

Adjusting Federal Electoral Boundaries in Canada: Redistribution 2022

This article describes the general process of decennial federal electoral boundaries redistribution in Canada under section 51(1) of the *Constitution Act, 1867* and the *Electoral Boundaries Readjustment Act*, which takes about two years from when the Chief Electoral Officer calculates the number of MPs per province to when the Governor General proclaims the Representation Order.

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1. Introduction

The most recent readjustment of Canada's federal electoral districts began in October 2021 when the Chief Electoral Officer calculated the number of MPs for each of the 10 provinces and will end on April 23, 2024 when the *Representation Orders* describing the names, populations, and boundaries of the 340 electoral districts of the 10 provinces enter into force.

2. What Happened Before the Commissions

For the first century after Confederation, the Parliament of Canada adjusted the boundaries of electoral districts directly through a series of *Representation Acts*, the last substantive version of which appeared in 1952 and first applied to the election of 1953.¹ These statutes both named and provided formal legal descriptions of the boundaries of each electoral district. This fundamentally political process produced rampant gerrymandering, where politicians choose their own voters and create electoral districts which favour one political party over others.² But

this old system also produced enormous disparities in the populations of ridings within a single province relative to the average number of people per MP (the population of the province divided by its number of MPs), whether these differences necessarily favoured one political party or not. For example, the census from 1956 lists the populations of the electoral districts established under the *Representation Act, 1952* and shows an enormous spread in Ontario ranging from 28,658 and thus -54.95 per cent of the average in Bruce to 167,310 and +163.12 per cent of the average in York – Scarborough.³ Perhaps these divergences in population favoured certain political parties over others; but even if they favoured no party over another, they show enormous disparity in the voting power of Ontarians depending upon the electoral district in which they lived.

What is more, the various *Representation Acts* from 1952 and earlier did not even list the populations of each electoral district at all – because Parliament did not strive to create districts with, more or less, the same number of electors or people in the first place. Even the first *Representation Order* promulgated under *EBRA* in 1966 carried over this old method and did not list the populations of the final electoral districts.⁴ The Representation Formula in section 51(1) and the Proportionate Representation of the Provinces Clause in section 52 of the *Constitution Act, 1867* merely required that the total number of MPs per province be proportional to the populations of the provinces and be readjusted after each decennial census; they remain silent on how electoral districts *within* each province are established and do not mandate that the populations of each riding be equal plus or minus

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an acceptable variance. In 1964, Parliament decided through the *EBRA* that electoral districts within a province should contain roughly equal populations and delegated its authority to establish those electoral districts to independent and non-partisan Federal Electoral Boundaries Commissions.

3. How Elections Canada Supported the Federal Electoral Boundaries Commissions

In general, Elections Canada acts as an intermediary throughout an electoral redistribution between the Federal Electoral Boundaries Commissions on one hand and Statistics Canada, Natural Resources Canada, the Speaker of the House of Commons, and the Privy Council Office on the other. Elections Canada, formally known as the Office of the Chief Electoral Officer, has existed continuously since 1920 and flows from Part II of the *Canada Elections Act*. In contrast, the Federal Electoral Boundaries Commissions derive their authority and temporary existence solely from the *EBRA*; they come into being when the Governor General issues a Proclamation Establishing Electoral Boundaries Commissions, and each commission ceases to exist automatically under the legal doctrine of *functus officio* once it has transmitted its final report to the Chief Electoral Officer. All the Federal Electoral Boundaries Commissions for Redistribution 2022 began upon their proclamation on November 1, 2021 and then died out at various dates between 1 December 7, 2022 and July 8, 2023.⁵ Parliament designed the Federal Electoral Boundaries Commissions to function as independent and temporary entities as needed, and emphasised in section 12 of *EBRA* that “a commission is not an agent of His Majesty and the members of a commission as such are not part of the federal public administration.”⁶ Any applications for judicial review against the decisions of a former commission therefore fall to the Attorney General of Canada.⁷

The commissions have always been separate and independent, but they originally relied on a different federal agency. Parliament enacted the *Representation Commission Act* in 1963 shortly before the original iteration of the *EBRA* in 1964. The Representation Commissioner provided logistical and administrative support to the Federal Electoral Boundaries Commissions, “prepare[d] maps showing the distribution of population in each province and setting out alternative proposals respecting the boundaries of electoral districts in each province,” and served *ex officio* as the fourth member of the first three iterations of the commissions in 1965, 1973, and 1976.⁸ However,

the reports of these early commissions suggest that the Representation Commissioner exercised no real influence over their discussions and decisions and gave no indication that he had ever met with any of the other commissioners. The commissions also usually rejected the Representation Commissioner’s alternative proposals outright, thereby preventing him from establishing a common and consistent rationale for electoral redistributions across the 10 commissions and rendering him superfluous.⁹ In 1979, Parliament abolished the office through the *Government Reorganization Act* at the behest of the first and only Representation Commissioner himself, Nelson Castonguay, and transferred all his functions and authorities to the Chief Electoral Officer.¹⁰ Elections Canada assumed its current role with respect to the Federal Electoral Boundaries Commissions as of the electoral readjustment in 1983.

The Representation Commissioner and the Chief Electoral Officer have traditionally organised opening conferences to kick off each electoral redistribution. These conferences now gather all the commissioners together to share best practices and brief them on the process of electoral redistribution and their mandate under the *EBRA*.¹¹ Elections Canada marked the start of Redistribution 2022 with an opening conference held in Ottawa on November 30 and December 1 2021. The first day began with some remarks from Chief Electoral Officer Stéphane Perrault and included presentations from personnel at Elections Canada on the legal framework of redistribution, the administrative and technical support that Elections Canada provides the commissions, communications strategies, and what to expect at the public hearings. On the second day, the new commissioners also heard from other government departments which work with Elections Canada throughout the process, academics in the field, and former commissioners who worked on previous decennial redistributions. These included representatives from Statistics Canada on the census and Natural Resources Canada on the practices surrounding naming and describing the boundaries of electoral districts. Section 17 of *EBRA* mandates Statistics Canada and Natural Resources Canada with “a duty to assist” the Federal Electoral Boundaries Commissions. Statistics Canada explained that it would release four main groups of demographic data in 2022 – the main population and dwelling counts on February 9, followed by datasets on households on July 15, languages on August 17, and on Indigenous peoples on September 21 – and ended up releasing all these datasets either on time or slightly early.¹²

Elections Canada assigned at least one geography specialist to each of the 10 Federal Electoral Boundaries Commissions. These specialists provided probably the most vital support and worked most closely with the commissioners throughout the entire redistribution, in some cases participating in official meetings with the commissioners and attending the public hearings. The geography specialists drew up the boundaries of the electoral districts for the proposals, preliminary reports, and final reports for their commissions using the Commission Redistricting Tool, a custom plugin for ArcGIS Pro. This software allowed the geographers to move Statistics Canada's "dissemination blocks" (which roughly correspond to one cityblock) from one electoral district to another and subsequently calculate the population and deviation from the electoral quota of each electoral district.¹³ In practice, Elections Canada sent these digital GIS boundary files to Statistics Canada, which, in turn, had 10 days to review and validate the population of each riding and send back a certification report to Elections Canada.¹⁴ In addition, Elections Canada's geography specialists also wrote the legal descriptions of the boundaries of electoral districts for the proposals, preliminary reports, and final reports of the commissions.¹⁵ Likewise, the Office of the Surveyor General of Canada within Natural Resources Canada then had up to 10 days to review and certify the accuracy of the legal descriptions of electoral districts based on the *Guidelines for Writing Descriptions of Federal Electoral Districts*, which ensure that all the legal descriptions are technically correct, unambiguous, consistent, and complete.¹⁶

Furthermore, Elections Canada also forwarded the names contained in the proposals, preliminary reports, and final reports of the commissions to the Geographic Names Board of Canada Secretariat within Natural Resources Canada, which reviews the spelling, form, and translation of the names. The Board first established guidelines for naming electoral districts in 1991 and updated them in 2001, 2012, and 2021. The Board recommends that the names of electoral districts reflect the character of Canada, be clear, concise, unambiguous, and practical within various settings (Parliament, the media, maps, web sites, etc.); they should also conform to official spellings and differentiate between hyphens and dashes. In practical terms, names should contain no more than three elements (thus two long dashes) and respect tradition and continuity; however, the commissions did not always adhere to that guideline and sometimes established electoral districts with four elements in their names. The Board also provided

guidance on Indigenous toponymy and how naming conventions differ between English and French. For instance, all cardinal points (North, South, East, and West) must be translated, and French requires hyphens between names and cardinal points, while English does not.¹⁷

Elections Canada's logistical support included setting up the web site for Redistribution 2022, the primary point of contact between the commissions and most Canadians, and then updating it throughout as needed. This web site, Redistribution2022.ca in English and Redécoupage2022.ca in French, provides a general overview of electoral redistribution, including a breakdown of the Representation Formula under section 51(1) of the *Constitution Act, 1867* and the allocation of MPs to the provinces in 2022 (updated in June 2022 when Parliament enacted legislation to amend the Representation Formula), a timeline for electoral redistribution under the *EBRA*, the role of Elections Canada, the role of Federal Electoral Boundaries Commissions, and frequently asked questions. Elections Canada also mirrors these web pages on its main website Elections.ca. The web site provided separate pages for each of the commissions, which provide biographies of the chair and members and break down every step in the process of Redistribution 2022. The pages for "public participation" list the schedules for the public hearings of each commissions; the commissions for New Brunswick, Quebec, Ontario, and Manitoba chose to make their written submissions public, so Elections Canada uploaded the various thousands of letters and emails in an accessible HTML format (while redacting addresses) under this heading as well. The Map Viewer allowed one to compare the boundaries established under the previous *Representation Order* of 2013 with those in the proposal, the preliminary report, and the final report. The webpage for each commission also listed the proposal, preliminary report, and final report and made them available for download in both HTML and PDF. This web site now serves as an archive for Redistribution 2022, along with its equivalent website for Redistribution 2012.

Elections Canada also monitored and sent the commissions weekly summaries of the media coverage of electoral redistribution in general, which peaked when Parliament enacted remedial legislation to amend the Representation Formula, whenever a commission published its proposal, preliminary report, or final report, and when PROC reviewed and published its studies on MPs' objections to the preliminary reports. Elections Canada also fielded

questions on electoral redistribution from Facebook and Twitter (as the platform was then called) separately from the commissions, most of which only treated emails, letters, and notices of representation as official communications to consider during the public consultations held between the publications of the proposals and the preliminary reports.

4. Redistribution 2022-2023 under the EBRA

Decennial electoral redistributions follow a series of steps under the *EBRA* and take about two and a half years in total. What Elections Canada calls Redistribution 2022 began on October 16, 2021 when the Chief Electoral Officer calculated the number of MPs per province by plugging in Statistics Canada's Population Estimate for July 1, 2021 into the Representation Formula under section 51(1) of the *Constitution Act, 1867*. And it will end on April 23, 2024, seven months after the Governor General proclaimed the *Representation Orders*. However, the bulk of the work occurred between February 2022 and September 2023.

(a) The Preliminary Steps: October 2021 to April 2022

The *EBRA* provides that a commission for each of the 10 provinces shall establish the electoral districts within its province in accordance with a series of criteria. Each commission consists of a chairperson, almost always a judge, appointed by the chief justice of that province, and two additional members appointed by the Speaker of the House of Commons. All three must be residents of the province in question. Interestingly, the *Act* specifies that the chief justice of a province and the Speaker of the House of Commons "appoint" the chairs and members of the commissions, and that "the proclamation establishing a commission shall name each of the members appointed to it."¹⁸ This language removes any discretion from the executive and secures the non-partisan and professional membership of the commissions. The Governor General issued the proclamation establishing the Federal Electoral Boundaries Commissions on November 1, 2021.¹⁹

Step 4 in this timeline only happened because Parliament enacted the *Preserving Provincial Representation in the House of Commons Act* in June 2022 as a constitutional amendment under the Section 44 Amending Procedure after the Redistribution had already begun. This remedial legislation amended the Representation Formula under section 51(1) of the *Constitution Act, 1867* so that Quebec could keep 78

MPs instead of losing one. This legislation therefore reset the timeline of the Federal Electoral Boundaries Commission for Quebec from October 16, 2021 to July 9, 2022; since all steps of a redistribution under *EBRA* are cumulative and begin with the CEO's calculation of the number of MPs per province and end with the promulgation of the *Representation Order*, the transitional provisions of this remedial legislation also necessitated for the first time two *Representation Orders* – one for Quebec based on the calculation in 2022 and another for the nine provinces unaffected by the minor amendment and based on the original calculation in 2021. However, Elections Canada drafted the two *Representation Orders* simultaneously and transmitted them to the Minister responsible for Democratic Institutions at the same time with the intention that the Governor General would issue one proclamation containing the two *Representation Orders* as separate schedules, rather than issuing two separate proclamations. The normal procedure where one proclamation containing one *Representation Order* as a schedule will apply by default in the 2030s and thereafter, unless Parliament decides otherwise.²⁰

(b) Readjusting the Federal Electoral Districts

The commissions could not begin their work until February 9, 2022, when the Chief Statistician released the first and main dataset from the decennial census of 2021, the Population and Dwelling Counts which show the populations of each province as well as those of each of the 338 electoral districts established in 2013.²¹ The gap between the establishment of the commissions and the release of the Population and Dwelling Counts comes from the *Fair Elections Act* of December 2011, when Parliament repealed and replaced the Representation Formula and based it for the first time on the population estimates instead of the decennial census. Statistics Canada did not release additional and more detailed demographic data, like language, until August 2022.²² The commissions therefore had to rely on the older demographic data from the census of 2016 and could not incorporate the new data into either their proposals or preliminary reports.

From February 9, 2022, the commissions had only 10 months by default to complete what Elections Canada calls the preliminary reports, or what *EBRA* calls "a report for presentation to the House of Commons."²³ However, the Chief Electoral Officer can grant a commission up to an additional two months to complete its preliminary report within a total of 12 months, thus by February 9, 2023.²⁴ During these 10 to 12 months, the commissions must first release

Table 1: Timeline for the Work of the Federal Electoral Boundaries Commissions in 2022 and 2023

Commissions	<i>Proposals Published</i>	Public Hearings Held	<i>Preliminary Reports Completed & Tabled</i>	MPs' Objections Published	<i>Final Reports Completed & Tabled</i>
Newfoundland & Labrador	June 28, 2022	August 15 to September 16, 2022	December 5, 2022 December 7, 2022	February 8, 2023 <i>Pro forma</i>	December 7, 2022 March 23, 2023
Prince Edward Island	May 2, 2022	June 7 to 9, 2022	November 25, 2022 November 29, 2022	February 8, 2023 <i>Pro forma</i>	November 29, 2022 March 23, 2023
Nova Scotia	April 27, 2022	May 30 to June 27, 2022	November 4, 2022 November 17, 2022	March 20, 2023	April 21, 2023 April 26, 2023
New Brunswick	June 16, 2022	September 7 to 29, 2022	November 28, 2022 November 30, 2022	March 20, 2023	April 14, 2023 April 18, 2023
Quebec	July 29, 2022	September 6 to October 13, 2022	January 31, 2023 February 1, 2023	May 18, 2023	June 16, 2023 June 21, 2023
Ontario	August 19, 2022	September 26 to November 8, 2022	February 8, 2023 February 10, 2023	June 7, 2023	July 8, 2023 July 19, 2023
Manitoba	June 16, 2022	September 7 to 22, 2022	December 2, 2022 December 6, 2022	March 20, 2023	April 21, 2023 April 26, 2023
Saskatchewan	May 9, 2022	June 20 to July 14, 2022	December 2, 2022 December 6, 2022	March 20, 2023	April 20, 2023 April 26, 2023
Alberta	June 10, 2022	September 6 to October 14, 2022	January 31, 2023 February 2, 2023	May 18, 2023	June 16, 2023 July 19, 2023
British Columbia	May 2, 2022	June 6 to 28 & September 12 to 29, 2022	February 7, 2023 February 8, 2023	June 2, 2023	July 2, 2023 July 19, 2023

their proposals and hold public consultations on those proposals before taking that public feedback into account in their preliminary reports. The commissions for Quebec, Ontario, Alberta, and British Columbia all requested and received extensions up to the maximum of 12 months.

Section 14(2) of *EBRA* says that the commissions “shall [...] prepare with all reasonable despatch, a report setting out its recommendations and the reasons therefor concerning the division of the that province into electoral districts.”²⁵ Elections Canada and the commissions refer to this first “report” as the proposal, which forms the

basis of discussion at the subsequent public hearings. Generally, the commissions for the provinces with fewer seats publish their proposals first. Each commission must hold at least one public hearing with at least 30 days' notice²⁶; anyone interested in commenting on the proposal, either for or against, must then usually give written notice at least 23 days in advance before making what EBRA calls a "representation" at a public hearing.²⁷ In Redistribution 2022, the 10 commissions held 143 public hearings overall, ranging from a low of three in Prince Edward Island to a high of 27 in British Columbia. Anyone – an MP, a non-citizen of Canada, a non-resident of the province in question, or a minor – can make representations before a hearing or can send the commission an official response by mail or email during the period open for public consultation, as defined by each commission. The 10 commissions heard a total of 1,254 representations and received 4,795 emails and letters during the public consultations. Anyone could interact with the commissions via social media, but most of the commissions chose not to give these comments on social media the same weight as written comments submitted by email.

The commissions take these official representations and emails or letters into account in crafting their preliminary reports, or "reports for presentation to the House of Commons." The commissions send their preliminary reports to the Chief Electoral Officer; he, in turn, forwards them to the Speaker of the House of Commons, who tables and refers them to PROC.²⁸ MPs then have 30 days to file any objections to the boundaries or names of electoral districts contained within the commissions' preliminary reports by filing motions of consideration signed by at least 10 other MPs. Subsequently, PROC starts studying these objections within the next 30 sitting days of the House of Commons – or, potentially "within such greater period as the House of Commons may allow."²⁹ PROC filed objections on the preliminary reports of Nova Scotia, New Brunswick, Manitoba, Saskatchewan, Alberta, Quebec, British Columbia, and Ontario. The preliminary reports of the commissions for Newfoundland & Labrador and Prince Edward Island received no objections in Redistribution 2022 and thus also served as the final reports.

Table 2: Public Participation in Redistribution 2022

Province	Public Hearings			Representations	Written Submissions
	In Person	Virtual	Total		
Newfoundland & Labrador	11	1	12	27	13
Prince Edward Island	2	1	3	2	1
Nova Scotia	8	1	9	104	1,000
New Brunswick	8	1	9	37	66
Quebec	17	3	20	161	215
Ontario	12	11	23	462	1,899
Manitoba	2	2	4	28	43
Saskatchewan	12	1	13	95	99
Alberta	22	1	23	127	511
British Columbia	26	1	27	211	1,000
Totals	120	23	143	1,254	4,847



A public meeting in British Columbia.

In total, MPs registered 83 objections, 32 to the names and 51 to the boundaries of electoral districts, and PROC held ten hearings to study these objections between 31 January and 4 May 2023. PROC then produced eight separate studies for each of the preliminary reports of the commissions in question, outlining the objections that it endorsed collectively. The Speaker of the House of Commons then forwarded PROC's studies to the Chief Electoral Officer, who, in turn, sent them to the commissions.³⁰ Each commission then had 30 calendar days in which to respond to PROC's study, state its rationale for either accepting or rejecting each individual objection, change the boundaries and names of electoral districts as they deem necessary, and return this disposition of objection to the Chief Electoral Officer.³¹ The disposition of objection becomes a new section in the commission's final report, which amends the preliminary report. The Chief Electoral Officer then forwards these final reports to the Speaker, who tables them in the House of Commons. Elections Canada made them available online the same day. It should be noted that the 30 calendar days refers only to a commission's duty to complete its final report but not to when the Speaker tables that document in the House of Commons after receiving it from the Chief Electoral Officer. Reasonable administrative delays

occur, because the 30-day deadline might expire on a weekend or when the House of Commons is adjourned, and the Chief Electoral Officer cannot control what the Speaker of the House of Commons does once he takes possession of a document.

A commission ceases to exist once it has submitted its final report to the Chief Electoral Officer, having by then discharged all its functions of office under *EBRA*. The names, populations, and legal descriptions of electoral districts in the final reports become definitive and feed into the *Representation Orders*; Elections Canada would only make minor edits as required if, for instance, Statistics Canada or Natural Resources Canada had made errors or typos in certifying the populations and legal descriptions of the electoral districts. At this stage, Parliament could only stop the process by enacting separate legislation, like an *Electoral Boundaries Readjustment Suspension Act* as it did in 1973, 1992, and 1994.³² Parliament would also have to enact separate legislation to override anything contained in a *Representation Order*, as it did in 2005 in response to a ruling by the Federal Court.³³ But Parliament can enact legislation to change merely the names of electoral districts whilst leaving their boundaries intact, as, for example, it did in 2014.³⁴

(c) *Drafting and Promulgating the Representation Orders*

Elections Canada in conjunction with Statistics Canada and Natural Resources Canada verifies the accuracy of the translations of the names and legal descriptions of the 340 electoral districts for the 10 provinces as the commissions established them in their final reports. Elections Canada compiles the names, legal descriptions, and populations of all electoral districts into the draft *Representation Orders* and forwards them to the Minister responsible for Democratic Institutions.³⁵ Within the following five days after the Minister received the drafts, the Governor General must proclaim the *Representations Orders* into force.³⁶ In previous redistributions, this has occurred under two steps: the Governor-in-Council passes an Order-in-Council directing that the Governor General issue a proclamation, which contains the *Representation Order* as a schedule.³⁷ Section 51(2) of the *Constitution Act, 1867* provides that each of the three territories shall be represented by one MP, separately from the Representation Formula under section 51(1) of the *Constitution Act, 1867* and *EBRA*, which brings the total number of MPs from 340 to 343. However, the *Representation Orders* do not include the three territories, because each of them simply serves as one giant electoral district unto itself.

The Governor General proclaimed the *Representation Orders* on September 22, 2023 on the advice of cabinet under Order-in-Council P.C. 2023-905.³⁸ In this case, the Governor General issued the proclamation under the authority of both *EBRA* and the *Preserving Provincial Representation in the House of Commons Act*; the proclamation therefore contains two *Representation Orders* as two schedules: Schedule A contains the first *Representation Order* for Newfoundland and Labrador, Prince Edward Island, Nova Scotia, New Brunswick, Ontario, Manitoba, Saskatchewan, Alberta, and British Columbia issued under section 24 of *EBRA*, while Schedule B contains the second *Representation Order* for Quebec issued under both section 24 of *EBRA* and the transitional provisions under subsection 5(5) of the *Preserving Provincial Representation in the House of Commons Act*. The new electoral boundaries will apply upon the first dissolution of parliament that occurs after April 22, 2024, seven months after the *Representation Orders* were proclaimed.³⁹

Crucially, these seven months pertain to the day on which the Governor General dissolves Parliament on the Prime Minister's advice, and not to the day of the general election 36 to 50 days thereafter.

Therefore, if Parliament were dissolved on any date from September 22, 2023 to April 22, 2024, the general election would take place under the 338 electoral districts established under the previous *Representation Order* in 2013; and if Parliament were dissolved on or after April 23, 2024, the general election would take place under 343 electoral districts established in 2023. These seven months give Elections Canada time to prepare. For instance, the Chief Electoral Officer must appoint a new Returning Officer not only for any entirely new electoral districts (of which there are five in Redistribution 2022), but also for any electoral districts the boundaries of which have changed.⁴⁰ The *Canada Elections Act* also says that all electoral district associations within any riding the boundaries of which changed must file notice with the Chief Electoral Officer that it will continue "as the registered association for a particular electoral district" and re-register with Elections Canada.⁴¹ Elections Canada must also prepare a series of new maps in conjunction with Natural Resources Canada: those for all 340 individual electoral districts set out under the *Representation Orders*, as well as maps of the electoral districts within each of the 10 provinces, and additional maps showing all the electoral districts within "all cities and metropolitan municipalities."⁴² Finally, Elections Canada must also "provide an electronic version of each map containing its digital geospatial data to each registered party."⁴³

5. How the Commissions Established Electoral Districts Under Different Rationales in 2022-2023

(a) The Rules Under Section 15 of *EBRA*

Section 15(1) of *EBRA* contains the mandatory "Rules" that each commission must follow (with "shall" clauses), all while granting each commissions broad discretion in how they apply the rules. First, the population of each electoral district "shall, as close as reasonably possible, correspond to the electoral quota," the average number of people per MP and riding obtained by dividing the population of the province by its number of MPs.⁴⁴ Second, "the commission shall consider [...] in determining reasonable electoral districts the community of interest or community of identity in or the historical pattern of an electoral district" and "a manageable geographic size for electoral districts in sparsely populated, rural, or northern regions."⁴⁵

The electoral quotas vary widely because of the rules in the Representation Formula which over-represent seven of the ten provinces.

Table 3: Calculating the Electoral Quotas in 2022

Province	Population	Number of MPs	Electoral Quota
Newfoundland & Labrador	510,550	7	72,936
Prince Edward Island	154,331	4	38,583
Nova Scotia	969,383	11	88,126
New Brunswick	775,610	10	77,561
Quebec	8,501,833	78	108,998
Ontario	14,223,942	122	116,590
Manitoba	1,342,153	14	95,868
Saskatchewan	1,132,505	14	80,893
Alberta	4,262,635	37	115,206
British Columbia	5,000,879	43	116,300

Section 15(2) then outlines discretionary “Departure from rules,” where:

“The commission may depart from [...] the rule [...] where [...] necessary or desirable in order to respect the community of interest or community of identity in or the historical pattern of an electoral district”⁴⁶ [or] “to maintain a manageable geographic size for districts in sparsely populated, rural or northern regions of the province.”⁴⁷ [...]

“but, in departing from the [electoral quota], the commission shall make every effort to ensure that [...] the population of each electoral district [...] remains within twenty-five percent more or twenty-five percent less of the electoral quota [...] except in circumstances view by the commission as being extraordinary.”⁴⁸

Parliament also added the Extraordinary Circumstances Clause in 1986, which now allows

the commissions to establish ridings of which the populations vary by more than $\pm 25\%$ of the province’s electoral quota.⁴⁹

The broad criteria under section 15 of *EBRA* give the commissions a corresponding latitude in establishing the boundaries of electoral districts. The various reports of the 10 commissions demonstrate the contrasting – and sometimes contradictory – methodologies and rationales that they each adopted. Some commissions prioritised equality of population within a narrow deviation from the electoral quota, while others took advantage of the wide variation that *EBRA* permits to keep communities of interest intact. The Doctrine of Effective Representation starts from the premise of equality of population but tempers it with practical factors like the geographical size of an electoral district and with socio-demographic factors such as communities of interest, which allow electoral boundaries commissions, in principle, to deviate from an electoral quota within limits prescribed by their enabling statutes.

Notes

- 1 *The Representation Act, 1952*, 1 Elizabeth II, chapter 48.
- 2 Nick Seabrook, *One Person, One Vote: A Surprising History of Gerrymandering in America* (Pantheon, 2022).
- 3 *Reports of the Census of Canada, 1961 (Volume I – Part 1): Population – Electoral Districts*, Catalogue 92-530 (Ottawa: Dominion Bureau of Statistics, 1962), at 5-23 to 5-37 of Table 5. Populations by electoral districts and census subdivisions, 1961 and 1956. While the *Representation Act, 1952* relied upon the Census of 1951 and not the Census of 1956, the populations of these electoral districts based of the census from 1951 would still have varied enormously and far beyond the plus or minus 25 per cent that *EBRA* allows today.
- 4 *Canada Gazette, Part II*, Volume 100, No. 13, “Electoral Boundaries Readjustment Act: Proclaiming the Representation Order to be in Force Effective Upon the Dissolution of 27th Parliament” (Ottawa: Her Majesty the Queen in Right of Canada, 13 July 1966), pages 733-808.
- 5 Her Excellency Mary May Simon, “Proclamation Establishing Electoral Boundaries Commissions,” SI/2021-98, *Canada Gazette, Part II*, Volume 155, No. 24, 24 November 2021, at pages 3937-3940. The *Canada Gazette* published the proclamation on November 24, but the Governor General signed off on it on November 1, and the Governor General-in-Council issued Order-in-Council P.C. 2021-953 authorising the promulgation of the proclamation on 1 November 2021.
- 6 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at section 12.
- 7 *Raïche v Canada*, 2004 FC 679.
- 8 *Representation Commissioner Act*, S.C. 1963, c. 40, at sections 9 to 10.
- 9 In 1965, all 10 commissions rejected the alternative maps provided by the Representation Commissioner to varying degrees of rudeness. For example, Nova Scotia’s Commission said: “[...] the Representation Commissioner supplied to the Commission maps with alternative proposals respecting the boundaries of the electoral districts in Nova Scotia. These proposals were carefully considered by the Commission. Although found to be helpful, they were not adopted.” *Report of the Electoral Boundaries Commission for Nova Scotia, 1965* (Ottawa: Queen’s Printer, 1965), at page 6. In contrast, Alberta’s Commission declared bluntly and brusquely: “They were rejected by the Commission in favour of its own proposals.” *Report of the Electoral Boundaries Commission for Alberta, 1965* (Ottawa: Queen’s Printer, 1965), at page 2.
- 10 *Government Organization Act*, S.C. 1979, c. 13, at Part V: Representation Commission, and sections 17 to 26; Allan MacEachen (President of the Privy Council), “Government Orders: Government Organization Act, 1978,” in House of Commons Debates, 30th Parliament, 4th session, volume III, 27 Elizabeth II, January 23, 1979, at pages 2465-2466. As MacEachen told the House of Commons: “the major remaining duties of the office arise only in approximately every two years in ten when electoral boundaries are readjusted. It thus seems appropriate to rationalize the responsibilities of the two independent offices [of the Representation Commissioner and the Chief Electoral Officer] for matters so crucial to democratic elections in Canada.”
- 11 John C. Courtney, *Commissioned Ridings: Designing Canada’s Electoral Districts* (McGill-Queen’s University Press, 2001), 84.
- 12 Statistics Canada, Table 98-10-0138-01 Household type including multigenerational households and structural type of dwelling: Canada, provinces and territories, census metropolitan areas and census agglomerations, July 13, 2022; Statistics Canada. Table 98-10-0228-01 Language spoken most often at home by age: Canada, provinces and territories and census divisions, August 17, 2022; Statistics Canada. Table 98-10-0287-01 Dwelling condition by Indigenous identity: Canada, provinces and territories, census metropolitan areas and census agglomerations with parts, September 21, 2022.
- 13 Nicholas Hinsperger (Geography Specialist at Elections Canada), correspondence with author, September 25, 2023. For instance, sometimes errors arose when the Commission needed to split a dissemination block with the Commission Redistricting Tool.
- 14 Kelly Matier (Statistics Canada), “Census and Demographic Data,” Elections Canada’s Launch Conference for Commission Chairs and Members, Government Conference Centre, Ottawa, December 1, 2021.
- 15 Nicholas Hinsperger (Geography Specialist at Elections Canada), correspondence with author, September 25, 2023.
- 16 Jean Gagnon (Office of the Surveyor General of Canada, NRCan), “Geographic Boundaries and Electoral District Names,” Elections Canada’s Launch Conference for Commission Chairs and Members, Government Conference Centre, Ottawa, December 1, 2021.
- 17 Steve Westley (Executive Director of the Geographic Names Board of Canada), “Geographic Boundaries and Electoral District Names,” Elections Canada’s Launch Conference for Commission Chairs and Members, Government Conference Centre, Ottawa, December 1, 2021.
- 18 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsections 5(1), 6(1), and 8. Emphasis added.
- 19 Her Excellency Mary May Simon, “Proclamation Establishing Electoral Boundaries Commissions,” SI/2021-98, *Canada Gazette, Part II*, Volume 155, No. 24, November 24, 2021, at pages 3937-3940. The *Canada Gazette* published the proclamation on November 24, but the Governor General signed off on it on November 1, and the Governor General-in-Council issued Order-in-Council P.C. 2021-953 authorising the promulgation of the proclamation on November 1, 2021.

- 20 Her Excellency Mary May Simon, "Proclamation Declaring the Representation Orders to be in Force Effective on the First Dissolution of Parliament that Occurs after April 22, 2024," SI/2023-57, *Canada Gazette*, Part II, EXTRA, Volume 157, No. 2, September 27, 2023.
- 21 Statistics Canada, "Population and Dwelling Counts: Canada, Provinces and Territories," Table 98-10-0001-01, February 9, 2022; *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 13(1).
- 22 Statistics Canada, "Mother Tongue by Geography, 2021 Census," Interactive chart: 98-505-X2021003, August 17, 2022.
- 23 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 20(1).
- 24 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 20(2).
- 25 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 14(2).
- 26 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 19(2).
- 27 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 19(5).
- 28 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsections 20.1 & 21(1).
- 29 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at sections 22(1) & 22(2).
- 30 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 22(3).
- 31 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 23(1).
- 32 Bill C-208, *An Act to suspend the operation of the Electoral Boundaries Readjustment Act*, 29th Parliament, 1st Session, 21-22 Elizabeth II, 1973; *Representation Act*, S.C., 1986, c.8; Bill C-67, *An Act to suspend the operation of the Electoral Boundaries Readjustment Act*, 34th Parliament, 3rd Session, 40-41 Elizabeth II, 1991-1992; Bill C-18, *An Act to suspend the operation of the Electoral Boundaries Readjustment Act*, 35th Parliament, 1st Session, 42-43 Elizabeth II, 1994.
- 33 Parliament amended the *Representation Order*, 2003 in February 2005, but only in direct response to the Federal Court of Canada's ruling in *Raïche*, and on the recommendation of the special Miramichi and Acadie-Bathurst Electoral Boundaries Commission, which the Martin government established under the *Inquiries Act* in October 2004. *Raïche v Canada (Attorney General)*, 2004 FC 679; Privy Council Office, Order-in-Council P.C. 2004-1196, October 19, 2004; *Final Report of the Miramichi and Acadie – Bathurst Electoral Boundaries Commission* (Moncton: Her Majesty the Queen in Right of Canada, 8 December 2004); *An Act to change the boundaries of the Acadie-Bathurst and Miramichi electoral districts*, S.C. 2005, c.6.
- 34 *Riding Name Change Act*, 2014, S.C. 2014, c.19.
- 35 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at section 24.
- 36 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 25(1).
- 37 Privy Council Office, Order-in-Council P.C. 2013-0963, 27 September 2013; *Canada Gazette*, Part II, EXTRA, Volume 147, No. 2, "Electoral Boundaries Readjustment Act: Proclamation Declaring the Representation Order to be in Force Effective on the First Dissolution of Parliament That Occurs After May 1, 2014" (Ottawa: Her Majesty the Queen in Right of Canada, October 5, 2013), SI/2013-102; Privy Council Office, Order-in-Council P.C. 2003-1294, August 22, 2003; *Canada Gazette*, Part II, EXTRA, Volume 137, No. 6, "Electoral Boundaries Readjustment Act: Proclamation Declaring the Representation Order to be in Force Effective on the First Dissolution of Parliament that Occurs after August 25, 2004," (Ottawa: Her Majesty the Queen in Right of Canada, August 29, 2003), SI/2003-154; Privy Council Office, Order-in-Council P.C. 1996-022, February 7, 1996; *Canada Gazette*, Part II, Volume 130, No. 3, "Electoral Boundaries Readjustment Act: Proclamation Declaration the Representation Order to be in Force Effective on the First Dissolution of the Parliament that Occurs after January 9, 1997" (Ottawa: Her Majesty the Queen in Right of Canada, February 7, 1996), SI/96-9.
- 38 Privy Council Office, Order-in-Council P.C. 2023-905, "Order directing that a Proclamation do issue Declaring the Representation Orders to be in Force," September 22, 2023. This Order-in-Council lists both the *Electoral Boundaries Readjustment Act* and the *Preserving Provincial Representation in the House of Commons Act* as its two sources of authority.
- 39 Her Excellency Mary May Simon, "Proclamation Declaring the Representation Orders to be in Force Effective on the First Dissolution of Parliament that Occurs after April 22, 2024," SI/2023-57, *Canada Gazette*, Part II, EXTRA, Volume 157, No. 2, September 27, 2023.
- 40 *Canada Elections Act*, S.C. 2000, c.9, at subsection 24 (1.4) (b).
- 41 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at section 25(3); *Canada Elections Act*, S.C. 2000, c.9, at subsection 469.
- 42 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 28(1)(a-c).
- 43 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 28(2).
- 44 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 15(1)(a).
- 45 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 15(1)(b)(i)(ii).
- 46 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 15(2)(a).
- 47 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 15(2)(b).
- 48 *Electoral Boundaries Readjustment Act*, R.S.C., 1985, c.E-3, at subsection 15(2).
- 49 *Representation Act*, S.C. 1986, c.8, at section 6.