Legislative Assembly of Prince Edward Island

Special Committee on PEI’s Electoral Boundaries

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Locations: Coles Building, Charlottetown


Committee:
Jim Bagnall (Chair), MLA Montague-Kilmuir
Cletus Dunn, MLA Alberton-Miminegash
Helen MacDonald, MLA St. Eleanors-Summerside
Elmer MacFadyen, Minister of Community and Cultural Affairs

Guests:
Jane Ralling; Mayor Clifford Lee; Jane Ledwell and Kirstin Lund for the Advisory Council on the Status of Women; Robert Ghiz, Leader of the Opposition

Staff:
Marian Johnston, Clerk Assistant and Clerk of Committees

Edited by Hansard
The Committee met at 1:00 p.m.

Chair (Bagnall): Good afternoon, ladies and gentlemen.

This is a special committee of the electoral boundaries. I am going to ask the Clerk of Committees to read the motion which is the reason why this Committee is meeting. So I’ll ask Marian if she would read both motions, please.

Clerk of Committees: Thank you, Mr. Chairman.

The first motion is the motion which established this committee.

WHEREAS section 9 of the Electoral Boundaries Act R.S.P.E.I. 1988 Cap. E-2.1 requires a commission to review districts of the province, and make a report to the Legislative Assembly setting out its recommendations as to the area, boundaries and names of the districts of the province;

AND WHEREAS the final report of the PEI Electoral Boundaries Commission has been received by the Speaker;

AND WHEREAS the report makes recommendations which require consultation;

THEREFORE BE IT RESOLVED that a Special Committee of this House be established to be called the Special Committee on Prince Edward Island’s Electoral Boundaries;

THEREFORE BE IT FURTHER RESOLVED that this committee be comprised of six members, two to be named by the Leader of the Opposition, and four to be named by the Premier;

AND THEREFORE BE IT FURTHER RESOLVED that this Assembly request the Special Committee on Prince Edward Island’s Electoral Boundaries meet to receive opinion and report back to this House with recommendations.

The second motion that I will read, Mr. Chairman, concerns the mandate of the Committee regarding fixed election dates.

WHEREAS the Special Committee on Prince Edward Island’s Electoral Boundaries is currently in the process of organizing a schedule of public consultations to receive opinions on the issue of electoral boundaries:

THEREFORE BE IT RESOLVED that this committee expand these hearings in order to gather public input into the desirability of establishing fixed election dates on Prince Edward Island.

Chair: Thank you.

So as you know, that’s the reason we’re meeting here today. I notice the Leader of the Opposition is here this afternoon, Robert Ghiz. I was wondering if you’ve decided to come to the table. You’re more than welcome, if you have.

Leader of the Opposition: No, that’s okay. I’ll be presenting later on, thanks.

Chair: Okay.

With that, I’ll ask the first presenter of today, that’s Jane Ralling, if she would come forward please.

Welcome.

Jane Ralling: Thank you.

Chair: We’re here to listen, Jane, and hopefully you’ll give us some real good words of wisdom. I know that you presented to the McQuaid Commission earlier so we’re looking forward to your comments.
Jane Ralling: I wanted to just to give you a little - it’s a little distant over here but -

Chair: Excuse me, just before you start, Jane, would you say your name and who you’re representing and where you’re from, please?

Jane Ralling: My name is Jane Ralling. I live and work in Charlottetown. For the last 20 years I’ve worked as a lawyer with the Charlottetown law firm of Campbell Lea. Before that I held various positions with the federal government department here in Charlottetown, and before that I taught in public school.

I do want to make it clear that I am not here representing a client or an organization or a group of any type. I am here merely as a private citizen who is concerned with government’s issues both within the province and within the country.

I am going to frame my comments today in the context of a very simple question and that is: Why are we here? I will break that down actually into two parts of that question. Why I’m here, I’m here to reiterate my comments that I made to the McQuaid Commission, as I explained to you, Mr. Chairman, a little earlier, two years and two weeks ago today, the 9th of March 2004.

More importantly, I think, I want to try and address the question of why you, as a Committee, are here. As the Clerk of Committees read out, there was a motion passed in November of this past year to establish this special Committee to receive opinion and to report back to the House with recommendations. It’s a little vaguely worded because I looked at it and I said: What is it that you are to report back on?

The preamble to the motion indicates that the final report of the McQuaid Commission has been received by the Speaker and the report makes recommendations which require consultation.

Now, when I look at the final report recommendations - there are 11 of them on pages 32 through 33 of the final report - there are three what I call big recommendations. Number 2, which is naming the 27 electoral districts without reference to the county lines, and then, obviously, describing their physical boundaries. Number 7, which basically says: Don’t do this review more frequently than every 10 years. Number 8, which says: Don’t tamper with the composition of the independent commission. Recommendations 5 and 6 deal with the register of electors, now that enumeration of voters is no longer required. Recommendations 1, 3, 4 and 11 are simply consequential revisions. Recommendation 10 suggests that the Legislative Assembly undertake a thorough review of ways to give the Chief Electoral Officer a much broader mandate to maintain the register of electors, again because there’s no enumeration of voters. But none of these reasons is why you’re here or why I’m here.

So that only leaves the recommendation number 9 which says that: There be wide consultation with the public in the establishment of the poll boundaries by the Chief Electoral Officer and that this be monitored by the Legislative Assembly.

Now, I might suggest to you that most people in the province don’t know the difference between an electoral district and a polling division. But I’m willing to wager real money that each and every one of the 27 MLAs in this province is intimately aware of the difference. There are 27 electoral districts in this province and each district is broken into smaller units which are polling divisions. Those are the places where polling stations are set up on election day.

So the recommendation by the independent McQuaid Commission for public
consultation is in setting up polling divisions. Now, listening to the mandate under the motion, we’re not talking about polling divisions. I don’t want there to be any mistake, and I don’t want anyone to try and confuse or convince the public, that the McQuaid Commission report required or even suggested that further public consultation on setting the boundaries for electoral districts should take place, because that report simply doesn’t do that.

Now why wouldn’t the McQuaid Commission recommend further public consultation? Isn’t public consultation a good thing? Well, certainly it is. That’s why the commission already had 13 public hearings spanning a two-month period, had over 110 attendees, with 31 making oral or written submissions. I was one of the ones making an oral submission here in Charlottetown. There were additional written submissions from people who didn’t attend the hearings and there was an invitation to all 27 sitting MLAs to attend public hearings or to make a written submission to the commission or to make in private with the commission. Several MLAs took that opportunity.

As well, after the interim report was presented in June of 2004, the commission met with the Premier, met with the Leader of the Opposition, and met with members of the caucus for both the government and opposition sides. Then there was another round of four public meetings to discuss the interim report. There has been a long period of information, consultation and reflection. The final report of the independent McQuaid Commission has been available since early October 2004.

Why is it important that the McQuaid Commission be independent? Firstly, it is required to be so by its enabling act. The chair must be a judge or a retired judge. The two other members must not be members of the Legislative Assembly, must not be a Member of Parliament, and must not even be an employee of the provincial government. It is therefore required to be independent. This is important because its report and recommendations are going to directly affect the extent and constituency of the districts for which each of you is elected.

For you as a sitting MLA to have any influence over determining the composition of your riding, whether its physical size or the individual voters within it, is an absolute and obvious conflict of interest.

Of course, you are extremely familiar with your own district and with its various polls and which ones historically have supported you or your party. Of course, who wouldn’t want to reconfigure or to preserve his or her own district to better ensure that he or she gets elected? That’s human nature, and it’s exactly why the legislation requires that an independent commission - and not you, a committee of MLAs - makes this determination. Just as you do not determine how much salary you earn or other benefits of your employment. Yes, you do have to pass that legislation, but you don’t sit on the commission reviewing and recommending what happens.

The same goes here. You, as legislators, must pass the legislation to bring into effect the recommendations of the independent commission, but you should not be involved in these hearings, and certainly should not be tampering with recommendations of the independent commission because of the obvious conflict.

We have to go back to 1993-94 to remember why this legislation is in place in the first place. Because one individual took the then-government to court to uphold an individual voter’s right, that right protected by the Charter of Rights and Freedoms. The PEI court found, as others across Canada have, that the individual voter has a right to a vote of equal value. If there is an
inequality in the number of voters in a district there must be constitutional justification for that.

I’m quoting from the interim report at page 9: “If the deviation from absolute equality interferes with the right of a citizen... to effective representation, in the sense that it dilutes their voice in deliberations of the Legislature..., the deviation is not justified and the citizen’s constitutional right to vote is violated.”

Again, I quote from later on, on the same page, page 9 of the interim report: “Constitutional principles impose upon us” - this is the commission - “and the Legislature the burden of minimizing any variation or deviation, wherever possible.” In other words, the individual voter in, for instance, Montague-Kilmuir, where there were only 2,616 voters in the district the last time around, effectively has two votes compared to an individual voter in West Royalty where there were 5,052 voters in that district in the last election.

This is unconstitutional, and it doesn’t matter how many public hearings you have or what you hear from any group of people, and it doesn’t matter even if you pass legislation to maintain the current situation, the PEI Courts have, and will again, strike down any scheme setting up or allowing electoral boundaries to have that effect. I want you to think long and hard about that.

The right to vote is an individual right. It is the voter’s right. It is not the right of an MLA and it is not the right of any political district or party or a region within the province. It is the right of each individual, as an individual, to have his or her vote count as one vote, the same in any area or any district within the province.

I quote again from the interim report at page 7: “To insure fairness of the process for each voter, it is necessary to periodically review the area and the boundaries of the electoral districts.”

The government of the day in 1994 passed the Electoral Boundaries Act requiring a review after every third election by an independent - and by that, we mean a non-MLA - commission. The McQuaid Commission indicated as follows, and I quote from the final report at page 27: “The revision of electoral boundaries by commissions independent of the Legislature is now the norm across Canada. Such independent commissions do not have any vested interest in the maintenance or revision of district boundaries.”

Of the three important components of independence cited by Professor Courtney in his book, Commissioned Ridings, which is referenced extensively in the McQuaid Commission report, I would like to focus on the third. Again, I am quoting from the final report at page 27:

“Ultimate authority for the changes to the boundaries must be with the Commission. Although most Commissions in the country, save for the federal commissions and the Quebec Commission, make a recommendation to the Legislative Assembly of each province, the practice is that the independent Commission’s recommendations are invariably adopted. Legislatures accept the recommendations of the commissions thereby giving them” - the independent commission - “de facto authority to set the boundaries. As this Commission” - and this is the McQuaid Commission referring to itself - “is the first independent body to review the boundaries of the electoral districts in this province under the provisions of the Electoral Boundaries Act, It remains to be seen as to whether the Legislative Assembly will respect this hallmark of independence or choose to depart from the practice in other jurisdictions.”
Well, it is apparent that this Legislative Assembly has not respected the hallmark of independence, but instead is going to embroil itself in this matter which is fraught with conflict of interest. Mr. Chair, in your radio comments from earlier in the week which I had heard, you pointed out that this - your committee meeting - is not the first time that a MLA committee has reviewed and made changes to a commission’s report. I think you cited a committee chaired by Ross Young who had reviewed and made changes to the commission report chaired by Lynwood MacPherson.

There are, however, some essential differences between that situation and this. First, I would point out both the commission and the committee hearings then took place before the enactment of the Electoral Boundaries Act. Secondly, the commission in 1993 was not an independent commission at all: it consisted of five sitting MLAs and one former MLA on its 8-member panel. For these reasons it’s an extremely different situation.

Getting back to the question that I posed at the beginning of my submission: Why are we here? I must admit that I was unaware of the second motion. It’s not on the website for the Committee. But this comment, at least, remains true and that is that this Committee has no mandate and no business to gerrymander the boundaries of the 27 electoral districts in this province. I was going to further go on and say it has no mandate even to look at fixed date elections, but clearly that is a mandate and I will be intrigued to hear. I’m all in favor of fixed date elections, so I can put in my two cents on that.

It would appear from the first motion that empowered this Committee that the only mandate that it has is to monitor the Chief Electoral Officer’s efforts to establish polling division boundaries within the electoral districts that have been fixed by the McQuaid Commission.

My submissions can be summarized as follows:

This Committee must only recommend, and I think should unanimously recommend, that the recommendations in the McQuaid Commission be passed into law immediately. MLAs and the Legislative Assembly should stay as far away from this whole issue as they possibly can. This is essentially the same recommendation which I made in a private letter dated November of 2004 to every sitting MLA and I would, once again, urge you to do so without further delay. To do otherwise will land you and the provincial government back in court at taxpayers’ expense to answer to an independent judiciary on this breach of a Charter-protected right to vote of each citizen of PEI.

Thank you for your attention. If you have any questions I’ll try and answer them. Otherwise, those are my remarks.

Chair: Thank you very much for your presentation.

Any Committee members have any questions? Honourable Elmer MacFadyen.

Mr. MacFadyen: I respect your comments, Ms. Ralling, but I wonder, do you not feel that it’s appropriate that as elected officials we have the right to hear concerns from Islanders who feel that they have a legitimate concern in regards to the work of Judge McQuaid’s committee?

Jane Ralling: My answer to that is that the public if they had concerns, both before and after the initial report was distributed, they had an opportunity to be a part of making the recommendations, as I did here in town. Then, after the interim report was distributed, they had another opportunity to go - and many people did; I did not at that
point - go and speak to the commission again.
Those comments, those concerns, are summarized in the final report by Mr. McQuaid, and in fact are answered at great length and with great honesty, I think, in the report. There’s a warning in the report as well on several topics, with great scholarship I would suggest, that to try and do what you’re doing now only will lead to problems. They may be costly problems as far as a legal challenge. They will certainly embroil you in a conflict. Why you would choose to go there, why any government would choose to go there - every provincial and territorial government in this country has similar legislation. The federal government has similar legislation.

In every single case the recommendation of the commission is either by law required simply to be passed without any discussion or, in several provinces, it goes to the House to be passed because obviously your role is as a legislator. You must pass the legislation in the province. But invariably the recommendations are accepted and passed because there is a general recognition of this fact.

Mr. MacFadyen: But is it also not true that these are recommendations that are subject to change when it gets to the floor of the House, based on the input and discussions that occur on the floor, that members do have the option either to accept or reject?

Jane Ralling: You do at your peril, I would say. Yes, you have the right to do that just as we all have the right to be wrong sometimes. My submission to you is if you go down that road you are likely going to face a court challenge at taxpayers’ expense, and Lord knows we don’t need to spend any more taxpayers’ dollars in this effort. This is old news, and the sooner this gets passed and the sooner we can move on to making real decisions, I think the better off we’ll all be.

Mr. MacFadyen: Then what I hear you saying is - and I’m not arguing with you, I’m just asking for clarification - then because recommendations came from the Electoral Boundaries Commission, that government should just approve them as submitted and not question any of the issues. So why bring them to the floor of the House?

Jane Ralling: Because that’s the only way legislation gets passed in this province or in any province in the country.

Mr. MacFadyen: But it is the elected officials who will make the laws of this land for this province.

Jane Ralling: Correct, absolutely.

Mr. MacFadyen: Right.

Jane Ralling: There are other examples of other commissions that come forward with recommendations that may be discussed in the House but generally get passed without any variation to the recommendations.

Mr. MacFadyen: But because they generally get passed without any change to the recommendation doesn’t necessarily, to me, mean that we should adopt the report as submitted as recommendations. That by holding these Committee meetings, there are residents that I heard across the province that express some concerns in regards to not having an opportunity to express their opinion even though it’s published. It’s the same in regards to the hearings that we have now. There are some people that are not aware that these hearings are taking place.

Jane Ralling: Obviously there are lots of people who don’t take the opportunity to present themselves at public hearings, correct. There were 17 opportunities for people who were concerned to make representations at public hearings before the commission, or to submit in writing if they
didn’t want to or could not avail themselves of the opportunity to appear at a public hearing with the commission.

There were opportunities for private meetings, certainly from the government side of things, from the MLAs. Now I don’t know that the commission was making available to members of the public private meetings, however, there can be on certain topics, perhaps, too much say or even too much democracy.

I think that you run afoul of a constitutionally protected right to vote by tampering with the independent commission’s recommendations on this topic. There are very few other topics I can think of that would be constitutionally protected rights on which you would have to pass legislation, and on this one I think you have to be very careful to get it right because you’re dealing with my right, constitutionally protected, and everybody else’s within the province.

It’s not that you’re making choices. It’s not that you’re seeking a political compromise. It’s not that you’re trying to satisfy the majority within your district or within another district. It is you are constitutionally bound to protect the individual’s right to vote. I think the only way you can do that appropriately in this circumstance is by simply passing the recommendations that have come forward from the McQuaid Commission.

You’re not going to satisfy everyone, and you’ve been an MLA long enough to know that that’s the case. On this one, though, there is an extra requirement that you get it right.

Mr. MacFadyen: But will you also admit that these are recommendations that are coming forward?

Jane Ralling: Clearly.

Mr. MacFadyen: They are not carved in law and as legislators we do have the right to debate and discuss the recommendations that are being put forward.

Jane Ralling: Absolutely. The commission cannot make law. The courts can unravel the law that you make, and that is my caution. Why not get it right the first time and not have to go to court and have it made right after the fact?

Mr. MacFadyen: Thank you for your comments.

Jane Ralling: Okay.

Chair: Cletus Dunn.

Mr. Dunn: Just a quick question and I appreciate your presentation. I guess my question is regarding the variance. What’s your stand on the variance?

Jane Ralling: The legislation calls for plus or minus 25% and that seems to me to be more than adequate. Because when you have the plus and the minus - the example I gave was plus or minus - you end up with basically, in certain districts that have fewer voters, twice as much impact as in a district that has twice as many voters. You have the effect of a two to one.

The commission report, I think, is extremely cautious about using that. The first time around back in 1994 when the initial numbers of voters in each district were set, they tended to go to the extremes. So between 20 and 25% plus or minus. Obviously over time - and in this case we have been in some ways fortunate because with three elections in seven years it has come back for review more quickly than it might otherwise. In this case we now have a discrepancy of plus 38% and minus 29%, and that’s a huge discrepancy. What the commission has recommended is at most, with the exception of the Evangeline region
- which is obviously a very different situation - we have no district that has more than 10% or very slightly more than 10% variance plus or minus.

I think there’s been an attempt to set numbers where population patterns are declining with slightly more than the average per district, and in areas where there is real growth potential to set the numbers a little lower. So that over time, and particularly with the commission’s recommendation that this be not revisited for ten years, those numbers will, in fact, perhaps start to approximate the average and allow for growth. Just because there’s a plus or minus 25% doesn’t mean that each time you reset those numbers you have to go to the extremes.

In fact, what the report recommends and what my presentation indicates is that unless you can justify any difference, no difference is the appropriate number to set. So the closer you get to zero the better off you are, and only in circumstances when you can constitutionally justify a variance should there be a variance.

Chair: Helen MacDonald.

Ms. MacDonald: Yes, I enjoyed your presentation too, Ms. Ralling. You mentioned you’re in favour of fixed election dates.

Jane Ralling: Yes.

Ms. MacDonald: Do you have a time frame in there?

Jane Ralling: Four years seems appropriate, and obviously when you fix them you should and could try and target a date that is obviously not going to run into problems with, for instance, municipal elections, which are also fixed. Federal elections will never - well, at this point we don’t know when federal elections will be. Possibly fixed date federal elections will occur in which case then we can offset provincial elections from that.

Ms. MacDonald: Thank you.

Chair: Thank you very much. We’ve kind of ran over time, but it’s been interesting, and thank you very much for your presentation.

Jane Ralling: Thank you.

Chair: Next presenter is Mayor Clifford Lee from the city of Charlottetown.

Good day, sir.

Clifford Lee: Hi Jim, how are you?

Chair: Not too bad. Would you, when you start, state your name and who you’re representing before you proceed?

Clifford Lee: Clifford Lee, Mayor of the City of Charlottetown.

Chairman Bagnall, members of the Committee, I want to first of all thank you for the invitation to be here today to express the views of the city of Charlottetown on an issue that is extremely important to all citizens of Charlottetown and indeed all residents of Prince Edward Island.

The very thought of the electoral process, which is truly the very essence of a democracy, clearly illustrates the importance of electoral reform to our province. There’s nothing more sacred, there’s nothing more important, than the right to vote, and equally important, the fairness of the electoral process. That is to say, the equality of one vote regardless of where you happen to live in our province.

I have circulated to the members of the Committee a copy of the city of Charlottetown’s submission to the Electoral
Boundaries Commission dated September 4th, 2004 as well as a copy of the city’s submission to the same commission dated October 13th, 2005. It is not my intention to bore the Committee members by repeating all of the information in these submissions. I will, however, briefly refer to these documents in an effort to stress the key points of our presentation to the commission. It is my belief that these two documents clearly explain the position of the city of Charlottetown in regards to the important issue of electoral reform. These documents illustrate the need for electoral reform.

On August 9th, 2004 the city of Charlottetown unanimously adopted a resolution endorsing the interim report of the PEI Electoral Boundaries Commission. The city endorsed that commission’s 17 goals, principles and facts as well as the stated reasons for the proposed revisions. Specifically, the city shares that the commission’s respect for the goal of maintaining relative parity in number of electors in each district but also respecting the basic constitutional right of individual electors to effective representation in the Legislative Assembly and their right to play a meaningful role in the electoral process.

The city continues to share the opinion of the commission that if the deviation from absolute equality interferes with the right of a citizen in one part of the province to effective representation, in the sense that it dilutes their voice in deliberations of the Legislature or reduces access to their representative, the deviation is not justified and the citizen’s constitutional right to vote is violated.

The city also submits that based on geographic features, communities of interest, existing GIS mapping technology, common Canadian districting practice, and considering PEI’s unique size and population density profile, the commission should recommend that the province lower the existing threshold variance as permitted by the Electoral Boundaries Act to plus or minus 10 to 15%.

The City endorses the PEI Electoral Boundaries Commission’s detailed and thoughtful analysis of applicable Charter jurisprudence and highlights the following for the current commission’s further consideration:

The right to vote is enshrined in Section 3 of the Charter of Rights and Freedoms as one of the most basic rights in a free and democratic society. The Supreme Court of Canada has clearly established that the right to vote for individual citizens entails not only the right to effective representation, but also the right to play a meaningful role in the electoral process.

In the Carter decision, the leading Canadian authority on electoral boundary reform, the Supreme Court of Canada held that “deviations from absolute voter parity may be justified on the grounds of practical impossibility or the provision of more effective representation [but that] beyond this, dilution of one citizen’s vote as compared to another’s should not be” allowed.

Prior to but in keeping with the Carter decision, the Supreme Court of British Columbia in Dixon versus British Columbia, held that deviations from absolute parity can only be permitted when justified on the ground that they contribute to better government, giving weight to regional and geographic issues within the territory governed. The court in Dixon also noted that a plus or minus 25% deviation from the electoral quotient was justified in British Columbia “given the vast and sparsely populated regions” found in that province.

In the City of Charlottetown versus the Government of Prince Edward Island the
The court of appeal upheld an earlier trial decision which had held that the allowable plus or minus deviation of 25% under Section 17 of the act was constitutionally valid. However, in his dissenting opinion, Justice Mitchell stated:

the only valid considerations which can justify deviations from voter parity are those that are necessary to provide better government;

in the PEI context, the evidence does not support the conclusion that our rural districts are more difficult to serve than our urban ones;

the deviations among districts in the current map are not explained by the need to accommodate geographical barriers;

the county lines in PEI do not demark the borders of any distinct communities of interest. As political divisions in this province, counties are historical anomalies that ought to be abandoned rather than traditions that deserve preservation.

The city agrees with the Commission’s position that “there are no geographical features of the province which makes it particularly difficult to lay out the area and boundaries of the electoral districts.” In this light, the city also encourages the commission to reconsider the practical need for the province to legislate a plus or minus 25% deviation from the electoral quotient. In Dixon the need for such an extensive deviation was specifically supported by the “vast and sparsely populated regions found in British Columbia.” By contrast, deviances of such a magnitude in Prince Edward Island’s electoral map cannot be supported by any need to accommodate geographical barriers.

Accordingly, the city submits that, based on at least geographical features alone, maintaining a legislative deviation of plus or minus 25% would be inappropriate for this province and a maximum deviation of plus or minus 10 to 15% is much more reasonable in the Prince Edward Island context.

Likewise the city continues to endorse that commission’s position that the electoral map should, as much as reasonably possible, respect municipal boundaries. These boundaries truly represent existing communities of interest unlike, for example, the county lines.

The city continues to take the position that the current electoral map provides for over-representation of rural interests at the expense of representation of urban interests without justification and is in violation of both the right to “effective representation” and the right to play a meaningful role in the electoral process.” While there’s no hard and fast definition of the term “communities of interest” listed in Section 7.1 (g) of the act, common districting practice in both Canada and the United States informs that, where possible, local governmental units should be used as district boundaries.

Decisions about electoral boundaries in Prince Edward Island have traditionally favoured rural ridings as opposed to urban. Urban citizens are under-represented in their Legislature. Voting in such circumstances does not reflect a justifiable democratic purpose. Moreover, systemic over-representation of rural interests at the expense of urban interests does not result in or contribute to “better government of the populace as a whole.”

Considering the foregoing, the city submits that based at least on the factor of “communities of interest,” there’s no justification for the present deviations that exist between districts, and that maintaining a legislated maximum deviation of plus or minus 25% is unnecessary. Ten to 15% would suffice in the PEI context.
As well, the city continues to endorse the PEI Electoral Boundaries Commission’s position with respect to the proposed number of seven city districts. The information available shows that, Island-wide, the increase in the number of provincial electors from the 2000 to the 2003 election was 3,093. At the city of Charlottetown level, the number of electors grew by 2,928 over approximately the same time. Clearly the city’s population is in a growth phase, relative to rural PEI, which reflects the rapid pace of the overall urbanization of Canadian society. Therefore, the city strongly urges the commission to continue to recommend seven provincial districts wholly within Charlottetown. Having these seven districts would allow for the city’s continued rate or pace of growth while avoiding the situation where the city’s electoral districts, plus minus deviation from the provincial quotient, are again driven beyond levels which reasonably, in a PEI context, can be said to provide “effective representation” and “meaningful participation in the electoral process” to all of the citizens of the city and the province.

The city endorses the PEI Electoral Boundaries Commission’s proposed electoral map forming part of its interim report. By our calculations, the Commission’s electoral map achieves a mean percentage variance of 3.55% for the 27 proposed districts. Moreover, all 27 districts have a plus or minus deviation below 10%.

In 2003 the City of Charlottetown passed a resolution to adopt the principle of a variance of plus or minus 10% within the city’s municipal ward boundaries. In creating its latest electoral map the city was successful in achieving deviations of less than 10% for all municipal wards.

We are pleased with the report of the PEI Electoral Boundaries Commission and we believe that it creates equality among all voters in the province. I recognize that members of the Legislature may feel and possibly see a role in making minor adjustments to this document. The end result must be that voter equality is maintained and communities of interest are respected.

The city of Charlottetown itself, as a government, just last year had a commission review the wards in our city to ensure that voter equality was achieved in all wards. I am pleased to advise that the Charlottetown City Council adopted and has implemented the proposed changes, as recommended by the commission, without any modification at all. I urge the members of the Legislative Assembly to follow the city’s example in adopting the final report of the PEI Electoral Boundaries Commission.

Thank you.

Chair: Thank you very much, Clifford. Good presentation, and informative.

Any members with any questions?

Mr. MacFadyen: You indicate, Mr. Mayor, that the threshold of plus or minus 25%, that you would agree with a threshold of plus or minus 10 to 15%, and you also indicated that you were supportive in regards to the community of interest.

I guess in the hearings that I’ve participated in over the last two days and counting today, I heard from community leaders that they were concerned in regards to the way that the new boundaries are designed, that they are impacting on communities of interest, that some of the areas in regards to the new boundaries that’s established are creating problems for the residents in the communities. I heard that from community leaders as well. I’m wondering, in your recommendation, you’re asking us to adopt the commission’s report but you’re putting forward the suggestion of plus or minus 10 to 15%. You also indicated that there might
have to be some minor adjustments.

So I take it that your greatest concern is maintaining the seven seats within the city of Charlottetown based on the population base but you are aware of the concerns that are being addressed by rural communities where they feel that they are going to be losing some authority in regards to having the representation in the way the boundaries are set up now. Is that fair?

Clifford Lee: I’m not sure if that’s fair or not. I guess you would have to ask yourselves: What is the purpose of the members of the Legislature? I recognize that the size of some districts are quite big compared to other districts. But we also have to keep in mind that members of the Legislature represent the people. You don’t represent the roads, you don’t represent the forests, and so forth.

So when you’re talking about what is the role of a member of the Legislature, your role is to represent the people in your district. That’s why the city’s position has been, and remains, that voter equality has to be paramount when the legislation is passed.

My comment in regards to if members of the Legislature see some minor modifications, that may, in fact, be in regards to the actual boundary. But again, you have to ensure that if modifications are made that you maintain voter equality and you maintain the community of interest.

For example, I think one of the debates is Alberton doesn’t believe it should be on that side of the route 2 highway. It should be in another district. I guess if that’s to satisfy the needs of the people in Alberton or the wishes of the people in Alberton, then certainly as mayor of Charlottetown I don’t have any argument with that or disagreement with that. But if it means that the districts in Charlottetown are going to have twice as many people living in the district compared to the district in western PEI then, yeah, we have a major problem with that.

Mr. MacFadyen: But you also - I’m wondering in regards to your opinion - a lot of the development and growth in regards to new homes is really as a result of the special planning areas put in place around the two larger municipalities, and bearing in mind that the consolidation or amalgamations of the communities surrounding the larger cities impacted in regards to the number of people that are living in those cities.

I know that in the Charlottetown area surrounding, if I was to look at the number of increased population when you look at development in regards to subdivisions, most of the growth is taking place in Stratford, East Royalty, West Royalty, around Charlottetown.

Would there be, in your opinion, if we were to tinker with the recommendation of the committee, do you feel that there should be a look in regards to increasing the variances in the larger areas versus taking away from the rural areas?

Clifford Lee: I guess again, to start with, the neighbourhoods of West Royalty and East Royalty are part of the city of Charlottetown. I guess the comment that more people are moving in to Charlottetown and Stratford - and Stratford would be, in my opinion, considered an urban area, okay? - if that’s where people are moving to, then that’s where you need to have those people represented.

I think part of our problem in the province of PEI now is the fact that there’s a perception out there, for example, that the urban areas get everything from the provincial government at the expense of rural PEI. The only reason that is allowed to continue is the very fact that we’re debating here today is the fact that you’ve got so
many more MLAs representing rural parts of the province as opposed to a number of MLAs representing urban parts, and as a result that’s the very essence of the debate: voter equality.

Some of the issues, certainly as mayor of an urban area in a province, that I see is that we don’t have the representation - and I’m not talking about the individuals involved, I’m talking about voter equality - that if 5,000 people in Kings County can control three seats in the Legislature, then at the end of the day those 5,000 people are going to have a lot more control and say what takes place in the Legislature than 5,000 people in the city of Charlottetown. That’s just a political reality that we live in, we’ve always lived in, and we’ll likely always will live in. That’s why voter equality is so important.

Mr. MacFadyen: But I think that when you are looking towards programs and services that are offered, whether it be via the federal government or the provincial government, population base does enter into it.

Clifford Lee: I’m sorry?

Mr. MacFadyen: Population base enters into decisions of what benefits municipalities receive in regards to the number of electors that they have or the number of people that live in the community. So the urban centres are benefiting from programs based on the population base, not by the electors.

Clifford Lee: I would agree, hon. minister, in certain cases you’re correct. For example, with the EMRIF agreement, the gasoline tax deals that were just signed between the federal and provincial governments, you’re correct, population played a role in the determination of where those funds would be spent.

That’s not the same though in all situations. In PEI we’re always going to have this rural versus the urban areas until we correct the imbalance in the Legislature. Only then will everybody on PEI feel that they have an equal role in the Legislative Assembly.

In my opinion PEI is much too small to continue to have the rural community against the urban communities and vice versa. As mayor of Charlottetown I understand that Charlottetown succeeds when rural PEI succeeds. At the same time though, rural PEI succeeds when the urban areas on PEI succeed as well.

Mr. MacFadyen: Thank you.

Chair: Thank you Clifford, for your presentation today.

One question before you leave, and you didn’t touch on it, that I’ll ask you: How do you feel about fixed elections?

Clifford Lee: My presentation today was a presentation on behalf of city council and the citizens of Charlottetown that we represent. We haven’t taken a position on fixed election dates.

Certainly, my own personal opinion would be that municipal elections are fixed every three years. I believe that fixed date should be every four years. I think that would be a great start for the province to fix municipal election dates and for their dates to be the same, a four-year term. Obviously not in the same year as municipal elections would be held.

I’m just not sure how fixed dates would work if you ended up with a minority government, though. You have a minority government in Ottawa, and if you had a piece of legislation that said another election’s not going to be for four years and the government falls tonight on their budget or whatever, what happens in the meantime? So I’m not sure how it would work with a minority government.
Chair: But the idea you like.

Clifford Lee: I personally like. That is not to say that’s the position of the city of Charlottetown.

Chair: Yes, I understand that. Thank you very much for your presentation.

Clifford Lee: Thank you.

The next presenter is the Advisory Council for the Status of Women and we have Jane Ledwell and Kirstin Lund. If you’d come forward, please. You might want to sit over to the other side with the mic there so you’d have a microphone.

If you would introduce yourselves, ladies, for the Hansard, and where you’re from and who you’re representing.

Kirstin Lund: Where we’re from? You mean what organization we’re from?

Chair: Yes.


Jane Ledwell: I’m Jane Ledwell and I’m researcher and policy analyst, also with the PEI Advisory Council on the Status of Women.

Kirstin Lund: We appreciate the opportunity to present our comments to this committee and certainly appreciate the process of public consultation. Think it’s something that’s important, and in particular, in our case, important on issues of importance to Island women, and this is something that is of importance to Island women.

One of the aspects of our mandate is to enhance the status of women in public life, in political life. Our most recent policy document is around the area of women and electoral reform. We did send a letter to this Committee when it was struck and included our policy guide on women and electoral reform. We’ve brought extra copies if you would like to have some extra copies of that. We do speak to the topics or the issues of electoral boundaries and fixed election dates in that document. Our presentation this afternoon will reiterate our recommendations around those two topics, and we also have some comments around process as well.

So I’ll ask Jane to make those comments.

Jane Ledwell: Great. Again, we do appreciate the opportunity to have public input, particularly on the issue of fixed election dates, which there wasn’t an opportunity to comment on before.

We have some hopes and some recommendations about the process for this special committee, and perhaps for future electoral boundaries commissions, mostly because we believe that electoral boundaries should be set by an independent body and only approved by elected members in the end.

So we hope that this would result in electoral boundaries that are both fair and perceived as fair. While we support the McQuaid Commission report’s independence, the reason that we’re here today is that there are indications that the process wasn’t satisfying for all people, didn’t cover all the angles. So that’s why we’ve got a few recommendations about how the process might be improved in the future.

As mentioned, we would prefer to see a report by an independent commission sent back for revision or sent back for further work if it’s not seen as complete or not seen as sufficient, rather than have it reconsidered by elected members. We also support a
wider and more diverse representation on future electoral boundaries commissions. This was recommended, we noticed, under the McQuaid Commission report, under their “Ancillary Issues and Recommendations.” There it’s mostly recommended to make sure that regions are better represented. We’d also support greater recognition and representation of the diversity of political parties, including parties not represented in the Legislature.

We understand that the Commission invited further public comment after it released its interim report and also sought input from government and opposition leaders and from caucuses. This stage in the process we see as really important. Perhaps if it did not lead to sufficient public input at that stage, that stage of public input following an interim report could be improved or could be expanded or could be very clearly entrenched in terms of reference for a commission.

We also recognize that you’re initiating a process of further public hearings by having this committee, this special Committee, but we do recommend that when the Committee has finished hearing public comments that those public comments are returned to an independent body for decision making if there are decisions to be made. That independent group should then make decisions if there are changes to the McQuaid report and recommend them to government rather than a group of elected members making final decisions if there are changes to be made, especially if there are changes suggested to specific parts of the report.

Kirstin Lund: I mentioned that the Advisory Council has done research to prepare itself for creating the policy document around women and electoral reform. The Advisory Council’s also involved with an organization that has done research with a focus on getting more women elected in PEI. That research was something that we’ve based some of our policy document on. The organization was the PEI Coalition for Women in Government.

I said we’re involved in a project that that organization is doing. Specifically there was research done, analysis of election data and that sort of thing, but there were also some focus groups held with women, a fairly wide range of women, women who’ve been elected; women who’ve said: I’ll never run, women who’ve run and not won, and really tried to get a wide-range of women to participate in the focus groups.

The questions that were asked of the group were: Why aren’t women getting elected? Why aren’t women running? Some of the things that we heard from these women, many of whom were campaign organizers and representing all parties, we heard that - I can remember one comment in particular from a campaign organizer and recruiter of candidates, who said: Women need more time. That’s become a focus of the project that that organization has undertaken, the fact that women often do need more time, because they do two-thirds of the unpaid work and that’s statistically proven. A lot of that’s care-giving of children or older adults, older relatives.

As I said, the research has suggested to us that women could benefit from having more lead-up time to elections and that is one of the reasons why we’re supporting fixed election dates. It’s also a reason why we’re supporting the setting of electoral boundaries at least one year in advance of elections. Obviously you have to have electoral boundaries set in order to prepare for elections. You have to know what your districts are. That was one of the recommendations that the Advisory Council made in its policy guide was to have electoral boundaries set at least one year in advance of elections.
In terms of the fixed elections dates, for the same reason, we recommend that that happen in PEI for provincial elections. It’s certainly something I think that has been indicated by our research that would be something that would be of benefit to women in terms of making preparations around work, making preparations around any care-giving responsibilities, family responsibilities that they have. We do know that while that does impact men as well that it is more likely to impact women because of the division of care-giving in particular that happens between men and women.

One of the other things that we heard from women in the focus groups and that our research has shown is that women are less likely to be interested in being involved in processes that are more competitive rather than collaborative. Certainly heard from women in the focus groups that when there was a perception of political game playing that was something that turned a lot of women off from putting their name forward as potential candidates. One of the concerns that we have, and I think Jane’s touched on this already, is around the perception of that game playing that may feed into cynicism, I guess, and so our concern is around process, falls from that research.

Jane Ledwell: We know that one of the things that you’ve heard as part of this Committee is that there’s a concern about diminishing rural representation. We just heard from Mayor Lee the flipside of that, a concern about the balance of urban representation. We just wanted to comment, and again this comes back a little bit to process.

There are certain issues about population and population distribution that any future electoral boundaries commission is still going to have to face and especially if the current and discouraging trend of rural depopulation continues. But court decisions and constitutional law will continue to dictate that the boundaries have to have a balance in terms of population.

We worry that the numbers game will continue to result in less representation for rural Prince Edward Island or concern about maintaining an appropriate balance of urban representation. There are really only a few ways to address that issue and they don’t come within an electoral boundaries commission report.

One is to reverse the depopulation trend, and that’s going to require immigration and population strategies, supports and services for families in rural areas and community economic development strategies, all of which we know are underway. The only other way that we can see to change the way that the balance of boundaries is kept is to take a look at the electoral system, and to look at an electoral system that incorporates more than just population and geography when it’s looking at balance and when it’s looking at fairness. It’s for this reason that we’ve continued to support movement toward some form of proportional representation.

Now I’m not going to get into the details about models. We know that there’s some suggestion that this debate is not closed. I just wanted to say that it is possible to develop a model that pays respect both to population basis but also to interests that aren’t necessarily as well represented, whether that’s the balance of rural and urban interest, whether that’s the balance of men and women in the Legislature. So I guess we urge that this issue of electoral boundaries can be seen in a wider view considering electoral reform in general, and looking at ways that we can really reflect the values that we’re hearing in the way that we vote.

Kirstin Lund: So as a summary, there’s a couple of interests I guess that we have and they’re based on what we have heard from women in the community.
One interest is to avoid the appearance of partisan game playing and the subsequent public cynicism that our research has told us keeps many women from getting involved in politics or running for public office. The other interest that we have is to give women, considering running for public office the time that our research tells us it takes to make those preparations around work and family that, less often, men need to make.

So to meet those interests we’ve come up with three recommendations for the Committee. One is the recommendation that the setting of electoral boundaries be done by a body independent of elected members and that the results of this public consultation be given back to an independent commission for a decision. Two, we recommend that electoral boundaries be set at least one year in advance of election dates; and three, we recommend that fixed election dates be adopted for provincial elections.

Jane Ledwell: With your indulgence I’ll try to summarize what we’ve said as well in French for our Francophone folks here.

Donc, j’allais dire que notre recherche demande que les femmes ne frappent pas ces barrières qui limitent la capacité de participer comme candidates dans des élections. Elles nous disent qu’elles ont besoin de plus de temps que les hommes pour se préparer à prendre leur rôle de candidat. Elles ont besoin de temps pour préparer leurs finances. Elles ont besoin du temps pour faire des arrangements pour leurs familles et particulièrement pour les enfants et les parents d’âge d’or dont elles prennent soin.

Elles nous disent qu’elles voient que les enjeux politiques sont fréquemment des jeux. Elles veulent faire une différence, non pas jouer des jeux. Donc, nous recommandons trois choses. Premièrement, nous recommandons que les frontières électorales soient définies par un comité indépendant, non par un membre élu et puis que les résultats des importantes conférences courantes sur ce sujet soient données à un comité indépendant pour prendre les décisions finales.

Deuxièmement, nous recommandons que les frontières électorales soient établies au moins un an avant la date d’une élection pour laisser du temps suffisant pour les femmes de se préparer pour être des candidates.

Et troisièmement, nous recommandons que la date d’élection soit fixe pour les élections provinciales ici à l’Île-du-Prince-Édouard et encore pour laisser plus de temps pour les femmes à se préparer pour être des candidates et pour que les politiciens ne puissent plus jouer des jeux partisans avec les dates d’élection.

Merci.

So I’ll say our research states that women shouldn’t have to face these barriers that limits their the capacity to participate as candidates in elections. They tell us they need more time than men to prepare to take their role as candidates. They need time to prepare their finances. They need time to make arrangements for their families, particularly for the care of children and aging parents.

They tell us that politics are frequently games. They want to make a difference, not play games. So we recommend three things. First of all, we recommend that electoral boundaries be defined by an independent committee, not by an elected member, and that the results of important and current conferences on this subject be given to an independent committee to make final decisions.

Secondly, we recommend that electoral boundaries be established at least one year
before an election date to give sufficient time for women to prepare themselves to become candidates.

And thirdly, we recommend that provincial election dates be fixed here on Prince Edward Island, again to give women more time to prepare themselves to become candidates, and that politicians can no longer play partisan games with election dates.

Thank you.

Chair: Thank you very much, ladies, for your presentation.

Any questions? If not, thank you very much for your presentation. That was very well done. Thank you.

Kirstin Lund: Thanks.

Chair: Our next presenter is the hon. Robert Ghiz. If you’d like you could introduce yourself for the Hansard so the people will know who you are.

Leader of the Opposition: Okay. Thank you very much, Mr. Chair.


First of all, I’d like to congratulate the hon. Elmer MacFadyen for introducing the idea of fixed election dates to this Committee. He’s following the Liberal Party lead and my lead when we first made this announcement and I’d like to thank him very much for taking the initiative of bringing it up before this Committee.

As many of the Committee members are aware I’ve been advocating the idea of fixed election dates for some time now because I believe it is in the interest of our democracy to ensure greater certainty over the time of elections.

To give you a little background, I first became intrigued with the idea of fixed election dates after the concept was recommended in the 2003 Electoral Reform Commission Report. Then, throughout the fall of 2005, the Liberal Party of Prince Edward Island held six policy forums across the Island involving hundreds of Islanders. The participants in those policy forums strongly endorsed the concept of fixed election dates as a way to improve the quality of our democracy. As a result, I will introduce legislation this spring to enshrine fixed election dates into law.

Before I continue though, I want to deal with an objection that is often raised against the ideal of fixed election dates in a parliamentary democracy, and I believe the honourable mayor of the city of Charlottetown raised the issue today. That is, the Lieutenant-Governor will continue to have the authority to dissolve the House in the event of a non-confidence vote in the government. Following such an event, new legislation would be required setting a new fixed election date. In other words, the right of Parliament to defeat a government would not be infringed by the legislation governing fixed dates.

That said, I believe there are several benefits to the kind of law that I am proposing:

First, a governing party preoccupied by partisan concern should not control the timing of our most important democratic function.

Second, fixed election dates will contribute to the transparency of the entire electoral process, including the lead up to the vote.

Third, fixed election dates would permit the Auditor General to prepare fully audited financial statements to coincide with the call of an election.
Fourth, which was just raised, potential candidates for all parties will be able to plan more effectively and this level of certainty may attract a greater range of candidates.

I will now expand briefly on each of the four points I’ve just outlined. As I said, a governing party preoccupied by partisan concern should not control the timing of our most important democratic function. The most infamous example of this problem occurred in the six weeks that preceded the last provincial election. At that time the government secretly authorized an additional $14 million for the failing Polar Foods. Do I believe that this arrangement was made as a result of partisan concern? Of course I do, and I know many thousands of Islanders agree with me.

Next, I believe that fixed election dates will improve the overall transparency of the process. In my view this point is fairly self-evident because a fixed election date will better allow the public to gauge the behaviour of political parties in the runup to votes.

Third, and in some ways I believe this is one of the most important points, I strongly believe that every general election should be accompanied by fully audited and independent financial statements. By setting fixed election dates, government can instruct the Auditor General to prepare those statements and make sure such an exercise is part of the Auditor General’s work. Departments could be instructed to provide the most up to date information possible and voters would have the opportunity to make a better informed decision about their voting intentions.

Of course, I raise this particular point because Islanders were denied accurate information during the last provincial election. After being informed during the spring budget process that the books were essentially balanced, the government proceeded to run two enormous deficits, and one of those deficits occurred during the same fiscal year as the election. This is completely unacceptable because a government’s management of fiscal affairs is a major yardstick by which voters should measure performance.

Finally, fixed election dates will allow potential candidates to more fully plan for elections. Currently, many potential candidates need a significant amount of time to arrange their professional or personal affairs properly to run for public office. When elections can be called at the whim of a government this can be an impediment to many fine candidates and such impediments can hardly be considered beneficial to our democracy and a public desire to have the best possible candidates come forward.

In conclusion, during last year’s plebiscite on electoral reform we heard from thousands of Islanders who believe that our system needs renewal. The Liberals agree, and we believe the first step forward should be fixed election dates. The virtue of this particular reform is that it can be done relatively quickly. In my opinion the proposal during the plebiscite was too much and too soon but there was still a strong sentiment promoting change. Setting fixed election dates is a smaller step towards a larger process of overall change. As I have argued today, I believe such a renewal should be initiated at the earliest possible opportunity.

Thank you very much, and if you have any questions.

Chair: Thank you very much for your presentation. Do you have a copy of that for us?

Leader of the Opposition: Sure, I’ll provide you with one.

Chair: Thank you. Any questions?
If not, thank you very much for appearing.

**Leader of the Opposition:** Thank you very much.

**Chair:** That’s the end of our scheduled presentations, but as a practice that we’ve had in all our Committee meetings to date, we’ve opened the floor for anybody that would like to come forward and make comments either on the fixed elections or on the special boundaries. So if there’s anyone that would like to come to the table and express a concern or a comment, please do so.

If not, thank you very much, and I’ll call for an adjournment.

**Ms. MacDonald:** So moved.

The Committee adjourned