

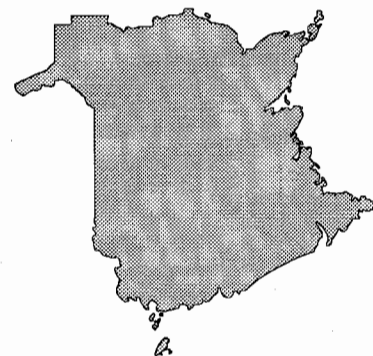
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# Constituency Redistribution in New Brunswick

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by Stewart Hyson

*New Brunswick is presently in the process of redrawing the boundaries of its electoral districts. Initiated in March 1991, the process should result in a new electoral map by the time of the next general election expected in 1995. In most Canadian political jurisdictions, electoral redistribution is a regular occurrence. Such is not the case in New Brunswick. The province does not have a mechanism or procedure for the periodic redrawing of its constituency boundaries to reflect population changes. The current districts have remained unchanged since their establishment in 1974, and now vary greatly in size. This article looks at the province's experience with electoral districts, the existing inequalities in district sizes, and the current redistribution process.*



Concern with electoral redistribution in New Brunswick is more than simply an interest in the peculiarities of the province's electoral history. Rather, it goes to the heart of modern representative democracy. How effective is the representative process? What is or should be the role of the representative? How should the representative process be conducted? On what criteria or basis should we design the structures for representation? These and related questions hinge on the foundation-stone of representative democracy: the electoral constituency. Redistribution of constituencies is thus of critical importance to representative democracy not only in New Brunswick but throughout the country.

## History of New Brunswick's Electoral Districts

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New Brunswick has had over 200 years of experience with electoral districts. The first were established in 1785, approximately one year after the area became a separate British colony. These colonial districts were retained on

the province's entry into Confederation in 1867, and then, except for minor changes, kept intact until 1974.

Without going into all the details of this long history, mention need only be made of the two main structural characteristics exhibited by the province's districts prior to 1974: multi-member representation and use of county boundaries as district boundaries.

Colonial authorities adapted the existing structural characteristics of 18th century British electoral districts to the new colony of New Brunswick. Each of the colony's counties was used as an electoral district for representation in the legislature. In addition, given its size and prominence, the city of Saint John was also granted status as a separate district in 1785. At the same time, each of these districts was allocated two or more seats in the legislature (i.e., multi-member representation). Although this allocation was roughly based on each district's population size, the main priority seems to have been to provide for the representation of distinct religious, ethnic, and linguistic communities existing within each district.

Small adjustments were made to this original arrangement during the colonial period as well as the post-Confederation years leading up to 1974. As the

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population increased and the pattern of settlement shifted, new counties were established and the seats allocated to each district were adjusted. The city of Moncton was established as a separate district in 1912, and so were the cities of Fredericton, Bathurst, Edmundston, and Campbellton in 1967. These adjustments were made in a partisan, irregular fashion by the government of the day, and never through an impartial, rational process.

***Prior to 1974 changes seldom challenged the two structural pillars of electoral representation established in 1785: use of county boundaries and multi-member representation.***

Even in the case of the six cities, their borders never crossed but were always within county boundaries. The only exceptions to the pattern of multi-member representation were the three northern cities of Bathurst, Edmundston, and Campbellton which were created as single-member districts.

The first major over-haul of the province's districts came in 1974 when all districts were converted to a system of single-member districts. This had been a minor part of Premier Hatfield's election platform in 1970. The task was assigned to an independent commission in October 1973 which reported in February 1974. Essentially, the commission divided each existing multi-member district into the same number of single-member districts. A five-member district, for example, was divided into five single-member districts, each varying by as much as plus or minus 25% from the mean for that particular district. The commission's proposed map of 58 electoral districts was adopted as the basis of the government bill which was quickly passed into law.

Schedule A of the 1974 *Election Act* described in considerable detail the boundaries of the 58 single-member districts. These descriptions were mainly in terms of borders of the 151 parishes; boundaries of towns, villages, and cities; territorial divisions such as rivers, roads, highways, creeks, harbours, and bays; and in a few instances in terms of specific measures of latitude and longitude. These new district boundaries did not cross county or any other municipal boundaries, but were consistent with them. Thus, although the structural characteristic of multi-member representation was ended in 1974, the other characteristic of county boundaries was still evident.

The 1974 Act, including Schedule A, is still in place as the statutory basis for electoral representation in New Brunswick. Since the Act contains no provision for the periodic review and adjustment of district boundaries so as to reflect population fluctuations, there is now considerable variation in district sizes.

### **Time for a Change?**

New Brunswick society has undergone major centripetal changes since the 1960s. The distinctiveness of local communities has lessened. The public's orientation to their place of residency has likewise declined. Although talk may still be heard of the need to structure electoral districts on the basis of traditional, local communities, it is increasingly difficult to justify this position.

Shopping malls and cross-border shopping have had disastrous effects on "down-towns" and locally-based shopping patterns. The river systems, around which the counties had originally been developed, are now more like barriers than conduits to local communication, transportation, commerce, and daily life in general. Media outlets, especially television and daily newspapers, are provincially-oriented in terms of marketing, advertising, and coverage. Businesses are often franchise outlets of national and international chains rather than examples of local entrepreneurship. More citizens each year are resident in the "bedroom communities" of the suburbs and rural areas, and commute to work in the larger urban centres.

These developments, of course, have not been unique to New Brunswick but have been evident in other provinces. The Equal Opportunity programme of the late 1960s was, however, specific to the province. It had the dramatic effect of centralising in the provincial capital many services which had traditionally been handled at the county/municipal level: health, welfare, justice, and education.<sup>1</sup>

These broad social, economic, and political developments have had a lasting impact on the population distribution of the province. This was reflected in the inequalities of district sizes at the time of the 1987 general election and later with the 1991 general election. By this time a new factor had appeared on the scene. The equality section of the 1982 Charter of Rights and Freedoms (s. 15) took effect in 1985 and may be used to assess New Brunswick's districts during these two most recent elections.

When read with the right to vote section (s. 3), the equality section seems to suggest that each citizen's vote carries the same weight or value (i.e., "one person, one vote" principle), and logically that districts should be of the same size or with minute variations. The judicial

decisions on this interpretation have been less than complete and the issue is still open for debate.<sup>2</sup> However, there is no denying the Charter-based pressure since the late 1980s to make districts more equal in size.

Just how unequal are New Brunswick's electoral districts? There are many indicators that may be used to measure the level of inequality at the times of the 1987 and 1991 general election.<sup>3</sup>

***The districts in 1987 ranged in size from the smallest with 3968 registered voters to the largest with 17863 registered voters. The range was greater in 1991, from 4064 to 19930.***

Another way to indicate the level of inequality is to consider the minimum percentage of the electorate required to elect a majority government. Here we may consider the electorate in the thirty smallest districts — 30 seats being the number required to form a majority government in a 58-seat legislature. Assuming that a party won only these 30 seats, then 36.9% of the provincial electorate could have elected a majority government in 1987, and 36.2% in 1991. The point here is not to suggest that all of the voters or even pluralities in the selected districts would actually have voted for the same party. Instead, the measurement indicates the extent to which inequality is structured into the current set of districts.

A final measurement is perhaps the most important one for it indicates how much on average districts vary from the mean. The mean district size for the province is calculated by dividing the number of districts into the total number of registered voters. Then each district may be compared to the mean for its percentage variation, and the average variation for all 58 districts may be calculated. The average variation was plus or minus 30.5% in 1987, and 31.7% in 1991. These figures are significantly greater than the plus or minus 25% legal restrictions found in many Canadian jurisdictions.<sup>4</sup>

These measurements of district inequalities could not be dismissed or ignored, especially in light of the Charter concerns for equality. Consequently, as mentioned at the outset, the government initiated in 1991 the current redistribution process by appointing an independent commission to assist in drawing a new electoral map.

### **Towards a New Electoral Map**

Although these district inequalities were readily apparent at the time of the 1987 election, the urgency of electoral redistribution has always been over-shadowed

by other events. The 1987 election had resulted in the oddity of one party (Liberal) winning all of the legislative seats. Consequently, most attention at that time was devoted to the absence of an official opposition, and to the *ad hoc* measures that were introduced to allow opposition parties some recognition in the policy process. The 1991 election had the unusual result, at least for New Brunswick, of three opposition parties gaining representation in the Assembly, although the Liberal Party retained a very strong majority. When coupled with the equally unusual fact that a new party — Confederation of Regions — became the official opposition, it is easy to see why redistribution was once again lost in the buzz over these more dramatic events.

Premier McKenna was also slow to recognize and accept the need for electoral redistribution, stating in June 1988 that his Government had given "no thought" to electoral reform and that the matter was "not a high priority item"<sup>5</sup>. The Government had a change of position by March 1990 when the Speech from the Throne indicated that a commission would be appointed to redraw the province's electoral boundaries. It would be another year before this commission was actually appointed, and yet another ten months (January 1992) before the commission started to hold public hearings.

The Representation and Electoral Boundaries Commission has been proceeding in a deliberative two-phase approach. Following its first round of public hearings, the Commission issued a report in July 1992 on four normative issues pertaining to representation in New Brunswick (as specified in the Commission's mandate): the number of districts that the province should have; the average number of voters that should be eligible to vote in the districts; the percentage variation from the mean that should be allowed when drawing the district boundaries; and the best approach to ensure aboriginal representation in the legislature.<sup>6</sup>

This report was then considered, and reported upon, by a legislative committee in November and December 1992. Following this legislative response to its first report, the Commission proceeded into the second phase of its task, that of drawing a new set of district boundaries. The Commission released its proposed new electoral map in May 1993, and invited the public's reaction through another round of hearings held in June 1993. As for its next move, the Commission is expected in the autumn to submit a revised map to the Legislative Assembly, which will have the final say on the matter most likely during the 1994 legislative session.

Expectations were mixed at the time of the Commission's creation. Certainly, the Commission was an independent body and it was going to redraw electoral districts strongly in need of revision. But

ultimately, the Commission's task was advisory in nature — advisory to the Legislative Assembly which retained the final authority over any redistribution that might occur. The appointees on the Commission were either former elected politicians or still active partisans of the Liberal, Progressive Conservative, and NDP parties. Indeed, following the 1991 election and the break-through of the Confederation of Regions (CoR) Party, a defeated CoR candidate was appointed as that party's representative on the Commission. Thus, both its advisory role and partisan composition dampened any expectations that the Commission would achieve major change.

If anything, expectations grew worse with the release of the Commission's first report (July 1992) that dealt with the four normative issues. The report was extremely short, with three related key recommendations. There should be 54 districts; the average number of electors in each district should be 10,000; and the allowable variation from the average should be set at plus or minus 20%. (The Commission recommended that the issue of aboriginal representation be further studied).

The legislative committee that commented on the Commission's first report recommended that there be one additional district and that the allowable variation limits be increased to plus or minus 25%. The additional district would be for the islands in the Bay of Fundy off the coast of mainland New Brunswick. It would be considerably smaller in terms of population than the other districts and it would be well outside the plus or minus 25% limits. But the legislators maintained that the unique transportation and communication problems of these islands warranted their special treatment as a separate district.

***The proposed districts, in the eyes of many reformers, still fall short of the desired goal of equality. But in the New Brunswick context the proposed electoral map represents a major step forward.***

To the surprise of many observers, the Commission's proposed electoral map of May 1993 raised expectations that major, progressive reform was on the horizon. The Commission did not feel itself strictly confined to the traditional county boundaries when it designed its proposed districts. Instead, to a great extent, the Commission followed the equality ideal of "one person, one vote". Except for the Fundy Isles district, the other 54 proposed districts are very close in size. Forty-two districts are within plus or minus 15% and all 54 are

within plus or minus 20%. (Fundy Isles is 64.1% below the average).

Strong objections can be expected to be heard when the legislature considers the Commission's proposals. Similar to the opposition voiced during the public hearings in June 1993, objectors will favour either the status quo or an alternative plan that they feel would better represent local communities. Unfortunately, because of the ambiguity and the subjectiveness of the meaning of "local communities", the criterion lacks the soundness required of a principle on which to structure electoral districts. Endless arguments can be made to draw boundaries in one place rather than another, and each argument would be subjectively justified as better representing local communities. Until a firm, definite criterion, such as the "one person, one vote" principle, is adopted, electoral districts will continue to be unequal in size and subjected to partisan manipulation.



#### Notes

1. Ralph R. Krueger, "The Provincial-Municipal Revolution in New Brunswick", *Canadian Public Administration* vol. 13 (1970), pp. 51-99; R.A. Young, "Remembering Equal Opportunity: Clearing the Undergrowth in New Brunswick", *Canadian Public Administration* vol. 30 (1987), pp. 88-102; and Della M.M. Stanley, *Louis Robichaud: A Decade of Power* (Halifax, N.S.: Nimbus Publishing Limited, 1984), ch 11 and 12.
2. David Small, ed., *Drawing the Map: Equality and Efficacy of the Vote in Canadian Electoral Boundary Reform*. Vol. 11 of the Research Studies, Royal Commission on Electoral Reform and Party Financing. (Toronto: Dundurn Press, 1991); and John C. Courtney, et al., eds., *Drawing Boundaries: Legislatures, Courts, and Electoral Values* (Saskatoon, Saskatchewan: Fifth House Publishers, 1992).
3. See the following items by this author: "Re-thinking Electoral Representation: The Case of New Brunswick", *Paper delivered at the Annual Meeting of the Atlantic Provinces Political Studies Association, Mount Saint Vincent University, Halifax, N.S., October 16-18, 1992*. "The Horrible Example", *Policy Options* vol. 9 (1988) pp. 25-27; "Reforming New Brunswick's Bizarre Voting System", *Policy Options* vol. 11 (1990) pp. 25, 26.
4. For an overview of the mechanisms and procedures used for electoral redistribution in Canada, see R.K. Carty, "The Electoral Boundary Revolution in Canada", *American Review of Canadian Studies* vol. 15 (1985), pp. 273-287.
5. See Stewart Hyson, "Re-thinking Electoral Representation: The Case of New Brunswick",
6. New Brunswick, Representation and Electoral Boundaries Commission, *Towards a New Electoral Map for New Brunswick*, (Fredericton, N.B. July 1992).