



democracy Watch
émocratie en surveillance

P.O. Box 821, Str. B, Ottawa K1P 5P9
Tel: 613-241-5179 Fax: 613-241-4758
Email: info@democracywatch.ca Internet: <http://democracywatch.ca>

Commissioner of Canada Elections
ATTN: Commissioner Yves Côté
P.O. Box 8000, Station T
Ottawa, Ontario
K1G 3Z1

February 22, 2017

RE: Request for investigation into violation by Prime Minister Trudeau of *Canada Elections Act* for trying to convince voters to vote for Liberal Party candidates by baiting them with a false electoral reform election promise

Dear Commissioner Côté,

Democracy Watch is writing to file a complaint and request an investigation and public rulings concerning Prime Minister Trudeau's dishonest and illegal actions concerning electoral reform. Set out below is the evidence that shows beyond any reasonable doubt that Prime Minister Trudeau's statements and actions of trying to convince voters to vote across Canada, especially for Liberal Party candidates, by baiting them with a false electoral reform promise (a promise Mr. Trudeau clearly broke) violate subsection 482(b) of the *Canada Elections Act* (S.C. 2000, c.9) which states:

"Intimidation, etc.

482. Every person is guilty of an offence who

...

(b) by any pretence or contrivance, including by representing that the ballot or the manner of voting at an election is not secret, induces a person to vote or refrain from voting or to vote or refrain from voting for a particular candidate at an election."

The dictionary definition of "pretence" is a false claim:

Canada's leading democratic reform and corporate responsibility organization

<https://www.oxfordlearnersdictionaries.com/definition/english/pretence>

The dictionary definition of “contrivance” is a clever plan or trick:

<https://www.oxfordlearnersdictionaries.com/definition/english/contrivance?q=contrivance>

The dictionary definition of “induce” is to persuade or convince somebody to do something:

<https://www.oxfordlearnersdictionaries.com/definition/english/induce?q=induce>

Under section 24 of the *Criminal Code of Canada* (R.S.C., 1985, c. C-46) an attempt to commit an offence is also a violation of the law:

<http://laws-lois.justice.gc.ca/eng/acts/C-46/page-4.html#docCont>

As a result of the above, for the purposes of the situation concerning Prime Minister Trudeau’s false electoral reform election promise, the legal prohibition set out in subsection 482(b) of the *Canada Elections Act* can be summarized as:

“It is an offence for anyone to make a false claim or a trick that attempts to convince, or convinces, voters to vote or not vote (or to vote or not to vote for a particular candidate).”

Under subsection 500(5) of the *Canada Elections Act*, the penalty for violating subsection 482(b) on summary conviction is a fine of not more than \$20,000 or to imprisonment for a term of not more than one year, or both. On conviction on indictment, the penalty is a fine of not more than \$50,000 or to imprisonment for a term of not more than five years, or both:

<http://laws-lois.justice.gc.ca/eng/acts/E-2.01/page-83.html#h-209>

A. Prime Minister Trudeau’s false electoral reform election promise

Prime Minister Trudeau promised unequivocally to end the first-past-the-post voting system and replace it with a system that would “Make Every Vote Count.”

He first stated this promise, to an ovation from Liberal candidates standing behind him, on June 16, 2015 as follows:

“We need to know that when we cast a ballot, it counts. That when we vote, it matters. So I’m proposing, we make every vote count. We are committed to ensuring that the 2015 election will be the last federal election using first-past-the-post.

<https://www.liberal.ca/justin-trudeau-delivers-real-change/>

and

https://www.youtube.com/watch?v=CEVvDK_27IM

(From 8:03 mark to 8:47 mark)

and also at:

<https://globalnews.ca/video/rd/465404995891/>

As reported in the media, the promise to change the voting system was repeated more than 2,000 times and was a key plank in the Liberal election platform, which stated:

“We will make every vote count. We are committed to ensuring that 2015 will be the last federal election conducted under the first-past-the-post voting system.

We will convene an all-party Parliamentary committee to review a wide variety of reforms, such as ranked ballots, proportional representation, mandatory voting, and online voting.”

“This committee will deliver its recommendations to Parliament. Within 18 months of forming government, we will introduce legislation to enact electoral reform.”

<https://www.liberal.ca/realchange/electoral-reform/>

B. Further evidence that Prime Minister Trudeau violated subsection 482(b) of the *Canada Elections Act* by making and breaking this false electoral reform election promise

Once elected, Prime Minister Trudeau continued to repeat his promise to unequivocally end first-past-the-post voting system:

1. In the Speech from the Throne:

“The trust Canadians have in public institutions — including Parliament — has, at times, been compromised. By working with greater openness and transparency, Parliament can restore it. To make sure that every vote counts, the Government will undertake consultations on electoral reform, and will take action to ensure that 2015 will be the last federal election conducted under the first-past-the-post voting system.”

<https://www.canada.ca/en/privy-council/campaigns/speech-throne/makingreal-change-happen.html>

2. In his mandate letter to his Minister:

“Bring forward a proposal to establish a special parliamentary committee to consult on electoral reform, including preferential ballots, proportional representation, mandatory voting and online voting.”

<http://pm.gc.ca/eng/archived-minister-democratic-institutions-mandate-letter>

3. In creating the Special Parliamentary Committee on Electoral Reform (“ERRE Committee”):

“Pursuant to Standing Order 81(16), the House proceeded to the putting of the question on the main motion, as amended, of Mr. Cullen (Skeena—Bulkley Valley), seconded by Mr. Dubé (Beloeil—Chambly), — That a Special Committee on electoral reform be appointed to identify and conduct a study of

viable alternate voting systems to replace the first-past-the-post system, as well as to examine mandatory voting and online voting, and to assess the extent to which the options identified could advance the following principles for electoral reform:”

<http://www.ourcommons.ca/Committees/en/ERRE/About>

When Prime Minister Trudeau announced the Liberal’s electoral reform promise on June 16, 2015, he stated in that speech:

“Government is only as good as the advice it gets. It is only effective when it acts on good advice. So one of the principles of our comprehensive plan will be a commitment to evidence-based policy.”

<https://globalnews.ca/video/rd/465404995891/>

After hearing months of testimony from academics, experts and citizens, the ERRE Committee submitted a majority report that reflected the recommendations of experts invited to testify. The ERRE heard 180 experts in total and, of these, 107 expressed themselves on the choice between keeping our current system or adopting a proportional system. Fully 88% of these expert witnesses called for a proportional system, according to a detailed compilation undertaken by Fair Vote Canada, which can be seen at:

<http://www.fairvote.ca/strong-mandate/>

and

<https://tinyurl.com/ybm4mnbz>

Public consultation on electoral reform over a period of five months in 2016 included:

- 173 MP town halls;
- Dozens of community dialogues hosted by citizens and 600 individual submissions;
- Five intense months of meetings by the ERRE Committee, most of which were open to the public and recorded on CPAC;
- A 22-stop cross-country tour by the ERRE Committee, hearing from Canadians;
- Hundreds of top experts from Canada and around the world heard by the ERRE Committee;
- A 19-stop cross-country tour by Democratic Institutions Minister Maryam Monsef;
- An online survey asking about preferences for specific electoral systems using ballots and clear descriptions, completed by 22,000 people, and;
- Mydemocracy.ca – advertised in a mailout to almost every household and completed by 360,000 Canadians.

This consultative process was the fifteenth of its kind in Canada on the issue of electoral reform. Every consultation, including this consultation, recommended to make the system fairer and more representative by moving to a proportional voting system.

Before Prime Minister Trudeau broke his 2015 election promise to change the voting system, he stated:

“such a study must be undertaken without any preconceived notions of what the best solution would be”

<http://www.electoralreformforcanada.com/candidate-responses>

and

“I’m really open to listening to Canadians. I have moved in my thinking towards a greater degree of openness to what Canadians actually want.”

and

“It’s not up to any one person, even the Prime Minister, to define exactly what the right system is”

<https://www.thestar.com/news/canada/2016/06/08/trudeau-points-to-blackand-whiteness-of-referendum-in-electoral-reform-debate-wells.html>

After he broke his promise, Prime Minister Trudeau falsely denied all of his previous statements with these comments:

“We had a preference to give people a ranked ballot...”

and

“I have been consistent and crystal clear from the beginning of my political career... I think proportional representation would be bad for the Country.”

and

“It was my choice to make.”

http://www.huffingtonpost.ca/2017/06/27/trudeau-blames-opposition-electoralreform_a_23004520/

Despite the evidence presented, and conclusions of experts and the ERRE Committee, Prime Minister Trudeau decided arbitrarily that “all forms of proportional representation would be bad for Canada.”

<http://www.cbc.ca/news/politics/trudeau-electoral-reform-wherryanalysis-1.4179928>

It’s important to note that 80% of OECD countries, and over 90 Countries around the world, successfully use some form of proportional representation.

In Prime Minister Trudeau’s January 2017 mandate letter to the new Minister of Democratic Institutions, MP Katrina Gould, he stated:

“A variety of consultations across the country have shown that Canadians are not clamouring for a change in the way they choose their federal government”.

<http://saskatoon.ctvnews.ca/trudeau-abandons-promise-to-change-votingsystem-in-time-for-2019-election-1.3266573>

This is a false statement as shown by the results of the ERRE Committee’s public consultation.

In January 2018, Prime Minister Trudeau stated that:

“But when it became obvious that there was a whole bunch ... a very strongly vocal but very much a minority of Canadians who were going to accept

nothing else but proportional representation which I think would be bad for the country, and I've always said that, it was obvious there was no path forward." <https://www.guelphmercury.com/opinion-story/8050514-trudeau-adds-insult-to-injury-on-broken-promise-of-electoral-reform/>

This is also a false statement as shown by the results of the ERRE Committee's public consultation, and Mr. Trudeau's past statements set out above.

Many Canadians believed Mr. Trudeau and voted for Liberal Party candidates when he made an unequivocal promise that 2015 would be the last election using first-past-the-post, that the Liberals would follow evidence-based policy on electoral reform and would "make every vote count."

Canadians were never told that the promise was contingent on an unspecified number of citizens continuing to "clamour for change." It was clearly in everything Mr. Trudeau stated during the election, and in the Liberal Party's election platform, that the promise was not conditional in any way.

Mr. Trudeau's false statements during and after the election make it very clear that Mr. Trudeau made his promise of electoral reform solely to attract voters, and that he never intended to honour his promise.

This becomes even more clear given that both his election promise, and the original mandate letter for the Minister of Democratic Institutions, explicitly referred to proportional representation as an option, yet the Prime Minister now states he always thought proportional representation would be bad for Canada.

C. Request for investigation and prosecution of Prime Minister Trudeau for violating subsection 482(b) of the *Canada Elections Act* by making his false electoral reform election promise

Canadians need to feel confident that those we elect are honest and act with integrity and put the needs and desire of the citizens of this country before their partisan self-interest.

The Supreme Court of Canada has ruled in several cases that Canadians have a right under the *Canadian Charter of Rights and Freedoms* to free and fair elections. Dishonest promises by political party leaders and candidates make elections unfair for voters as they are baited to vote for particular candidates.

Subsection 482(b) of the *Canada Elections Act* is clearly intended to discourage people from making dishonest promises or other false statements or contriving in some way to trick voters, and to penalize them in order to protect voters, and elections, from unfair influences.

Subsection 482(b) has not been defined in any court ruling, although it was discussed in *McEwing v. Canada (Attorney General)*, 2013 FC 525 (CanLII), <<http://canlii.ca/t/fxqs4>>.

As a result of the above clear, incontrovertible evidence that Prime Minister Trudeau made a false electoral reform promise during the 2015 election campaign in an attempt to convince voters to vote for Liberal Party candidates across Canada, Democracy Watch requests that you investigate the Prime Minister under section 510 of the *Canada Elections Act*. Democracy Watch's position is that the evidence is so clear that you only need to confirm the evidence set out above – an extensive investigation is not required.

Given this clear evidence, and given the seriousness of Prime Minister Trudeau's false promise that was a central plank in the Liberal Party's election platform, and that likely convinced many thousands of voters to vote for the Liberal Party, and given that subsection 482(b) has not been defined in past court rulings, Democracy Watch's position is that it would be negligent for you to fail to refer, under subsection 511(1) of the *Canada Elections Act*, this matter to the Director of Public Prosecutions (currently Ms. Kathleen Roussel) for prosecution.

For the same reasons, Democracy Watch's position is also that it would be negligent for the Director, under subsection 511(2), to fail to request that you commence a prosecution of Prime Minister Trudeau for violating subsection 482(b) of the *Canada Elections Act*.

The courts are the proper place for subsection 482(b) to be defined in law and in practice, finally, and for the determination to be made concerning whether Prime Minister Trudeau violated subsection 482(b). Neither you as Commissioner, nor Ms. Roussel as Director, should substitute your judgment for the judgment of the courts concerning the legally correct interpretation and application of subsection 482(b) to this situation.

We look forward to hearing your public response to this request very soon.

Sincerely,



Duff Conacher, Board member of Democracy Watch
On behalf of the Board of Directors of Democracy Watch