



HOUSE OF COMMONS  
CHAMBRE DES COMMUNES  
OTTAWA, CANADA  
K1A 0A6

The Standing Committee on Procedure and House Affairs has the honour to present its

## **THIRTY-FIRST REPORT**

1. Pursuant to Standing Order 108(3)(a)(vi), the Committee has considered matters relating to the electoral boundaries readjustment process raised in the 16th Report of the Standing Committee on Procedure and House Affairs in the 3rd Session of the 37th Parliament, and the Committee's 7<sup>th</sup> Report in the 1<sup>st</sup> Session of the 38<sup>th</sup> Parliament. A Government Response was presented to the House on March 21, 2005, in which the then Government agreed with the Committee that there is a need for improvement to the redistribution process and that the legislation should be updated in time for the next decennial census in 2011. The Response noted that the Committee's Report provided a clearer picture of many of the challenges facing the electoral boundaries readjustment process, and raised several important issues that need to be studied in further detail before legislation could be developed. It indicated that further consultations and study would allow the Government to comment in detail on the specific recommendations of the Seventh Report. The Committee has concurred in the findings of the Committee's previous reports. It is concerned that this work not be lost, and that an effort is made to ensure that the recommendations are implemented prior to the next decennial census. In addition to the Committee's report, we note that the Chief Electoral Officer tabled a report in May 2005 entitled *Enhancing the Values of Redistribution*, in which he responded to some of the Committee's recommendations and makes others. In addition, the Federal Court of Canada's decision in *Raïche v. Canada (Attorney General)*, [2004] FC 679, provides guidance as to the interpretation of "community of interest."
2. This report builds on the extensive experience of the Subcommittee on Electoral Boundaries Readjustment, which the Committee established to deal with objections of Members of Parliament to the reports of the electoral boundaries commissions established following the 2001 census. The Subcommittee met 24 times over four months to consider 85 objections. Seven reports were presented by the Committee. The Subcommittee felt that it was very important that this experience not be allowed to pass without providing comments for improving the redistribution process, and making recommendations for legislative changes. It is our hope that these comments and proposals will be seriously considered, and changes will be implemented before the next decennial census is undertaken in 2011.
3. In preparing this report, the Committee has considered the objections and evidence that were presented to the Subcommittee, as well as the commissions' disposition of the objections. In addition, the Subcommittee held a meeting on October 6, 2003 with the Chief Electoral Officer of Canada, Mr. Jean-Pierre Kingsley, and three former electoral boundaries commissioners to discuss the process. It also invited all members of Parliament to a round-table discussion on October 6, 2003. The Subcommittee also had the benefit of

the work of the Standing Committee on Procedure and House Affairs in 1994-1995 when it considered the issue of redistribution, and brought in a bill which would have overhauled the *Electoral Boundaries Readjustment Act*. This bill, Bill C-69, An Act to provide for the establishment of electoral boundaries commissions and the readjustment of electoral boundaries, unfortunately, died in the Senate. The Committee wishes to acknowledge the input of all Members of the House who participated in the process, as well as the cooperation and hard work of Mr. Kingsley and the staff at Elections Canada.

## INTRODUCTION

4. We wish to congratulate the federal boundaries commissions and Elections Canada on completing a difficult and often thankless task. We appreciate the public service they performed and acknowledge the difficulties they faced. We note that in conducting an exercise of this type one can seldom please everyone. Our comments below are not intended to undermine in anyway the legitimacy of the 2003 redistribution. They are intended to highlight – constructively – weaknesses and strengths in the current redistribution process for which improvements can be sought.
5. Two broad themes run through this report. The first theme is the tension between equality of the vote and effectiveness of representation. The language of the *Electoral Boundaries Readjustment Act* and the majority of commission reports give emphasis to the important consideration that all Canadians should have a vote of equal weight. Members of Parliament, and the communities they represent, tend to weigh collective considerations in balance with individual ones. The inconsistency of interpretation on how to find an appropriate balance between these two considerations was, arguably, the key source of tension between the commissions and the general public, and between the commissions and Members of Parliament. This is an important issue and it requires discussion.
6. The other theme is one that appears throughout Canadian public life. In all aspects of their public institutions, Canadians demand, and should receive, reasonable transparency of process and proper accountability. The federal electoral boundaries readjustment process should not be exempt from these standards. Our feeling is that in insulating the commissions from political interference – for valid and legitimate reasons – the Act has erred in also insulating the commissions from the principle of accountability. Many of our recommendations seek to improve the transparency and accountability of the commissions by raising their public standing while maintaining their effectiveness and independence.
7. The report begins with a discussion of the role and experiences of the Committee in the 2002-2003 round of electoral boundaries redistribution. We then provide commentary on the Committee's role and the role of Members of Parliament in this process. The report follows the process of redistribution itself, discussing the following topics: the criteria for deciding a riding boundary; the role and composition of the boundaries commissions; public hearings and appeals; and the role of Elections Canada. At the end we provide a general overview of the path we would envision a revised process taking. Recommendations are to be found at the end of each section.

## **A. THE ROLE OF THE PARLIAMENTARY COMMITTEE**

8. In the 2002-2003 round of electoral redistribution, the Standing Committee on Procedure and House Affairs created the Subcommittee on Electoral Boundaries Readjustment to consider objections filed by Members of Parliament regarding the reports of the electoral boundaries commissions. The Subcommittee was composed of one member from each party, plus the Chair. The Subcommittee had, at various times in its existence, two Members from Quebec, two Members from Ontario, one Member from Manitoba, one Member from Nova Scotia, and one Member from New Brunswick.
9. Over the course of its work, the Subcommittee considered 85 objections and issued substantive reports for seven provinces. The bulk of this work was done in the 30 sitting days between April 11 and June 20. During this time Members had to fulfill their regular committee and other duties in what was an extraordinarily busy legislative period. The time, effort and commitment that members of the Subcommittee put into completing this task in a non-partisan, all-party effort was considerable.

### **1. The Benefits of the Committee's and Subcommittee's Role in the Process**

10. Although the Committee's reports carry only the power of recommendation, in contentious and crucial cases it was able to signal to the boundaries commissions when it felt serious issues were being overlooked. The advisory role, when well performed, is a powerful, persuasive and welcome one. It is the electoral and representational experience of Members of Parliament that is vital to understanding the nature of representation.
11. We also emphasize the role of the Committee (through the work of the Subcommittee) to provide public debate with a *national* view. Through a national lens, we were able to see the strengths and weaknesses across the whole system. We could see and compare repetitions of circumstances across all the regions of Canada. We were also able to see how the decisions and character of each commission exposed ambiguities and irregularities in the legislation. Examples of variations from commission to commission included: conventions for naming constituencies; differences in consideration and interpretation of communities of interest and identity – including, in the case of Alberta, an implied challenge to the legislation and its mandate as laid out in the Act, and, in the case of Quebec, a so-called “tradition” of three different regions in the province; differences in approaching a variance from the quotient; and differences in starting positions and methodology.
12. The Committee believes that both of these roles are important and should be maintained. A concluding report after each round of redistribution, from the relevant parliamentary committee, is invaluable. The engagement and development of Parliamentarians' knowledge and expertise in the process is important, for it will be Parliament that ultimately must enact changes to improve electoral boundaries readjustment.

## **2. The Limits of the Committee's and Subcommittee's Role**

13. The parliamentary committee involved in reviewing redistribution decisions is *not* a substitute boundaries commission or a rival redistribution body. Parliamentary committees cannot replace the resources and expertise available to and developed by the boundaries commissions, nor would it want to. Its role is to hear, observe, and comment, not to substitute. It should be understood by the commissions, MPs, and other interested parties, that while a committee or subcommittee can identify issues that need addressing, it does not have the time, resources or ability to provide full and minutely detailed solutions. There is no alternative to Parliamentarians' appearing before and making representations to the commissions themselves.
14. In returning an objection to a commission, the Committee's role was to provide broad goals or outlines and details based on Parliamentarians' knowledge and experience, not necessarily detailed maps and demographic breakdowns. Commissions, too, must understand the role of the Committee as one designed to comment and offer practical advice, assistance, and correctives based on the insights gained from serving a riding and representing it in Parliament. Whereas the commissioners sought to address the individual voter, the parliamentary side of this process sought to address the needs of the constituency itself.

## **3. The Role of the Individual Member**

15. Individual Members of Parliament need to realize their role in the process. It is up to individual Members to ensure they have the relevant information on electoral redistribution. Members should attend public hearings, or have representatives attend in their stead if they are unavailable. Members should make representations to the boundaries commissions, detailing whether or not they favour the proposed redistribution for what reasons and suggesting alternatives, if appropriate. The experience and resources a Member of Parliament brings when making a representation to a commission hearing are significant.
16. The Committee notes that, on occasion, this is a delicate issue for a Member of Parliament. To object to the inclusion of a certain area in one's riding can be perceived as politically difficult, regardless of the impartiality of one's reasons. Such an intervention can appear to be a public rejection of constituents, or of one's ability or willingness to represent them. Nonetheless, in order to properly serve the riding and its constituents the commissions must have the best available information. It is possible to phrase comments on the basis of constituency experience, such as the difficulties in travel, the requirement for resources, and an understanding of community linkages.
17. Commissions also need to realize that silence by a Member at any stage in the process does not necessarily indicate approval or disinterest. Drawing an inference from that silence to form decisions may lead to errors of understanding. A Member may remain silent for a variety of reasons – for example, because he or she is a member of the committee responsible for making recommendations on the objections; or a Member may be caught in a multiple-riding readjustment proposal (or objection) where more directly interested Members are taking the lead.

## **B. THE ROLE OF THE FEDERAL ELECTORAL BOUNDARIES COMMISSIONS**

18. The federal electoral boundaries commissions are fully independent bodies. They are intended to be independent from Elections Canada and from the political process. The Committee recognizes the necessity of insulating the commissions from political or other interference when drawing electoral districts, and cautions that no changes should be made which could open the door for such interference in the commissions' business. Nor should anything inadvertently invite the appearance of interference in the commissions' affairs. Certain issues, however, have come to our attention during the 2002-2003 round of boundaries redistribution.

### **1. Uniformity and Consistency Between Commissions**

19. The Subcommittee noticed considerable divergence in the way the commissions approached their work. First, the commissions were inconsistent in their interpretation and application of their mandate. Some commissions were more vigilant in attempting to achieve parity with the quotient than others. The Manitoba commission, for example, aimed to achieve a variance of no greater than  $\pm 5\%$ . The Ontario commission chose to handle the issue of northern ridings through the creation of KENORA with a variance of almost  $-44\%$ . By contrast, the Quebec commission chose to readjust MANICOUAGAN and the Gaspé in a manner that created a cascade of readjustments down the entire St. Lawrence coastline. The Ontario and Quebec commissions paid close attention to recent municipal realignments, where possible, in coming to decisions. The Alberta commission took what we can only in charity call a far more baffling approach by deciding that Calgary and Edmonton should have equal numerical representation in the House of Commons. These inconsistencies were the cause of much complaint, resulting as they did from idiosyncratic applications of the *Electoral Boundaries Readjustment Act* by each commission. They also led to differing decisions for Canadians based on where they live, which, in our opinion, does not meet the intent of the Act to provide a reasonable equality of the vote and effective representation.
20. We believe that many of these inconsistencies arose from an absence of clarity on the criteria contained in the Act, and of set instructions on how to proceed. In his testimony to the Subcommittee, the Chief Electoral Officer, Mr. Jean-Pierre Kingsley, noted that Elections Canada provides the commissions resources and offers a briefing session for commissioners at the beginning of the process. Elections Canada, however, offers no instructions or interpretation other than as set out in the statute. The commissions are the bodies responsible in the Act for discerning the nature of their work.
21. There is much to be said for allowing for the independence and flexibility of each commission. As we note elsewhere, local criteria are important in judging what constitutes a well drawn constituency. Some redistribution challenges are chronic and have no easy solution, such as those in New Brunswick. Independence and inflexibility, however, do not go hand in hand. We cite here in particular the Alberta commission, which interpreted its mandate in a manner that implicitly challenges the community and historical constituency clauses of the Act. The parts of its mandate it did not agree with, it ignored in application. Furthermore, from testimony to us, and from our reading of its reports, we conclude that as well as departing radically from the more pragmatic approaches of the other commissions, it was consistently insensitive to those who asked it to reconsider, and used a dismissive tone that could only affront.

## **Recommendation 1**

**The Committee recommends that:**

**Section 18 of the *Electoral Boundaries Readjustment Act* be amended so that upon the formation of each electoral boundaries commission Elections Canada provides each commission with:**

- a) Standardized instructions, bibliographic references and other materials containing detailed discussion and relevant case histories for identifying and adjudicating communities of interest, identity and historical patterns of the province's constituencies;**
- b) The basic criteria required for reporting decisions, and a standardized report format; and**
- c) Suitable criteria for the application of names to an electoral district.**

## **2. Criteria for Establishing Electoral Districts: Where to Start**

- 22. The *Electoral Boundaries Readjustment Act* is detailed on the process of redistribution, but is brief on the criteria. According to section 15 of the Act, an electoral district is to be drawn so that a constituency's population corresponds as close as is "reasonably" possible to the provincial quotient. In doing so the commission *shall* "consider community of interest or community of identity in or the historical pattern of an electoral district." The district shall be of manageable size in sparsely populated, rural or northern regions. The Act provides that the divergence is not to exceed  $\pm 25\%$  of the provincial quotient. In extraordinary circumstances, however, the commission may diverge even further from the quotient.
- 23. To us, the Act, with its qualification of "reasonable," is an invitation for pragmatism, not inflexibility. A province, and its communities, are not to be treated as *tabulae rasae*. They have specific histories and community issues. Historical patterns seem to be most egregiously aggrieved by redistribution: while acknowledging rights- and group-based communities, the commissions must also pay attention to what constitute natural, historic constituencies. The starting premise for redistribution should be continuity, not change, and we think this needs to be better reflected in the wording of the statute and reiterated in any information provided to the boundaries commissions.
- 24. Mr. Peter Adams, then an M.P. from Ontario, suggested to the Subcommittee that instead of starting at a set geographical point (as appears to have been done in Ontario and Quebec), commissions should start by identifying those natural urban and rural constituencies that retain their historic pattern – or display continuity through stable populations – wherever they may be geographically located in a province. The Hon. Maria Minna, P.C., an Ontario M.P., reiterated this suggestion in her comments at the round-table meeting. After such ridings are identified, the commissions can use these as nodes, from which one can spread out to make up the other ridings from what is left in between. We felt this approach would also better handle awkward community questions around the new and rapidly growing suburban ridings such as Halton in Ontario, or those around Edmonton and Calgary.

25. This method would accord well with a starting premise that favours continuity over change. The Act should be clear that existing electoral boundaries should be respected, unless there are reasons for change. Commissions do not need to re-draw the electoral map in order to justify their existence, and change for the sake of change should be discouraged. In provinces or regions of relatively stable population, there should not be significant changes. While we recognize that there will inevitably be ripple effects, redistribution should focus on areas of population growth or decline.

### **Recommendation 2**

**The Committee recommends that:**

**Section 15 of the *Electoral Boundaries Readjustment Act* be amended to add language that clearly prefers continuity of ridings and of riding patterns over change, in order to best preserve the historical continuity of representation in a province.**

26. Professor Andrew Sancton, a member of the Ontario electoral boundaries commission, indicated that there are difficulties in initially identifying a “natural constituency” in the overall context of a province. If it turns out that ridings initially identified as “natural” prove less natural than those around them, it may prove difficult to revisit the decision, especially after public hearings. Furthermore, this may end up a self-fulfilling proposition: ridings identified as natural may become entrenched.
27. Nonetheless, the Committee believes these suggestions are worth exploring. Many of the awkward decisions brought to our attention were the result of a ripple effect from a decision made several ridings over. The domino effect of boundary decisions, once set in motion, is difficult to reverse. Any change in the process with potential to drastically reduce the impact or the number of objections should be tried.

### **3. Community**

28. There is a need placed on everyone involved in the redistribution process to better discuss and understand the meaning of community as defined in the Act. Submissions and objections to the commissions’ report were sometimes quite sloppy or ill defined as to what comprised a community of interest or a community of identity. The commissions themselves seemed to lean heavily toward restricting the use of communities of interest despite the explicit language in the Act to consider these criteria.
29. Our system is intended to represent constituencies, not individuals. The most-used defence of the constituency-based Westminster system is the local and community representation the local Member of Parliament affords. And while constituencies are electoral constructs, they are also human institutions. Like all human institutions, they take on value and identity for those who belong to them. There needs to be sensitivity to this – and clearer direction in the statute – when apportioning voters between ridings.
30. This being said, we realize a community can be difficult to define; this difficulty is compounded when placed alongside the imperative to best meet the provincial quotient. For this reason, we believe the commissions should be provided standardized materials in order to promote the fullest and most consistent understanding of how this criterion has

been applied. Application must be up to the commissions, but the base of knowledge should be the same for all.

31. As it now stands, the *Electoral Boundaries Readjustment Act* itself provides no information or guidance on a number factors by which community representation is assessed and riding boundaries are drawn. This resulted in such anomalies as a First Nation reserve which was divided into two different constituencies.
32. Some commission decisions appeared to deny local geography by leaving small pockets of people isolated from their riding by major highways, railway tracks, industrial developments or natural barriers such as mountains, rivers, ravines, hundreds of kilometres of Canadian Shield and boreal forest. Sometimes newly drawn districts simply ignore local roads, as occurred in some ridings – a defiance of logic that Mr. Ken Epp, an M.P. from Alberta, noted that in some cases would require a Member of Parliament to spend more time in the car than with constituents. Professor Sancton outlined for the Subcommittee the careful attention the Ontario Electoral Boundaries Commission paid to road networks. All commissions should be urged to pay close attention to the topography and transportation routes.
33. Effective representation is the primary concern of a Member of Parliament. Commissions should be informed of the full duties of a Member of Parliament and the demands made and services provided in constituencies. Many Members' objections cited their need to maintain links with and between civic groups, government offices, provincial and municipal counterparts, to name but a few. A change in boundaries can drastically affect many informal policy and agency networks that are crucial to constituents' needs.

### **Recommendation 3**

**The Committee recommends that:**

**The *Electoral Boundaries Readjustment Act* be amended to provide:**

- a) **A clear definition of the terms “community of interest” and “community of identity”;** and
- b) **More information or guidance by which community representation is assessed.**

### **Recommendation 4**

**The Committee recommends that:**

**All electoral boundaries commissions be provided with the following:**

- a) **Various strategies for identifying natural starting points from which to start redistribution;**
- b) **Examples of expert advice to be sought, which shall include, but not be limited to, municipal planners and provincial statistical and demographic officers or bodies;**
- c) **Standardized materials to promote the fullest and most consistent understanding of how the criterion of community (as defined by the Act) has been applied;**



- d) **A list of factors important to the provision of effective representation of a community by a Member of Parliament; and**
- e) **A full description of the duties of a Member of Parliament in order to understand the drastic effect of a boundary change on a constituency's needs.**

### **Recommendation 5**

**The Committee recommends that:**

**Electoral boundaries commissions pay close attention to topography and transportation routes.**

## **4. The Provincial Quotient**

34. What is a reasonable variance from the quotient? The commissions differed greatly on what variance they would tolerate. It was also apparent from Members' comments and from other sources that many representations to the commissions took the maximum allowable quotient as an invitation to protest against reasonable and necessary changes to riding boundaries.
35. It has been suggested that there could be a differential quotient for certain regions or provinces. For instance, it appears from our experience that Ontario, with its 106 constituencies, is too large and too diverse for a one-size-fits-all quotient. The south is expanding rapidly, while the northern and the large, relatively densely populated rural ridings of eastern and southwestern Ontario do not fit any one standard of rural riding. Ridings such as MIDDLESEX-KENT-LAMBTON are rural and large in both size *and* population. In the Golden Horseshoe around Lake Ontario, several Members warned us that the changes would be outpaced by the time the new constituencies appear. That Ontario now has the controversial exception of a riding in northern Ontario that diverges -40% from the provincial quotient speaks eloquently to the problem.
36. One way to handle this issue nationally would be to entrench certain ridings – such as KENORA-RAINY RIVER, MANICOUAGAN, LABRADOR, SKEENA-BULKLEY VALLEY and CHURCHILL – in the legislation. This would remove these specific ridings or regions from the mix and allow the commissions to achieve closer variances across the remaining ridings. Alternatively, northern regions such as northern Ontario, could be designated a specific number of ridings. There is, of course, a long-term possibility that entrenched ridings become too depopulated over time. Any entrenchments should be made reviewable before or after each redistribution process. These changes would be a recognition of the very particular representational challenges in remote and very sparsely populated regions of the country.
37. It should be noted that any solution would adversely effect the principle of one-person, one-vote, and enhance the electoral weight of remote parts of the country at the expense of more densely populated areas. At the same time, this would potentially reduce the cascade of other inequalities that occur in attempting to accommodate these ridings. Differences of representation already exist between regions across the country. This underlines the need for a full and honest debate on this issue in order to have fair and effective representation for all Canadians.

### **Recommendation 6**

**The Committee recommends that:**

**The disparities between sparsely populated ridings and dense urban ones be accommodated under section 14 of the Act, through:**

- a) **According specific, remote and sparsely populated ridings special status entrenched in legislation, and that that status be reviewed for renewal after each census count;**
- and/or**
- b) **Providing a different quotient for northern and southern Ontario, Quebec and British Columbia to account for the unique size and circumstances of these provinces.**

### **Recommendation 7**

**Furthermore, the Committee also recommends that if the issue of readily identifiable sparsely populated rural or remote ridings is handled through one of the mechanisms above, consideration should be given to reducing the normal variance from the provincial quotient, as outlined in section 15(2) of the *Electoral Boundaries Readjustment Act*, for urban constituencies – perhaps to  $\pm 15\%$ .**

- 38. There are also non-legislative solutions to relieve the pressures on MPs in ridings that present significant representation problems. One could, for example, look at the resources available for Members who represent such ridings, which is the subject of a separate report by the Committee. There may also be technological or other means to improve an MP's ability to work effectively between the riding office and the parliamentary office. None of these methods would address the underlying problem of how the riding had been drawn.

## **5. Future Growth**

- 39. Anticipated growth is a difficult factor in redistribution. Statisticians can usually predict general patterns of growth, but not specific ones. Nonetheless, in some regions, notably southern Ontario, the Edmonton-Calgary axis and the southern mainland of British Columbia, rapid growth is the engine that drives redistribution. Several Members noted that the 2002-2003 redistribution would be outdated by the time the riding boundaries were implemented. We believe growth trends must be taken into account.
- 40. One way to do this might be as part of the commissions' approach, not through legislation. Commissions should receive, as part of their initial briefing, advice to consider short-term growth trends. It might be useful to suggest discussions with municipal planners as a relevant source of information on where anticipated community growth might occur. Planners also have to deal with anticipated markers for identifying the centres of future communities, such as new schools, churches, public service structures, etc.
- 41. The Committee also considered whether boundary readjustments every five years rather than readjustments every ten years, might be better. One option would be to allow for readjustments to be made after every five-year census in areas where significant population

change had occurred. There are advantages and disadvantages to more frequent redistributions, but this option requires further study and discussion. Mr. Ted White, then an M.P. from British Columbia, expressed his concern that the decennial readjustment would leave rapidly growing parts of the country short on representation and asked the Committee to consider if there were other appropriate sources of population information that might be substituted for the census data.

42. Mr. Kingsley noted that a full redistribution every five years could reduce some of the tensions regarding community affiliation, as well as pressures on individual MPs to treat a riding as unchanging. Under such a regime, a Member of Parliament could be representing a new riding every election. We are not completely confident about such a prospect; people seek continuity, stability, predictability and a sense of belonging, particularly in their relationship with Parliament and their dealing with government services. We note that Bill C-69, introduced in 1995, made provision for a redistribution to be conducted after each quinquennial census only if population change was of a certain magnitude.

### **Recommendation 8**

**The Committee recommends that:**

**Section 15(1)(b) of the *Electoral Boundaries Readjustment Act* be amended to include future growth as a criterion for consideration, in order to effect a better and more lasting representation.**

## **6. Constituency Names**

43. The *Electoral Boundaries Readjustment Act* says nothing about choosing the name of an electoral district. The Committee realizes that the Geographical Names Board of Canada developed toponymic guidelines for electoral districts, and that some commissions followed these guidelines. While useful, however, these guidelines were not originally designed for constituencies, but for geographic naming. Other criteria need to be considered.
44. When thinking of riding names, it would be useful for commissioners to bear in mind that these names have to be called out in the House on a regular basis, as well as printed and reproduced in a variety of places and manners (such as broadcasts of the House of Commons), some of which have an attendant cost to the public purse. Names also form identities for these communities; and communities, like people, take their identities and names to heart. As more than one MP explained to our committee, the constantly changing boundaries makes it difficult for people to feel attached to a riding and changing names on top of that makes it even more of a challenge.
45. As a final point, as the commissions themselves recognized, if a riding name remains unchanged despite an objection, a Member can always use the option of a private Member's bill to change the name of the riding. It seems pointless to us for House business to be needlessly taken up with name changes from the commissions. Changes after the fact also lead to additional costs and work for Elections Canada. Therefore, we would alter the commissions' power in the case of riding names: when the responsible parliamentary committee unanimously supports an objection on a name change, the recommendation of that committee should be binding on the commission.

### **Recommendation 9**

**The Committee recommends that:**

**Section 23 of the *Electoral Boundaries Readjustment Act* be changed so that in the case of an objection to a proposed electoral district name, and where there is a unanimous recommendation of the relevant committee of the House that considers the objection, that the electoral boundaries commission shall follow the recommendation of the committee. This would simplify the business of the House of Commons and the Senate, which has already expressed dissatisfaction with private Members' bills to change riding names.**

### **7. Report Formats**

46. The Committee realizes that local variations are important in weighing the criteria by which boundaries are drawn. We are not urging a cookie-cutter approach for each commission to take to redistribution. As should be evident from the tone of this report our concerns are exactly the opposite – that mathematical models not unnecessarily disrupt people and communities for the sake of rationalistic number counting.
47. The process brought home that parishes and counties in Nova Scotia and New Brunswick are more significant to people's identities than they are in other parts of the country. In British Columbia, distance is less important than whether one can cross a mountain pass in winter. A rural riding with many small communities does not pose the same challenges as a large, northern, remote riding with a few scattered communities. Urban-rural differences were not significant in Saskatchewan, and were in fact dismissed by the public when the initial proposal was issued. In other provinces, urban-rural differences were very important. For these reasons, our previous observation on the lack of uniformity is on the need for better reporting of decisions.
48. The format of the reports varied greatly from commission to commission, making it sometimes difficult for the Subcommittee to glean the commissions' thoughts or to understand the rationale of their decisions. Some commission reports contained far greater explanation of how they went about their business while others were terse on the subject. Given the diversity in the commissions' approach to their work, inconsistent reporting was an added frustration.
49. There is utility in requiring basic information in a uniform manner. We note, for example, there was disagreement between the Subcommittee and the Nova Scotia Commission on the relevance of provincial electoral boundaries as a criterion for discerning communities of interest. In testimony to the Subcommittee, Dr. James Bickerton, a member of the Nova Scotia Commission, explained the number and pattern of Nova Scotia's provincial boundaries, which clarified for the subcommittee why that criterion was used.
50. Our general experience, however, was that within and between reports there was haphazard reporting of the details by which decisions were made, sometimes leaving those whose job it is to review the decisions at a loss as to why or how some decisions were made; save, of course, that there was a mathematical imperative to meet a quotient. These inconsistencies are no means by which to pronounce judgements on a matter many communities consider

vital to who they are, and to how they relate to each other, to their government, to important services, and to their country.

### **Recommendation 10**

**The Committee recommends that:**

**The reporting format of electoral boundaries commissions should be standardized and include the rationale for decisions and an explanation on how the commissions carried out their work.**

## **C. THE COMPOSITION OF ELECTORAL BOUNDARIES COMMISSIONS**

51. There were several occurrences that drew attention to the composition of the electoral boundaries commissions themselves. The first and most serious issue was public accusations of political bias levelled against some commissioners. In our opinion, the root cause of such accusations is a selection procedure that is not sufficiently transparent. The chief commissioner is a judge chosen by the chief justice of each province. The other commissioners are appointed by the Speaker of the House of Commons.
52. Appointing commissioners without a transparent procedure leaves the door open to criticize commission decisions on the basis of political bias, however unjustified that accusation may be. The Committee feels that the selection of the commissioners must be a more open and transparent process in order to insulate commission decisions from accusations of political bias.
53. We were provided three suggestions as to how to improve the appointment of commissioners:
  - Once the commissioners have been nominated, their names could be tabled in the House of Commons, where there would be a reasonable period in which any Member or other persons could file an objection with the Speaker;
  - There could be language added to the statute requiring the Speaker to seek the advice of all recognized parties in the House on the proposed commissioners; or
  - Commissioners could be selected through a qualified list, from which Elections Canada would make the final appointment.

We note that this Committee, in its 51st Report in November 1994, regarding the bill that became Bill C-69, made the following proposal:

The boundaries would be established by electoral boundary commissions consisting of three persons. The chair of each commission would be appointed by the chief justice of the province, as at present. The other two members would continue to be appointed by the Speaker of the House of Commons. It is important, however, that the process be opened up. Our bill provides for the Speaker to publicize the upcoming appointments, and to solicit applications from people who would be interested in serving on such commissions. The Speaker would review such applications, perhaps interview some

applicants, and could seek other applicants. The Speaker would also be expected to consult widely before making any appointments.

54. The Committee is also concerned about the regional representativeness and expertise on the commissions. Several boundary proposals appear to have been based on a poor understanding of local realities. We cite, for example, the final proposals for CHURCHILL, in Manitoba, and for YORK CENTRE and BEACHES-RIVERDALE in Ontario. To their credit, the commissions involved acknowledged their error and made changes following the Committee's reports. This did not happen in other cases.
55. We are curious as to what constitutes a pool of qualified candidates for a commissioner. The current commissions were a mix of academics, lawyers and judges. In our opinion, the weighting of an academic and legalistic approach to redistribution in the Act is reinforced in selecting only commissioners whose professional expertise leads them to an abstract, individual rights-based, mathematical approach to the quotient and the voter. In our opinion, decisions involving community representation could be well served by ensuring that persons with considerable and prominent experience in community service augment a commission's expertise.
56. We also wish to comment on the conduct of commissions. Some commissioners appeared to confuse independence with a lack of accountability. This perceived attitude came to us through reported public pronouncements at commission hearings, in the commission reports we received and – regrettably – in some instances via the media (although it should be noted that some MPs also resorted to unfortunate comments via the public media). We realize that commissioners face parochial and often contradictory criticisms, and that they need occasionally to respond publicly in order to defend the independence of their position and their judgement. Inflexibility, or standing on one's authority, however, is not the most appropriate response to all criticisms. We prefer readers look to those positive examples, when, sometimes in heated circumstances, commissions chose to accept difficult input and to craft different solutions.
57. It is an unreasonable expectation to be able to provide personality guidelines for commissioners. We note, however, that an overall goal of our recommendations throughout this report is to remove arbitrary or wilful decision-making from the process.

### **Recommendation 11**

**The Committee recommends that in order to create appropriate and consistent standards as the bases for decisions on electoral boundaries readjustment:**

- a) **Section 6 of the *Electoral Boundaries Readjustment Act* be amended so that:**
  - (i) **Members of the electoral boundaries commissions are appointed by a more transparent process in order to insulate them from the appearance of political bias;**
  - (ii) **The pool of commissioners is broadened to include people with substantial experience in community service; and**

- (iii) **The membership of commissions must reflect the regional diversity of the province; and**
- b) **Section 8 of the *Electoral Boundaries Readjustment Act* be amended to require that the name of each proposed candidate commission member be tabled in the House and referred to the Committee, and that a reasonable period for objection be allowed.**

#### **D. FROM HEARINGS TO FINAL PROPOSAL**

58. From the Subcommittee's experience, an all-too-familiar pattern for an objection it received was as follows:
- The commission produced an initial proposal, to which only those who objected made representation to the Commission;
  - The commission produced a final proposal based on those objections and its hearings;
  - The final proposal then upset others who had previously remained silent because they approved of the initial proposal. Often, this final proposal also presented readjustments that "came out of the blue" – the boundaries proposed did not reflect the public debate at all;
  - There was now no formal mechanism for appeal; and
  - The Subcommittee then heard from extremely upset Members – as well as pleas from frustrated non-Parliamentarians – who looked to it for redress. (Neither the Committee nor the Subcommittee had a mandate which enabled it to consider the objections of non-Parliamentarians, but this did not prevent many members of the public from sending in their pleas or thoughts.)
59. The Committee is of the opinion that this fundamental flaw needs to be addressed. There are several possibilities for ameliorating the process.

##### **1. Multiple Proposals**

60. One improvement would be to have multiple initial proposals. A commission could indicate a preferred proposal; but the provision of alternative plans may assist members of the public who wish to make submissions.

#### **Recommendation 12**

##### **The Committee recommends that:**

**Section 19(3)(a) of the *Electoral Boundaries Readjustment Act* be amended to provide that each electoral boundaries commission issue for public consideration no less than two different initial proposals for certain regions of the province.**

##### **2. Remove the Requirement for Prior Notification**

61. Another possibility would be to modify the hearings. We heard from commissioners that they would have desired improved public input. Too often, there were no requests to make

representations, or where there were requests, the turnout was poor. The commissioners noted that the requirement of prior written notice as laid out in section 19(5) of the Act was a barrier to public input.

62. It was suggested by Professor Sancton that section 19(5) be amended to allow people to speak at the public hearings without prior written notice. The Committee also understands that removing the written notice requirements would permit the commissions to travel to hold hearings in regions that have not formally requested a hearing. This could particularly benefit disparate, large, rural or remote ridings that might otherwise be bypassed under current procedures.

### **Recommendation 13**

**The Committee recommends that:**

**Section 19(5) of the *Electoral Boundaries Readjustment Act* be amended to remove the requirement for prior written notification to be received by the commission secretary in order for a public representation to be heard by a commission at any sitting.**

### **3. Shorten the Time From Announcement to Hearing**

63. Another remedy for poor turnout might be to shorten the announcement stage. The required advertisement of the initial proposal is to be at least 60 days in advance of the public hearing. The current 60-day period was designed in a time of slower communications and less connectivity than today. We note further that in the 2003 redistribution, notification occurred in the summer – timing which probably conspired to defeat even the best efforts to apprise the public and to fix the topic in their minds.
64. An announcement closer to the scheduled hearings, and possibly reiterated advertising as well, could generate greater turnout. A shorter announcement period would also advance the schedule, time which could be added for the review stages in the statute. The announcement, however, should be made with sufficient time for the public to prepare a proper presentation. The Committee's current inclination is to suggest a period of 30 days.

### **Recommendation 14**

**The Committee recommends that:**

**Section 19(2) of the *Electoral Boundaries Readjustment Act* be amended to shorten the period required to announce public hearings from 60 days to 30 days.**

65. We heard very little on the quality of the advertising itself. From testimony and Members' experiences, we can only indicate that some methods, such as flyer inserts in the newspapers, were far less effective than had been hoped. Other methods, such as information available through Elections Canada's website, appear to have exceeded expectations. The Committee notes that radio and television advertising might be costly, but effective.



66. Elections Canada has informed the Committee that it is undertaking a full review of the effectiveness of the various methods of public announcement used in the 2003 boundaries readjustment. We eagerly anticipate suggestions and recommendations from Elections Canada on improving this particular aspect of the process.

### **Recommendation 15**

**The Committee recommends that:**

**Elections Canada consider suggestions for multiple media communication strategies, including television and radio, and that consideration be given to a multiple announcement strategy and that this advice form the basis for any alterations to the legislation on advertising requirements.**

## **4. Help the Public Make More Effective Representations**

67. There is an obligation on those making a representation to make clear and solid arguments. Many representations to the commissions, and some objections filed by Members of Parliament, were sloppy or unclear on the criteria for drawing boundaries. There is an opportunity for Elections Canada to build on its existing public outreach programs and infrastructure. We feel that standardized guidelines on how to prepare a representation, alongside some background and interpretive materials, could vastly improve public representations and objections from Members of Parliament. It is also very important that the commissions hold public hearings in all parts of a province – including northern and remote regions.

### **Recommendation 16**

**The Committee recommends that:**

- a) Section 19 of the *Electoral Boundaries Readjustment Act* be amended so that a public call for written submissions is requested by the commissions during their formulation of the initial proposal;**
- b) Elections Canada develop and make available standardized materials and guidelines to assist the public in preparing more effective representation to the commissions; and**
- c) Commissions hold public hearings in all regions of a province.**

## **5. Add a Second Round of Public Consultations**

68. Better hearings will hopefully reduce the number of substantive or poorly received changes in the final proposal, but will not remove them altogether. The way to fully address this issue is to have a second round of public consultations.
69. There are two logical options for another round of public consultations. The first option would be to hold consultations before the initial proposal is issued. This would have the advantage of running concurrently with the commissions' preparatory time without necessitating a formal change to the readjustment schedule. The disadvantage is the potential for a large number of pre-proposal suggestions stating why things should be left as they are.

70. Another option would be to have a second round of public consultations after the final proposal has been released. Where there are changes from the initial proposal, the affected intervenors should be notified of the changes and given the opportunity to make written submissions regarding the changes. The commission could then decide to hold public hearings. This would be a more direct and effective remedy to the current procedure, but comes at the cost of adding time. The Committee is concerned this additional step might drag out intractable disputes without any movement or resolution.

### **Recommendation 17**

**The Committee recommends that:**

**The *Electoral Boundaries Readjustment Act* be amended to require a second round of public consultations when there has been a change between the initial and the final proposals.**

## **6. Add an Appeal Mechanism**

71. There needs to be an appeal process. There was testimony to the Subcommittee by several Members on the apparent unwillingness of the commissions to accept public input at the hearings. Consequently, these Members were concerned that a second round of hearings would not necessarily achieve any required changes.
72. The Committee is aware that there is a substantial difference between changes desired and changes required. Strenuous and repeated objections to a decision do not necessarily mean that the decision is a poor one, the wrong one, or ill considered. Nor should some Members' frustrations over the inability to appeal or change a decision open the door to undermining the commissions' independence. Most tribunal systems in Canada have at least one avenue of appeal and the lack of an appeal process in the current procedure does not seem fair or wise.
73. New issues can arise during each redistribution round that may not belong within the commissions' purview. We would prefer to see an external and independent body provide an interpretation in such circumstances. For example, it is not obvious to the Committee that in the cases of ST. ALBERT and ACADIE-BATHURST the statements and opinions of the Official Language Commissioner were outside of, or irrelevant to, the jurisdiction of the commissions, as the commissions claimed.
74. For these reasons, there needs to be some mechanism for appeal to a body separate from the commissions. The composition of the body and format of appeal was the matter of wide debate among Members, but the sense of the Committee is that the appeal mechanism should be at a national level, rather than a provincial one. It also needs to remain – as the commissions themselves are – completely insulated from outside interference. Careful consideration also needs to be given to how the timing of the appeal is fit into the overall process and to what criteria should allow an appeal to be made. Some consideration needs to be given as to who might sit on such a body.

75. Our suggestion is to have the following appeal mechanism: In cases where significant opposition has been registered, or where a commission has not deviated in substance from its initial proposal despite a mandatory second public review, *and* when a recommendation for change has been made by the relevant committee of the House, there would be the possibility of appeal to an independent body during a national appeal stage. This body would comprise three federal judges. It would have to be notified of an appeal and dispense with the appeal in a timely manner.

### **Recommendation 18**

**The Committee recommends that:**

**The *Electoral Boundaries Readjustment Act* be amended to provide for an appeal process before a Representation Order is drawn up, so that in cases where significant opposition has been registered, or where a commission has not deviated in substance from its initial proposal despite a mandatory second public review, *and* when a recommendation for change has been made by the relevant committee of the House, there would be the possibility of appeal to an independent body during a national appeal stage. This body would be composed of three federal judges. It would have to be notified of an appeal and dispense with the appeal in a timely manner.**

## **7. Parliamentary Coordination**

76. We found it challenging to meet the strict timetable laid out in the Act. Specific circumstances accentuated this challenge: for example, the point in the parliamentary calendar when each report arrived; the arrival of concurrent reports from provinces with many ridings; specific objections of great complexity; and a heavy legislative agenda in Parliament. When feasible, Elections Canada and the commissions should consider the parliamentary calendar. As a rule of thumb, the earlier in the parliamentary year a report arrives, the better. Also, the timely provision of relevant materials to the appropriate committee of Parliament as the process gets underway would allow better preparation ahead of time. Members and staff could then hear objections and prepare its reports more quickly and more efficiently.
77. We also note that there was a “production crunch” for both the Committee and the commissions at the end of the prescribed process. This was due to the large provinces reporting simultaneously, placing pressure on their capacity to adjudicate and prepare decisions. Therefore, if practicable, the initial timing of the constitution of each electoral boundaries commission could be looked at with an eye to the parliamentary calendar. Large provinces could perhaps be staggered – or encouraged by other means to coordinate releasing their reports – in order to prevent placing too much burden on the process all at once.
78. For its part, Committee work could start earlier. Perhaps the relevant subcommittee could be constituted when the commissions are constituted. Then committee staff could track and potentially establish a liaison with Elections Canada at the very beginning – even if just an informal liaison – so that they can do more work ahead of time in order to be better prepared. Likewise, Members and their staff would have more time to inform themselves on the myriad of local complexities that can arise from this process.

79. The Committee and the Subcommittee did establish procedures to facilitate the rapid production and adoption of the reports. Motions were prepared and passed as necessary to allow more time, should the time allotted in the legislation not prove sufficient (there is provision for this in the *Electoral Boundaries Readjustment Act*).
80. We need to ensure that the Subcommittee's work is given priority. There are things we could consider that are achievable, including but not limited to:
- Committee work could start earlier. Perhaps the Subcommittee could be constituted when the Commissions are constituted. Then Subcommittee staff could track and potentially establish a liaison with Elections Canada at the very beginning – even if just an informal liaison – so that they can do more work ahead of time in order to be better prepared. Likewise, Members and their staff would have more time to inform themselves on the myriad of local complexities that can arise from this process.
  - The parties and the party whips could collectively and individually provide measures to improve the efficiency of the Subcommittee's work.
  - Designated alternates for the Subcommittee, or for the other committee duties of Subcommittee members, could be appointed and assigned this work as priority.
  - The Subcommittee itself, while wishing to accommodate Members' schedules, needs to set a firm tone with individual Members who wish to appear before it.
  - Members of Parliament could be earlier and better informed of the purpose of the Act and how it operates. This includes, but is not restricted to, the role and powers of the Committee.
  - MPs should be reminded and encouraged to attend the commission public hearings, particularly to advocate when they are in favour of a proposal.
81. We note a change that could greatly improve the speed of the Committee's work and simplify the objection process for Members. The requirement for an objection to be supported with the signatures of 10 other Members should be removed. It serves no valid purpose and is a holdover from when the objection had to be filed as a motion in the House.

### **Recommendation 19**

**The Committee recommends that:**

- a) **The role of the Committee under the *Electoral Boundaries Readjustment Act* be retained as currently outlined in the legislation; and**
- b) **Section 22(2) of the *Electoral Boundaries Readjustment Act* be amended to replace the requirement that objections be filed in the form of a motion and signed by no less than ten members of the House of Commons by a simplified procedure that requires only a written objection to be filed with the clerk of the relevant committee of the House of Commons.**

**Furthermore, the Committee strongly suggests that for the next redistribution, Members of Parliament be more adequately informed of the purpose of the *Electoral Boundaries Readjustment Act* and how it operates. This includes, but is not restricted to, the role and powers of the Committee.**

82. The Committee – and, indeed, the House – owes a debt of gratitude to the members of the Subcommittee, who devoted a great deal of time and energy to this important task. In addition to our regular staff, an electoral geography technician from Elections Canada, who provided data from Elections Canada electoral boundaries databases and mapping, augmented the Subcommittee staff. The Committee wishes to thank Elections Canada for this assistance, which was of great use.

### **8. Shorten the Implementation Period**

83. The sum of the discussion above suggests that the process of arriving at new electoral boundaries may require a couple more stages and perhaps a little more time. We are confident that the length of the overall process can be maintained by shortening the period between the Representation Order and the date when the new boundaries come into effect. With current technology and resources, Elections Canada should be able to implement the changes within six months of a Representation Order.

#### **Recommendation 20**

**The Committee recommends that:**

**Section 25 of the *Electoral Boundaries Readjustment Act* be amended to provide that the Representation Order is effective on the first dissolution of Parliament that occurs at least 180 days after the day on which the proclamation was issued.**

### **9. The Role of Elections Canada**

84. From the discussion in this report, it is clear that the Committee is suggesting a greater and more activist role for Elections Canada. Our suggestions throughout this report reflect our opinion that there is scope for Elections Canada to better assist the public, the commissions and the House of Commons to fulfill their respective roles in electoral boundaries readjustment without interfering in the independence or neutrality of the commissions. To reiterate a couple of examples: the provision of templates for commission reports and public representations, and the provision of interpretative materials for commissions and for the general public.
85. Elections Canada could also build on its public communications programs to specifically target areas that it has reason to believe will have contentious redistributions. Public education programs could inform the constituents of the reasons and process for electoral riding redistribution, as well as on such issues as defining communities of interest and identity.

#### **Recommendation 21**

**The Committee recommends that:**

- a) In order to better effect coordination between the commissions, Elections Canada and the House, a Subcommittee on Electoral Boundaries Readjustment of the Standing Committee on Procedure and House Affairs (or the appropriate standing committee of the House) be constituted at the same time as the federal electoral boundaries commissions; and**

- b) Elections Canada present to the relevant committee of the House, in a timely fashion, a copy of all documents or information provided to the commissions or the public. The relevant committee of the House should also receive from Elections Canada, in a timely fashion, the transcripts of the public hearings and the decisions made under the appeal mechanism. This would ensure Members have the same bases for decisions as was available to the commissions.**

#### **E. PARLIAMENTARY STAGE**

86. The Committee realizes that the corporate memory of the committee is likely to dissipate by the time of the next redistribution. We, therefore, provide this information to assist future committees responsible for boundaries readjustment.
87. The Subcommittee is not a permanent standing committee, so it suffered from having to fit into the regular parliamentary calendar and committee schedules. Thirty sitting days to hold hearings and produce a report proved difficult to respect once other parliamentary business, as well as parliamentary breaks, were taken into account.
88. This was particularly so for the large provinces of Quebec and Ontario, both of which reported at essentially the same time; requiring the Committee to hear 60 some objections in 30 sitting days. Many objections were extremely complicated and interwoven with other objections. Many were bound up with constituencies for which there was no objection and which therefore necessitated further consultation with yet more MPs; all this while also writing and considering the reports for those provinces for which the hearings had been completed.

#### **REQUEST FOR GOVERNMENT RESPONSE**

89. Pursuant to Standing Order 109, the Committee requests that the Government table a comprehensive response to this Report.

A copy of the relevant Minutes of Proceedings (*Meeting No. 37*) is tabled.

Respectfully submitted,

**GARY GOODYEAR, M.P.**  
*Chair*