling day be that other day, and the Governor in Council may make an order to that effect.

(4) For the purpose of subsection (3), the Chief Electoral Officer may choose as an alternative ordinary polling day one of the seven days following the Tuesday that would otherwise be ordinary polling day.

(5) In the case of a general election under subsection (2), an order must not be made under subsection (3) within seventy days preceding the Tuesday that would otherwise be ordinary polling day.

PAGES 4 to 27, Clauses 12 to 100 - renumber as 13 to 101

PAGE 27 - add the following Clause immediately after Clause 100 (renumbered as 101):

102 Subsection 361(1) of Chapter 5 is amended by relettering clause (a) as (aa) and adding immediately before that clause the following clause:

(a) determining, for the purpose of subsection 29A(2), the day of the year on which a general election must be held

PAGE 27, Clauses 100 to 104 - renumber as 103 to 105

Bill #83
Elections Act (amended)

CHANGES RECOMMENDED TO THE LAW AMENDMENTS COMMITTEE
BY THE MINISTER RESPONSIBLE FOR THE ELECTIONS ACT

PAGE 26, Clause 94 - delete "Sections 272 and" and substitute "Section".

CARRIED

**Bill #83
Elections Act (amended)**

CHANGES RECOMMENDED TO THE LAW AMENDMENTS COMMITTEE
BY THE MINISTER RESPONSIBLE FOR THE ELECTIONS ACT

PAGE 26, Clause 94 - delete "Sections 272 and" and substitute "Section".

DEFEATED

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