



Enhancing the Values of Redistribution

Recommendations from the
Chief Electoral Officer
of Canada Following the
Representation Order of 2003

May 2005

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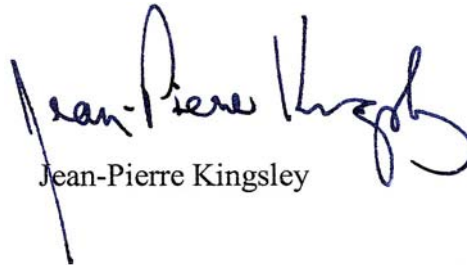
The Honourable Peter Milliken
Speaker of the House of Commons
House of Commons
Ottawa, Ontario
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Dear Mr. Speaker:

I have the honour to submit a report, *Enhancing the Values of Redistribution*, for tabling in the House of Commons.

This report proposes amendments that will strengthen the elements of the *Electoral Boundaries Readjustment Act* that have already made that statute a success.

Yours truly,



Jean-Pierre Kingsley

c.c.: Mr. Bill Corbett
Clerk of the House of Commons

Enclosure

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Executive Summary – Recommendations Made in This Report

Recommendation 1.2: Section 3 of the Act should be amended to provide that the Governor in Council shall establish electoral boundaries commissions by the earlier of:

- no later than six months after Census Day; and
- 60 days after the receipt of the return described in section 13 of the Act.

Recommendation 1.3: Subsection 19(2) of the Act should be amended to reduce the notice period between the publication of the initial proposal and the commencement of public hearings from 60 days to 30 days.

Recommendation 1.4: Subsection 25(1) of the Act should be amended to provide that new boundaries come into force on the first dissolution of Parliament that occurs at least seven months following the issue of the proclamation of the representation order.

In the case where writs for a general election are issued during the seven-month period referred to above, the new boundaries will come into force on the first dissolution of Parliament that occurs at least seven months after the return of the writs for that general election.

Recommendation 2.1: A subsection (3) should be added to section 15 of the Act stating that in applying the concept of community in subsections (1) and (2), a commission shall recognize communities when doing so promotes or maintains the effective representation of members of the community. In applying the concept of community, the commission shall consider factors such as:

- demographic and sociological characteristics;
- boundaries of local government and administrative units;
- economic ties; and
- any other factor that the commission feels is demonstrative of the existence of a community.

Recommendation 2.2: A subsection should be added to section 15 stating that Indian reserves, as defined in subsection 2(1) of the *Indian Act*, shall not be divided between two or more electoral districts, except in circumstances where it is clear to the commissioners that such division is necessary in order to achieve effective representation. If a commission chooses to divide a reserve between two or more districts, it shall explain its reasons for doing so in its report.

Recommendation 2.3: A subsection should be added to section 15 stating that commissions should not change existing electoral boundaries unless the commission is of the view that changes in population and communities require such a change so as to ensure effective representation.

Recommendation 2.4: The deviation from the provincial quotient permitted under paragraph 15(2)(b) of the Act should be reduced from 25% to 15%.

Where a commission proposes boundaries that deviate from the quotient by more than 15%, in circumstances that the commission finds to be extraordinary, it shall explain, in its report, its reasons for doing so.

Recommendation 2.5: Subsections 15(1) and 15(2) of the Act should be amended to include topographical features and transportation networks as two additional factors that must be considered by commissions in drawing boundaries, and that can be bases for deviating from the provincial quotient.

Recommendation 3.1: Section 18 of the Act should be amended to state expressly that commissions may accept and consider written submissions.

In any public notice where the commission publishes information concerning the opportunities to make oral submissions, the commission shall also set out the means by which written submissions may be made and the time periods for doing so.

Recommendation 3.2: Section 14 should be amended to provide that upon being established, commissions should be required to inform the public of the upcoming redistribution exercise, setting out the process and timelines and asking for written submissions to be considered before the formation of their initial proposals.

Recommendation 3.3: Subsection 19(2) of the Act should be amended so that it no longer specifies that an advertisement of the commission's initial proposal shall be placed in a newspaper. A commission should be required to disseminate, in the means it thinks are most appropriate to achieve the broadest dissemination of the information therein, the initial proposal as well as the methods by which members of the public may make submissions to the commission. The commission shall also make clear in its proposal how members of the public can obtain a free copy of the proposed map along with the names and populations of the proposed districts.

Recommendation 3.4: A provision should be added to the Act stating that a commission shall endeavour to communicate with groups representing citizens' interests in the province regarding its initial proposal and the methods for making representations to the commission.

Recommendation 3.5: Subsection 19(5) should be amended to provide that a commission may waive any of the elements of the notice required under that provision, including the requirement of notice itself, at any time the commission feels it is in the public interest to do so.

Recommendation 3.6: Following its hearings, the committee of the House reviewing the commission reports should produce a summary of the objections to the commission's report, if any, and refer it back to the commission through the Chief Electoral Officer. The public should have up to 30 days from the date the committee's report is made public to comment on the report of the commission and the committee's objections. The commission should have a further 30 days to dispose of the objections, taking into account any public comments.

Where the committee has received no objections to the commission's report, the public should have 30 days from the end of the objection period to comment on the commission's report, and the commission should have a further 30 days to prepare its final report, taking into account any public comments.

Recommendation 3.7: A provision should be added to the Act to provide the Chief Electoral Officer with the express authority to implement public education and information programs to make the electoral boundaries readjustment process better known to the public.

Recommendation 3.8: Elections Canada should be given the express authority to continue to develop materials and present information sessions to members of Parliament concerning redistribution and the role of members of Parliament in the process.

Recommendation 4.2: A section should be added to the Act giving Elections Canada the express authority to make available administrative support to electoral boundaries commissions. Commissions should be obliged to accept such support.

Recommendation 4.3: Elections Canada should be mandated to facilitate the provision of information to commissioners through information sessions and other means. Commissions should be obliged to consider any such information provided.

Recommendation 4.4: Section 20 of the Act should be amended to provide that the report of each commission should include the following information in the following order:

- the maps of the proposed electoral districts;
- a brief introduction setting out the names of the commissioners, the number of electoral districts assigned to the province, and any other background information the commission believes to be important;
- a chart with the population of each district in the province and its deviation from the provincial quotient;
- any reasons that the commission feels are necessary concerning its decisions respecting the boundaries and the names of electoral districts;
- any other matters the commission wishes to address in its report;

- the places and dates of public hearings held in a province, and the names of the persons who made representations at those hearings; and
- the geographic descriptions of the proposed electoral districts.

Recommendation 4.5: A provision should be added to the Act providing that following a redistribution, the Chief Electoral Officer may report to Parliament on any amendments that in his or her opinion are desirable for the better administration of the Act.

Recommendation 5.1: An amendment should be made to the Act to provide that any individual resident in the relevant province may seek review of the commission's decisions in the Federal Court of Appeal on the basis that the commission has made an error of law.

The Act should provide that applications for review of a commission's decision must be made within 30 days of the proclamation of the representation order. Before the review application is heard, an applicant would have to seek leave from the court. A court would only grant leave if the error, which is the object of the complaint, could have produced a material effect on the commission's final report.

The Act should specify that the existence of an application to review the decision of an electoral boundaries commission does not affect the validity of the representation order proclaimed following receipt of the final report.

The Act should provide that if the court finds that an error was made, the original commission would be re-established, unless the commission members are not willing and able to act, or the court directs otherwise, in which case a new commission will be established using the same appointment procedures as are found in the Act. Any members of the original commission who are willing and able to act shall be appointed to the new commission unless the court has directed otherwise.

The commission would be permitted to work from its records or the records of the previous commission. Where a commission is of the view that it is necessary to do so, it may hold additional public hearings. In order to facilitate this, a provision should be added to the Act requiring commissions to maintain records of their public hearings.

The Act should specify that the amended representation order shall come into force on the date of the first dissolution of Parliament that occurs at least seven months after the date that the commission submits its amended report.

Recommendation 5.2: The Chief Electoral Officer should be given the power to correct clerical errors in an electoral boundaries commission report. If the Chief Electoral Officer exercises this power, he must make a report to the Speaker of the House of Commons within the first 15 sitting days following the correction, along with a report of the reasons for the correction.

Once a general election has been held on the basis of boundaries based on a clerical error, the Chief Electoral Officer should no longer retain the power to correct the clerical error if the error affected the population of the district.

Recommendation 5.3: Section 23 should be amended to provide that if the committee of the House of Commons objects to a name proposed by a commission, and proposes an alternative name, the commission shall be bound to accept that name unless the commission later receives public input regarding the name of the district. If a member of the public objects to the committee's choice, the commission shall decide on the most appropriate name.

Introduction

Purpose and Structure of Report

Section 3 of the *Canadian Charter of Rights and Freedoms* gives every Canadian citizen the right to vote in federal and provincial elections and the right to stand for election to the House of Commons and legislatures of the provinces. The creation of electoral districts is an essential part of the constitutional guarantee of the democratic rights of Canadians in section 3 of the Charter because districts are the basic mechanism through which the votes of Canadians are translated into representation in the House of Commons.

Boundaries are to be drawn in a way that will give electors a voice in the deliberations of government and the ability to bring their views, desires, grievances and concerns to the attention of their elected representatives.

Because the goal of the process is to reflect the reality of an evolving Canadian society, it must also be completed in a timely way to ensure that it is not overtaken by the very evolution it is intended to recognize.

Furthermore, because perception is an important factor in democracy the process must be understandable to the citizenry it aims to serve.

Ultimately, what is required is a process that achieves effective representation within a reasonable time period, and enhances the confidence of the public in its integrity.

Before 1964, the task of drawing electoral districts fell exclusively to parliamentarians. However, parliamentarians are perceived to have a distinct interest in the design of electoral districts, and concerns about this perception led Parliament to pass the *Electoral Boundaries Readjustment Act* (referred to in this report as “the Act”), which placed responsibility for the design of electoral districts in the hands of independent commissions appointed for each of the provinces.

These commissions removed from Parliament the time-consuming and highly contentious exercise of drawing electoral boundaries. This was intended to reinforce Canadians’ confidence in the integrity of Canada’s democracy. Although each redistribution exercise since then has faced its own challenges, on the whole the legislation and the processes established by it are a public policy success that is envied around the world.

The Act has been subject to minor amendments several times since it was implemented. Over the last 15 years, there have also been three major sets of proposals to reform the Act. Both the Royal Commission on Electoral Reform and Party Financing (the Lortie Commission) that reported in 1991, and Bill C-69, which was passed by the House of Commons, but subsequently died on the order paper with the call of the 1997 general election, proposed comprehensive changes to the Act. Most recently, in its report to Parliament on

April 2, 2004,¹ the Standing Committee on Procedure and House Affairs (referred to in this report as the “Standing Committee”), drawing from its experience of the most recent redistribution, made further proposals to amend the law.

It is important to note that all three proposals have agreed on the fundamental values of redistribution in Canada. The independence of commissions is seen as key, public participation as highly valuable, and all agree that the goal of redistribution is to provide effective representation to Canadians.

This report is intended to contribute to the discussion from the point of view of Elections Canada, which is the permanent agency most involved in the redistribution process. It is hoped that the insight Elections Canada has gained through working with the commissions and implementing the fruits of their labour will be one that is of assistance to Parliament in considering possible changes to the Act.

The starting point of this report, like others that have considered the federal redistribution process, is that redistribution in Canada has been a resounding success and has met with universal acclaim. Therefore, the goal of amending the Act must be to enforce and strengthen the elements of the legislation that have made it such a success.

The report is divided into five groups of recommendations. The first section considers ways in which the timely conclusion of redistribution can be ensured. The second section proposes amendments that will enhance the effective representation of Canadians. The third section proposes ways to improve the amount and quality of public input in the redistribution process. The fourth section proposes support mechanisms for the redistribution process to assist commissions in completing their work. The final section contains recommendations to standardize the methods by which a commission’s decisions can be challenged and reviewed.

The Process of Redistribution

Redistribution is scheduled to take place after each decennial census. Following that census, the Chief Statistician of Canada is required to prepare a census return showing the population of Canada and each of its provinces, as well as the population by electoral district and by enumeration area as ascertained by the census (s. 13 of the Act). The Chief Statistician sends this return as soon as possible to the Chief Electoral Officer and the Minister who has been designated by the Governor in Council for the purposes of the Act. Using these figures and the formula in sections 51 and 51A of the *Constitution Act, 1867*, the Chief Electoral Officer of Canada calculates the number of seats to be allocated to each province and publishes the results in the *Canada Gazette* (s. 14 of the Act). During the most recent redistribution, the period between the completion of the census and the receipt of the census return was 10 months.

¹ See the Sixteenth Report of the Committee during the 3rd session of the 37th Parliament, readopted in its Seventh Report in the 1st session of the 38th Parliament, presented to the House of Commons on October 22, 2004.

The Minister is required to establish an electoral boundaries commission for each of the provinces within 60 days of receiving the census return (s. 3 of the Act). The commissions are composed of three members. The chief justice of the province appoints a justice of his or her court to be the chairperson of the commission, or, if no such justice is available, a person resident in that province is appointed by the Chief Justice of Canada to be chairperson (s. 5 of the Act). The Speaker of the House of Commons appoints the other two members of each commission (s. 6 of the Act).

The commission's task is to divide the population into electoral districts that meet the criteria set out in section 15 of the Act. The first step a commission must undertake is to divide the population of the province as set out in the census return by the number of seats allocated to that province. The resulting number is referred to as the "provincial quotient" or "electoral quota for the province." For example, Alberta's population of 2,974,807 was divided by the 28 seats provided to Alberta by the *Constitution Act, 1867*. This resulted in a provincial quotient for Alberta of 106,243.

The commission then sets about drawing boundaries so that "the population of each electoral district in the province ... shall, as close as reasonably possible, correspond to the electoral quota for the province". In drawing the boundaries, the commission is to consider "the community of interest or community of identity in or the historical pattern of an electoral district in the province and a manageable geographic size for districts in sparsely populated, rural or northern regions of the province".

The commission may depart from the rule that districts be as close as reasonably possible to the provincial quotient where "the commission considers it necessary or desirable" in order to "respect the community of interest or community of identity in or the historical pattern of an electoral district in the province" or to "maintain a manageable geographic size for districts in sparsely populated, rural or northern regions of the province". Where the commission decides to depart from the rule of equal population, it "shall make every effort to ensure that" the population of all districts in the province stay within 25% of the provincial quotient. However, in "circumstances viewed by the commission as being extraordinary," it may create districts that deviate by more than 25% from the provincial quotient.

The commission produces an initial proposal for dividing the province into the number of electoral districts calculated by the Chief Electoral Officer in accordance with the census return. The commission publishes its proposals, along with the times and places of its scheduled public hearings, in the *Canada Gazette* and at least one newspaper of general circulation in the province at least 60 days before the commencement of those hearings. The advertisement in the newspaper is required to include a map of the proposed boundaries, the proposed names and the population of the proposed districts (s. 19 of the Act). Following the publication of this advertisement, the commission holds public hearings.

The commission must complete its report within one year of the initial receipt by the chairman from the Chief Electoral Officer of the census return (s. 20 of the Act). Once complete, the commission's report is referred to the Speaker of the House who causes it to be laid before the House of Commons and referred to such committee of the House as is

established for the purposes of dealing with electoral matters (at present the Standing Committee on Procedure and House Affairs) (s. 21 of the Act).

Members of the House of Commons have the opportunity to raise objections to the commission's report. If, within a period of 30 days of the report being referred to the committee, 10 members sign an objection in writing, the objection will be considered by the committee within the following 30 sitting days (s. 22 of the Act). After the committee has considered any objections, the report is referred back to the commission along with copies of any objections and minutes of the committee's proceedings and evidence. The commission disposes of any objections within 30 days of having the report referred back (s. 23 of the Act).

Once all commissions have disposed of any objections to their reports, the reports are combined into a draft representation order by the Chief Electoral Officer, which is then sent to the Minister. The draft representation order sets out the number of members representing each province, the description of the boundaries, and the populations and names of the electoral districts (s. 24 of the Act). The draft representation order is brought into force by proclamation of the Governor in Council within five days of its being sent to the Minister. The representation order becomes effective on the first dissolution of Parliament that occurs at least one year after the day on which the proclamation was issued (s. 25 of the Act).

A summary of Elections Canada's experience with the redistribution exercise that commenced on Census Day, May 15, 2001, and concluded with the coming into force of the new boundaries on May 23, 2004, is contained in Appendix 1 of this report. That experience informs the recommendations that follow. Appendix 2 of the report compares the recommendations made in this report with those contained in the report of the Standing Committee, Bill C-69 and the provisions of the present Act.

Acknowledgement

I would like to thank Professor John Courtney of the University of Saskatchewan for his contribution to this report.

Chapter 1 – Ensuring the Timeliness of Redistribution

1.1 Frequency of Redistribution

Redistribution is supposed to occur every 10 years to reflect the fact that over a decade, significant population growth and shifts take place. In addition, as society evolves, communities of interest may change.

Such changes may reduce the effectiveness of the representation provided by existing boundaries, primarily, but not solely, where those boundaries no longer provide relative parity of voting power, which is the primary element of effective representation. For example, by 2001, 3 of the districts established by the Representation Order of 1996 were more than 50% above the provincial quotient, while fully 43 districts deviated by more than 25% from the provincial quotient (in addition to the 2 districts designed using the provision of the Act allowing a deviation of greater than 25% in “extraordinary circumstances”).

One way to reduce this distortion is to increase the frequency of redistribution. To minimize the effects of population shifts on effective representation, Bill C-69 proposed that a redistribution could be conducted every five years if the populations of electoral districts ceased to be within a certain range of the provincial quotient. As noted earlier, Bill C-69 died on the order paper before being passed by the Senate.

In its April 2004 report, the Standing Committee on Procedure and House Affairs considered and rejected the prospect of redistribution every five years. The Standing Committee stated that boundaries that change too frequently might result in members of the public losing a degree of “continuity, stability, predictability, and a sense of belonging.”

The Standing Committee concluded that the disadvantages of a more frequent redistribution process outweigh the advantages at this time. There is, however, much that can be done to ensure that the redistribution following the decennial census proceeds in a timely manner so that the boundaries in the next election are most likely to reflect up-to-date population figures.

This section of the report considers various changes to the Act that can be implemented to save time in the redistribution process. The time saved by these proposed steps could be used to improve the substantive process of redistribution, by, for example, increasing the opportunities for public input.

1.2 Establishing Commissions Prior to Census Return

Recommendation 1.2:

Section 3 of the Act should be amended to provide that the Governor in Council shall establish electoral boundaries commissions by the earlier of:

- **no later than six months after Census Day; and**
- **60 days after the receipt of the return described in section 13 of the Act.**

The *Statistics Act* provides that the census takes place in a month to be fixed by the Governor in Council.² A particular day in that month is declared “Census Day.” For the 2001 census, that day was May 15, 2001.

After Census Day, section 13 of the *Electoral Boundaries Readjustment Act* calls for the Chief Statistician of Canada to send a return (referred to in this report as the “census return”) reflecting the results of the information submitted on Census Day. This report sets out the populations of the provinces, the electoral districts and census enumeration areas to the Chief Electoral Officer and the Minister. This census return commences the redistribution process, because section 3 of the Act provides that commissions are to be established within 60 days of the receipt of this return. In the case of the 2001 census, the return was received on March 12, 2002. There was therefore a 10-month gap between Census Day and the date the census return was received. This was the earliest the census return had ever been received.

The date of Census Day is well-known before the census takes place, and it is easy to establish approximately when the census return will be sent. There is no need to wait until the return is sent before commencing redistribution by establishing commissions. Once commissions are established, they can begin to hire staff, open offices and start to prepare for the redistribution exercise. Preparing for redistribution through administrative work and the gathering of information does not require precise knowledge about characteristics of the population. Completion of much of the administrative or preparatory work, including training, in advance of the census return will allow commissioners to commence their substantive work more swiftly after the census return is sent, ensuring much more time to spend consulting the public and drawing the boundaries. Therefore, it is recommended that the Act be amended to provide that commissions must be established within a certain time period after Census Day.

In determining the precise date when the commissions could be established, the commissions should be given enough time to complete their preparatory tasks before commencing their substantive work. However, the date should not be set so early as to make it difficult for commission members, especially judges, to commit to working on the commission. A further complication in setting an earlier date for the establishment of the commissions is that while Census Day is established by law, the date that the census return is sent is not, and is therefore unknown beforehand.

² *Statistics Act*, R.S.C 1985, c. S-19, s. 19.

Taking the above considerations into account, as well as the recent experience of a 10-month gap between Census Day and the census return, it is recommended that the commissions be established no later than six months after Census Day. To allow for a situation where the census return is prepared more quickly than is now the case, the Act should also provide that in any event the commissions must be established no later than 60 days after the census return is received.

1.3 Shortening Time Period for Notice of Commission Hearings

Recommendation 1.3:

Subsection 19(2) of the Act should be amended to reduce the notice period between the publication of the initial proposal and the commencement of public hearings from 60 days to 30 days.

Subsection 19(2) of the Act provides that the notice of a commission's initial proposal must be published at least 60 days before the commencement of the hearings.

The Standing Committee recommended in its report of October 22, 2004, that this notice period be reduced to 30 days. The committee stated that a shorter period was possible in this era of improved communications and connectivity. The committee also suggested that a shorter notice period might increase participation among the public. Finally, the committee noted that shortening this period would allow additional time to be available for the review stages of the statute.

As the Act stands at present, many members of the public only find out about redistribution following publication of the initial proposals by the commissions. This report will be recommending (see section 4.2) that more activities be undertaken to inform people about the redistribution process before the commissions produce their initial proposals. If that recommendation is implemented, there will be less need for a lengthy lead-in period for these groups to prepare submissions to the commissions, following notice of the initial proposal.

1.4 Moving Up Implementation Date of Representation Order

Recommendation 1.4:

Subsection 25(1) of the Act should be amended to provide that new boundaries come into force on the first dissolution of Parliament that occurs at least seven months following the issue of the proclamation of the representation order.

In the case where writs for a general election are issued during the seven-month period referred to above, the new boundaries will come into force on the first dissolution of Parliament that occurs at least seven months after the return of the writs for that general election.

Section 25 of the Act provides that the representation order shall be effective on the first dissolution of Parliament that occurs at least one year after the day on which the proclamation of the representation order is issued.

This provision is designed to allow Elections Canada to make preparations to implement the new electoral map. During the period between the proclamation of the representation order and its coming into force, Elections Canada must train any new returning officers appointed by the Governor in Council, produce new electoral maps, redraw polling divisions (in conjunction with returning officers), and reconfigure the National Register of Electors to reflect the new electoral districts. Elections Canada must also administer changes to the registration information of electoral district associations affected by redistribution.

The one-year period also allows political parties and members of Parliament time to prepare to contest the next general election on the basis of the new boundaries. Electoral district associations may use that time to reorganize their assets and internal organization.

Following the August 25, 2003 representation order, Parliament passed Bill C-5, *An Act respecting the effective date of the representation order of 2003*, to provide that the boundaries described in that order would be effective on the first general election to take place after April 1, 2004 – essentially, a minimum period of seven months after the order was proclaimed.

In passing this legislation, Parliament recognized that it was desirable that the new boundaries be implemented as quickly as possible so as to allow the forthcoming general election to be conducted according to the most up-to-date population data.

Due to improvements in technology, and with the experience of 2004, Elections Canada is confident that it will be able to implement new boundaries within a seven-month period following future redistributions.

However, the shorter period requires the provision of an exception to allow for the case of a general election being called during the seven-month period. Elections Canada would not be able to prepare for redistribution while conducting a general election. Therefore, if the writs of a general election are issued during the seven-month period after the issue of the proclamation of the representation order, the implementation period for the representation order should be extended to the first dissolution of Parliament that occurs at least seven months after the return of the writs for the general election.

Chapter 2 – Making Representation More Effective

In the 1991 Supreme Court of Canada Case *Reference re Prov. Electoral Boundaries (Sask.)*³ (referred to as the “*Saskatchewan Reference*”), the Court stated that the right to vote under section 3 of the *Canadian Charter of Rights and Freedoms* guaranteed Canadians the right to “effective representation.” The goal of redistribution is to ensure the constitutional right of effective representation.

The Court made the following comments on the constitutional right to effective representation:

What are the conditions of effective representation? The first is relative parity of voting power. A system which dilutes one citizen’s vote unduly as compared with another citizen’s vote runs the risk of providing inadequate representation to the citizen whose vote is diluted. The legislative power of the citizen whose vote is diluted will be reduced, as may be access to and assistance from his or her representative. The result will be uneven and unfair representation.

But parity of voting power, though of prime importance, is not the only factor to be taken into account in ensuring effective representation. ...

Notwithstanding the fact that the value of a citizen’s vote should not be unduly diluted, it is a practical fact that effective representation often cannot be achieved without taking into account countervailing factors.

First, absolute parity is impossible. It is impossible to draw boundary lines which guarantee exactly the same number of voters in each district. Voters die, voters move. Even with the aid of frequent censuses, voter parity is impossible.

Secondly, such relative parity as may be possible of achievement may prove undesirable because it has the effect of detracting from the primary goal of effective representation. Factors like geography, community history, community interests and minority representation may need to be taken into account to ensure that our legislative assemblies effectively represent the diversity of our social mosaic. These are but examples of considerations which may justify departure from absolute voter parity in the pursuit of more effective representation; the list is not closed.

³ [1991] 2 S.C.R. 158.

It emerges therefore that deviations from absolute voter parity may be justified on the grounds of practical impossibility or the provision of more effective representation. Beyond this, dilution of one citizen's vote as compared with another's should not be countenanced. I adhere to the proposition asserted in *Dixon, supra*, at p. 414, that “only those deviations should be admitted which can be justified on the ground that they contribute to better government of the populace as a whole, giving due weight to regional issues within the populace and geographic factors within the territory governed.”

The principles of this case form the starting point for the law governing the drawing of electoral boundaries.

It is important to remember that equality, or parity, of voting power is the factor of “prime importance” in achieving effective representation. However, where the result brought about by parity of voting power would detract from effective representation, “[f]actors like geography, community history, community interests and minority representation may need to be taken into account”. However, the Court cautioned that only those deviations from absolute voter parity that lead to more effective representation should be allowed.

The approach set out in section 15 of the Act meets the requirements of the Supreme Court decision. Subsection 15(1) states that the goal of electoral boundaries commissions is to draw electoral districts with populations as close as reasonably possible to the provincial quotient. In drawing these boundaries, the commissions shall consider community of interest or identity, the historical pattern of an electoral district in the province, and a manageable geographic size for districts in sparsely populated, rural or northern regions of the province.

Also, the commission is permitted to depart from the obligation to draw boundaries as close as reasonably possible to the provincial quotient where the commission considers it necessary or desirable to do so in order to respect the community of interest or identity, or the historical pattern of an electoral district or to maintain a manageable geographic size for districts in sparsely populated, rural or northern regions of a province. Commissions may depart from the quotient by up to 25% where they feel that these reasons make it necessary or desirable to do so. However, in extraordinary circumstances, the commission may depart from the quotient by more than 25%.

This chapter sets out recommendations to improve the effective representation provided by the Act, and to clarify the terms of section 15.

2.1 Clarifying the Concept of Community

Recommendation 2.1:

A subsection (3) should be added to section 15 of the Act stating that in applying the concept of community in subsections (1) and (2), a commission shall recognize communities when doing so promotes or maintains the effective representation of members of the community. In applying the concept of community, the commission shall consider factors such as:

- **demographic and sociological characteristics;**
- **boundaries of local government and administrative units;**
- **economic ties; and**
- **any other factor that the commission feels is demonstrative of the existence of a community.**

No concept leads to greater debate during redistribution than the concept of community. The Act calls for the recognition of community, but does little to define the concept. The vast majority of representations at public hearings concern definitions of community, and the most prominent battles over the determinations of commissions generally involve allegations that a commission has failed to properly recognize a community.

In theory, representation in the House of Commons has been based on the concept that a member of Parliament represents not simply a group of 100,000 or so individuals, but a group of persons who are connected because they share a certain identity (such as a cultural identity) or certain interests (such as economic interests).

People do not, of course, live in easily identifiable communities of 100,000. All individuals could identify themselves, or could be identified by others, as belonging to a number of different communities. One individual may share a cultural community with those who live to the west, and economic ties with those who live to the east. A community may be seen in objective demographic data or in the subjective feelings as expressed by self-identified members of a community. A community may be formed by boundaries drawn for other purposes such as municipal boundaries or the boundaries of an Indian reserve.

The difficult task of an electoral boundaries commission is to determine which of the many overlapping communities that exist in our society (if any) is most salient to people's effective representation, and to balance that determination with the predominant goal of population equality.

The Standing Committee recognized that the concept of community is difficult to define, and acknowledged that the application of the concept must be up to commissioners, but urged a greater understanding of the concept.

To this effect, the Standing Committee recommended that the Act be amended to include a clear definition of community in the Act as well as more information or guidance by which community representation is to be assessed (Recommendation 3).

Attempts to further elucidate the concept of community in the Act will meet with three difficulties. The first is that, as outlined above, the concept of community is very difficult to define. The debate over what constitutes a community is as rich and varied as the human experience which it attempts to encompass. Because definitions of community are dependent upon the particular facts of the situation, the Act entrusts decisions to commissioners who hear public representations concerning the relevant identification of community necessary to ensure effective representation. Commissions must identify not only communities, but communities whose recognition is necessary to ensure effective representation of individuals in a particular area. Efforts to ease the task of identification through expanded definitions of community may be fruitless because the subject is not amenable to easy or static definition.

Secondly, statutory efforts to define community may constrain the thinking of commissions and reduce their ability to recognize new or emergent communities.

Finally, any efforts to define the term community must heed the decision of the Supreme Court in the *Saskatchewan Reference*. The Court stated that in ensuring effective representation, “[f]actors like ... community interests may need to be taken into account”. If a statutory definition of community is created that effectively prevents commissions from considering certain community interests, an argument may be made that the law does not comply with the constitutional obligations laid down by the Supreme Court, because it prohibits commissions from considering a matter that leads to more effective representation.

For all of the above reasons, it is unlikely that a more comprehensive definition of “community” could be added to the Act at this time. However, adding to the Act an open list of factors that are generally understood as possible contributors to the definition of a community may help commissions decide between competing concepts of community. A non-restrictive list of factors would also guide commissions as to what Parliament believes to be particularly salient indicators of community in our society.

In the *Saskatchewan Reference*, the Supreme Court stated that the reason that factors such as “community interests” and “minority representation” may need to be considered is so that legislative assemblies “reflect the diversity of our social mosaic” and thereby achieve effective representation. It is clear, therefore, that demographic or sociological characteristics, such as those collected by Statistics Canada as part of the census are factors that may define communities that need to be considered to ensure effective representation.

Another thing that commissions should consider in applying the concept of community is municipal and local government boundaries. Municipal boundaries explicitly define communities such as cities, towns, villages or counties. Individuals living within municipalities or other local administrative units develop economic, social and political ties by virtue of living within the same political community.

A further consideration in determining the existence of a community for the purposes of section 15 is the economic relationships that are central to people's lives. Patterns of trade, commuting and other indications of economic ties between regions may suggest the existence of a community. People are more than the sum of their economic relationships, but economic interests would appear to fall within the interests that Parliament had in mind when it included "community of interest" in section 15.

The list of factors that may be considered should not be closed. In any instance where a case can be made that a particular community should be taken into account to achieve the goal of effective representation, the commission must feel free to consider that factor.

Lastly, commissions must also take into account the provisions of the *Official Languages Act* to the extent that they are required to do so by that statute.⁴

2.2 Preserving Indian Reserves

Recommendation 2.2:

A subsection should be added to section 15 stating that Indian reserves, as defined in subsection 2(1) of the *Indian Act*, shall not be divided between two or more electoral districts, except in circumstances where it is clear to the commissioners that such division is necessary in order to achieve effective representation. If a commission chooses to divide a reserve between two or more districts, it shall explain its reasons for doing so in its report.

Indian reserves, as this expression is defined in subsection 2(1) of the *Indian Act*, constitute natural communities whose members generally share a common identity and common interests. An Indian reserve is a de facto expression of a community.

Indian reserves should not be split between two or more electoral districts unless such division is necessary in order to achieve effective representation. If the commission does split an Indian reserve between two or more electoral districts, the commission should explain in its report its reasons for doing so.

⁴ See *Raïche v. Canada (Attorney General)*, 2004 FC 679 (F.C.C.) as contrasted with the later *Forum des maires de la Péninsule acadienne v. Canada (Canadian Food Inspection Agency)*, 2004 FCA 263, currently on appeal to the Supreme Court of Canada.

2.3 Continuity of Boundaries

Recommendation 2.3:

A subsection should be added to section 15 stating that commissions should not change existing electoral boundaries unless the commission is of the view that changes in population and communities require such a change so as to ensure effective representation.

In its report, the Standing Committee on Procedure and House Affairs expressed frustration with what it saw as unnecessary changes to the boundaries of electoral districts. The Committee stated that commissions should be discouraged from creating change for the sake of change. For this reason, the Committee recommended a provision in the Act 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 (Recommendation 2).

It is a commission's duty to ensure that the electoral boundaries of a province ensure effective representation. As the Supreme Court noted in the *Saskatchewan Reference*, populations are not static. Redistribution takes place only every 10 years, and it is likely that significant shifts in either population or communities within the population have taken place in that time. These shifts may have affected the relative density of population in different parts of a province, and may have shifted the shape or composition of communities. In these circumstances, a commission must reassess the electoral boundaries.

However, it should be recognized that existing boundaries have already been drawn in recognition of communities and they themselves contribute towards self-identification of their residents. It should also be recognized that the demarcation of electoral boundaries is an exercise of judgment and that different commissions may reach equally valid but different judgments based on similar facts.

Changes in electoral boundaries have disruptive effects on voters as well as electoral district associations, political parties, members of Parliament and candidates. Stable electoral boundaries are an important contributing element for achieving effective representation. This is recognized by section 15 of the Act which provides that the "historical pattern of an electoral district" is one of the factors that is to be used by commissions in drawing electoral districts, and may be used to justify deviations from the provincial quotient. In the *Saskatchewan Reference*, the Supreme Court also recognized that "community history" is a factor that may have to be considered to achieve effective representation, and may, in some cases, justify a deviation from the provincial quotient.

In order to balance the competing benefits that flow from continuity and from a thorough review of the existing boundaries in the case of changes in the demographics of a province, a provision should be added to the Act that makes it clear that while changes brought about to achieve effective representation are necessary, change in the absence of such a requirement is not necessarily desirable or effective.

2.4 Deviation from Quotient and Extraordinary Circumstances

Recommendation 2.4:

The deviation from the provincial quotient permitted under paragraph 15(2)(b) of the Act should be reduced from 25% to 15%.

Where a commission proposes boundaries that deviate from the quotient by more than 15%, in circumstances that the commission finds to be extraordinary, it shall explain, in its report, its reasons for doing so.

The Act provides that commissions must draw electoral districts to be as close as possible to the provincial quotient (defined as the average population of electoral districts in the province). The Act also provides that commissions may deviate from the quotient by up to 25% to address particular factors as cited above. Finally, the Act states that in extraordinary circumstances, commissions may deviate from the quotient by more than 25%.

The acceptable deviation from the quotient, including the “extraordinary circumstances” section, has been the subject of previous recommendations concerning the Act. Reporting in 1991, the Lortie Commission recommended the reduction of the permissible deviation from the quotient to 15%, and the elimination of the “extraordinary circumstances” provision in order to ensure that votes were more equally weighted. Bill C-69 did not propose any changes to either the 25% deviation or the “extraordinary circumstances” clause. The Standing Committee recommended that some mechanism be found to deal with the need for representation in sparsely populated ridings (Recommendation 6). The Standing Committee stated that if such a method were found, consideration should be given to reducing the permissible deviation to 15% (Recommendation 7).

(i) Extraordinary Circumstances

The Standing Committee recommended two methods for accommodating the very sparsely populated districts that the “extraordinary circumstances” clause is intended to protect.

The first was to entrench certain districts in legislation. The second was to provide for different possible deviations from the quotient for northern and southern Ontario, Quebec and British Columbia.

There are, however, difficulties with both options. In the case of the entrenchment option, parliamentarians would become involved in the drawing of electoral boundaries. This is the very practice that the Act was designed to stop.

Parliament would also be involved in drawing the boundaries with the second option, by determining the line between the northern and southern parts of the province. As well, fairness would seem to require that special provision be made for northern districts in more than simply three provinces. This option would also entrench in legislation different standards for Canadians depending on where they live.

The problem raised by the Standing Committee does require a solution. Canada is an enormous country with regions of sparse population, especially in the north. At a certain point, a member of Parliament may no longer be capable of providing effective representation to a geographically large area. The Supreme Court recognized this difficulty in the *Saskatchewan Reference* case by providing that in some cases effective representation will only be achieved by deviating from the provincial quotient for reasons of geography.

There is no evidence that the “extraordinary circumstances” provision has been overused by commissions in the three redistributions that have taken place since it was added to the Act. In the most recent redistribution, commissions only used this provision to create two electoral districts (Labrador and Kenora). In the 1996 redistribution it was used twice, while in 1987 it was used five times.

Considering the potential difficulties with the proposed alternatives, and the fact that the “extraordinary circumstances” clause does not appear to have been overused, there does not seem to be a reason to change it.

As long as commissions continue to use this provision sparingly, the “extraordinary circumstances” provision offers the most appropriate way to account for the needs of those rare communities that do not fit within the scope of the general rules in section 15. Commissions should, however, be required to provide reasons explaining their use of the provision.

(ii) Deviation from Quotient

Having provided a means to protect the rare cases of regions of extremely sparse population, consideration should be given to the permissible deviation in the vast majority of cases. As the Supreme Court of Canada has said that relative population equality is the “primary factor” in achieving effective representation, a move towards requiring greater population equality will improve effective representation.

The vast majority of districts are already drawn to fall within 15% of the provincial quotient. In the 2003 redistribution, only 17 out of 305 (5.6%) districts drawn by the commissions were outside the 15% deviation from the provincial quotient. A requirement to draw all districts within a 15% deviation will therefore not place a great additional burden on commissions. For these reasons, the allowable deviation from the provincial quotient should be lowered from 25% to 15%.

2.5 Topography and Transportation Routes

Recommendation 2.5:

Subsections 15(1) and 15(2) of the Act should be amended to include topographical features and transportation networks as two additional factors that must be considered by commissions in drawing boundaries, and that can be bases for deviating from the provincial quotient.

The Standing Committee on Procedure and House Affairs stated the concern that in several circumstances, commissions did not pay proper heed to local topographical features or the transportation routes of provinces.

Electoral boundaries are more than simply lines on a map. They dissect and intersect physical features of a province including rivers and mountain ranges. These physical features can also be natural indicators of communities. Commissions must pay heed to these physical features, to ensure that they do not create districts which appear logical on a map, but in fact operate in such a way as to prevent one area of the district from being accessible from other areas.

Transportation networks, including roads and available air and ferry service, are important because members of Parliament need to be able to access the different parts of the district. In addition, the accessibility of one region to another may be evidence of the existence of a community between those two regions that a commission may wish to take into account. In contrast, the lack of available transportation between two regions may suggest that the people of those two regions are not a “community.”

Chapter 3 – Broadening Public Participation

Public participation is an essential element of redistribution. An electoral boundaries commission is made up of only three members. So small a group cannot possibly have knowledge of the full geographic and demographic diversity of an entire province. In order to draw boundaries that effectively represent the population, commissioners must rely in large part upon the submissions of those most likely to possess the salient information. Boundaries that are drawn with the participation of the public also enjoy greater democratic legitimacy in the eyes of the public.

To secure the maximum amount of information from the public, the Act requires commissions to publish their initial proposals in at least one newspaper of general circulation in a province, and to hold at least one public hearing. In practice, the commissions, with the assistance of Elections Canada, have published many advertisements in newspapers throughout the provinces, and have held multiple public hearings, going far beyond the statutory minimum.

There is, nonetheless, a widespread belief that public participation in redistribution could be increased and improved. All of those involved in the process, from commissioners, to members of Parliament, to the public, have expressed the wish to see the current process for public consultation expanded and updated to reflect the improved communication technology of today.

This chapter proposes a number of recommendations to increase and improve public participation. The chapter's guiding principle is that the public's awareness of the process and its capacity to comment on the proposals of commissions should be increased, without preventing the commissions from concluding their work in a timely manner. The balancing inherent in this principle is achieved by recognizing that improvements in communication technology in the 40 years since the Act came into force should permit shorter time frames in the law. The time freed up by these changes may be used instead to gather additional public input at all stages of redistribution. In addition, if the recommendation in section 1.2 respecting the earlier creation of the commissions is brought into effect, commissions will have a great deal more time in which to engage the public.

3.1 Written Submissions

Recommendation 3.1:

Section 18 of the Act should be amended to state expressly that commissions may accept and consider written submissions.

In any public notice where the commission publishes information concerning the opportunities to make oral submissions, the commission shall also set out the means by which written submissions may be made and the time periods for doing so.

The Act specifically provides for public hearings in section 19, but nowhere does it mention the possibility of written submissions being made to the commissions. A commission has broad powers under section 18 to “make rules for regulating its proceedings and for the conduct of its business”; however, many commissioners expressed uncertainty during the last redistribution exercise concerning their power to receive written submissions from the public.

Electoral boundaries commissions perform their role by gathering and weighing information. As noted above, the broad participation of the public is necessary for the success of the redistribution exercise. Written submissions from the public can be an important tool to assist the commissions in carrying out their mandate.

Allowing written submissions enhances the ability of members of the public to make their views known. Individual Canadians may not be able to attend the public hearings, or may not be comfortable expressing their opinions orally in public. Allowing them to write to the commissions will facilitate their participation in the process.

The growth of the Internet and e-mail should also increase the ease and speed with which written submissions may be made to commissioners.

For all of these reasons and to remove any real or perceived uncertainty respecting the issue, section 18 of the Act should be amended to state expressly that commissioners may accept and consider written submissions, and should require the commissions to publicize the time period in which written submissions will be accepted.

3.2 Introductory Outreach to Public Prior to Initial Proposal

Recommendation 3.2:

Section 14 should be amended to provide that upon being established, commissions should be required to inform the public of the upcoming redistribution exercise, setting out the process and timelines and asking for written submissions to be considered before the formation of their initial proposals.

The first contact that a commission has with the public, as envisioned by the Act, is through the publication of the commission’s initial proposal for dividing the province into new electoral districts. This proposal is circulated to the public through newspapers, along with the dates and times of the commission’s public hearings.

The existing process provides the public with a basis for their comments. However, it has the disadvantage that the commissioners must draw up a comprehensive initial proposal without the benefit of public input. In addition, members of the public may misunderstand and believe that they are being presented with a *fait accompli*, and may therefore believe that their participation in the process would be futile.

The solution to these problems is to inform the public at an earlier date that the redistribution process is pending. This would allow the public to begin thinking about the process before the commission has made its initial proposal.

Commissions could receive valuable suggestions concerning the division of the province into electoral districts, even before the census return is received. Canadians may wish to comment on the acceptability of existing electoral districts, or inform the commissions of the existence of a community of interest. This information is only part of what is needed to draw an electoral map. A commission cannot proceed far without the necessary population information from the census, but valuable information could nonetheless be obtained from the earlier participation of the public. The information that can be collected before the initial proposal may also have a unique value in that, unlike information received from the public later in the process, it will not be reactive to a particular proposal.

If the recommendation in section 1.2 is accepted, commissions will be created prior to a census return being received. This will allow commissions to begin informing the public of the upcoming redistribution exercise and asking for written submissions to consider for the initial proposal. This would both alert the public and the media to the impending process and allow the commissioners to base their initial proposal on some public input.

3.3 Broadening Initial Public Advertisement

Recommendation 3.3:

Subsection 19(2) of the Act should be amended so that it no longer specifies that an advertisement of the commission's initial proposal shall be placed in a newspaper. A commission should be required to disseminate, in the means it thinks are most appropriate to achieve the broadest dissemination of the information therein, the initial proposal as well as the methods by which members of the public may make submissions to the commission. The commission shall also make clear in its proposal how members of the public can obtain a free copy of the proposed map along with the names and populations of the proposed districts.

Section 19 of the Act provides that a commission is required to publish a notice setting out its initial proposal, including a map or drawing, the populations and names of the proposed districts. The notice is to be published in at least one newspaper of general circulation in the province at least 60 days before the commencement of the commission's public hearings.

This section represents a minimum obligation on commissions, but it is one that does not reflect the communications revolution that has occurred since the Act was initially passed in 1964. Today the Internet allows millions of Canadians to access information that previously could only be made available in paper format. Fax machines and e-mail allow information that would previously have taken days to send to be transmitted within a matter of seconds.

During the recent redistribution, commissions did not limit themselves to advertising in a single newspaper of general circulation, or to a single advertising format. Instead, advertisements conforming to the requirements of section 19 were placed in several newspapers around the various provinces. Other smaller advertisements were placed in most newspapers to inform residents where they could obtain more information concerning redistribution, including the Elections Canada Web site.

The Standing Committee reported that, “from testimony and Members’ experiences,” flyer inserts in newspapers were far less effective than hoped, while the Elections Canada Web site exceeded expectations as a tool to inform the public. Given that the flyers are required by section 19 to contain a map of all of the proposed electoral districts, such advertisements are an expensive way to make the proposal known, especially in the larger provinces.

Instead of obliging the commissions to use a particular method to inform the public of their initial proposals, the Act should be more flexible so that commissions can use the most effective means available to disseminate information concerning the initial proposal, and the dates and times of hearings and other means of making submissions. This may include newspaper supplements, but by making section 19 more flexible, and focusing on the goal of informing the public through the best available means, the Act will allow commissions to spend advertising dollars more effectively.

3.4 Engaging Communities

Recommendation 3.4:

A provision should be added to the Act stating that a commission shall endeavour to communicate with groups representing citizens’ interests in the province regarding its initial proposal and the methods for making representations to the commission.

Many of those who make representations before electoral boundaries commissions are representatives of community groups. This is logical since a major focus of the Act is community representation.

Given the importance that the Act places on the identification of and respect for communities, it is appropriate that the commissions should seek to identify community groups with whom information about the process can be shared as early as possible. The information provided could include assistance in making representations to the commissions.

3.5 Waiving Notice of Intent to Appear

Recommendation 3.5:

Subsection 19(5) should be amended to provide that a commission may waive any of the elements of the notice required under that provision, including the requirement of notice itself, at any time the commission feels it is in the public interest to do so.

Subsection 19(5) of the Act requires a person who wishes to make a representation at a commission hearing to give written notice of his or her intent to appear within 53 days after the day of the publication of the last advertisement setting out the commission's proposal. The notice must include the person's name and address, and indicate the nature of the representation to be made and the interest of the person.

Due to this legislative requirement, commissions cannot hear representations from persons who simply show up at hearings without having provided the required written notice. The Standing Committee recommended eliminating the requirement for such notice.

Although it may be tempting to eliminate it altogether, the notice requirement plays an important, practical role. The notices from the public allow commissions to have an idea of how many people will attend their hearings, and therefore whether the time allotted and the size of room rented are sufficient. In addition, by knowing beforehand the nature of the submissions to be made, a commission can develop a logical schedule, for example, by grouping together presentations related to the same issue or district. In these ways, the notice requirement allows hearings to proceed smoothly.

Although the notice requirement plays a valuable role in bringing order to the proceedings and facilitating the commission's work, it is undesirable to have a rigid rule that prevents a commission from hearing a presentation, when doing so would not unduly inconvenience those involved.

To maximize its benefits and minimize its drawbacks, it is recommended that the notice requirement remain, but that a commission be expressly given the power to waive any or all of the elements of the notice if it feels that it is in the public interest to do so. This will allow commissions to retain the administrative and substantive benefits that flow from notice, and allow them to waive the notice in order to hear additional submissions if time permits.

3.6 Second Round of Public Hearings

Recommendation 3.6:

Following its hearings, the committee of the House reviewing the commission reports should produce a summary of the objections to the commission's report, if any, and refer it back to the commission through the Chief Electoral Officer. The public should have up to 30 days from the date the committee's report is made public to comment on the report of the commission and the committee's objections. The commission should have a further 30 days to dispose of the objections, taking into account any public comments.

Where the committee has received no objections to the commission's report, the public should have 30 days from the end of the objection period to comment on the commission's report, and the commission should have a further 30 days to prepare its final report, taking into account any public comments.

In addition to improving public participation within the framework of the present Act, suggestions have been made to increase the statutorily mandated opportunities for the public to participate. The Standing Committee recommended that a second round of public consultations should be added where a commission makes a change between its initial proposal and its report. The Standing Committee felt that a second round would reduce the number of substantive or poorly received changes in the report.

A second round of public hearings would also have the advantage of encouraging those who did not originally make a representation to the commission because they favoured the first proposal, to inform the commission of their views where the commission has subsequently adjusted that proposal. A second round of hearings would prevent such people being taken by surprise by an unexpected change, and may be more likely to elicit their participation.

As noted at the beginning of this chapter, the goal of improving public input must be balanced with the need for commissions to complete their tasks in a timely manner. Indeed, in making its proposal for a second round of public hearings, the Standing Committee acknowledged the concern that additional public participation must not be allowed to drag out intractable disputes without any movement or resolution.

A second round of public hearings immediately following the first round will likely lead to duplication. Those who are disappointed with the commission's failure to follow their recommendations made in the first round may simply return to make the same recommendations in a second round. Individuals should not be prevented from making written comments, or raising concerns with their members of Parliament, following an initial round of public hearings. However, a second round of public hearings scheduled immediately after the first is not likely to add sufficient value to the final report, or to the legitimacy of that report, as to justify its cost to the process in terms of the time taken. Therefore, in order to ensure that the greatest value is obtained from a second round of public comment, it should be differentiated as much as possible from the first round.

At present, the public may contribute at any stage of the process except that following the objections by members of the House of Commons. The Act calls for a commission to make a final determination of the boundaries based upon its disposition of parliamentary objections. This disposition must be completed within 30 days of the report of the committee of the House of Commons relating to the objections being referred to the Chief Electoral Officer.

Commissions would benefit from receiving public input concerning the objections of members of the House of Commons. This would assist the commissions in determining the community support for a particular objection. Rather than adding a potentially redundant second round of public hearings immediately after the first round, the Act should be amended to allow the public to comment following the production of the commission's report and the objections made to that report by members of the House of Commons.

Once the objections have been sent to the commission, the public should be given 30 days to submit written comments either on the commission's report or the objections of Parliament. In order to facilitate public input, the commission would be required to post public notice in the manner and form it feels appropriate, notifying the public of the receipt of the objections report. The commissions should then have a further 30 days to finalize the map by disposing of the objections of members of the House of Commons and taking into account public comments. If there are no parliamentary objections to the commission's report, the public should have a final opportunity to comment on the report.

3.7 Implementing Public Information and Education Plans

Recommendation 3.7:

A provision should be added to the Act to provide the Chief Electoral Officer with the express authority to implement public education and information programs to make the electoral boundaries readjustment process better known to the public.

In addition to efforts initiated by the commissions and changes to the process of public participation as set out in the Act, more can be done to educate the public concerning the redistribution process. Such educational projects would not necessarily be tied to the schedule or timeline of particular commissions, but would instead be national in scope with the twin goals of improving public awareness of the process and assisting the public in providing commissions with information and recommendations.

Under the Act, commissions have an obligation to inform the public of their particular proposals through newspaper advertisements. There is no provision in the Act requiring the commissions or any other public institution to undertake general efforts to inform and engage the public in the redistribution process.

Ideally, commissions would undertake comprehensive projects to inform and educate the public concerning the redistribution process. However, there are a number of barriers to commissions filling this role. First, commissions exist for a limited period of time; any such educational program could only be developed once the commissions have been established. Second, commissions do not necessarily have the expertise or administrative capacity to develop public education and information programs or their associated written and electronic materials. Finally, commissions already operate under tight statutory deadlines. To add the additional burden of public education to their workload would take away from their capacity to do their primary job of ensuring effective representation.

Elections Canada, on the other hand, is well placed to conduct public education programs concerning the redistribution process. Elections Canada has in-house knowledge about redistribution and experience in conducting public information and education campaigns on voting. Elections Canada already has authority to implement public education and information programs concerning the electoral process pursuant to section 18 of the *Canada Elections Act*. Elections Canada has an existing technical and administrative infrastructure that could easily be adapted to inform the public about the redistribution process.

Elections Canada could also use this authority to develop standardized materials to assist members of the public in expressing their views on electoral boundaries. This would improve the quality of the submissions to the commissions.

3.8 Informing Members of Parliament

Recommendation 3.8:

Elections Canada should be given the express authority to continue to develop materials and present information sessions to members of Parliament concerning redistribution and the role of members of Parliament in the process.

Members of Parliament, including members of both the House of Commons and the Senate, play several crucial roles in the redistribution process. Members are expressly permitted (under s. 19(1.1) of the Act) to make their views known to commissions at public hearings. It is important that members make their views known to commissions. As representatives of existing districts, members of the House of Commons have a unique level of knowledge about the appropriateness of these districts with regard to matters such as the capacity to represent communities, and the ease with which they can physically access all parts of the district. Members of Parliament also have a role to play in assisting members of the public to understand the public's role in the redistribution process and in making effective submissions to commissions. Finally, members of the House of Commons play a formal role in reviewing and potentially objecting to a commission's final report pursuant to section 22 of the Act.

Given the various key roles that members of Parliament play in the redistribution process, it is essential that they properly inform themselves about the process and their role. Prior to and during the recent redistribution process, Elections Canada conducted a number of activities to assist members of Parliament in understanding the redistribution process and their role in the process. Well before the commencement of redistribution, on May 23, 2001, a letter was set out to all members of Parliament informing them of the upcoming redistribution exercise, and enclosing an anticipated calendar of events. On March 13, 2002, a letter was sent out to all members announcing the start of redistribution. In the week before the publication of a commission's proposals, all members of the House of Commons for that province were sent advance notice of that publication, along with information as to how to contact the commission and the closing date for submitting a notice of intent to appear at a public hearing. On the day that a report was transmitted to the Speaker of the House of Commons, all members of the House for that province were given a copy of the report, as well as an overview of the role of members in making objections to the report. Extensive information concerning each province's redistribution exercise was also available on the Elections Canada Web site.

The actions that Elections Canada has taken to inform members of the House of Commons and Senate about the redistribution process generally, and their role specifically, should be formalized and made explicit in the law. This will continue to allow Elections Canada to inform members of the House of Commons and Senate of the redistribution process.

Chapter 4 – Supporting the Redistribution Process

Electoral boundaries commissions are tasked to secure a fundamental constitutional right of Canadians. To achieve this goal, commissions must have the independence and substantive powers discussed in previous chapters of this report; however, commissions also require administrative and practical support that will allow them to complete their tasks efficiently and successfully.

The Act already provides for some administrative support to be granted to the commissions by agencies such as Elections Canada, Natural Resources Canada and Statistics Canada. For the most part, however, the Act provides for no express assistance to the commissions in the performance of their administrative duties.

For practical reasons, however, it may be impossible or difficult for a commission to perform many of these routine activities. A commission is a temporary body, and is therefore limited to performing tasks during the time in which it has a legal existence. Further, there are many administrative duties that it is inefficient for a small, temporary organization to perform. For these reasons, provision should be made to assist commissions in performing these duties.

Any provision of support must not threaten the pre-eminent value of the independence and impartiality of commissions, and the perception thereof. There is therefore a need to distinguish between support that may be perceived as threatening the commission's impartiality and support that will not be so perceived.

4.1 Guidelines

The Standing Committee recommended that Elections Canada provide guidelines or instructions to commissions on the following subjects:

- the basis for identifying and adjudicating communities of interest, communities of identity and historical patterns of the province's electoral districts (Recommendation 1);
- the basic criteria for reporting and a standardized report format (Recommendation 1);
- suitable criteria for the application of names to an electoral districts (Recommendation 1); and
- the methods by which community representation is assessed (Recommendation 4).

Although providing guidelines or instructions may be desirable to the extent that they assist commissioners in performing their statutory duties, and help members of Parliament and the public to understand the work of commissions, possessing the authority to issue guidelines would also likely result in the issuing authority becoming involved in the boundary process on a national basis. This will complicate the process and will lead to interested persons, in the

hopes of affecting the contents of guidelines, seeking to intervene with the body issuing the guidelines outside the public hearing process prescribed by the Act.

In addition, it must be remembered that guidelines are simply meant to assist commissioners in interpreting the Act. Commissioners are sufficiently expert and immersed in the subject matter so as to be able to make these interpretations as well as any third party such as Elections Canada.

This is not to say that there should be no constraints on the activities of the commission. The Act already contains a number of constraints, including the requirement to produce an initial proposal and a final report, the obligation to advertise and include certain content in the advertisement, and the obligation to hold at least one public hearing. Section 15 of the Act also instructs commissions that the primary goal is population equality, and sets out a limited number of bases upon which the commissions can deviate from this primary goal.

For these reasons, this report does not recommend that Elections Canada or any other body be given the authority to issue guidelines or instructions to commissions concerning substantive aspects of the boundary drawing process. This report instead proposes that the Standing Committee's concerns be addressed directly in statutory provisions without Elections Canada serving as an intermediary that issues guidelines, so that any constraints on the substantive choices of electoral boundaries commissions are debated in Parliament, and can only be adjusted in the future by Parliament.

4.2 Providing Administrative Support to Commissions

Recommendation 4.2:

A section should be added to the Act giving Elections Canada the express authority to make available administrative support to electoral boundaries commissions. Commissions should be obliged to accept such support.

In addition to its substantive duties, each commission must complete a number of administrative obligations in order for redistribution to run smoothly. Currently, the administrative obligations of commissions include the renting of offices and office equipment, the hiring and paying of staff and suppliers, as well as securing technical assistance on matters such as Web and e-mail connections. The commission and its staff can deal with some of these tasks; however, many of these administrative duties, while necessary for the functioning of a modern office, are very time-consuming and difficult for a small, temporary organization to complete in an efficient manner. The more time a commission spends performing administrative tasks, the less time it has to perform the substantive work of redistribution.

Furthermore, the extreme pursuit of independent operation by each commission can result in inefficiencies and unnecessary costs. It does not make a great deal of sense to have commissions develop or purchase 10 different payroll systems, 10 different Web sites and 10 different software packages.

In past redistributions, administrative assistance has been offered by Elections Canada to the commissions. During the recent redistribution, Elections Canada offered the following administrative services that are not expressly provided for in the Act:

- the renting of offices and office equipment;
- payroll services;
- technical support in terms of the design and maintenance of a Web site;
- assistance with mapping;
- letterhead and business cards;
- assistance with advertisements of the commission's hearings;
- translation services;
- printing services; and
- post-redistribution support such as storage of records.

The role of Elections Canada in providing administrative support to the commissions should be made express in the law.

4.3 Information to Assist Commissions

Recommendation 4.3:

Elections Canada should be mandated to facilitate the provision of information to commissioners through information sessions and other means. Commissions should be obliged to consider any such information provided.

The Standing Committee recommended that the commissions be provided with standardized training materials by Elections Canada (Recommendation 1.1). The Committee also proposed that the commissions be provided with the following:

- strategies for establishing natural starting points for redistribution;
- examples of experts whose advice may be sought (such as municipal planners, provincial statistical and demographic officers);
- standardized materials to promote the fullest and most consistent understanding of how the criterion of community (as defined by the Act) has been applied;
- a list of factors important to the provision of effective representation of a community of interest; and
- a full description of the duties of a member of Parliament to understand the effect of boundary changes on a constituency's needs (Recommendation 4).

To complete the complex task with which they have been entrusted, commissions must have access to information on a variety of subjects, including those enumerated above. Sometimes information regarding electoral boundaries, communities of interest and effective representation is not easy to find. However, it is important that in providing resources to assist commissions, their independence not be compromised. Information should be provided in such a way that it is clear that it is being offered as a resource, and not as a means to convince the commissions of the correctness of one position or another.

Prior to the most recent redistribution, the Chief Electoral Officer convened a conference in Ottawa to allow commissioners to discuss redistribution and hear from academics and others about some of the important issues that they would confront during the redistribution exercise. Members of Parliament from the Standing Committee were invited to attend sessions, particularly the discussion relating to community of interest and identity.

Elections Canada should provide similar sessions to future commissions about the redistribution process. The purpose of any such information session would not be to provide commissions with mandatory guidelines or instructions on how to carry out their mandate. Rather, these information sessions would represent an opportunity for commission members from across the country to meet and discuss issues, and receive information about the redistribution process from a number of sources.

The need for commissioners to be better informed concerning the duties of a member of the House of Commons was listed as a recommendation of the Standing Committee (Recommendation 4.5). The information session for commissioners, therefore, could include an opportunity to hear from a panel of members of Parliament, representing different regions of the country, about their duties.

4.4 Criteria for Writing Standardized Reports

Recommendation 4.4:

Section 20 of the Act should be amended to provide that the report of each commission should include the following information in the following order:

- **the maps of the proposed electoral districts;**
- **a brief introduction setting out the names of the commissioners, the number of electoral districts assigned to the province, and any other background information the commission believes to be important;**
- **a chart with the population of each district in the province and its deviation from the provincial quotient;**
- **any reasons that the commission feels are necessary concerning its decisions respecting the boundaries and the names of electoral districts;**
- **any other matters the commission wishes to address in its report;**

- **the places and dates of public hearings held in a province, and the names of the persons who made representations at those hearings; and**
- **the geographic descriptions of the proposed electoral districts.**

The reports of the commissions that were sent to the House of Commons during the most recent redistribution set out the geographic descriptions, names and populations of the proposed districts, as required by section 20 of the Act. The reports also included maps of the proposed districts, brief reasons for the choices made by the commissions, and other information, such as charts setting out the deviations of all proposed districts from the provincial population quotient and, in some cases, lists of the places and times of public hearings.

The Standing Committee, which considered the reports, felt that a standardized report format should be provided to the commissions so that all commissions' reports would set out the rationale for their decisions and an explanation of how commissions carried out their work (Recommendation 10). The Committee stated that a standardized reporting format would ease the work of those responsible for reviewing the report.

A standardized reporting format would allow for easy comparisons between the various reports, and would ensure that all important elements of redistribution are addressed. In addition, as the reports of commissions are not wholly autonomous in that parts of them are compiled to form the representation order, it is logical that the reports should be compiled according to a standardized format.

Section 20 of the Act should be amended to include the elements that must appear in a commission's decision. The elements set out in section 20 should constitute a minimum of what a commission must report.

4.5 Post-Redistribution Reports

Recommendation 4.5:

A provision should be added to the Act providing that following a redistribution, the Chief Electoral Officer may report to Parliament on any amendments that in his or her opinion are desirable for the better administration of the Act.

Since redistribution is scheduled to occur only once every 10 years, there is a real danger that the lessons learned in a particular event, especially with regard to administrative matters, will be forgotten by the time the next redistribution commences. The *Canada Elections Act* and the *Referendum Regulation* provide that, following a general election or referendum, Elections Canada must prepare a report concerning any amendments that the Chief Electoral Officer believes are desirable for the better administration of the particular piece of legislation.

A similar provision in the *Electoral Boundaries Readjustment Act* would provide formal authority to Elections Canada to make a report concerning potential amendments to the Act. This report could serve as a basis for assisting Parliament in any review of the Act.

Chapter 5 – Reviewing the Decisions of Commissions

The need for redistribution to be timely must be balanced with the goal of ensuring that the commission performs its obligations as required by law. The current process of public hearings, and the opportunity for members of the House of Commons to object to a commission's final report are steps that assist in ensuring that a commission has performed its duties accurately and that the possibility of a commission making errors is minimized.

The Act does not at present set out a process for reviewing the final report of a commission to allow for alleged errors to be challenged, or for clerical errors to be corrected. The lack of such a process means that errors must either go uncorrected or be subject to the standard process of judicial review under s. 18.1 of the *Federal Court Act* to which all federally created statutory bodies are subject. The process of judicial review is not tailored to meet the needs of the redistribution process.

When it became necessary to correct the representation order following the decision of the Federal Court of Canada in *Raïche v. Canada (Attorney General)* (2004) FC 679, the Act provided no express direction as to the remedy, and the Court merely required the government to act, without providing a process to follow.⁵

There is no constitutional means to insulate a commission's decision from judicial review on the grounds that it has committed a jurisdictional error. It is therefore preferable to create a clear process that is to be followed by parties in the case of an allegation that a commission has acted outside of its jurisdiction.

Both the House Standing Committee in its April 2004 report, and the Senate Standing Committee on Legal and Constitutional Affairs in its report of February 22, 2005,⁶ recommended the creation of a process by which the decisions of electoral boundaries commissions could be reviewed.

The Senate Committee emphasized that any such mechanism must reflect the important values of transparency and independence, while the Standing Committee noted that an appeal body must be independent and must act in a timely manner. What is therefore needed is a review process that is flexible and authoritative enough to correct errors, but which does so in a way that protects the values of the redistribution process, including the requirements of independence, transparency and timeliness.

⁵ The government created a commission of inquiry to re-evaluate the specific boundary at issue in that case, and passed legislation (Bill C-36, now known as *An Act change the boundaries of the Acadie-Bathurst and Miramichi electoral districts*, S.C. 2005, c. 6) to amend the representation order once the commission had reported.

⁶ The committee's Fifth Report from the 1st session of the 38th Parliament.

5.1 Review of Errors of Law by the Federal Court of Appeal

Recommendation 5.1:

An amendment should be made to the Act to provide that any individual resident in the relevant province may seek review of the commission's decisions in the Federal Court of Appeal on the basis that the commission has made an error of law.

The Act should provide that applications for review of a commission's decision must be made within 30 days of the proclamation of the representation order. Before the review application is heard, an applicant would have to seek leave from the court. A court would only grant leave if the error, which is the object of the complaint, could have produced a material effect on the commission's final report.

The Act should specify that the existence of an application to review the decision of an electoral boundaries commission does not affect the validity of the representation order proclaimed following receipt of the final report.

The Act should provide that if the court finds that an error was made, the original commission would be re-established, unless the commission members are not willing and able to act, or the court directs otherwise, in which case a new commission will be established using the same appointment procedures as are found in the Act. Any members of the original commission who are willing and able to act shall be appointed to the new commission unless the court has directed otherwise.

The commission would be permitted to work from its records or the records of the previous commission. Where a commission is of the view that it is necessary to do so, it may hold additional public hearings. In order to facilitate this, a provision should be added to the Act requiring commissions to maintain records of their public hearings.

The Act should specify that the amended representation order shall come into force on the date of the first dissolution of Parliament that occurs at least seven months after the date that the commission submits its amended report.

The merits of a commission decision should not be reviewable. The issues facing a commission are questions of judgment on matters that are not capable of any single factual resolution. Furthermore, the decisions of commissions are the product of significant community and parliamentary input. The purpose of a review process should therefore be limited to ensuring that a commission has not erred in interpreting the law in coming to its decision. It should not be an opportunity for members of the public to reassert points that have already been made at a public hearing. In other words, the decision of the commission should only be subject to review on the basis it has made an error of law, not on the basis that another body may have weighed the representations and other information differently.

In considering which court should be designated to review the commission's interpretation of the law, it should be remembered that, generally, electoral boundaries commissions are chaired by judges of the superior court of the province. If a judge of that court is not available, the Chief Justice of Canada appoints a chairperson; usually a retired judge of the province is appointed. For that reason, it is appropriate that a request for review of the decision of a commission should rest with the Federal Court of Appeal.

It is essential that only matters of import and effect should lead to review applications. Such review applications would bring the boundaries and elections conducted on the basis of those boundaries into question. For this reason, a constraint, such as a leave requirement, should be put on the circumstances in which review may be sought, to ensure that the process is not delayed or diverted by errors not significantly affecting the outcome.

Applications should be brought within 30 days. A reasonable limitation period for bringing applications is essential to ensure finality of the process, and to reduce the likelihood of a general election being conducted on the basis of boundaries that are under review.

Even with constraints, including timing constraints, the review process must not be allowed to delay the implementation of the representation order. Court applications can be lengthy affairs, and the implementation of the new representation order should not be held up because of a court challenge, or an application for an injunction based on such a challenge. Therefore, the Act should provide that the order would be in force and effective regardless of any court proceeding.

It may be thought to be unfair that the representation order under attack continues in place until the court has made its determination. There is some possibility that an election may be conducted on the basis of boundaries that are eventually found not to have been drawn in accordance with the law. However, this must be balanced against the harm to the vast majority of Canadians should they continue to be governed by electoral boundaries based on population information older than 10 years. The harm to the effective representation of the entire population of the country or province from not implementing the representation order in a timely manner outweighs that which may result from an election being conducted under improperly drawn electoral boundaries.

Where a court strikes down a report of a commission, the matter should be remitted back to the original commission, which would be reconstituted. The process of sending a decision back to the same body that made the original decision is entirely consistent with the approach generally taken by the courts in reviewing the decisions of administrative bodies. This ensures that the commission does not need to start the process from scratch.

If the original commission is not willing or able to act, a new commission should be set up through the same appointment process as set out in the Act. In addition, provision should be made for a situation where the Federal Court of Appeal is of the view that the original commission is not the appropriate body to refer the matter back to. If the court has not made such a ruling, the Act should specify that any members of the original commission who are willing and able to act shall be appointed to the new commission.

Commissions should expressly be permitted to work from their records, or in the case of a newly established commission, the records of the former commission, so as to ensure that the new boundaries are put into place as quickly as possible. A commission should retain the discretion to hold public hearings whenever it feels it is necessary to do so.

In order to assist commissions working from records, an express obligation should be included in the Act requiring commissions to maintain records of their public hearings. Such records would also be valuable sources of information for future commissions.

It cannot be predicted what changes would result if a commission is required to reconsider its report in accordance with a decision of the Federal Court of Appeal. The different interpretation of the law, as applied to the province's electoral map, may result in a few minor changes or several major changes. As such, the public, electoral district associations and Elections Canada should be granted as much time to adjust to the changed electoral map as if the new map had been brought about through the ordinary processes of the Act. That is to say, the amended report should come into force at the first general election that occurs at least seven months after the amended report is made.

5.2 Clerical Errors

Recommendation 5.2:

The Chief Electoral Officer should be given the power to correct clerical errors in an electoral boundaries commission report. If the Chief Electoral Officer exercises this power, he must make a report to the Speaker of the House of Commons within the first 15 sitting days following the correction, along with a report of the reasons for the correction.

Once a general election has been held on the basis of boundaries based on a clerical error, the Chief Electoral Officer should no longer retain the power to correct the clerical error if the error affected the population of any district.

There is at present no authority set out in the Act for anyone to correct obvious clerical errors made by a commission.

Subsection 27(2) of the Act does, however, provide that where a part of the province is not referred to in the representation order, and it is doubtful as to which electoral district it forms a part of, the Chief Electoral Officer will determine the electoral district of which it forms a part and will report the determination, with reasons, to the Speaker of the House of Commons.

A parallel power should be given to the Chief Electoral Officer to correct clerical errors made in the report of the commission. A “clerical error” has a narrow legal meaning. A leading court case describes it as “an error in a document which can only be explained by considering it to be a slip or a mistake of the party preparing or copying it” (*Re Owens* (1979) 26 O.R. (2d) 468 (Ontario Court of Appeal)).

The power to correct a clerical error should only last until the issue of the writs for the first general election to be held on the basis of the erroneous boundaries if the clerical error affected the size of the population of any electoral district. Once a general election has been held on the basis of the erroneous boundaries in this circumstance, the Chief Electoral Officer should no longer retain the power to correct the clerical error. When the clerical error affects the representation order, but does not affect it in such a way that it changes the population of particular districts, the Chief Electoral Officer shall retain the power to correct clerical errors after the first general election held based on the new boundaries.

5.3 Electoral District Names

Recommendation 5.3:

Section 23 should be amended to provide that if the committee of the House of Commons objects to a name proposed by a commission, and proposes an alternative name, the commission shall be bound to accept that name unless the commission later receives public input regarding the name of the district. If a member of the public objects to the committee’s choice, the commission shall decide on the most appropriate name.

The Act provides that commissions must determine both the boundaries and the names to be given to electoral districts. Members of the House of Commons are permitted to object to the names and boundaries, but the Act provides that it is the commissions, through disposing of any objections by members of the House of Commons, that have the final say on the boundaries and names of electoral districts.

With respect to boundaries, parliamentarians have accepted the decisions of the commissions as final. However, this has not been the case with electoral district names. During the period for which the 1996 Representation Order was in effect, laws have made changes to the names of 58 electoral districts. At the time of writing, since the 2003 Representation Order was proclaimed, laws have made changes to the names of 40 electoral districts.⁷

In addition to challenging the decisions of independent commissions, changes to the names of electoral districts cost taxpayers money through costs involved in the production of election materials reflecting the new names, tie up Parliament's time, and may also add to confusion among electors. Constitutionally, however, one cannot, through legislative change, prohibit future parliaments from intervening when they feel it is appropriate to do so.

The Standing Committee recommended that in situations where the House committee reviewing the report unanimously objects to a decision on a name, the commission shall be obliged to change the name in its final report. The difficulty with this recommendation is that it takes an important decision brought about by the readjustment of electoral boundaries out of the hands of the electoral boundaries commissions, which hear public representations, and places it into the hands of parliamentarians. This runs contrary to the spirit of the law, which seeks to remove members of Parliament from decisions involving electoral boundaries and to involve Canadians in those decisions.

A compromise is clearly needed to respect both parliamentary interest in the names of electoral districts and the role and mandate of electoral boundaries commissions. Thus, the final decision regarding electoral district names should still reside with commissions. However, if the House committee makes a report that objects to a proposed electoral district name, and proposes an alternative name, the commission must adopt the committee's name unless members of the public make a representation to the commission in favour of a different name. If members of the public make such representations, the decision as to which name to choose should rest with the commission.

This legislative change will not prevent Parliament from passing laws to change electoral district names. However, the suggested compromise would both give a greater, albeit not necessarily determinative, role to Parliament in the eventual choice of a name, while recognizing the statutory mandate of the commissions and the role of the public in the redistribution process.

⁷ Four more bills to change names are before the House.

Appendix 1 – Elections Canada’s Role in Redistribution 2001–2004

On June 28, 2004, Canadians participated in Canada’s 38th general election. That this election was held in 308 electoral districts within 27 months of the release of the 2001 census data on which those districts were based, was a significant achievement. Rather than going to the polls using a dated electoral map, one that had not yet taken into account significant population growth accounting for seven new seats and population shifts, Canadians were able to vote in electoral districts that reflected contemporary demographic realities. The successful completion of the latest redistribution, including its coming into force at the first general election following April 1, 2004, followed almost immediately by a general election, was in no small part possible because of the considerable preparations and effort made by Elections Canada to streamline the implementation of the *Electoral Boundaries Readjustment Act*.

There were difficulties and challenges. Canada has changed since the Act came into force in 1964. Canada today has a much larger, more mobile and diverse population. Our cities are bigger, many of them including large, populous suburbs and urban agglomerations. Perhaps more significantly, Canadians lived differently in 1964. There was no *Canadian Charter of Rights and Freedoms*, nor even the maple leaf flag. In 1964, Canadians aspired to own a colour television and cable TV where now they have a multi-channel, digital universe of television, computers, cellphones, BlackBerries and the high-speed Internet. When thinking of the changes Canada has undergone since the mid-1960s, it is a testament to the Act that it remains fundamentally sound, workable and a model for many other countries.

The 2001 census revealed an electoral map that was outmoded and, in some regions, in desperate need of correction. Furthermore, over a decade had passed since Charter-based judicial rulings had begun to provide interpretation and parameters with respect to drawing boundaries in order to ensure an equitable and effective vote, the most notable being the 1991 *Saskatchewan Reference* establishing a benchmark for relative parity of the vote and effective representation. In short, since the last decennial census of 1991, and despite a redistribution in 1996, the continuing rapid growth of certain regions meant that the boundaries of many ridings had to be significantly changed in order to meet both demographic and interpretive tests.

At the time of redistribution, Canada’s population was over 30 million people. The country included a diversity of communities as well as a diversity of geography. Canada is the second-largest country in the world and spans six time zones. The country has regions of rapid growth, as well as some that are experiencing depopulation. Population growth is augmented through welcoming new Canadians, which also places pressure on specific areas, particularly large cities. Canada’s population grew 4% overall between 1996 and 2001, but the population of Newfoundland and Labrador dropped 7%, while Alberta’s and Nunavut’s population grew 10.3% and 8.1%, respectively. Intra-provincial population variances are perhaps even more significant than interprovincial disparities of growth: during the same period, Calgary’s population rose 15.8% and Toronto’s 9.8%, whereas towns and regions across northern Canada shrank between 8 and 12%.

Calendar of Events

The recent redistribution took 17 months from the receipt of census information on March 12, 2002, to the publication in the *Canada Gazette* of the representation order on August 29, 2003 (S.I./2003-154).

Certain key dates are worth mentioning:

- Federal electoral boundaries commissions were established on April 16, 2002.
- Public hearings began in August 2002 and ran to December 2002.
- The commissions' reports were tabled in the House of Commons between December 2002 and March 2003.
- The House of Commons referred the reports to its Standing Committee on Procedure and House Affairs, which conducted the parliamentary objection stage through a Subcommittee on Electoral Boundaries Readjustment. The objection stage was completed and all reports referred back to the commissions by July 16, 2003.
- The commissions disposed of all objections by August 17, 2003, and the Chief Electoral Officer transmitted the final reports to the Speaker of the House.
- The Chief Electoral Officer issued a draft representation order on August 25, 2003, which was proclaimed the same day, and the final Representation Order was published in the *Canada Gazette* on August 29, 2003.
- Bill C-5, *An Act respecting the effective date of the representation order of 2003*, which received royal assent on March 11, 2004, moved forward the coming into force to the first dissolution of Parliament on or after April 1, 2004.

It should be noted that despite dealing with a larger and more complex electoral map than ever before, this time frame represented a considerable shortening of the overall process compared to the previous redistribution. Gains were made in both the efficiency and administration of boundaries commission operations as well as in implementing the representation order. These gains allowed Elections Canada to implement the boundaries according to the requirements of Bill C-5 (while, it should be noted, maintaining election readiness on the 301 electoral district map already in force).

The federal electoral boundaries commissions are temporary bodies. They are struck, they deliberate, they decide and then they disband. However, their work depends on administrative support, organizational expertise and corporate memory. Elections Canada assists the commissions in these areas. Elections Canada's assistance can be divided into three phases: project planning and preparedness, commission support, and coming into force and election readiness.

Project Planning and Preparedness

There were two components to planning and preparing for the redistribution: administration within Elections Canada and coordination with other federal departments and agencies.

Administration

For the purpose of managing the redistribution process, Elections Canada established a new cross-organizational directorate, Parliamentary Representation. Because preparatory work for a redistribution of electoral districts requires input and expertise from all the directorates within Elections Canada, a clear focus and emphasis on redistribution was required in order to ensure that redistribution priorities were met in the midst of Elections Canada's regular tasks and duties.

Elections Canada's Register and Geography Directorate is responsible for preparing electoral maps, including those required for redistribution. This Directorate also developed the Commission Redistricting Tool – a mapping software that permitted the overlay of electoral district maps over the most current topographical and human geographical mapping data. This software, which was made available to the commissions and to the parliamentary committee that heard objections filed by members of the House of Commons, received high praise for transforming what had previously been a laborious exercise – involving a complicated array of maps, atlases and coloured pens – into a more seamless exercise of visualizing and exploring alternatives as they are put forward. For the first time, a proposed electoral boundary change could be mapped instantaneously, its population and deviance from the quotient calculated, and the impact of the changes on neighbouring ridings assessed – and all at the same time.

The added value of the Commission Redistricting Tool was significant and immediate. What had been the work of many people over an extended period could be done by one person in a few minutes. The ability of commissioners and citizens at public hearings to see the challenges involved in making one “simple” adjustment was immediately visible. Less time was spent on the calculation and dissection of facts; more time was spent on focused discussion and explorations of the possible. This pattern of use was repeated with great success at the objection stage of the process, a point noted in the Subcommittee's report.

Before it could be used, the Commission Redistricting Tool required geography specialists, portable computers and other presentation hardware. Guidelines, manuals and training had to be completed. The software itself had to be designed, developed and tested. The specialists had to be made available to the commissions as part of Elections Canada's commission support role. The success of the redistricting tool provides a good example of the importance of the Parliamentary Representation Directorate in imprinting redistribution objectives, priorities and time frames across the organization and in facilitating the work of Elections Canada's permanent directorates to ensure that objectives were met.

Geography was not the only area of commission support. A properly running commission requires financial control mechanisms, physical space (i.e. an office), operational guidelines, staffing requirements and pay rates, communications plans and materials, information technology support, telephones, computers, interpretation services, accommodation, publication services, media inquiry support and a great deal more. In short, officials from all Elections Canada directorates were involved in making sure that the commissions were able to fulfill their mandate as effectively as possible.

The Parliamentary Representation Directorate also took on two independent tasks. First, the work of the federal electoral boundaries commissions needed to be identified and established in the public eye. In communicating with and serving the public, the importance of a standard imprint in clarifying the work and the objectives of such an exercise is often assumed and rarely recognized. The Parliamentary Representation Directorate ensured a standardized imprint for all redistribution work; all commission materials and documents, and all points of contact between the commissions and the public, had a common “look and feel.”

The Parliamentary Representation Directorate also had to conduct contingency planning. There are several specific scenarios that can come into play during a redistribution: Parliament could suspend the redistribution, as occurred most recently in 1992 and 1994, or it could significantly delay the process in the normal course of its duties. During the objection stage, if the allotted sitting days for hearings include a House of Commons recess, the return of the committee report could be delayed by months. Parliament could also pass a motion extending the length of the relevant committee’s deliberations in order to accommodate other committee business. In 2004, the required number of sitting days extended from June to September, and a motion to further extend the committee’s report date was passed. Fortunately, neither the full number of sitting days nor the extension was actually required. However, the threat of interruption due to an election was an ever-present possibility.

Other contingencies planned for included possible Charter challenges to electoral boundaries that could suspend all or portions of the electoral map. There had been a court challenge to federal electoral boundaries in 1996, and provincial electoral districts were struck down in British Columbia in 1989. Such eventualities are outside the control of Elections Canada.

External Coordination

Parliament is a key actor in the redistribution process. While the Chief Justice of each province appoints the chair of that province’s federal electoral boundaries commission, the Speaker of the House of Commons appoints the other commissioners. For the recent redistribution, Elections Canada undertook a number of initiatives to keep parliamentarians and other key actors informed about the process. In correspondence with the Standing Committee on Procedure and House Affairs – the designated committee for such matters – the Chief Electoral Officer reiterated that redistribution was approaching and that parliamentarians should inform themselves as to the requisite criteria and the ways in which they might participate in the process. This information was repeated in correspondence from the Chief Electoral Officer to individual members of Parliament (May 23, 2001, March 13,

2002). Advance notice was also provided to the provincial chief justices on the need to select the chairs for their provinces' commissions.

With regard to federal departments, formal and informal arrangements made by Elections Canada ensured a smooth start to the work of the commissions. First, the importance of the Chief Statistician in providing the necessary census data as soon as possible cannot be overstated. The arrival of the census data is the trigger of the whole process of redistribution; the earlier the data is transmitted, the sooner redistribution is completed. The actions of the Chief Statistician and officials at Statistics Canada in transmitting the necessary census information more quickly than ever before ensured that the redistribution process was completed in a timely manner.

In order to have proper maps, Elections Canada signed a Letter of Agreement with Natural Resources Canada according to which that agency agreed to verify the correctness of the descriptions of the electoral boundaries prepared by the commissions. Finally, Elections Canada also needed to work with Communications Canada and Public Works and Government Services Canada to ensure the commissions had adequate support and infrastructure to conduct their business.

Commission Support

The next phase began upon receipt of the census return on March 12, 2002. During this phase, which culminated in the August 25, 2003 Representation Order, the main tasks undertaken by Elections Canada were: determining the number of electoral districts in each province; holding a conference and education sessions for the commissioners; establishing the commission offices; implementing the communications plan; providing liaison with the commissions and with the House of Commons.

The representation formula is laid out in section 51 of the *Constitution Act, 1867*. There are five steps to calculating the number of seats and the provincial quotient:

- Starting with the base of 282 seats, allocate one seat to each territory, leaving 279 seats.
- Calculate the national quotient by dividing the total population of the 10 provinces into 279.
- Allocate the *theoretical* number of seats to each province by dividing the total population of each province by the national quotient (rounding up from 0.5 if necessary).

- Adjust the provincial allocation according to the provincial guarantees contained in what are referred to as the “senatorial” and “grandfather” clauses – i.e. no province is to have fewer seats in the Commons than in the Senate, and no province is to have fewer seats than it received in 1976.
- Calculate the provincial quotient by dividing the provincial population by the number of seats allocated after adjustment.

From the 2001 census, the resulting number of seats was 308.

Representation Formula: Detailed Calculations for 2001 Census

	Senate Seat Allocation	Seats 33rd Parl.	Population (2001 Census)	Divide By National Quotient: 107,220 (Rounded)	Rounded Result	Additional Seats (Senate Clause)	Additional Seats (Grandfather Clause)	Total Seats	Provincial Quotient (Rounded)
Newfoundland and Labrador	6	7	512,930	4.784	5	1	1	7	73,276
Prince Edward Island	4	4	135,294	1.262	1	3	0	4	33,824
Nova Scotia	10	11	908,007	8.469	8	2	1	11	82,546
New Brunswick	10	10	729,498	6.804	7	3	0	10	72,950
Quebec	24	75	7,237,479	67.501	68	0	7	75	96,500
Ontario	24	95	11,410,046	106.417	106	0	0	106	107,642
Manitoba	6	14	1,119,583	10.442	10	0	4	14	79,970
Saskatchewan	6	14	978,933	9.130	9	0	5	14	69,924
Alberta	6	21	2,974,807	27.745	28	0	0	28	106,243
British Columbia	6	28	3,907,738	36.446	36	0	0	36	108,548
Provincial Total	102	279	29,914,315					305	
Nunavut	1		26,745					1	
Northwest Territories	1	2	37,360					1	
Yukon	1	1	28,674					1	
National Total	105	282	30,007,094					308	

Detailed calculation formula

1. Assign one seat to N.W.T., one to Yukon and one to Nunavut (three seats) – ref. section 51, *Constitution Act, 1867*.
2. Use 279 seats and population of provinces to establish national quotient ($29,914,315 \div 279 = 107,220$) – ref. section 51, *Constitution Act, 1867*.

Senate and Grandfather Clauses

3. Add seats to provinces pursuant to the following clauses:
 - a. Senatorial clause guarantees that no province will have fewer seats in the House of Commons than it has in the Senate – ref. section 51a, *Constitution Act, 1867*.
 - b. The grandfather clause guarantees that no province will have fewer seats than it received in 1976 (or had during the 33rd Parliament, when the *Representation Act, 1985* was passed) – ref. section 51, *Constitution Act, 1867*.

Once the commissions were established, administrative details could be finalized. These included: finalizing office lease requirements, implementing the communications plan, and getting the commissions up and running as quickly as possible. Elections Canada held a three-day conference and training session in Ottawa on March 13–15, 2002. During that session, commissioners, academics and Elections Canada officials covered a variety of issues – from discussion of the criteria for redistribution (community of interest, variance from the quotient), to how best to hold and conduct public hearings, to office management practices. On February 8, 2002, the Chief Electoral Officer sent an invitation to the members of the Standing Committee on Procedure and House Affairs, as well as the Speaker of the House of Commons, to attend the sessions on community and representation. Two members of Parliament attended these sessions.

The *Electoral Boundaries Readjustment Act* provides that during redistribution the Chief Electoral Officer transmits commission reports to Parliament and vice versa. In the recent redistribution, this role was extended in practice. Elections Canada acted as the conduit between the commissions and Parliament during the objection stage of redistribution on questions of fact or administrative coordination, such as on the progress and timing of reports by either the commissions or the House committee. Finally, as mentioned above, another key support role played by Elections Canada was the provision of the Commission Redistricting Tool and trained specialists to the commissions and to the House of Commons Subcommittee on Electoral Boundaries Readjustment.

The final role played by the Chief Electoral Officer during redistribution is to draft the representation order upon receipt of the commissions' final dispositions and send the order to the Minister. This was done on August 25, 2003.

Coming into Force and Election Readiness

According to the Act, the new federal electoral boundaries come into force one year after a representation order is proclaimed. In the intervening time, Elections Canada has to prepare all the products and support necessary to hold an election based on the new boundaries while maintaining election readiness on the current boundaries. Because the commissions are disbanded upon the completion of their tasks, it is the Chief Electoral Officer who conducts any follow-up with Parliament regarding redistribution. Finally, any post-mortems and lessons to be learned for future redistributions – the continuance of corporate memory – are carried out by Elections Canada in the absence of any other suitable public body.

To be ready for an election based on the 308 new federal electoral districts, Elections Canada had to provide training to all the new and reappointed returning officers, assistant returning officers and members of their staff – close to 1,000 people. Obviously, the ability to have returning officers in place is crucial to facilitating preparations for an election under the new electoral map. Returning officers review the new electoral boundaries in order that the requisite changes in polling divisions are integrated into Elections Canada's databases. This information is reflected in the lists of electors, maps, polling division descriptions and other geographic products provided to parties, candidates and returning officers. Parliamentarians

must also be informed of changes to the National Register of Electors. For example, by October 15 of each year, all members of the House of Commons receive the updated version of the lists of electors for their electoral district.

Elections Canada also transposed the data from the National Register of Electors and the National Geographic Database to the new electoral boundaries. Returning officers have to review and provide feedback on this transposition as soon as possible so that adjustments to geographic products and corporate databases can be made in preparation for an election. These databases are critical because they allow Elections Canada to inform electors of their voting locations on voter information cards, by telephone and on the Elections Canada Web site. There was also the transposition of the poll-by-poll results from the 2000 general election into the new electoral districts. This important process allows Elections Canada to determine which registered parties' candidates have the right to provide the returning officer with recommendations for deputy returning officers, poll clerks and revising agents for a given electoral district.

For the 2003 Representation Order, these tasks had to be completed more quickly than in the past because of the adoption of Bill C-5, which moved forward the coming into force of the representation order from the first dissolution of Parliament after August 25, 2004, to the first dissolution of Parliament on or after April 1, 2004. Because the primary mandate of Elections Canada is to be prepared for an election at all times, this change coincided with the objectives and efforts in which Elections Canada had been engaged during the preceding two years – being prepared to run a general election on an up-to-date electoral map, as quickly as possible. The Chief Electoral Officer signalled this advance in Elections Canada's timetable to the Chair of the Standing Committee on Procedure and House Affairs, Mr. Derek Lee, MP, on May 16, 2001. Subsequently, when the Chief Electoral Officer appeared as a witness during hearings on Bill C-5, he informed the Committee that if Parliament decided to move forward the implementation date of the 2003 Representation Order, Elections Canada was in a position to do so.

Appendix 2 – Comparison of Electoral Boundaries Readjustment Under the Act, with Proposed Changes Under Bill C-69, Report of the Standing Committee on Procedure and House Affairs and This Report

Redistribution Steps	Current Act	Bill C-69	Standing Committee Report	Report of Chief Electoral Officer
Frequency of redistribution	Every 10 years: s. 3	Every five years if specific criteria are met	Every 10 years	No recommendation
Timing of establishment of commissions	Commissions must be established by Governor in Council within 60 days of receipt of census return by Minister: s. 3	Commissions to be established within 30 days of completion of appointment process by Speaker: s. 3	No recommendation	Section 1.2 <ul style="list-style-type: none"> Commissions should be established no later than the earlier of six months after Census Day and 60 days after receipt of census return
Selection of commission members other than chairperson	Speaker selects members: s. 6	<ul style="list-style-type: none"> Speaker must table members' names in House of Commons within three sitting days after appointment. Twenty members can object and require a vote on the appointment. Speaker shall invite written applications from persons interested in being considered through a notice in the <i>Canada Gazette</i>: s. 9. 	Recommendation 11 <ul style="list-style-type: none"> Appoint commissioners more transparently. Broaden the pool of commissioners to include those who have substantial experience in community service and reflect the regional diversity of the province. Require the name of each commissioner to be tabled in the House and referred to a Committee, allowing a reasonable period for objection. 	No recommendation
Instructions, guidelines and educational materials to be	No specific provision	No specific provision	Recommendation 4 All electoral boundaries commissions to be provided with:	Section 4.3 <ul style="list-style-type: none"> Elections Canada will facilitate the provision of information to commissions

Redistribution Steps	Current Act	Bill C-69	Standing Committee Report	Report of Chief Electoral Officer
provided by Elections Canada			<ul style="list-style-type: none"> • strategies to identify natural starting points for redistribution; • examples of expert advice to be sought, such as municipal planners, provincial statistical and demographic officers or bodies; • factors important to providing effective community representation by a member of Parliament; and • 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. <p>Recommendation 1 Section 18 of the Act to be amended so that Elections Canada provides each commission with:</p> <ul style="list-style-type: none"> • 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; • a standardized report format and the basic criteria required for reporting decisions; and 	through information sessions and other means.

Redistribution Steps	Current Act	Bill C-69	Standing Committee Report	Report of Chief Electoral Officer
			<ul style="list-style-type: none"> • suitable criteria for the selection of names. 	
Public input before hearings	No specific provision	No specific provision	<p>Recommendation 16</p> <ul style="list-style-type: none"> • Amend EBRA to call for written submissions from public during formulation of initial proposal • Elections Canada to develop and make available standardized guidelines to assist the public in preparing effective representations 	<p>Sections 1.2, 3.1 and 3.2</p> <ul style="list-style-type: none"> • Commissions will be established prior to the census return and will be permitted to accept written submissions at all times, including before the initial proposal. • Introductory public outreach will be performed by commissions.
Exceeding allowable variance	Can exceed $\pm 25\%$ in “extraordinary circumstances”: s. 15(2)	No changes	<p>Recommendation 6</p> <ul style="list-style-type: none"> • Use s. 14 of the Act to entrench specific, remote and sparsely populated ridings – and/or dense urban ridings – in law; and/or provide a different quotient for northern and southern Ontario, Quebec and B.C. 	<p>Section 2.4</p> <ul style="list-style-type: none"> • Allow commissions to continue to exceed ordinary maximum deviation in “extraordinary circumstances.”
Provincial quotient – allowable variance	Allowable deviation of 25% to respect community of interest, community of identity, historical pattern of electoral districts, or to maintain a manageable geographic size in rural, northern or sparsely populated regions: s. 15(2)	No changes	<p>Recommendation 7</p> <ul style="list-style-type: none"> • If Recommendation 6 is implemented, lower quotient for remaining ridings to “perhaps” 15% in the circumstances set out in the Act 	<p>Section 2.4</p> <ul style="list-style-type: none"> • Allow commissions to deviate by up to 15% for the existing factors and to take into account topographical features and transportation networks.
Preference for continuity of ridings	No provision	The commission shall recommend changes to existing boundaries only when the factors of community of interest,	<p>Recommendation 2</p> <ul style="list-style-type: none"> • The Act to contain language that clearly prefers continuity of ridings and riding patterns 	<p>Section 2.3</p> <ul style="list-style-type: none"> • A commission should not change existing electoral boundaries unless the

Redistribution Steps	Current Act	Bill C-69	Standing Committee Report	Report of Chief Electoral Officer
		sparse population and projected growth are sufficiently significant to warrant it: s. 19(2)(c).	as the starting point	commission believes that the changes in population and communities warrant such a change so as to ensure effective representation.
Number of commission proposals	Commission makes one proposal: s. 19(3)	In initial advertisement, commission makes a proposal and provides information on two others which have not been selected: ss. 18, 20(3)	Recommendation 12 <ul style="list-style-type: none"> • Provide no fewer than two different proposals for certain regions of the province 	<ul style="list-style-type: none"> • No recommendation
Communities of interest	Not defined	Community of interest “includes such factors as the economy, existing or traditional boundaries of electoral districts, the urban or rural characteristics of a territory, the boundaries of municipalities and Indian reserves, natural boundaries and access to means of communication and transportation”: s. 19(5).	Recommendation 3 <ul style="list-style-type: none"> • Clearly define communities of interest and identity in the Act • Elections Canada to furnish to commissions standardized materials to assist in interpreting of these terms 	Section 2.1 <ul style="list-style-type: none"> • Sets out factors to be considered when applying concept of community • <i>Official Languages Act</i> to be followed as required by statute
Respect for geographic integrity of Indian reserves	No specific provision	Included in definition of community of interest in s. 19(5)	No recommendation	Section 2.2 <ul style="list-style-type: none"> • A provision should be added that Indian reserves shall not be divided between two or more electoral districts, except in circumstances where it is clear to the commissioners that such division is necessary to achieve effective representation. If a commission chooses to divide a reserve between two or more districts, it shall explain its reasons for doing so in its

Redistribution Steps	Current Act	Bill C-69	Standing Committee Report	Report of Chief Electoral Officer
				report.
Topography and transportation routes	No explicit mention of these factors	“Community of interest” includes a number of factors including “natural boundaries and access to means of communication and transportation”: s. 19(5).	Recommendation 5 <ul style="list-style-type: none"> The commissions should pay close attention to topography and transportation routes. 	Section 2.5 <ul style="list-style-type: none"> Commissions should be required to consider topography and transportation routes in drawing boundaries, and may use these factors to deviate from the quotient.
Projected population growth	No provision	In drawing electoral boundaries, commission to consider “the probability that there will be a substantial increase in the population of an electoral district” in the next five years: s. 19(2)(b)(iii).	Recommendation 8 <ul style="list-style-type: none"> Amend s. 15(1)(b) of the Act to include future growth as criterion for consideration 	No recommendation
Advertising of commission proposals	Publication in the <i>Canada Gazette</i> and newspaper inserts (including the names, populations and maps of the district): s. 19(3)	The CEO shall publish the notice in the <i>Canada Gazette</i> and by whatever method he deems most appropriate: s. 20(4).	Recommendation 15 <ul style="list-style-type: none"> Elections Canada to consider suggestions on multiple media strategies, including television and radio, and this advice to be the basis for any alterations to the Act on advertising 	Section 3.3 <ul style="list-style-type: none"> The commissions will be given the express power to disseminate the initial proposals, by whatever means they believe are most appropriate to achieve the broadest dissemination of the information therein.
Engaging community leaders	No specific provision	No specific provision	No recommendation	Section 3.4 <ul style="list-style-type: none"> A provision should be added to the Act stating that commissions shall endeavour to communicate with groups representing citizens’ interests in the province regarding the commissions’ initial proposals and the methods for making representations to the

Redistribution Steps	Current Act	Bill C-69	Standing Committee Report	Report of Chief Electoral Officer
				commissions.
Public information and educational plans	No specific provision	No specific provision	No recommendation	<p>Section 3.7</p> <ul style="list-style-type: none"> A provision should be added to the Act to provide the Chief Electoral Officer with the express authority to implement public education and information programs to make the electoral boundaries readjustment process better known to the public.
Timing of commencement of public hearings	Hearings can commence no sooner than 60 days after publication of proposal	No change	<p>Recommendation 14</p> <ul style="list-style-type: none"> Hearing can commence no sooner than 30 days after publication of proposal 	<p>Section 1.3</p> <ul style="list-style-type: none"> Public hearings can commence no sooner than 30 days after publication of proposal.
Requirement for notice to be given to make a representation at public hearing	The Act provides that no representation shall be heard unless a notice has been received by the commission within 53 days of the publication of its advertisement. The notice must include the name of the person presenting, the nature of the representation to be made and the interest of the person: s. 19(5).	No change	<p>Recommendation 13</p> <ul style="list-style-type: none"> Remove requirement for notice to be given in order to appear before a commission 	<p>Section 3.5</p> <ul style="list-style-type: none"> Retain notice, but commissions to have the power to waive any aspect of the notice, including the notice itself
Second public hearing	Not provided for in Act	<p>Possibility if:</p> <ul style="list-style-type: none"> 25% of population of a proposed electoral district is affected by changes made to the initial proposal; commission so decides; or CEO so orders. 	<p>Recommendation 17</p> <ul style="list-style-type: none"> Provide second hearings for ridings where there has been a change between the initial and final proposals. 	<p>Section 3.6</p> <ul style="list-style-type: none"> Opportunity for public to submit written comments following MP objection round

Redistribution Steps	Current Act	Bill C-69	Standing Committee Report	Report of Chief Electoral Officer
		Hearing to be held no sooner than 30 days after publication of notice of hearing and details of amended plan: s. 21		
Contents of commission report	Commission report shall include the electoral district descriptions, boundaries, populations and names: s. 20.	Contents not specified: s. 22	<p>Recommendation 10</p> <ul style="list-style-type: none"> The reporting format of electoral boundaries commissions should be standardized and include the rationale for their decisions and an explanation of how the commissions carried out their work. 	<p>Section 4.4</p> <ul style="list-style-type: none"> Standardized criteria for writing commission report to be included in the statute.
Mechanisms for better parliamentary input	N/A	<ul style="list-style-type: none"> Mechanisms not specified Parliamentary objection stage removed from the process 	<p>Recommendation 19</p> <ul style="list-style-type: none"> MPs should be better informed of the purpose of the Act, including the role and powers of the committee appointed under the Act. <p>Recommendation 21</p> <ul style="list-style-type: none"> In order to achieve better coordination between the commissions, Elections Canada and the House: <ul style="list-style-type: none"> House committee should be formed concurrent with formation of commissions; Elections Canada should present to the committee a copy of all documents or information provided to the commissions or the public as well as transcripts of the hearings. 	<p>Section 3.8</p> <ul style="list-style-type: none"> Elections Canada should be given the express authority to continue to develop materials and present information sessions to MPs concerning redistribution and the role of MPs in the process.

Redistribution Steps	Current Act	Bill C-69	Standing Committee Report	Report of Chief Electoral Officer
Changing electoral district names	N/A	No new provisions	<p>Recommendation 9</p> <ul style="list-style-type: none"> The Act should be amended so if there is an objection to a name and it is the unanimous recommendation of the House committee, the commission shall follow the recommendation of the committee. 	<p>Section 5.3</p> <ul style="list-style-type: none"> Section 23 should be amended to provide that if the House committee objects to a name proposed by a commission, and proposes an alternative name, the commission shall be bound to accept that name unless the commission later receives public input regarding the name of the district. If a member of the public objects to the committee's choice, the commission shall decide on the most appropriate name.
Appeal mechanism	No appeal mechanism provided for. Review of commission decisions possible through judicial review in Federal Court of Canada.	No new provisions	<p>Recommendation 18</p> <ul style="list-style-type: none"> New body composed of three federal judges to hear appeals Appeal may only be put forward where significant opposition was registered, or where commission has not deviated in substance from initial proposal despite mandatory second public review; and when recommendation for change has been made by the relevant committee of the House. Appeal to be dispensed of in a timely manner. 	<p>Section 5.1</p> <ul style="list-style-type: none"> Applications for review on questions of law to the Federal Court of Appeal. Provisions to ensure continued use of boundaries being appealed.
Correction of clerical errors	No provision	No provision	No recommendation	<p>Section 5.2</p> <ul style="list-style-type: none"> The Chief Electoral Officer should be given the power to correct clerical errors in a

Redistribution Steps	Current Act	Bill C-69	Standing Committee Report	Report of Chief Electoral Officer
				<p>report. If the CEO exercises this power, he or she must make a report to the Speaker of the House.</p> <ul style="list-style-type: none"> The power of the CEO to correct clerical errors should cease at the coming into force of the new boundaries if the error to be corrected affected the population of the districts involved.
Date representation order in force	Order in force on the first dissolution of Parliament to occur at least one year after the proclamation of the order is issued: s. 25.	Change time period to seven months after the representation order is made: s. 24	<p>Recommendation 20</p> <ul style="list-style-type: none"> Change time period to 180 days after the representation order is proclaimed 	<p>Section 1.4</p> <ul style="list-style-type: none"> Change time period to seven months after representation order is proclaimed, but if there is a general election during that seven-month period, the period is extended for an additional seven months after the return of the writs.
Additional administrative requirements for Elections Canada under the Act	N/A	No provision	No provision in statute for administrative support	<p>Section 4.2</p> <ul style="list-style-type: none"> Make express that Elections Canada shall make available administrative support to electoral boundaries commissions <p>Section 4.5</p> <ul style="list-style-type: none"> Following a redistribution, the CEO may report to Parliament on any amendments that are desirable for the better administration of the Act.