



REPORT

OF THE

**SELECT COMMITTEE ON ESTABLISHING AN
ELECTORAL BOUNDARIES COMMISSION**

JULY 1991

LEGISLATIVE ASSEMBLY OF NOVA SCOTIA



House of Assembly
Nova Scotia

July 3, 1991

The Honourable Ronald S. Russell
Speaker of the Legislative Assembly
of the Province of Nova Scotia

Mr. Speaker:

Re: Electoral Boundaries Commission

In accordance with Resolution 1681 passed by the House of Assembly on May 24, 1991, the Select Committee on Establishing an Electoral Boundaries Commission is pleased to submit its Report with recommendations for consideration by the Legislative Assembly of Nova Scotia.

A handwritten signature in cursive script, reading "Arthur R. Donahoe".

Arthur Donahoe, Q.C.
Chairman
MLA Halifax Citadel



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I. SELECT COMMITTEE

(a) Composition

The Select Committee on Establishing an Electoral Boundaries Commission was established pursuant to Resolution 1681 passed by the House of Assembly on May 24, 1991 (App."A"). The Committee was composed of representatives from all three parties in the House: four Progressive Conservatives, two Liberals, and one New Democrat. Members of the committee, as listed in the resolution, were: Mr. Arthur R. Donahoe, Q.C., MLA, (Chairman); Mr. Jack MacIsaac, MLA; Hon. Guy LeBlanc, MLA; Hon. John Leefe, MLA; Mr. Ross Bragg, MLA; Mr. Paul MacEwan, MLA; and Ms. Alexa McDonough, MLA.

Mr. Reinhold Endres and Ms. Louise Walsh Poirier acted as co-counsel to the Committee. Mrs. Joan Kelly of the Legislature Committees Office acted throughout as Administrative Co-ordinator.

(b) Mandate

The mandate of the Committee was to report to the House within three weeks, by June 14, 1991, or as soon as possible thereafter, respecting:

- (i) the composition of a Provincial Boundaries Commission on electoral redistribution,
- (ii) terms of reference for the Commission,
- (iii) a timetable for the completion of the Report of the Boundaries Commission.

It is to be noted that the function of the Select Committee was not to recommend constituency boundaries for an electoral redistribution. That will be within the mandate of the Provincial Boundaries Commission.

In discharging its mandate, the Select Committee was cognizant of the support of the House in principle for the following:

- (i) a House of Assembly to consist of 52 members, plus one additional member representative of the Mi'kmaq people in Nova Scotia,
- (ii) electoral boundaries addressing community of interest, including Acadian and Black communities, in the composition of the House, and
- (iii) a member of the Black community, to serve on the Provincial Boundaries Commission.

(Resolution 1681, para.(e)).

Prior to reporting to the House, the Committee was to consult as many interested persons and groups as possible, including those in the Acadian, Black and Mi'kmaq communities.

(c) Meetings and Public Hearings

The Committee held seven public meetings, on May 28 and 30 and June 4, 6, 11, 13 and 20. (See App."B", Transcript of Meetings). The Committee also held in camera meetings on four occasions (June 25, June 27, July 2 and July 3).

To facilitate the mandate of the Committee to consult with as many interested persons and groups as it reasonably could, an advertisement (App."C") was published early on in all daily newspapers circulating throughout the province, as well as in the weekly press, soliciting the submissions of any person or organization wishing to present views to the Committee. In addition, individual invitations for submissions were sent to various individuals and organizations (App."C"), including representatives of the Native, Acadian, and Black communities in the Province, thought to have a particular interest in matters of concern to the Committee.

Oral and written presentations were received by the Committee, including presentations from private citizens and representatives of the Native, Black, and Acadian communities. Twelve written briefs were received by the Committee, many accompanied by oral presentations; four oral presentations were made to the Committee without supporting written submissions. (See App."D" and "E" for list of presenters and copies of written submissions).

The Committee is grateful to the individuals and groups who made oral and written presentations. Their views were helpful and important to the process and have been carefully considered by the Committee.

**(d) Decision of the Supreme Court of
Canada Respecting Electoral Boundaries**

During the course of the Committee's meetings, the decision of the Supreme Court of Canada in *Carter v. Saskatchewan (Attorney General)* was

rendered, on June 6, 1991, upholding the statutorily-enacted electoral map of the Province of Saskatchewan. This decision was vitally relevant to the mandate of the Select Committee and will have a crucial impact on the task of the Provincial Boundaries Commission. Aided by its legal counsel, the Select Committee reviewed the decision of the court and the effect of the decision has been taken into account in its recommendations.

The Supreme Court of Canada defined the right to vote guaranteed by s.3 of the *Charter* as a right to "effective representation", which foremost requires relative parity of voting power. Parity of voting power, though of prime importance, was not the only factor recognized as important for ensuring effective representation. Other factors like geography (for example, natural community dividing lines such as rivers and municipal boundaries), community history, community interests, minority representation, rate of growth projections and the difficulties of representing rural ridings as opposed to urban ridings were all recognized as potential factors which might have to be taken into account in drawing electoral boundaries to achieve "effective representation". The list is not closed.

The underlying approach adopted by the majority of the court was 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". The Court adhered to the proposition, 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 Court did not endorse any particular numerical deviation from average constituency size. It upheld the impugned electoral map of Saskatchewan on the basis that the deviations before the Court were justified by valid considerations.

The Court's specific endorsement of minority representation as a factor in "effective representation", and its concern to respect "cultural and group identity" in the mapping of electoral boundaries will be helpful to the Provincial Boundaries Commission in addressing Native, Black and Acadian representation in this Province.

II. RECOMMENDATIONS

(a) **Composition of Provincial Boundaries Commission**

The Committee recommends the Provincial Boundaries Commission be composed as follows:

- (a) Professor Ronald G. Landes - Dartmouth, N.S.;
- (b) Mr. C. Denne Burchell - Sydney, N.S.;
- (c) Ms. Alphonsine Saulnier - Salmon River, Digby Co., N.S.;
- (d) Professor Jennifer Smith - Halifax, N.S.;
- (e) Mrs. Carolyn Thomas - East Preston, N.S.; and
- (f) Mr. Sherman Zwicker - Lunenburg, N.S.

Professor Ronald G. Landes shall be designated chairman of the Commission.

(b) **Terms of Reference for Provincial Boundaries Commission**

In keeping with the constitutional right to "effective representation", the Committee recommends the following terms of reference for the Provincial Boundaries Commission in determining the province's electoral boundaries:

1. The primary factors to be considered by the Boundaries Commission to ensure "effective representation" are:
 - (i) of paramount importance, relative parity of voting power achieved through constituencies of equal population to the extent reasonably possible;
 - (ii) geography;
 - (iii) community history;
 - (iv) community interests;

- (v) minority representation, including, in particular, representation of the Acadian, Black and Mi'kmaq peoples of Nova Scotia;
- (vi) population rate of growth projections.

The Commission is to be guided by the principle that deviations from parity of voting power are only 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.

2. After considering the preceding criteria, county boundaries should be followed where desirable, reflecting the historical use of county lines in delineating Nova Scotia's electoral map.

3. Based on the most recent population statistics available to the Provincial Boundaries Commission, the Commission is to delineate electoral boundaries to achieve a 52-member Legislative Assembly with an additional member to represent the Mi'kmaq people in Nova Scotia.

The Provincial Boundaries Commission is not to be governed by a predetermined population deviation factor or by a predetermined split between urban and rural ridings.

In considering the factor of minority representation, the Commission shall seek out the advice, support and cooperation of, in particular, representatives of the Black, Native and Acadian communities of the Province.

In the case of Native representation, the will of the Legislative Assembly of Nova Scotia to provide for an additional member in the Assembly to represent the Mi'kmaq people is a progressive and unique step, not just in this Province, but within Canada and in democracies elsewhere.

To facilitate a full appreciation of the wishes of the Mi'kmaq in Nova Scotia in this regard, the Provincial Boundaries Commission shall undertake a

broad and thorough consultation with all native groups, and the native community at large, in this Province, before making its recommendation respecting a Mi'kmaq seat in the Legislature.

In discharging its mandate, the Provincial Boundaries Commission shall conduct such hearings, and hear such representations and consider such other information, at such times and places, as it deems advisable, respecting existing electoral districts and the establishment of new electoral districts in the Province, and the area, name, representation, and implementation of those electoral districts.

**(c) Time for Completion of Report
of Boundaries Commission**

The Committee recommends that the report of the Provincial Boundaries Commission be completed and submitted to the Speaker of the House of Assembly on or before December 31, 1991, or as immediately thereafter as is reasonably possible, but in no case later than in time for consideration of the Commission's recommendations by the Legislature at the Spring sitting of the House of Assembly in 1992.

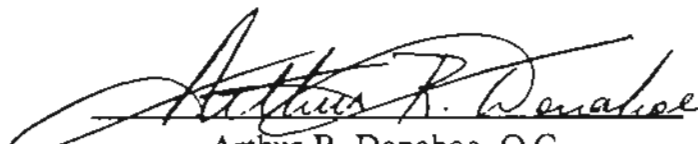
**(d) Periodic Review of
Electoral Boundaries**


Although it is not within the mandate of the Select Committee to recommend automatic periodic review of the province's electoral boundaries, the Legislature may wish to consider enacting legislation providing for such reviews in order to ensure the Province's electoral boundaries do not become outdated,

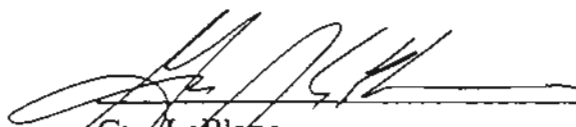
and possibly in violation of the Constitution, due to periodic population shifts. Many provinces already provide for automatic review after every second general election or every ten years.

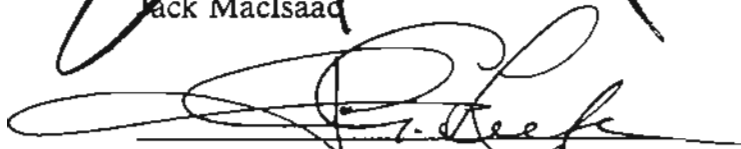
**(e) Report and Recommendation
for Establishing the Provincial
Boundaries Commission**

The Committee has prepared a Report and Recommendation for the establishment of the Provincial Boundaries Commission, incorporating the preceding recommendations, attached hereto as App."F".

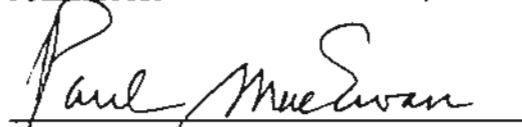

Arthur R. Donahoe, Q.C.

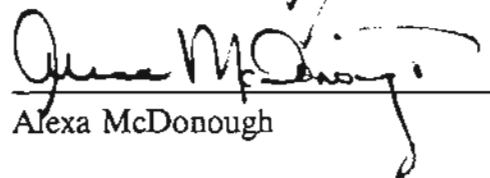

Jack MacIsaac


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Alexa McDonough

July 3 , 1991

