

Protecting Democracy

or

Those boring parts of the charter no one talks about

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Section 3

3. Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

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of the United the Will Charle from the of med no Brown what so amounted without the Commonwer of the Menter of the Brown of the Standard or of the Standard of



Fundamental Freedoms

2. Everyone has the following fundamental freedoms: (a) freedom of conscience and religion; (i) freedom of thought, belief, opinion and expression, including freedom of the press and other media of communication; (4) freedom of peaceful assembly; and (4) freedom of association.

law as can be demonstrably justified in a free and democratic society.

freedoms set out in it subject only to such reasonable limits prescribed by

Democratic Rights

supremacy of God and the rule of law:

and Freedoms

Guarantee of Rights

members of the House of Commons or of a legislative assembly and to be qualified for a use of Commons and no egislative ass in five years from the date fixed for the ret time of real or ap Commons may be be continued by the opposed by the votes of more trun one-th of Commons or the legislative assembly, as the case may be. c. There shall be a sitting of Parliament and of each legislature at least once every twelve

Mobility Rights

— 6. (a) Every citizen of Canada has the right to enter, remain in and leav Canada. (a) Every citizen of Canada and every person who has permanent resident of Canada has the right (a) to move to an residence to any province; and (δ) to pursue the gaining of a 1any province. (3) The rights specified in subsection (2) are sublaws or practices of general application in force in a province other than those that discriminate among persons primarily on the basis of province of present or previous residence; and (F) any laws providing for reasonable residency requirements as a qualification for the receipt of publicly provided social services. (4) Subsections (2) and (3) do not preclude any law, program or activity that has as its object the amelioration in a province of conditions of individuals in that province who are socially or economically disadvantaged if the rate of employment in that province is below the rate of employment in Carada.

Legal Rights

7. Everyone has the right to life, liberty and security of the person and the right not to be deprived thereof except in accordance with the principles of fundamental justice. 8. Everyone has the right to be secure against unreasonable search or seizure, q. Everyone has the right not to be arbitrarily detained or imprisoned, so, Everyone has the right on arrest or detention (4) to be informed promptly of the reasons therefor; (8) to retain and instruct coursel without delay and to be informed of that right; and to have the validity of the detention determined by way of falest or put to be released if the detention is not lawful. 11. Any person charged with offence has the right (a) to be informed without unreasonable delay of a specific offence; (if) to be tried within a reasonable time; (d) not to be compelled to be a witness in proceedings against that person in respect of the offence: (4) to be presumed innocent until proven guilty according to law in a fair and public hearing by an independent and importial tribunal. (c) not to be denied reasonable bail without just cause: (If except in the case of an offence under military law tried before a military tribunal, to the benefit of trial by jury where the maximum punishment for the offence is

imprisonment for five years or a more severe punishment; (g) not to be found guilty on account of any act or omission unless, at the time of the act or omission, it constituted an offence under Canadian or international law or was criminal according to the general prin of law recognized by the community of nations: (4) if finally acqu found guilty

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unusual treatment or punishment, 13. A witness who testifies in any proceedings has the right not to have any incriminating evidence so given used to incriminate that witness in any other proceedings, except in a prosecution for perjury or for the giving of contradictory evidence. 14. A party or witness in any proceedings who does not understand or spec language in which the proceedings are conducted or who is deaf ha

fit of the law without right to the equal protection and equal b discrimination and, in particular, without crimination based on race. national or ethnic origin, colour, religion, sex, age or mental or physical disability. (2) Subjection (2) does not preclude any law, program or activity that has as its object the amelioration of conditions of disadvantaged individuals or groups including those that are disadvantaged because of

==== 16. (1) English and French are the official languages of Canada equality of status and equal rights and privileges as to their use is institutions of the Parliament and government of Canada. (2) English and French are the official languages of New Brunswick and have equality of status and equal rights and privileges as to their use in all institutions of the legislature and government of New Brunswick. (3) Nothing in this Charter

and published in English and French and both language versions are equally authoritative. (2) The statutes,

legislature of New Brunswick shall be printed and published in English and French and both language versions are equally authoritative. 19. [1] Either English or French may be used by any person in, or in any pleading in or process issuing form any court established by reliament. (2) Either Engli or Erench may be used by any person in, or in any pleading in or proce urawick, 2011 Any icane with each institu significant demand for communications with and services from that office in such language; or [i] due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French. (2) Any member of the public in New Brunswick has the right to communicate with, and to receive available services from, any ution of the legisl

her before or after the coming into force of this any language that is not English or French. Charter with respec-

Minority Language Educational Rights (a) Citizens of Canada (a) whose first langu

have the right to have their children receive primary and secondary school instruction in that language in that province. (2) Citizens of Canada of whom any child has received or is receiving primary or secondary school instruction in English or French in Canada, have the right to have all their children receive primary and secondary school language. (a) The right of citizens of Canada

> where the number of those children so warrants, the right to have them receive that instruction in minority language educational facilities provide

Enforcement

24. (1) Anyone whose rights or freedoms, as guaranteed by this Charter, have been infringed or denied may apply to a court of competent jurisdiction to obtain such semedy as the court considers appropriate and just in the circumstances. (2) Where, in proceedings under subsection (1), a court concludes that evidence was obtained in a manner that infringed or denied any rights or freedoms guaranteed by this Charter, the evidence shall be excluded if it is established that, having regard to all the circumstances, the admission of it in the proceedings would bring the administration of justice into disrepute.

General

35. The guarantee in this Charter of certain rights and freedoms shall. not be construed so as to abrogate or desogate from any aboriginal, treaty or other rights or freedoms that pertain to the aboriginal peoples of Canada including (a) any rights or freedoms that have been recognized by the Royal Proclamation of October 7, 1363; and (#) any rights or freedown that may be acquired by the aboriginal peoples of Canada by way of land claims settlement, 26. The guarantee in this Charter of certain rights and freedoms shall not be construed as denying the existence of any other rights or freedoms that exist in Canada. 27. This Change shall be interpreted in manner consistent with the preservation a mhancement of the

reference in this Charter to a province or to the legislative assembly or legislature of a province shall be deemed to include a reference to the Yukon Territory and the Northwest Territories, or to the appropriate legislative authority thereof, as the case may be. 31. Nothing in this Charter extends the legislative powers of any body or authority.

ipplies(a) to the Parliament and government of ters within the authority of Parliament to the Yukon Territory and Northwest Territories, and pit to the regislature and government of each province in respect of all matters within the authority of the legislature of each province. (2) Notwithstanding subsection (3), section 15 shall not have effect until three years after this section comes into force. 33. (3) Parliament or the legislature of a province may expressly declare in an Act of Parliament or of the legislature, as the case may be, that the Act or a provision thereof shall operate notwithstanding a provision included in section 2 or sections 7 to 15 of this Charter. (2) An Act or a provision of an Act in respect of which a declaration made under this section is in effect shall have such operation as it would have but for the provision of this Charter referred to in the declaration. (3) A declaration made under subsection (a) shall cease to have effect five years after it comes into force or on such earlier date as may be specified in the declaration. (4) Parliament or a legislature of a province may re-enact a declaration made under subsection (a). (s) Subsection (s) applies in respect of a re-enactment made under subsection (4).

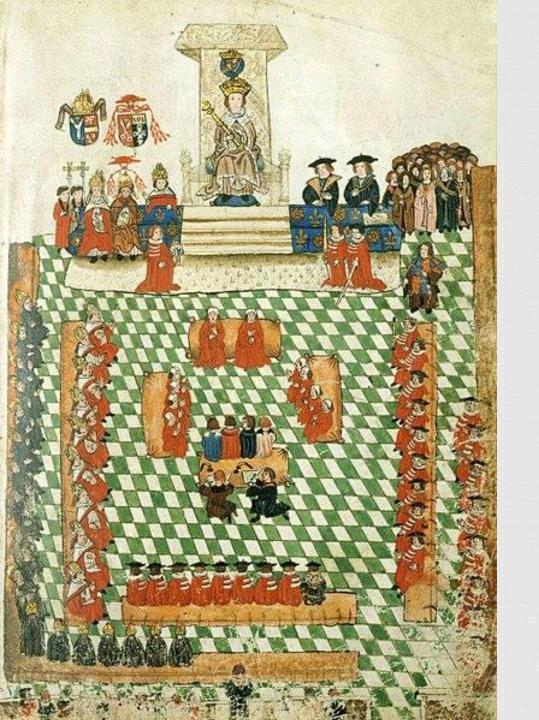
rt may be cited as the Canadian Charter of Rights and Fredoms,

tablish the basic principles, the basic values and beliefs which hold us e that beyond our regional loyalties there is a way of life and a system of proud of the country that has given so such freedom and such

immersurable joy."

P.E. Trudeau 1081





The Parli ament Henn

VOTES OF WOMEN





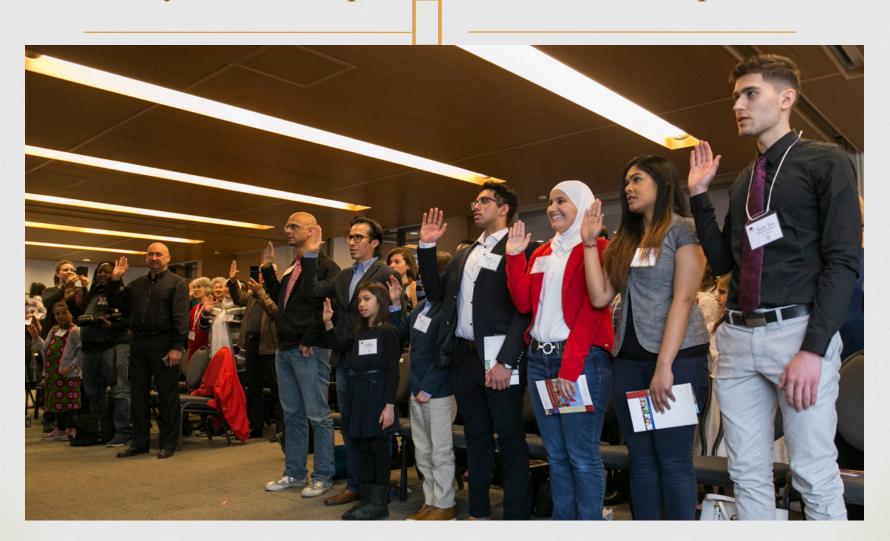
The Bearer, whose photograph and specimen of signature appear hereon, has been duly registered in compliance with the provisions of Order-in-Council P. C. 117.

Vancouver
(Date) March 12 18-11.

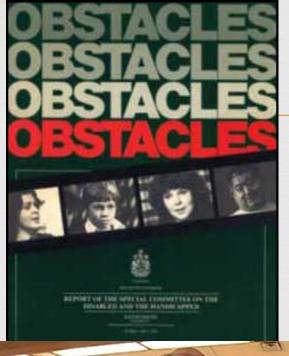




3. Every *citizen* of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.



Disabilities and the Vote





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Electors with Disabilities

(.asx (ASL))

In provincial elections, you can choose from six different ways to mark your ballot. Ple to read the following pages to determine which method is best for you:

- 1. Scent Reduced Marker
- 2. Braille Controller with Audio
- 3. Sip and Puff with Audio
- 4. Paddles with Audio
- 5. Braille Instruction Sheet
- 6. With a friend

Other Accommodations

Elections NB will also provide the following Accommodations:

- · Level Access Polling Stations
- · Voting by Special Ballot
- Pocket Talker
- · Magnifying Glasses
- Visual Language Interpreter

Prisoners: Sauvé v. Canada (2002)

When the facade of rhetoric is stripped away, little is left of the government's claim about punishment other than that criminals are people who have broken society's norms and may therefore be denounced and punished as the government sees fit, even to the point of removing fundamental constitutional rights. Yet, the right to punish and to denounce, however important, is constitutionally constrained. It cannot be used to write entire rights out of the Constitution, it cannot be arbitrary, and it must serve the constitutionally recognized goals of sentencing.

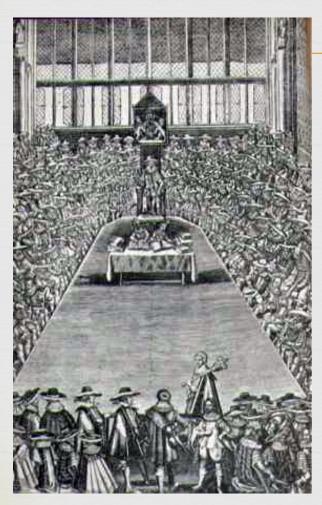
Youth voting



Sections 4 and 5

- **4.** (1) No House of Commons and no legislative assembly shall continue for longer than five years from the date fixed for the return of the writs at a general election of its members.
 - (2) In time of real or apprehended war, invasion or insurrection, a House of Commons may be continued by Parliament and a legislative assembly may be continued by the legislature beyond five years if such continuation is not opposed by the votes of more than one-third of the members of the House of Commons or the legislative assembly, as the case may be.
- 5. There shall be a sitting of Parliament and of each legislature at least once every twelve months.

The Scourge of the Long Parliament







Library and Archives Canada / Bibliothèque et Archives Canada

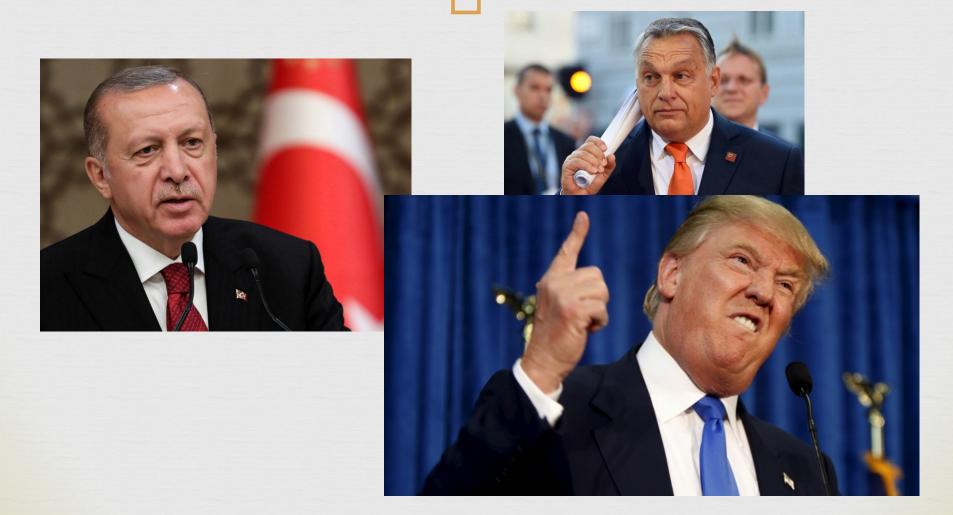
The threat of No Parliament



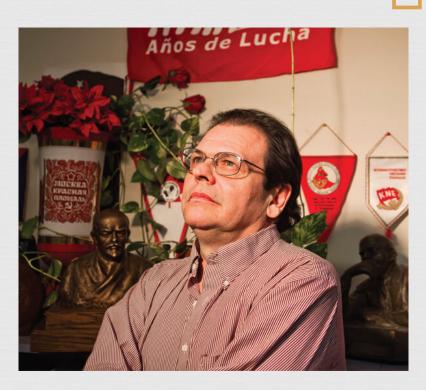
Democracy as Process

- ☐ The three rights are limited:
 - ☐ We can have a say in who governs us
 - ☐ We can have our say regularly
 - ☐ We can expect some government in the open

How do you solve a problem like Victor?



With the Communist Party of Canada



Miguel Figueroa v. Attorney General of Canada

At Ontario Superior Court (1999): Election deposits to be returned and Party assets not forfeited for less than 15% total vote

At Ontario Court of Appeal (2001): Party names on ballots with low minimum of candidates (12 now)

At the Supreme Court of Canada (2003):

Iacobucci: "the purpose of s. 3 is not to protect the right of each citizen to play an <u>unlimited</u> role in the electoral process, but to protect the right of each citizen to play a <u>meaningful</u> role in the electoral process" (@ para. 36)

The Limitations: Who enforces the Rights?

Section 3 can be interpreted and enforced by courts.

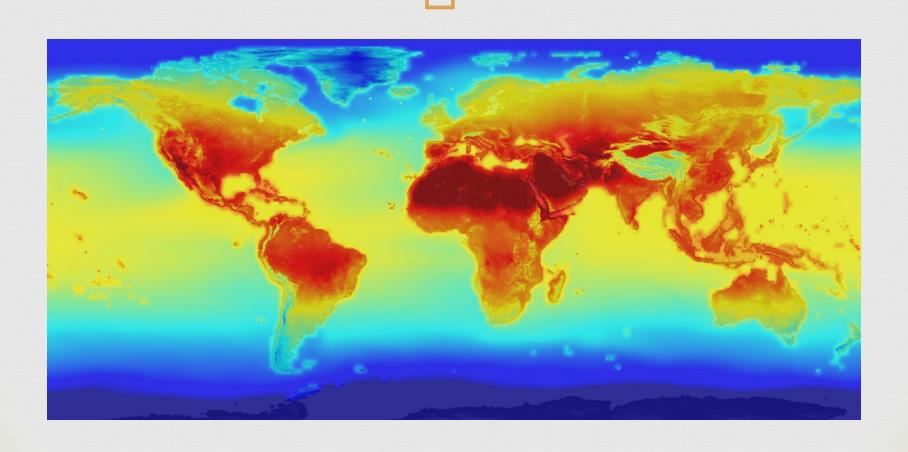
Who can enforce section 4 and section 5?

Can a court do it?

Can anyone else?

Are these anything more than aspirational?

Democracy and Crisis?



Questions?

Some possible questions could include:

- I've read summaries of the Mueller report. Could that happen here?
- ☐ Really, you think infants should be able to vote?
- ☐ What about voter-ID laws?
- ☐ What about on-line voting?
- ☐ What do you think about the PEI election and referendum today?