

International Comparison of Reviews of Electoral Arrangements

Purpose

1. This paper follows LGBCS Paper 2446 (International Comparison of Reviews of Electoral Arrangements) presented at the meeting of 10 September 2018. It provides further detail of the processes and recent outcomes for electoral boundary determinations in jurisdictions where an independent boundary commission did not have the final say; or in the case of the Canadian National Parliament, where parliamentarians had a consultative role at the end of the boundary making process.

Background

2. LGBCS Paper 2446 compared international electoral boundary making in a selection of other democracies. It discussed the presence, composition, criteria and role of boundary commissions; and whether or not they had the final say in determining electoral arrangements.
3. A summary of findings from the paper:
 - England:
 - the Local Government Boundary Commission for England makes recommendations for local government electoral boundaries which are subject to parliamentary approval.
 - Wales:
 - the Local Government Boundary Commission for Wales makes recommendations for local government electoral boundaries which are subject to ministerial approval.
 - Republic of Ireland:
 - a boundary commission (“Constituency Committee”) makes recommendations to the national parliament for national parliament electoral arrangements. The parliament decides whether to approve the recommendations;
 - for local government boundaries, a minister directs commissions to make boundary recommendations – the minister decides whether to accept the recommendations.
 - Australia:
 - national and state level parliamentary boundaries are set by independent commissions with no political involvement;
 - New Zealand:
 - national parliament boundaries are set by an independent commission;

- local government electoral boundaries are primarily set by local authorities themselves, with technical assistance from the Local Government Commission, which makes the final decision if local authorities' proposals are objected to.
 - In Canada:
 - national parliament boundaries are ultimately set by independent boundaries commissions – the national parliament can raise objections which the commissions must consider, but the commissions have the final say;
 - the boundaries of the legislative assemblies of states and territories are decided in a variety of ways. In most instances, boundary commissions make recommendations but the legislative assemblies make the final decisions.
 - In Western Europe:
 - information available was limited by lack of sources in English;
 - with some exceptions the electoral systems (multi-member electoral areas based on local authority areas) did not require boundaries commissions.
 - N.B. the paper did not discuss local government boundaries in Canada and Australia.
4. LGBCS Paper 2446 considered forty-seven elected bodies / levels of jurisdiction in seventeen countries. For thirty-four of these, independent boundary commissions were involved in setting electoral boundaries. In nineteen of these, the boundary commissions appear to have the final say in setting electoral boundaries; in fifteen the boundary commissions did not have the final say.

Final Electoral Boundary Determination where Boundary Commissions do not have the final say

5. The Secretariat was able to find information on the most recent outcomes for thirteen of those fifteen jurisdictions, the results of which are outlined below.

England

6. The Local Government Boundary Commission for England (LGBCE) is a parliamentary body: it reports to Parliament, not to ministers. Parliament can accept or reject its recommendations, but not amend them.
7. Once the LGBCE has decided upon its final recommendations for a local authority area, it itself lays draft orders in Parliament under a negative resolution procedure. Members of both Houses can raise objections the orders. If no objections are received the LGBCE's recommendations take effect.

- In the House of Commons, if a member objects to an order, the Government can decide to hold a debate in a Delegated Legislation Committee. If the Committee does not vote to reject the orders they take effect. If the Committees vote to reject the draft order, then the Government can choose to put it to a vote of the whole House.
- In the House of Lords, objections from members immediately trigger a debate in the whole House, and a vote, if required.
- Parliament has not rejected any of the Commission's recommendations in the last 8 years (the LGBCS was formed in 2010). During that time five recommendations were debated by a Delegated Resolution Committee and one was debated in the House of Lords, though it was not put to a vote.

Wales

8. The Local Democracy and Boundary Commission for Wales (LDBCW) advised that it was very rare for Welsh Ministers to reject or modify recommendations. Modifications would occur if there were errors, or minor changes like names of wards. It was thought that only once in 20 years had Ministers rejected recommendations and asked the Commission to review an area again.

Republic of Ireland

National Parliament

9. The Constituency Committee's recommendations for electoral arrangements in Ireland were passed by the Irish Parliament in 2017 without amendment, though there was some disagreement with the recommendations.ⁱ The debates suggest there is a convention that the recommendations of the Constituency Committee pass without amendment.

Local Government

10. Local Electoral Area Boundary Committee's recommendations were fully accepted by the Minister for Housing, Planning, Community and Local Government in 2013.ⁱⁱ

Canada

National Parliament

11. From LGBCS Paper 2446:
 - "In Canada, the lower house of the national parliament (House of Commons) is elected by single member constituencies, which are allocated between the country's ten provinces proportionally to their population. The country's three territories each elect a single member of parliament. The number of seats allocated to each province is recalculated after each ten-yearly census.

The boundaries of these constituencies are determined by independent boundary commissions in each province, appointed in accordance with each province's legislation. The commissions each present a report to the House of Commons, which Members of the House of Commons may make objections to. The commissions consider these objections, but make the final determination of the electoral boundaries.”

12. Objections from MPsⁱⁱⁱ:

- Once a boundary commission has reported, MPs have 30 days to file objections. They must do this in writing, in the form of a motion stating what they object to and the reasons for their objections. This objection must be signed by at least 10 MPs.
- Objections may be to names of electoral areas, and / or electoral boundaries.
- If the motion achieves 10 signatures, it is considered by a Standing Committee which has 30 days to consider the objections raised by the MP, and write a report, which it sends to the relevant boundary commission. That Commission has a further 30 days to consider and dispose of the objections in the Standing Committee's report, and to finalise its own report with or without amendment.
- The commissions therefore retain the final say in determining the electoral boundaries.
- In the 2012–13 redistributions, the commissions wrote detailed responses to the objections they received, explaining why they did or did not accept the objections.

Provincial and Territorial Legislative Assemblies

13. The information below concerns the most recent boundary recommendations in the 9 provinces and territories which were marked “No” in LGBCS 2446 Appendix B, in response to the question on whether Commissions had the final say:

- In 5 of the provinces / territories, (British Columbia^{iv}, Saskatchewan^v, Prince Edward Island,^{vi} Yukon Territory^{vii} and Nunavut^{viii}) the legislative assembly appears to have accepted the proposals in full (there appear to have been some very minor subsequent amendments to boundaries in Yukon Territory).
- In Northwest Territories^{ix} the legislative assembly chose one of the three options that the commission was asked to recommend (each provided a different number of seats / members).
- In Alberta^x and in Newfoundland and Labrador^{xi} the legislative assembly accepted the proposals, but changed some names of electoral districts.
- In Nova Scotia, the most recently completed review of electoral boundaries in 2012 was implemented in 2013.^{xii} However, disputes over the Commission's terms of reference led to a new commission being established in 2018.^{xiii} The 2012 Commission's Initial Proposals were rejected by the Attorney General as they deviated from the terms of reference.^{xiv} The Commission had treated the terms of reference as a guide which they did not deviate from, apart from retaining “four protected constituencies” (intended to represent the province's black and French-speaking minorities) which exceeded 25% variance from parity. The Commission made final (amended) proposals which

were passed by the House of Assembly in 2012. However, these were challenged in the Nova Scotia Court of Appeal with respect to the four protected constituencies in 2016 . The Court of Appeal ruled the final (amended) proposals which were implemented infringed Section 3 of the Canadian Charter of Rights and Freedoms.^{xv}

Summary

14. In jurisdictions the Secretariat has examined where Ministers and Legislatures have the final say in determining electoral boundaries, it appears that they rarely reject or amend recommendations made by commissions.
15. No local government boundary recommendations have been rejected in England in the last eight years, and only once in Wales in the last twenty years. In the Republic of Ireland the most recent recommendations of boundary commissions for national and local government boundaries were accepted by Parliament and Ministers respectively. In Canada, for the most recent reviews of legislative assembly boundaries, the recommendations of commissions were accepted by the legislative assemblies of eight of the nine provinces and territories. In two of these the assemblies changed the names of some electoral areas.
16. The Commission is invited consider the findings of the paper.

Secretariat
October 2018

References

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- ⁱ <https://www.oireachtas.ie/en/debates/debate/dail/2017-12-12/34/> (Electoral (Amendment) (Dáil Constituencies) Bill 2017: Committee and Remaining Stages)
- ⁱⁱ <https://www.irishtimes.com/news/politics/redrawing-the-boundaries-1.1414961>
- ⁱⁱⁱ <http://www.redcoupage-federal-redistribution.ca/content.asp?section=ab&dir=now/reports&document=intro&lang=e> (Redistribution of Federal Electoral Districts - F Part II – Amendments to the Initial Report (April 6, 2013) – Alberta – Introduction)
- ^{iv} <https://elections.bc.ca/resources/maps/electoral-boundaries-commission-reports/>
- ^v <http://saskboundaries.com/> (Saskatchewan Constituency Boundaries Commission 2012 website)
- ^{vi} http://www.assembly.pe.ca/bills/pdf_chapter/65/2/chapter-63.pdf (Prince Edward’s Island General Assembly: An Act to Amend the Electoral Boundaries Act No.2)
- https://docs.wixstatic.com/ugd/37f9d9_844c7c53efd243a2b6cc72bc0e54f292.pdf (May 5th, 2017 Report of the Electoral Boundaries Commission of Prince Edward Island)
- ^{vii} <http://www.yukonboundaries.ca/docs/2008%20Electoral%20District%20Boundaries%20Commission%20Final%20Report%20%20Maps.pdf> (Yukon Electoral Districts Boundaries Commission 2008 Final report)
- ^{viii} http://nunatsiaq.com/stories/article/65674nunavut_mlas_to_vote_on_new_electoral_map/
https://www.nunavutlegislation.ca/en/search/node/Respecting%20Constituencies%20of%20Nunavut%20language%3Aen%20type%3Aconsolidated_law_current%2Cconsolidated_law_original%2Cdoc_statutes%2Cgazette_p1%2Cgazette_p2%2Cdoc_gazette_index?where=everywhere (An Act Respecting The Constituencies Of Nunavut)
- ^{ix} https://www.electionsnwt.ca/sites/default/files/ebc_final_report_2013.pdf (Northwest Territories Electoral Boundaries Commission 2013, Final Report).
- <http://legassembly.gov.yk.ca/house/pob.html#f2008> (Yukon Legislative Assembly – Electoral Districts Boundaries Act, 2008)
- <https://www.cbc.ca/news/canada/north/mixed-reaction-to-proposed-n-w-t-electoral-boundaries-1.2417072>
- ^x http://www.assembly.ab.ca/ISYS/LADDAR_files/docs/houserecords/gm/legislature_29/session_3/20170302_1200_01_gm.pdf (Alberta Legislative Assembly, Records of Government Motions (29th Legislature, 3rd Session)
- <http://www.assembly.ab.ca/lao/library/egovdocs/2017/alch/224424.pdf> (2016-17 Alberta Electoral Boundaries Commission - Final Report to Legislative Assembly)
- ^{xi} <https://www.assembly.nl.ca/Legislation/sr/Annualstatutes/2015/> (Statutes of Newfoundland and Labrador 2015, “An Act to Amend the House of Assembly Act)
- <https://www.nledbc.ca/reports> (2015 Electoral Districts Boundaries Commission, Final Report)
- ^{xii} <https://www.cbc.ca/news/canada/nova-scotia/contentious-electoral-map-becomes-law-in-n-s-1.1285772;>
- ^{xiii} https://www.novascotia.ca/exec_council/oic/view.asp?oicID=18130 (Nova Scotia Executive Council Office, Orders in Council, April 28 2017.
- ^{xiv} <http://0-nsleg-edeposit.gov.ns.ca.legcat.gov.ns.ca/deposit/b10653107.pdf> (Electoral Boundaries Commission “Toward Fair and Effective Representation”, September 24, 2012 (Forward, p9)
- ^{xv} https://www.novascotia.ca/exec_council/oic/view.asp?oicID=18130 (as above)