
Some Thoughts on Redistribution

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I would like to raise six points about the question of representation in light of the most recent Government White Paper and the legislation, Bill C-74 which you are now considering.

First, although it may be supported on at least one ground, I am not sorry to see the end of the present method of distributing seats in the House of Commons the so-called Amalgam Method which automatically increased by four the number of seats allocated to Quebec at each redistribution and assigned seats in the other large provinces in strict proportion to Quebec's population.¹ The Amalgam Method accepted implicitly the notion of at least some growth in the size of the House of Commons to keep pace with a growing population. How fortuitous or how deliberate this may have been at the time the legislation was adopted in 1974 is, I think, an open question. It is a fact that the Amalgam Method remains truer to the principle of representation by population than any of the major alternatives considered in the past few years. Of course we must recognize that would be equally true of any system encouraging growth and a larger House as opposed to any system deliberately designed to keep the House at a more or less fixed size.

The objections to the Amalgam Method are, in my view, powerful, and I am persuaded by them. The system is complicated and difficult to explain and to understand. There is a great deal to be said for simple, uncomplicated and readily understandable rules and processes in politics.

The Amalgam Method also introduced, through its three categories of provinces, an invidious comparison amongst the provinces—small, medium and large. In my view, this sort of policy should be avoided wherever possible in a federal system. The provinces ought to be treated, as much as is realistically possible, as equals.

Secondly, the doctrine of representation by population is one that has never been greatly respected in Canada. Historically, this might be best illustrated by the number of seats awarded the six provinces to have entered Confederation after 1867. In every case the number of seats was larger than strict rep-by-pop principle had it been applied. Manitoba, rather than getting one seat, got four; B.C., rather than getting two, got six; and so on.

Once that kind of bargain is struck (so far as provincial representation in the House is concerned), it leads to a very difficult situation. It cannot be significantly altered in my view without in some way offending the provinces. Significant alterations are difficult at the best of times, but I think trying to gain

provincial approval would be rather tricky if there were any serious move to adopt a strict rep-by-pop system. We are into something that is rep-by-pop with a difference.

The doctrine of representation by population has not surfaced in any of the recent parliamentary debates that I am aware of. The failure of parliamentarians to consider rep-by-pop as a significant doctrine is, in my view, best exemplified by the debate at the time of the adoption in the 1960s of the whole new redistribution system. That happens to be the longest debate on redistribution in our parliamentary history. It lasted 51 days, over two sessions of the 26th Parliament and culminated with adoption of *Electoral Boundaries Readjustment Act* in 1964.²

There was virtually no support by any of the Members of Parliament for the cause of reforming the redistribution process and setting up independent electoral boundary commissions on the grounds of the one-man one-vote principle. That is interesting because at that very time in the United States there was considerable debate about malapportionment resulting from the 1962 *Baker vs. Carr* decision and we do not see that reflected in the Canadian context. Moreover, at the present time I see no ground swell of public opinion, nor do I see any considerable body of support in Parliament, for the strict adherence to the principle of representation by population. Canadian political institutions are notably different from American in this respect and I am not persuaded that we need to end that difference.

My third point relates to population projections. Growth and shifts in population are not necessarily going to produce the kind of results you might expect. Demographers base their forecasts on a number of assumptions—principally mortality, fertility, internal migration patterns and immigration as a function of public policy. One of the reasons that the Amalgam Method ran into trouble was that it was based on some provincial population projections which proved to be amazingly wrong. The 1971 projections for the total population a decade later were accurate to within 200,000 of the actual 24.1 million people in 1981. That is really very good but the distribution of population among the provinces proved to be very erroneous. I will give two blatant examples based on the 1971 estimates of how demographic forecasting can go amuck.

In 1971, Quebec had a population of about 6 million. The demographic forecast that Statistics Canada put out after the 1971 census for the Quebec population in 1981 showed a projected population of about 7 million. In fact, Quebec's 1981 population came in at 6.4 million. It was 600,000 wrong on the basis of a projection ten years before.

On the other hand Alberta had a 1971 population of 1.6 million. It was anticipated by Statistics Canada, based on the projection in 1971, that by 1981 Alberta would have 1.7 million. In fact, 10 years later, it proved to have 2.2 million. It was on the plus

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side by 600,000. This becomes important when you look at the public policy dimensions based on population forecasting.

You might be interested to know that in 1974, the year that the Amalgam Method was introduced, Mr. MacEachen presenting the legislation on behalf of the government said that the anticipated size of the House of Commons after the 1981 census and redistribution would be 294 members. This would be 12 more than the House of the post-1971 redistribution. Instead, as we know, the growth in the House of Commons membership turned out to be over twice that. If the 1981 redistribution based on the Amalgam Method had taken place the House would have grown by 28 to a total of 310.

In the past decade, I have noted at least four different projections by the federal government and by the Chief Electoral Officer of the size of the House in the year 2001, all using the Amalgam Method. They range from a low of 354 seats to a high of 381, a difference of 27 seats or about 8%, and that is just in one decade, using one formula, but with different population projections.

My advice is to establish the redistribution principles you want to adhere to but use population projections as no more than an aid, and a limited one at that, not as a goal. Even so, having once done that, do not be surprised if by 1991 and 2001 the House is not of a different size that what you now anticipate it will be. I think this is the critical point. Ontario is already halfway along its projected one million person increase in population from 1981 to 1991, and we are only four years into this period. For its part, Alberta is already at its 1991 projected figure based on projections after the 1981 census.

A fourth point concerns clauses in Bill C-74 (*Redistribution Act*) which clearly have established two categories of provinces i.e. the grandfather and senatorial clauses which preclude any province from having fewer MPs than it has Senators and the limitations in Bill C-74 imposed on the growing provinces limiting them to half the number of seats to which their growth would otherwise entitle them. Now, there may be a very good case for protecting provinces from ever falling below a certain minimum, although the history of Canada in this respect is a spotty one. You may recall some of the details of how Ontario was protected earlier in the century through the application of other safeguards against losing seats.

If my arithmetic is correct, and if the projected population figures prove to be reasonably accurate, the size of the House will be somewhere in the range of 298 to the low 300s in the first decade of the next century. I would commend to you for serious consideration an amendment to Bill C-74 which would eliminate the limitation on a province's growth. Rather than having 289, we would go to something in the order of 295 seats.

Fifth, I seriously question the need (a) to abandon the rule that limits constituency size to no more or less than 25% the average size in each province, and (b) to substitute the notion of "extraordinary circumstances" to justify larger or smaller ridings.

In my view, it is contradictory to introduce an "extraordinary" clause in light of the fact that the same bill includes the principle that the size of seats will correspond "as close as reasonably possible" to the electoral quota (population divided by number of seats) for the province. While that certainly would not be the first contradiction in redistribution legislation, I wonder if this perhaps should not, in some sense, be addressed.

The "extraordinary" clause is undoubtedly also going to place a tremendous burden on electoral commissions. Individuals and groups appearing before commissions will use whatever weaponry they have available. If it is possible to make some sort of case on "extraordinary" grounds I rather expect the commis-

sions are going to be bombarded with exceptions, particularly on grounds of "community of interest". That kind of argument can be very easily made by groups and individuals in their formal presentations and briefs and testimony before commissions. Commissions, particularly in the larger provinces, work to a very tight timeframe. In Ontario they barely got in under the one-year limitation this last time around. I think we do not want to place any more obstacles than necessary in the way of a most expeditious hearing.

The extraordinary clause, of course, would not be used only in the isolated and sparsely populated regions. One can think of metropolitan constituencies in downtown Toronto, for example, that have a community of interest defined ethnically. It is entirely conceivable that sort of sociological dimension may very well be pushed by ethnic communities in urban constituencies.

The term "extraordinary" lacks precision. I, frankly, do not know what the limits would be, and I think if you know what the limits are or what you mean by the term then you should certainly try and spell them out in the legislation.

Since the *Electoral Boundaries Readjustment Act* was adopted a trend has been established in the direction of meeting the stated goal of proximate population equality; that is plus or minus 25% at the mean rather than at the extremes. Since 1965, the commissions have moved away from relying on those upper limits and they have moved much more in the direction of proximate population size by constituency.

To demonstrate that let me refer to the redistributions of 1961 and 1981. In 1961, one out of every ten seats was at the 20% or 25% range, and one quarter of the seats were within 1% to 5% of the mean average population. In 1981, only 3% of the seats were at the outer margins (plus or minus 25%) and fully 40% of all the seats in Canada were right at the mean (plus or minus 1% to 5%). Fully 80% of the seats drawn in the post-1981 redistribution had populations within plus or minus 10% of their provincial quota.

What is also striking about this development is that it has taken place in the face of clear and growing opposition from parliamentarians from northern and sparsely populated constituencies to the increasingly large geographic areas they were being expected to represent. So you get a difference between the way the commissions are moving and the way some parliamentarians would like to move.

With respect to the tolerance limits, my own research suggests a determination on the part of the commissions to draw boundaries as they—not as the MPs—would have them. The 1983 redistribution proposals confirm this. Of the five provinces with sparsely populated and large geographic constituencies only two, Ontario and Quebec, made any use of the minimum tolerance limits at all, and sparingly at that, as only six seats were so constructed at the margin. In 1983, for the first time since independent redistribution began, all the seats of one province were designed within plus or minus 5% of the provincial mean, and that was my own province, Saskatchewan.

These facts imply that the various commissions, in keeping with the exhortations of the act, have shifted the grounds for redistribution much more in the direction of egalitarianism and away from parliamentary concerns based on territorial considerations. The impact, as I understand it, of Bill C-74 is to challenge that trend by encouraging individuals and groups to mount cases on "extraordinary grounds in special circumstances". In my view, the plus or minus 25% gives sufficient range to the commissions to construct seats.

Finally, I am concerned about the time taken to complete redistributions in Canada. I am impressed how quickly the Aus-

tralian carry out their redistribution. This is important because we, in a sense, cribbed the Australian system two decades ago. We lifted it, for the most part, and transplanted it into the Canadian context and it has worked very well here. There are a number of parallels that might be noted, of course, between the two systems but I will not go into those.³ But it is a matter of months in Australia from the beginning of the redistribution process to the end.

Since 1983, when the Australian Parliament amended its legislation, MPs no longer have an opportunity to approve or in any sense alter or defeat redistribution proposals. Redistribution responsibilities are taken right out of the hands of parliamentarians completely and they have been devolved entirely on the distribution committees at the state level. They promulgate their own decisions which are then final without any debate or approval in Parliament.

I would suggest serious consideration be given to adopting the same practice here. In particular I would eliminate the following stages: tabling of the various reports with the Speaker, filing objections by members, disposing of the reports by the committee and then reports back to the commissions. By my estimation, that could save something in the order of three months in the whole process in Canada. Time, of course, also means a consequent cost saving as well.

There is also the question of fairness. Why should the MPs be more privileged than anyone else in making their views known at a separate stage? The evidence suggests that

increasingly MPs are appearing at an earlier stage in the redistribution process. They are appearing before and making formal presentations to the boundary commissions in their own provinces. That is an established and empirically verifiable trend. Members prefer, at least publicly, to go with that stage. I would assert that the second stage is somewhat redundant, especially if the commissioners do little to change their redistribution based on the parliamentary representations brought forward at the objection stage. In other words, there is very little impact that parliamentarians actually have on the commission's final decisions. I therefore would suggest dropping the stages that I have referred to and give the commissioners the final say. ■

Notes

¹For more information on the Amalgam Method see John Courtney, "The Size of Canada's Parliament: An Assessment of the Implications of a Larger House of Commons," published as part of volume 38 of the Macdonald Commission Background Studies by the University of Toronto Press.

²I have examined that debate and the principles behind Canadian redistributions in a recent article entitled "Theories Masquerading as Principles: Canadian Electoral Redistributions and the Australian Model" in *The Canadian House of Commons: Essays in Honour of Norman Ward*, University of Calgary Press.

³My testimony before the Standing Committee on Privileges and Elections on March 19, 1985 dealt with some comparisons between the Australian and Canadian electoral systems.