

13 ELIZABETH II.

CHAP. 31

An Act to provide for the establishment of Electoral Boundaries Commissions to report upon the Readjustment of the Representation of the Provinces in the House of Commons and to provide for the Readjustment of such Representation in accordance therewith.

[Assented to 20th November, 1964.]

HER Majesty, by and with the advice and consent of the Senate and House of Commons of Canada, enacts as follows:

SHORT TITLE.

- 1.** This Act may be cited as the *Electoral Boundaries Readjustment Act*. Short title.

INTERPRETATION.

- 2.** In this Act,
- | | | |
|-----|---|--|
| (a) | "commission", with respect to any decennial census, means the electoral boundaries commission for that census established for a province pursuant to section 4; | Definitions.
"Com-
mission." |
| (b) | "Representation Commissioner" means the Representation Commissioner appointed pursuant to the <i>Representation Commissioner Act</i> ; and | "Representa-
tion Com-
missioner." |
| (c) | "Speaker" means the Speaker of the House of Commons. | "Speaker." |

ESTABLISHMENT OF COMMISSIONS.

- 3.** For the decennial census taken in the year 1961 and for each decennial census taken thereafter, ten commissions shall be established in the manner provided in this Act, to consider and report upon the readjustment of the representation of the provinces in the House of Commons required to be made upon the completion of such census. Commissions
to be
established.

Proc.
lamation.

4. Within sixty days after the receipt by the Secretary of State of Canada of the return referred to in section 11 for any decennial census, the Governor in Council shall, by proclamation published in the *Canada Gazette*, establish for that census an electoral boundaries commission for each province.

CONSTITUTION AND MEMBERSHIP.

Constitution
of com-
mission.

5. Each commission for a province shall consist of four members, namely a chairman, two other members appointed as provided in section 6, and the Representation Commissioner.

Appointment
of chairman.

6. (1) The chairman of the commission for a province shall be appointed by the chief justice of the province from among the judges of the court over which he presides or, after consultation with the chief justice of any other branch or division of that court or any other superior court in that province, from among the judges of that branch, division or other superior court, but in the event that there is no such judge able or free to act as chairman or where for any other reason no such appointment is made within the time provided therefor by this Act, the Chief Justice of Canada or in the event of his absence or incapacity the senior puisne judge of the Supreme Court of Canada shall make the appointment from among such persons resident in that province as he deems suitable.

Appointment
of other
members.

(2) The two members of the commission for a province other than the chairman and the Representation Commissioner shall be appointed by the Speaker of the House of Commons from among such persons resident in that province as he deems suitable.

Notice of
appointment
to be given.

(3) Forthwith upon the making of any appointment as provided in this section, the person making the appointment shall notify the Secretary of State thereof.

References
to chief
justice and
Speaker.

(4) A reference in subsection (1) to the chief justice of a province includes a reference to the acting chief justice of the province or any person performing for the time being the duties of the chief justice thereof, and a reference in subsection (2) to the Speaker of the House of Commons includes a reference to any person performing for the time being the duties of the Speaker.

Proclamation
to name
members.

7. (1) The proclamation establishing a commission shall name therein each of the members thereof appointed as provided in section 6.

Deputy
chairman.

(2) A commission may appoint one of its members as deputy chairman thereof, who shall, in the

event of the absence or incapacity of the chairman or if the office of chairman is vacant, act as chairman.

(3) At all meetings of a commission two members of the commission constitute a quorum, and where at any meeting of a commission there is an equality of votes, the chairman or person acting as chairman has a deciding vote.

Quorum and
deciding
vote.

(4) A vacancy in the membership of a commission or in the office of chairman does not impair the right of the remaining members to act, but except in the case of the office of Representation Commissioner, where any such vacancy occurs it shall be filled within thirty days by appointment in the manner provided in section 6, and the person making the appointment shall thereupon give notice of the appointment to the Secretary of State who shall forthwith cause the same to be published in the *Canada Gazette*.

Vacancy in
membership.

8. No person is eligible to be a member of a commission while he is a member of the Senate or House of Commons of Canada or is a member of a legislative assembly or legislative council of a province.

Eligibility
of members.

9. (1) Each of the members of a commission, other than the Representation Commissioner or a person in receipt of salary under the *Judges Act*, is entitled to be paid such *per diem* allowance as may be fixed by the Governor in Council.

Remunera-
tion.

(2) Each of the members of a commission is entitled to be paid reasonable travelling and living expenses incurred by him while absent from his ordinary place of residence in the course of his duties as a member of the commission.

Expenses.

10. A commission is not an agent of Her Majesty and the members of a commission as such are not part of the public service of Canada.

Not agent
of Her
Majesty.

COMMENCEMENT AND PREPARATION OF REPORT.

11. As soon as possible after the completion of any decennial census, or in the case of the census taken in the year 1961 forthwith after the coming into force of this Act, the Dominion Statistician shall prepare and send to the Secretary of State and to the Representation Commissioner a return certified by him showing the population of Canada and of each of the provinces and the population of Canada by electoral districts as ascertained by that census, and the Representation Commissioner shall, forthwith after the establishment of the commissions for that census pursuant

Return of
Dominion
Statist-
tician.

to section 4, send a copy of such return to the chairman of each of the commissions.

Calculation of members to be assigned to each province; preparation of report.

12. Upon receipt by the Representation Commissioner from the Dominion Statistician of the return referred to in section 11, the Representation Commissioner shall calculate the number of members of the House of Commons to be assigned to each of the provinces, subject and according to the provisions of section 51 of the *British North America Act, 1867* and the rules provided therein, and upon the completion of such calculation shall cause a statement to be published in the *Canada Gazette* setting forth the results thereof, and thereafter in accordance with such calculation each commission for a province shall, with all reasonable despatch, prepare a report setting forth its recommendations concerning the division of that province into electoral districts and its recommendations concerning the description of the boundaries of each such district and the representation and name to be given thereto.

Rules to be applied in preparing report.

13. In preparing its report each commission for a province shall be governed by the following rules:

- (a) the division of the province into electoral districts and the description of the boundaries thereof shall proceed on the basis that the population of each electoral district in the province as a result thereof shall correspond as nearly as may be to the electoral quota for the province, that is to say, the quotient obtained by dividing the population of the province as ascertained by the census by the number of members of the House of Commons to be assigned to the province as calculated by the Representation Commissioner under section 12;
- (b) where, immediately before the day this Act was assented to, provision was made for any electoral district in the province to be represented by two members of the House of Commons, the commission may, if it sees fit to do so, recommend the continuation of such representation, in which case the division of the province into electoral districts and the description of the boundaries thereof in accordance with rule (a) shall proceed subject to such adjustments as are necessary in order to give effect to the continuation of such representation; and

(c) the commission may depart from the strict application of rules (a) and (b) in any case where

(i) special geographic considerations, including in particular the sparsity, density or relative rate of growth of population of various regions of the province, the accessibility of such regions or the size or shape thereof, appear to the commission to render such a departure necessary or desirable, or

(ii) any special community or diversity of interests of the inhabitants of various regions of the province appears to the commission to render such a departure necessary or desirable,

but in no case, except as may be necessary in order to give effect to rule (b), shall the population of any electoral district in the province as a result thereof depart from the electoral quota for that province to a greater extent than twenty-five per cent more or twenty-five per cent less.

14. (1) In the performance of its duties under this Act a commission has and may exercise all of the powers of a person appointed as a commissioner under Part I of the *Inquiries Act*. Powers of commission.

(2) A commission may employ such technical advisers and other staff, including a person to act as secretary to the commission, as it deems necessary and, subject to the approval of the Treasury Board, may fix the salaries and expenses of such persons and prescribe the conditions of their employment. Staff.

15. The Dominion Statistician and the Director of the Surveys and Mapping Branch of the Department of Mines and Technical Surveys shall make available their services and the facilities of their respective offices, and render all such other assistance to a commission as may be necessary, in order to enable the commission to discharge its duties under this Act. Duty to assist.

16. A commission may make rules for regulating its proceedings and for the conduct of its business, and may provide therein for the conduct of any inquiry or hearing by one or more of its members. Rules of procedure.

17. (1) A commission may, in the performance of its duties under this Act, sit at such times and places in the province Sittings of commission; hearing of representations.

province for which it is established as it deems necessary, except that before completing its report it shall hold at least one sitting in that province for the hearing of representations by interested persons.

Notice to be given by public advertisement.

(2) Notice of the time and place fixed by the commission for any sittings to be held by it for the hearing of representations from interested persons shall be given by advertisement published in the *Canada Gazette* and in at least one newspaper of general circulation in the province, at least thirty days before the commencement of such sittings.

Advertisement to include map showing proposed electoral districts.

(3) There shall be included in the advertisement referred to in subsection (2) a map or drawing prepared by the commission showing the proposed division of the province into electoral districts and indicating the representation and name proposed to be given to each such district, together with a schedule setting forth the proposed boundaries of each such district, which map or drawing and schedule shall be in such form and shall contain such detail as, in the opinion of the commission, will be reasonably sufficient for the purpose for which the sittings are to be held.

Notice of representation to be given before sittings.

(4) No representation shall be heard by a commission at any sittings held by it for the hearing of representations from interested persons unless notice in writing is given to the secretary to the commission within twenty-three days from the date of publication of the advertisement referred to in subsection (2), stating the name and address of the person by whom the representation is sought to be made and indicating concisely the nature of the representation and of the interest of such person.

COMPLETION OF REPORT.

Time within which report to be completed.

18. Each commission shall complete its report not later than one year after the receipt by the chairman from the Representation Commissioner of the copy of the return referred to in section 11, and upon the completion of such report shall cause two certified copies thereof to be transmitted to the Representation Commissioner.

Report to be laid before House.

19. (1) Upon receiving the certified copies referred to in section 18 of the report of any commission, the Representation Commissioner shall transmit one of the copies thereof to the Speaker who shall, subject to subsection (2), cause such copy to be laid before the House of Commons forthwith upon its receipt by him if Parliament is then sitting, or if Parliament is not then sitting, on any of the first five days next thereafter that Parliament is sitting.

(2) Where the copy referred to in subsection (1) of the report of any commission for a province is received by the Speaker during an interval between two sessions of Parliament, the Speaker shall forthwith cause the same to be published in the *Canada Gazette* and a copy of the said *Canada Gazette* to be sent by mail to each of the members of the House of Commons representing electoral districts in that province.

Where
report
received
during
interval
between
sessions.

20. If within a period of thirty days from the day the copy of the report of any commission for a province is laid before the House of Commons or published pursuant to section 19, an objection in writing, in the form of a motion for consideration by the House of Commons of the matter of the objection, signed by not less than ten members of the House of Commons is filed with the Speaker specifying the provisions of the report objected to and the reasons for the objection, the House of Commons shall, within the first fifteen days next after the expiration of that period that the House of Commons is sitting, take up the motion and consider the matter of the objection, and thereafter the report shall be referred back to the Representation Commissioner by the Speaker, together with a copy of the objection and of the House of Commons Debates with respect thereto, for reconsideration by the commission having regard to the objection.

Procedure
where
objection
filed with
Speaker.

21. (1) Within thirty days from the day the report of any commission is referred back to the Representation Commissioner by the Speaker pursuant to section 20, the commission shall consider the matter of the objection and shall dispose of the objection, and forthwith upon the disposition thereof a certified copy of the report of the commission, with or without amendment accordingly as the disposition of the objection requires, shall be returned by the Representation Commissioner to the Speaker.

Reconsidera-
tion and
disposition
of objection
by com-
mission
concerned

(2) Section 19 applies *mutatis mutandis* in respect of any copy of a report returned to the Speaker pursuant to this section.

Application
of s. 19.

REPRESENTATION ORDER.

22. (1) Where, with respect to each of the reports referred to in section 18,

Preparation
of draft
representa-
tion order.

- (a) it is ascertained by the Representation Commissioner that no objection has been filed with the Speaker in the manner and within the time prescribed therefor in section 20, or
- (b) after the report was referred back to the Representation Commissioner by the Speaker, the

report, with or without amendment, has been returned by the Representation Commissioner to the Speaker pursuant to section 21, the Representation Commissioner shall forthwith prepare and transmit to the Secretary of State a draft order, hereinafter referred to as a "representation order", in accordance with the provisions of this section.

Contents
of order.

- (2) The draft representation order shall
- (a) specify the number of members of the House of Commons who shall be elected for each of the provinces as calculated by the Representation Commissioner under section 12; and
 - (b) divide each of the provinces into electoral districts, describe the boundaries of each such district and specify the representation and name to be given thereto, in accordance with the recommendations contained in the reports referred to in subsection (1).

Proclamation
declaring
order in
force;
effective
date.

23. Within five days after the receipt by the Secretary of State of the draft representation order, the Governor in Council shall by proclamation declare the draft representation order to be in force, effective upon the dissolution of the then existing Parliament or effective upon the dissolution of the next following Parliament if upon the issue of the proclamation Parliament is then dissolved, and upon the issue of the proclamation the order shall have the force of law accordingly.

Publication of
order and
proclama-
tion

24. The representation order and the proclamation declaring it to be in force shall be published in the *Canada Gazette* not later than five days after the issue of the proclamation.

Con-
struction
of order;
doubtful
cases.

25. (1) The whole of that part of the representation order relating to any province shall be read together and shall, so far as possible, be construed as including the whole of such province in one or another of the electoral districts described therein, the description of each electoral district being accordingly construed as intended, unless the contrary intention appears, to include the whole of the contained area whether particularly mentioned or not, and to include also any area partly surrounded by the areas expressly described that appears to have been intended to be included; in any doubtful case the Representation Commissioner shall finally determine the electoral district, if any, of which any area not expressly referred to was intended to form part and shall, within the first fifteen days of the session of Parliament next following any such determination, report the same, with the reasons therefor, to the Speaker.

(2) Wherever in the representation order any word or expression is used to denote the name of any territorial division, such word or expression shall, unless the context otherwise requires, be construed as indicating the territorial division as it existed or was bounded immediately before the issue of the proclamation declaring the order to be in force.

References to territorial divisions

(3) Wherever in the representation order any municipality or other place is incorrectly referred to as a city, or a town, or a village, but there is within the territorial limits of the electoral district in the description of which the reference occurs, a municipality or other place of the same name that is a city, town or village but is not of the class, namely city, town or village as the case may be, specified in the representation order, the reference shall be taken to be to that municipality or other place.

Incorrect references.

26. As soon as possible after the issue of the proclamation declaring the representation order to be in force, the Director of the Surveys and Mapping Branch of the Department of Mines and Technical Surveys shall, in accordance with the descriptions and definitions set out in the order, and with the co-operation of the Representation Commissioner, prepare and print

Maps to be prepared and printed.

- (a) individual maps of each electoral district showing the boundaries of each such district;
- (b) individual maps of each province showing the boundaries of the electoral districts established therein; and
- (c) individual maps of all cities and metropolitan municipalities, portions of which are in more than one electoral district.

27. For the purpose only of authorizing and enabling the appointment, pursuant to section 8 of the *Canada Elections Act*, of returning officers whenever required, the representation order shall be deemed to be in force effective upon the day on which the proclamation declaring it to be in force was issued.

Returning officers.

GENERAL.

28. All amounts required for the payment of salaries and other expenses under this Act, including expenses of administration, shall be paid out of moneys appropriated by the *Representation Commissioner Act* for the purpose.

Provision for expenses

29. (1) The *Representation Act* is repealed.

R.S., c. 334;
1952-53, c. 8;
1953-54, c. 32;
1955, c. 5;
1959, c. 16;
1960-61, c. 25;
1962, cc. 17,
28.

R.S., c. 30.

(2) Subparagraph (ii) of paragraph (a) of section 2 of the *Canada Temperance Act* is repealed and the following substituted therefor:

“(ii) as respects the Provinces of Manitoba, Saskatchewan and Alberta, “county” means the electoral districts therein as designated from time to time pursuant to the *Electoral Boundaries Readjustment Act*,”

Electoral
district of
Yukon.

30. Notwithstanding anything in this Act, there shall be in the Yukon Territory one electoral district named and described as follows, which shall return one member:

Yukon: consisting of the Yukon Territory as bounded and described in the Schedule to chapter 41 of the Statutes of Canada, 1901.

Electoral
district of
Northwest
Territories.

31. Notwithstanding anything in this Act, there shall be in the Northwest Territories one electoral district named and described as follows, which shall return one member:

Northwest Territories: consisting of the Northwest Territories as bounded and described in section 2 of the *Northwest Territories Act*.

Coming
into force.

32. (1) This Act except sections 29 to 31 thereof shall come into force on the day this Act is assented to.

(2) Sections 29 to 31 of this Act shall come into force on the day on which the first representation order made pursuant to this Act after the decennial census taken in the year 1961 becomes effective.

ROGER DUHAMEL, F.R.S.C.
QUEEN'S PRINTER AND CONTROLLER OF STATIONERY
OTTAWA, 1964