

By-elections take too long. It's not fair

It takes an average of 151 days to fill vacant MP seats in Canada, three times longer than in the UK. It's time to de-politicize the process.

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A [by-election](#) was held recently in the British constituency of Newport West. The vote came on April 4, just 46 days after the death of the former MP, Paul Flynn.

By comparison, the Canadian federal riding of Nanaimo-Ladysmith, which became vacant when MP Sheila Malcolmson resigned on January 2, will have gone without representation for 123 days when a [by-election is finally held](#) on May 6.

Neither by-election was a surprise. Flynn [announced last October](#) that he would step down for health reasons. The same month, Malcolmson announced that she [would resign](#) if nominated as the NDP candidate for a by-election to the British Columbia legislature. She won the nomination in December, making her resignation largely a formality.

So, if both vacancies were anticipated, why has the Canadian by-election taken three times longer to happen?

A persistent problem

By-elections occur when parliamentary seats become vacant between general elections. While constituency offices can continue helping residents access government services, citizens in the

affected communities have no voice in legislative debates and votes, and no local representative to call on when they want to be heard. When no party has a legislative majority, such vacancies can even determine how long a government stays in office. Although by-elections cost money, quickly filling each vacancy is essential to ensure effective democratic representation for citizens.

Earlier this year, the Samara Centre for Democracy compared the duration of parliamentary vacancies in Canada and the UK. The research was prompted by [allegations](#) that Prime Minister Justin

Trudeau had delayed the by-election in Burnaby South to hinder NDP Leader Jagmeet Singh's efforts to become an MP. The seat became vacant in September 2018, when Kennedy Stewart resigned to run for mayor of Vancouver. We wanted to see if the 164 days it took to fill that vacancy was a typical delay, and to examine how Canada's by-election system performs when measured against that of a comparable jurisdiction.

We found that the Newport West, Nanaimo-Ladysmith and Burnaby South by-elections are consistent with the trends in the two countries since 1997: while the UK fills parliamentary vacancies in 53 days on average, Canada takes a staggering 151 days. So while there was no sign of an unusual degree of political interference in timing the Burnaby South by-election, Canada clearly has a problem holding by-elections in a reasonable time.

Tables 1 and 2 explore these trends. Assuming no more MPs resign between now and October, Canada will have had 91 parliamentary vacancies between the 1997 and 2019 elections. Of these, 73 led to by-elections, while the government let the rest of the seats sit vacant until the next general election. The average duration of these vacancies was somewhat higher during the Harper government from 2006 to 2015, but both Liberal and Conservative governments showed enormous variations in how quickly vacancies were filled.

In contrast, the UK filled its vacancies quickly and consistently. Just 4 of the 75 vacancies were left unfilled until the next election, and none took longer than 147 days to fill. In other words, the very longest British vacancy was still shorter than the *average* Canadian vacancy.



Delays by design

Why do Canadian by-elections typically take so much longer? Several by-elections since 1997 occurred in fewer than 60 days, showing that there are no logistical or legal barriers to holding them more quickly. Instead, the main problem appears to be political.

Despite the adoption of fixed dates for general elections, Canadian prime ministers maintain wide discretion over by-election timing. The [Parliament of Canada Act](#) requires only that by-elections be called between 11 and 180 days after a vacancy is officially recognized, while the [Canada Elections Act](#) specifies that campaigns must be at least 36 days long. This means that by-elections can occur just 47 days after seats become vacant. Indeed, the Nanaimo-Ladysmith by-election could have occurred on February 25, the same day as [three other federal by-elections](#).

However, prime ministers typically wait far into the 180-day period to call the votes. They also used to be able to extend the campaign period far beyond the 36-day minimum, allowing the government to put off a vote until the next general election. This is how then-prime minister Harper let the [riding of Peterborough](#) sit vacant for nearly a year after the former MP was convicted of violating election spending limits.

[Amendments passed last year](#) closed this loophole in the *Canada Elections Act* by capping election campaigns at 50 days. However, this means a prime minister can still leave seats vacant for up to 230 days in total — which can feel like an eternity for citizens watching important decisions being taken without their input. The latest amendments also prohibit by-elections when vacancies occur within nine months of the next general election, meaning Canadians can go up to 270 days without an MP. This currently includes citizens in Saint-Léonard – Saint-Michel, who will spend 265 days without representation, since [their former MP resigned](#) just days after the nine-month cut-off.

The Mother of Parliaments knows best

Why do British by-elections happen so quickly? Rather than being called by the prime minister, by-elections in the UK are set [through a motion passed](#) by the House of Commons. Typically, the motion is moved by the chief whip from the former MP's party, but it can be moved by other members if the former MP's party delays too long. The UK's 2013 *Electoral Registration and Administration Act* then specifies that by-elections will occur between 21 and 27 working days after the motion is passed.

Given MPs' vital role in representing their citizens, both in Parliament and in their communities, Canada must begin filling parliamentary vacancies more quickly. The Samara Centre for Democracy recommends amending the *Parliament of Canada Act* to significantly lower the maximum time allowed before a by-election is called. While the exact figure should be set through discussions with Elections Canada, we believe that most seats could be filled within 60 days. Such a change not only would ensure that citizens are represented in parliamentary decisions, but would prevent any suspicion that by-elections are being timed for partisan advantage.

We also encourage the government to revisit the ban on by-elections for vacancies within nine months of a general election. If by-elections are held within 60 days of a vacancy, new MPs filling vacancies that occur up to seven months ahead of a general election would still be able to take their seats in Parliament and vote on legislation before the general election is actually held.

While Britain's election laws allow its by-elections to happen slightly faster than in Canada, Canada's longer parliamentary vacancies result almost exclusively from the prime minister's discretion over when votes are held. Even where reasonable explanations may exist, the vast and continued discrepancies in the speed with which Canadian by-elections are held smack of political interference.

Canada should complete the process of depoliticizing its electoral system by requiring by-elections to fall within a short period after a vacancy occurs. Doing so will both ensure that citizens are effectively represented and make it clear that elections belong to citizens, not governments.

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