

**Law Amendments Committee Presentation Re: Electoral Boundaries**

**Nov 16, 2012, 9:30 AM**

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1. The Terms of Reference for the commission, provided by the Government, were notably different from those of past commissions:
  - a. **Clause 2d, the “Notwithstanding Clause”, specifically targets and cancels Clause 2c, which justifies deviation from parity in the following special instances:**
    - i. Geography (difficulty in representing a large physical area)
    - ii. Community History and Interests
    - iii. Linguistic and Cultural Diversity
  - b. Clause 2d instead directs the commission to ignore special circumstances under Clause 2c and adhere strictly to +/-25% variance from average number of electors per constituency.
  - c. **Protected ridings were the obvious target of the “Notwithstanding” Clause 2d.**
2. The Interim Report, submitted May 31/12, maintained status quo in SW Nova Scotia, and offered no changes to protected ridings:
  - a. **No changes were recommended to Shelburne County electoral boundaries in the Interim Report of May 31, suggesting that Shelburne County presently meets the +/- 25% quota target.**
  - b. **The Commission felt strongly at that time the protected ridings should continue to exist due to special circumstances contained in Clause 2c, as in previous boundary reviews.**
3. The interim report was declared null and void by the Dexter Government in writing from the AG because the commission did not strictly adhere to the TOR.
  - a. **In the wording of the Terms of Reference, the Commission is to be “Guided by”, not “Legally Bound to” the Terms of Reference, Clauses 2a to 2i.**
  - b. **The NDP Government interfered in an Independent Commission by rejecting the Interim Report and instructing the Commission that the Terms of Reference must be followed strictly.**
  - c. **The Dexter Government did not have the right or authority to declare the interim report null and void and insist the independent commission was legally bound to the Terms of Reference.**
4. The Revised Interim Report of July 2012 introduced the recommendation to split-up the Municipality of Yarmouth to achieve parity.
  - a. This generated a large public outcry in SW Nova Scotia from Yarmouth and Argyle:
  - b. No changes were recommended for Shelburne County, for the second time.
  - c. Yarmouth organized a large, well-attended public rally in August 2012 to show their disapproval. The Commission claimed the rally as public consultation process.
  - d. **The Commission felt they could no longer recommend splitting Yarmouth to achieve parity, due to public outcry/pressure from Yarmouth. Yarmouth Claims Victory.**
  - e. **The Commission then had to find another way to achieve parity with only 2 weeks left to the Final Report Deadline of Aug 31, 2012.**

5. The Final Report of Aug 31/12 introduced for the first time, drastic changes to the electoral boundaries of Shelburne County that were previously not on the table (twice), to comply with Clause 2d.
  - a. The Final Report significantly redraws the electoral boundaries of 3 Counties, crossing municipal boundaries, affecting practically all of Southwest Nova Scotia.
  - b. Shelburne County was shocked by this recommendation because in all previous submissions, no changes were recommended to Shelburne County.
  - c. **Shelburne County, currently represented as 1 County, 1 Electoral District, served by 1 MLA, will suddenly be broken up and distributed across 3 different counties and represented by 2 MLAs, significantly reducing Shelburne County residents voting power and their ability to achieve effective representation.**
  - d. **This represents a very significant change and thus warranted public consultation with the affected communities before moving ahead.**
  
6. The Boundaries Commission failed to consult the public before issuing the Final Report.
  - a. The Yarmouth Rally in August 2012 put the commission under great pressure to come up with a new "solution" to create parity in less than 2 weeks to the Aug 31 deadline for submitting the final report.
  - b. **Shelburne County was not made aware of the proposed significant changes to its electoral boundaries by the commission, or even through an interim report before the final report was submitted Aug 31/12.**
  - c. **Shelburne County was not granted a public consultation process before the final report was submitted, despite the commission recommending very significant changes to the electoral boundaries following Yarmouth's rejection of the recommendations of the Revised Interim Report.**
  - d. **Public consultation is required under the Terms of Reference, thus the commission violated the TOR by failing to consult with Shelburne County before submitting the final report.**
  
7. The Terms of Reference were designed to achieve a desired outcome: Eliminate Protected Ridings.
  - a. By being told to adhere strictly to the TOR, the commission was forced to split-up communities and cross municipal boundaries to achieve Parity of Voter Power.
  - b. **The final report makes specific mention of the Commission being forced to adhere strictly to the TOR no less than 12 times.**
  - c. **The language of the report indicates the commission did not wish to cross municipal boundaries, split communities, and eliminate protected ridings. They recognized there would be public outcry. However they considered their hands tied after being told the Terms of Reference were legally binding.**
  - d. Splitting Shelburne County was the Commission's last-resort option to eliminate the protected ridings of Argyle and Clare, satisfy Clause 2d, and meet the Aug 31 Deadline for submission.
  - e. **The Commission's Final Report clearly blames government interference for forcing the Commission to recommend first splitting-up Yarmouth County, and ultimately, Shelburne County.**
  
8. Parity of Voting Power vs. Fair and Effective Representation:

- a. I believe there are significant cultural and linguistic difference between Argyle and Western Shelburne County such that future elections will always be controversial. Each election will produce feelings that either the Acadian Community or the Anglophone Community will be denied fair representation.
  - b. Argyle and the Pubnicos lie within the Municipality of Yarmouth. Clarks Harbour, Barrington, Woods Harbour, Clyde River, lie in the Municipality of Barrington. Each municipal unit is competing against each other for resources federally and provincially: School Boards, Health Authorities, Municipal Government funding, Infrastructure projects, etc.
  - c. **Communities will thus be pitted against each other within the same electoral district for resources such as health care, education and infrastructure funding.**
  - d. **Whichever community/municipality has produced the MLA will be perceived to have an unfair advantage by the other community/municipality.**
  - e. **The Municipality of Shelburne and the Municipality of Queens will be represented by a single MLA, and thus, communities will be pitted against each other at county lines, competing for resources.**
  - f. **In both Argyle-Barrington and Queens-Shelburne, whichever municipality holds the greater number of eligible voters will technically have the power to elect the MLA of their choice, and the other municipality will be held at a disadvantage. Shelburne County will be denied Fair and Effective Representation.**
  - g. **Pitting communities against one another, crossing municipal boundaries, 1 MLA representing more than 1 county, Cultural and Linguistic differences, denies these communities their right to Fair and Effective Representation.**
9. This is not an exercise in Cost Cutting to bring Balanced Budgets.
- a. **The Commission recognizes that the cost savings from eliminating 1 MLA in the Provincial Government is very small compared to the overall budget.**
  - b. **The potential savings of up to \$200,000 by eliminating 1 MLA has been more than swallowed up by the NDP's failed investment in Resolute Forest Products in Liverpool, as well as maintaining hot idle status at the Newpage plant in Port Hawkesbury, the rebuilding of the Bluenose II, and the investment made to Daewoo to acquire the former TrentonWorks site.**
10. There is a Supreme Court of Canada Precedent on this issue, The Carter Decision, 1991, Saskatchewan:
- a. "The purpose of the right to vote enshrined in s. 3 of the *Charter* is not equality of voting power *per se* but the right to "effective representation" The right to vote therefore comprises many factors, of which equity is but one. The section does not guarantee equality of voting power."
  - b. "Relative parity of voting power is a prime condition of effective representation. Deviations from absolute voter parity, however, may be justified on the grounds of practical impossibility or the provision of more 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. Beyond this, dilution of one citizen's vote as compared with another's should not be countenanced"

- c. **Shelburne County will lose Fair and Effective Representation, a violation of Section 3 of the Charter.**

11. Conclusions:

- a. The Government of Nova Scotia manipulated the commission from the start, crafting the terms of reference to achieve a desired outcome. By inserting Clause 2d to the Terms of Reference, they removed previous special considerations for Linguistic, Cultural, Economic and Geographic differences, thereby targeting the protected minority ridings for elimination.
- b. There were no changes recommended for Shelburne County in the Interim and Revised Interim Reports, indicating Shelburne County alone satisfies the +/-25% Clause (2d) in the Terms of Reference.
- c. The Government wrongfully interfered with an Independent Commission by rejecting the Interim Report and telling the commission the Terms of Reference were Legally Binding.
- d. The Commission makes it very clear in the final report that they did not wish to make recommendations to split-up counties and cross municipal boundaries, but felt they had no other choice following interference from the NDP Government.
- e. Changes to Shelburne County were recommended only in the Final report of Aug 31/12, following the rally in Yarmouth to protest the Revised Interim Report.
- f. Shelburne County was not publicly consulted by the Commission in advance of the Final Report, despite recommending significant changes appearing after the Revised Interim Report. This also violates the Terms of Reference Section 2e.
- g. Shelburne County voters will find their voting power significantly diluted by allowing Bill 94 to pass. Voters from Yarmouth County will be a deciding factor in choosing the MLA to represent the Municipality of Barrington. Voters in Queens County will decide who represents Shelburne County. Shelburne County as a whole will thus be denied Fair and Effective Representation, violating Section 3 of the Charter.
- h. The Commission members felt the government was interfering in the process, they did not like the decision they felt forced to make. However did they not have the choice to resign following the perceived interference from the government? Why did they choose to press forward with a flawed and compromised process?
- i. Shelburne County does not deserve to be a pawn in a political chess game, to be the chosen political loser in the efforts to absorb the previously protected Acadian Ridings of Clare and Argyle.
- j. Bill 94 will violate Section 3 of the Charter of Rights and Freedoms by depriving Shelburne County of Fair and Effective Representation.