



**Legislative Assembly
of Ontario**

First Intersession, 38th Parliament

**Assemblée législative
de l'Ontario**

Première intersession, 38^e législature

**Official Report
of Debates
(Hansard)**

Wednesday 5 October 2005

**Journal
des débats
(Hansard)**

Mercredi 5 octobre 2005

**Standing committee on
the Legislative Assembly**

Election Statute Law
Amendment Act, 2005

**Comité permanent de
l'Assemblée législative**

Loi de 2005 modifiant des lois
en ce qui concerne les élections

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Room 500, West Wing, Legislative Building
111 Wellesley Street West, Queen's Park
Toronto ON M7A 1A2
Telephone 416-325-7400; fax 416-325-7430
Published by the Legislative Assembly of Ontario



Service du Journal des débats et d'interprétation
Salle 500, aile ouest, Édifice du Parlement
111, rue Wellesley ouest, Queen's Park
Toronto ON M7A 1A2
Téléphone, 416-325-7400; télécopieur, 416-325-7430
Publié par l'Assemblée législative de l'Ontario

LEGISLATIVE ASSEMBLY OF ONTARIO

ASSEMBLÉE LÉGISLATIVE DE L'ONTARIO

**STANDING COMMITTEE ON
THE LEGISLATIVE ASSEMBLY**

**COMITÉ PERMANENT DE
L'ASSEMBLÉE LÉGISLATIVE**

Wednesday 5 October 2005

Mercredi 5 octobre 2005

The committee met at 1007 in room 228.

**ELECTION STATUTE LAW
AMENDMENT ACT, 2005**

**LOI DE 2005 MODIFIANT DES LOIS
EN CE QUI CONCERNE LES ÉLECTIONS**

Consideration of Bill 214, An Act to amend the Election Act, the Election Finances Act and the Legislative Assembly Act, to repeal the Representation Act, 1996 and to enact the Representation Act, 2005 / Projet de loi 214, Loi modifiant la Loi électorale, la Loi sur le financement des élections et la Loi sur l'Assemblée législative, abrogeant la Loi de 1996 sur la représentation électorale et édictant la Loi de 2005 sur la représentation électorale.

The Chair (Mr. Bob Delaney): Good morning, ladies and gentlemen. I call to order the standing committee on the Legislative Assembly. We're considering Bill 214, An Act to amend the Election Act, the Election Finances Act and the Legislative Assembly Act, to repeal the Representation Act, 1996 and to enact the Representation Act, 2005.

We'll be meeting this morning for the purposes of commencing clause-by-clause consideration of the bill but, pursuant to the report of the subcommittee, each party, if desired, may make an opening statement of up to five minutes—rigidly timed, of course.

Mr. Norm Miller (Parry Sound–Muskoka): I won't use the full five minutes, but I did want to make a couple of points since our last meeting. Of course, Bill 214, as we all know, does three things: It maintains 11 northern ridings, it sets a fixed election date every four years—the next one to be October 4, 2007—and it brings about real-time disclosure of political donations.

We've had some public hearings and input from the public on this bill, and we've had some, I think, reasonably rational discussion based on the presentations that have been made to us. I wanted to raise the point that it's unfortunate that there have been some Liberal members in the north who have not represented the discussions that have gone on in this committee fairly. In fact, the member from Thunder Bay–Superior North and the member from Sault Ste. Marie both released press releases, which were then reported in the north, saying, "... NDP, Tories Trying to Take Away Northern Representation." If you look through the Hansard from the

meetings we've had previous to this, there was rational discussion about whether an electoral boundary commission makes sense. I raised that question about the government deciding where electoral boundaries would be versus an electoral boundaries commission, but in no way have I or my partner here, Mr. Hardeman ever suggested that there should be less representation in the north. And I think it's safe to say that the representative of the third party, Ms. Churley, the member from Toronto–Danforth, would probably, if she were here, take offence with the press releases that were sent out.

I just wanted to make the point that I think it's unfortunate that politicians look on this as an opportunity to make partisan gains and to not really tell the story the way it would come out if you read it in Hansard, and maybe—I don't want to say "mislead," but certainly give the impression that members were advocating for fewer ridings when in fact they were not advocating for fewer ridings. I think it's unfortunate, particularly when the government is talking about democratic renewal and more accountable government and things like that, that members are becoming very partisan on this issue. I thought the discussion we have had has been reasonably rational. So I just wanted to make that point, that it's unfortunate that government members are making this partisan.

Ms. Jennifer F. Mossop (Stoney Creek): I just want to say that I too think that we've had some excellent discussion. We had tremendous input during the public hearings on this, and I think that a tremendous amount of thought, consideration, research and energy is going into this project.

As everybody knows, this bill is a small part of the larger effort at democratic renewal and the discussion that we will be having with the citizens' assembly and future work that is to be done as well. Essentially, I won't say any more, because we did have good opening statements at the public hearings, and it's probably time just to move on with business.

The Chair: Pursuant to standing order 78, are there any comments, questions or amendments to any section of the bill, and if so, to which section? I understand that there have been amendments filed with the committee dealing with a number of sections of the bill.

Ms. Mossop: I move that subsection 9.1(4) of the Election Act, as set out in subsection 1(3) of the bill, be struck out and the following substituted:

“Day for close of nominations and grant of poll

“(4) The day for the close of nominations and the grant of a poll where required shall be,

“(a) in the case of a general election under subsection 9(2), the second Thursday after the date of the writ;

“(b) in any other case, the third Thursday after the date of the writ.”

Mr. Ernie Hardeman (Oxford): Not having compared it to the other one, could I get from the member reading the motion what the intent or what the actual outcome of this change will be? Is this where we deal with the holiday?

Ms. Mossop: Essentially, yes. As you know, we’re moving to the concept of the fixed election date, and this is just to deal with any kind of holidays or issues around logistics.

Mr. Hardeman: It’s a matter of, if there’s a specific holiday on the Thursday that was designated as election day, this will then be the following Thursday. Is that it? Very good. Thank you.

The Chair: Shall the amendment carry? Carried.

Shall section 1, as amended, carry? Carried.

Are there any amendments to section 2?

Ms. Mossop: I move that subsection 34.1(3) of the Election Finances Act, as set out in subsection 2(4) of the bill, be amended by striking out “five” and substituting “10.”

The Chair: Discussion?

Mr. Hardeman: I guess the question really comes—obviously this is changing the amount from the minimum of \$100, where it must be disclosed, and increasing it to \$500. In the public hearing process, one has to wonder. I think that the majority of suggestions—

Interjection.

The Chair: Just for your information, we would be on page 3 of your package.

Ms. Mossop: I was just saying, yes, we’re on page 3. We’ve moved on to 3. We’re not moving the other.

Mr. Hardeman: You went to page 3? You didn’t deal with page 2?

Ms. Mossop: No, we’re not moving that. We’re on 3.

Mr. Hardeman: My question would be, what happened to page 2? It was an amendment put forward by the government, and I’m wondering why it’s not being introduced today. Is there a reason for that?

Ms. Mossop: Just that the ongoing discussion around this, and looking at it, we felt that the original situation, as it stood, was the best in the interest of transparency.

Mr. Miller: Just for clarification, the motion we’re talking about then—striking out “five” and substituting “10”—is that the number of days, then, for reporting?

Ms. Mossop: Yes. We’re going from five to 10.

The Chair: Discussion? Shall the amendment carry? Carried.

Other amendments?

Ms. Mossop: I move that subsection 34.1(4) of the Election Finances Act, as set out in subsection 2(4) of the bill, be amended by striking out “five” and substituting “10.”

The Chair: Discussion, if any? Shall the amendment carry? Carried.

Further amendments to section 2? Shall section 2, as amended, carry?

Mr. Miller: Just one question: What happens if the third party’s not here and they have an amendment? What happens to their amendment?

The Chair: At the moment, the amendment has not been moved.

Shall section 2, as amended—oh, sorry. Mr. Hardeman?

Mr. Hardeman: Could I ask the clerk on the procedure of that? If the parties have all committed to and adhered to the rule that they put their amendments forward at the proper time, is there an assumption that that is then before the committee?

The Chair: The clerk advises that while the motions are filed, they are not in fact motions until moved by the member. If it is the unanimous will of the committee to take a recess, pending any arrival of Ms. Churley, that can happen. Is it the unanimous will of the committee to take a recess?

Mr. Miller: If I may, I think some effort should be made to contact the NDP to see if they want five minutes to get somebody here.

Ms. Mossop: I think that’s fair.

The Chair: Then this committee will recess for five minutes before resuming to address section 2, as amended.

Mr. Mario Sergio (York West): Mr. Chair, if I may, can we delay it, deal with some of the others and come back to this one here if necessary? It’s their motion, and they know how important it is to go on with the clause-by-clause and deal with the various motions. I’m surprised that no one is here. So to adjourn the committee, with respect to that, I would rather delay until later on, but keep on going with the agenda.

The Chair: Do we have unanimous consent to stand down section 2 and move to consideration of section 3? Ms. Mossop?

Ms. Mossop: I’m considering.

Mr. Hardeman: Mr. Chair, I would suggest that we take five minutes so we can find out whether someone is coming rather than stand it down and disrupt the natural flow.

Ms. Mossop: If we do five minutes, then we’ll know one way or another, and then we can just get on with it.

The Chair: The committee is in recess for five minutes.

The committee recessed from 1019 to 1023.

The Chair: The standing committee on the Legislative Assembly will once again please come to order. We’re considering section 2.

Ms. Churley, for your information, we’ve considered pages 2, 3 and 4 in your package, and I’m now looking for amendments to section 2. Do you have such an amendment?

Ms. Churley: Yes. Subsection 2(4) of the bill—is that where we’re at? No, sorry. My amendment to subsection 2(4)—subsection 34.1(6.1):

I move that section 34.1 of the Election Finances Act, as set out in subsection 2(4) of the bill, be amended by adding the following subsection:

“Constituency associations

“(6.1) For the purposes of this section, a contribution received on behalf of a constituency association is deemed to be received on behalf of the relevant political party.”

I put forward this amendment because I've said many times in the Legislature and in this committee that, although there would have to be some processes put in place to help constituency associations, unfortunately, when it's left out, there are opportunities to get a political party's donations through the back door without the real-time disclosure. I forget the amount that it can go up to, how much you can actually give to a constituency association at any one time; therefore, I would like to make this motion so that we're dealing with all of the donations given to political parties and we can work out in regulations how support can be given to those constituency associations to get the donations out to the public in real time.

The Chair: Any other questions or comments? Shall the amendment carry?

Ms. Churley: May I have it recorded, please?

Ayes

Churley.

Nays

Hardeman, Kular, McMeekin, Mossop, Sergio, Wynne.

The Chair: I declare the amendment lost.

Shall section 2, as amended, carry? Carried.

Shall section 3 carry? Carried.

As section 4 is dependent on the passage of schedule 1, I ask the committee if there's unanimous consent to stand down debate on section 4 to consider schedule 1. Is there unanimous consent? OK. The debate on section 4 will be stood down and we'll move to consideration of schedule 1.

Mr. Hardeman: Thank you very much, Mr. Chairman.

I move that schedule 1 to the bill be struck out and the following substituted:

“SCHEDULE 1
“ELECTORAL BOUNDARIES COMMISSION
(ONTARIO) ACT, 2005
“DEFINITIONS

“Definitions

“1. In this act,

“‘chief statistician’ means the Chief Statistician of Canada appointed under the Statistics Act (Canada); (‘statisticien en chef’)

“‘commission’ means the Electoral Boundaries Commission (Ontario) established under subsection 2(1); (‘commission’)

“‘electoral quota’ means the electoral quota that the commission recommends for the purpose of clause 13(1)(c); (‘quotient électoral’)

“‘federal return’ means the return certified by the chief statistician and described in subsection 12(1); (‘état fédéral’)

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“‘minister’ means the minister responsible for the administration of this act; (‘ministre’)

“‘northern Ontario’ means the part of Ontario that lies in the following 11 northern electoral districts, using the same boundaries as were in effect on October 2, 2003, but excluding the municipality of Algonquin Highlands:

“1. Algoma–Manitoulin.

“2. Kenora–Rainy River.

“3. Nickel Belt.

“4. Nipissing.

“5. Parry Sound–Muskoka.

“6. Sault Ste. Marie.

“7. Sudbury.

“8. Thunder Bay–Atikokan.

“9. Thunder Bay–Superior North.

“10. Timiskaming–Cochrane.

“11. Timmins–James Bay; (‘Nord de l’Ontario’)

“‘report’ means the report of the commission described in subsection 13(1); (‘rapport’)

“‘representation order’ means an order of the Lieutenant Governor in Council made under subsection 17(2). (‘décret de représentation électorale’)

“ELECTORAL BOUNDARIES COMMISSION
(ONTARIO)

“Commission established

“2.(1) The Lieutenant Governor in Council shall by order establish a commission to be known in English as the Electoral Boundaries Commission (Ontario) and in French as Commission ontarienne de délimitation des circonscriptions électorales,”—however it's said in French; I don't say it very well—

“(a) within 30 days of the day on which this act comes into force, if no order has previously been made under this subsection; and

“(b) within 60 days of the publication in the Canada Gazette of the proclamation described in section 3 of the Electoral Boundaries Readjustment Act (Canada) that establishes an electoral boundaries commission for Ontario for the purposes of that act, if an order has previously been made under this subsection.

“Names of members

“(2) The order establishing the commission shall set out the names of its members.

“Notice

“(3) Upon making an order under subsection (1), the Lieutenant Governor in Council shall publish a notice of the order in the Ontario Gazette.

“Members

“3.(1) The commission shall consist of three members, namely a chair and two other members appointed in accordance with this section.

“Chair

“2) The Chief Justice of Ontario shall appoint the chair of the commission from among the judges of the Court of Appeal for Ontario or, after consultation with the Chief Justice of the Superior Court of Justice, from among the judges of the Court of Ontario.

“Other members

“3) The Speaker of the assembly shall appoint the two members of the commission, other than the chair, from among persons who are entitled, under the Election Act, to vote at an election to the assembly and whom the Speaker considers suitable.

“Eligibility of members

“4) No person is eligible to be a member of the commission while being a member of the Senate or House of Commons of Canada or a member of the assembly.

“Vacancy

“4.(1) A vacancy in the membership of the commission does not impair the right of the remaining members to act.

“Replacement

“2) If such a vacancy occurs, it shall be filled within 30 days by appointment in the manner set out in section 3.

“Notice

“3) Upon the making of an appointment under subsection (2), the commission shall publish a notice in the Ontario Gazette setting out the appointments.

“Deputy chair

“5. The commission may appoint one of its members as deputy chair who shall act as the chair if the chair is absent or unable to act or if the office of chair is vacant.

“Quorum

“6.(1) Two members of the commission constitute a quorum.

“Deciding vote

“2) If there is an equality of votes at any meeting of the commission, the chair or person acting as the chair has a deciding vote.

“Remuneration and expenses

“7. Subject to the prior approval of the assembly by appropriation, the members of the commission shall receive the remuneration and reimbursement of their expenses that the Lieutenant Governor in Council by order specifies.

“Staff

“8. The commission may,

“(a) with the approval of the Lieutenant Governor in Council, establish job classifications, personnel qualifications, salaries, benefits and other remuneration for the persons that the commission considers necessary for the proper conduct of its affairs;

“(b) employ or contract for the services of the persons mentioned in clause (a); and

“(c) pay the salaries, benefits and other remuneration and expenses of the persons mentioned in clause (a) out of the money that the Legislature appropriates to the commission.

“Powers of commission

“9.(1) In performing its duties under this act, the commission has the powers of a commission under parts II and III of the Public Inquiries Act and those parts apply to an inquiry held under this act.

“Procedure

“(2) The commission may make rules for regulating its proceedings and for the conduct of its business, including rules providing for the conduct of an inquiry or hearing by one or more of its members.

“Agent of the crown

“10. The commission is for all purposes an agent of the crown.

“Immunity

“11.(1) No action or other proceeding for damages may be instituted against any member of the commission or person appointed to the service of the commission for any act done in good faith in the execution or intended execution of the person’s duty or for any alleged neglect or default in the execution in good faith of the person’s duty.

“Crown liability

“(2) Despite subsections 5(2) and (4) of the Proceedings Against the Crown Act, subsection (1) does not relieve the crown of liability in respect of a tort committed by a person mentioned in subsection (1) to which it would otherwise be subject.

“PREPARATION OF REPORT

“Federal return

“12.(1) The government of Ontario shall request the chief statistician to disclose to the commission a return certified by the chief statistician showing the population of Ontario and the population of Ontario by enumeration areas as shown by the decennial census most recently completed under section 19 of the Statistics Act (Canada).

“Disclosure of information

“(2) The commission shall ensure that its members and persons that it employs or for whose services it contracts do not disclose the information in a matter contrary to section 17 of the Statistics Act (Canada).

“Report

“13.(1) Upon receiving the federal return, the commission shall prepare a report setting out its recommendations and the reasons for them concerning,

“(a) the division of Ontario into electoral districts for the purpose of representation in the assembly, except that there shall be at least 11 electoral districts for northern Ontario;

“(b) the description of the boundaries for each electoral district, the population in it as shown in the federal return and the name that the commission proposes for each electoral district; and

“(c) an electoral quota for electoral districts.

“Electoral quota

“(2) The electoral quota shall be not less than, and not more than 25% greater than, the average population in northern Ontario as shown in the federal return.

“Population per district

“(3) In preparing its report, the commission shall be governed by the following principles, subject to subsection (4):

“1. The division of the part of Ontario outside northern Ontario into electoral districts shall proceed on the basis that the population in each electoral district, as shown in the federal return, is as close to equal as is reasonably possible to the electoral quota, given the need for there to be at least 11 electoral districts in northern Ontario.

“2. The division of northern Ontario into electoral districts shall proceed on the basis that the population in each electoral district, as shown in the federal return, is as close to equal as is reasonably possible to the average population in each electoral district in northern Ontario.

“3. The division of Ontario into electoral districts shall, as much as reasonably possible,

“i. respect the community of interest or community of identity in or the historical pattern of each electoral district, and

“ii. maintain a manageable geographic size for electoral districts in sparsely populated, rural regions of Ontario or northern Ontario.

“Exceptions

“(4) The commission may depart from the principles set out in subsection (3) if it considers it necessary or desirable to do so for the reasons set out in paragraph 3 of that subsection but, in so doing, the commission shall make every effort to ensure that, except in circumstances that it views as extraordinary, the population in each electoral district, as shown in the federal return, remains within 25% more or 25% less of the electoral quota.

“Public hearing

“14.(1) Before completing its report, the commission shall hold at least one hearing in Ontario for the purpose of receiving representations by interested persons.

“Notice of hearing

“(2) The commission shall give notice of the time and place fixed for the hearing by publishing a notice in the Ontario Gazette and in at least one newspaper of general circulation in Ontario at least,

“(a) 10 days before the commencement of the hearing, if the order establishing the commission under subsection 2(1) was made by January 31st, 2006, and no order has previously been made under that subsection; or

“(b) 60 days before the commencement of the hearing, in all other cases.

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“Information for public

“(3) The commission shall prepare a statement of its proposal for the electoral quota and a map or drawing showing,

“(a) its proposal for the division of Ontario into electoral districts and their boundaries;

“(b) the population in each electoral district, as shown in the federal return; and

“(c) the name that the commission proposes for each electoral district.

“Access

“(4) The commission shall make available to the public, upon request and at no cost, the material described in subsection (3) at the office of the Chief Election Officer appointed under the Election Act.

“Right to make representations

“(5) Any person may make representations at a hearing mentioned in subsection (1), even if the person is not eligible to be appointed as a member of the commission, but the commission shall not hear any representation from a person unless the person gives notice in writing to the commission at least seven days before the commencement of the hearing.

“Time for representations

“(6) The commission may limit the time available for persons to make representations at a hearing mentioned in subsection (1) if it considers it necessary to do so in order to have sufficient time to complete its report by the time specified in subsection 15(1).

“Commission’s discretion

“(7) The commission shall consider the representations made at all hearings held under subsection (1) but is not bound to act on them in completing its report unless it considers it appropriate to do so.

“Initial report

“15.(1) The commission shall complete its report and submit a copy of it to the minister, the Speaker of the assembly and the Chief Election Officer,

“(a) by February 28, 2006, if the order establishing the commission under subsection 2(1) was made by January 31, 2006, and no order has previously been made under that subsection; or

“(b) within 180 days after the day on which the order establishing the commission was made under subsection 2(1), in all other cases.

“Tabling and notice

“(2) The Speaker shall,

“(a) lay the report before the assembly if it is in session;

“(b) deposit the report with the Clerk of the assembly if the assembly is not in session; and

“(c) send a copy of the report by mail to each member of the assembly at the office assigned to the member in the legislative building.

“Deemed service

“(3) A member shall be deemed to have received the copy of the report under clause (2)(c) on the fifth day after mailing.

“Objection by members

“(4) Within 30 days of receiving the copy of the report under clause (2)(c), a member of the assembly may file a notice of objection with the Clerk of the assembly and in that case the government House leader shall refer the report to a standing committee of the assembly.

“Committee recommendations

“(5) The standing committee shall review the report and make whatever recommendations on it to the commission that it considers appropriate within 30 days of the referral to the committee.

“Form of recommendations

“(6) The recommendations of the standing committee shall be in writing and may include the maps or drawings that the committee considers appropriate.

“Final report

“16.(1) The commission shall consider the recommendations, if any, made by the standing committee of the assembly but is not bound to act on them in completing its final report unless it considers it appropriate to do so.

“Time for final report

“(2) Within 30 days of the day on which the commission receives the recommendations of the standing committee, the commission shall prepare its final report in accordance with section 13 and submit a copy of it to the minister, the Speaker of the assembly and the Chief Election Officer.

“Tabling and notice

“(3) The Speaker shall,

“(a) lay the report before the assembly if it is in session;

“(b) deposit the report with the Clerk of the assembly if the assembly is not in session; and

“(c) send a copy of the report by mail to each member of the assembly at the office assigned to the member in the legislative building.

“REPRESENTATION ORDER

“Representation order

“17.(1) Within 30 days of receiving the copy of the report under subsection 16(2), the Chief Election Officer shall prepare and submit to the minister a draft representation order that,

“(a) specifies the number of electoral districts in Ontario for the purpose of representation in the assembly;

“(b) divides Ontario into electoral districts for the purpose of representation in the assembly, except that there shall be at least 11 electoral districts for northern Ontario; and

“(c) describes the boundaries of each electoral district, the population in it as shown in the federal return and the name of each electoral district.

“Making of order

“(2) The minister shall forward the draft order to the Lieutenant Governor in Council that shall make the order within five days of receiving the draft.

“Notice

“(3) As soon as the order is made, the minister shall post a copy of it on the government of Ontario’s Web site on the Internet and publish a copy of it in the Ontario Gazette.

“Application of order

“(4) The order shall set out a statement of subsection (5).

“Same

“(5) Despite any successor to the Representation Act, 1996 or any other act, the order shall apply to,

“(a) the general election as defined in the Election Act next following,

“(i) the day on which the order is made, if clause 15(1)(a) required the commission to submit the report on which the order is based by February 28, 2006, or

“(ii) the first anniversary of the day on which the order is made, in all other cases; and

“(b) all subsequent elections of members to the assembly after the day on which the election mentioned in clause (a) takes place until the order is replaced by another order made under this section.

“Dissolution of commission

“18. The commission is dissolved on the day the Lieutenant Governor in Council makes the representation order.

“General

“Regulations

“19. The Lieutenant Governor in Council may make regulations,

“(a) specifying the powers for the commission that the Lieutenant Governor in Council considers are necessary or advisable to allow the commission to carry out effectively its duties under this act and that are in addition to the powers that the commission otherwise has under this act;

“(b) specifying other matters that the commission is required to consider in making its report, in addition to the matters set out in subsections 13(3) and (4);

“(c) allowing the Chief Election Officer to correct any error or inconsistency in the description of an electoral district in a representation order that is obvious on its face;

“(d) requiring the Lieutenant Governor in Council to amend a representation order to reflect a correction made under clause (c), specifying that the correction will not affect the application of the order under subsection 17(5) and requiring the minister to post a copy of the amended order showing the correction on the government of Ontario’s Web site on the Internet and to publish a copy of it in the Ontario Gazette;

“(e) requiring the Chief Election Officer to make available to the public upon request and at no cost a copy of the maps or drawings that the officer considers appropriate to show the boundaries of each electoral district as set out in a representation order, the population in it as shown in the federal return and the name of each electoral district;

“(f) respecting any matter necessary or advisable to carry out effectively the purposes of this act.

“Commencement

“20. This schedule comes into force on the day the Election Statute Law Amendment Act, 2005 receives royal assent.

“Short title

“21. The short title of the act set out in this schedule is the Electoral Boundaries Commission (Ontario) Act, 2005.”

That’s the schedule proposed, Mr. Chairman.

The Chair: Thank you, Mr. Hardeman. Mercifully, the schedule didn’t require you to repeat the word “statistics” and add on “aluminium.”

The Chair will entertain brief statements from each party on this schedule before taking a brief recess to consult with staff, beginning with you, Mr. Hardeman.

Mr. Hardeman: Thank you very much, Mr. Chairman. From the length of the schedule, we’ll understand it is to create a commission. As we look at the bill presently, there are a lot of good things in it, but the problem we have is that this is the first time, or at least the first time in recent memory, that the government has actually taken the initiative to create the ridings without outside assistance, where it’s being recommended by a third party as to where the lines should be drawn. We believe it should be done through an appointed commission, which should set the boundaries or at least make recommendations as to where the new boundaries in Ontario should go. I think that was heard loud and clear from almost all who presented to our committee; they thought it needed that impartial, third party look.

The other thing that was brought up by my colleague at the start of the hearings was the issue of the 11 northern ridings. I think the government has made a commitment that, whatever we do, we will continue to carry on with having at least 11 ridings in northern Ontario. I think this amendment will in fact create that as part of the law.

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That doesn’t take away from the fact that if you create the 11 ridings in the north, they will have been created by a third party, arm’s-length commission previously, and we’re now saying that under this law we’re going to keep those 11. That doesn’t change the fact that to keep fairness and equity in place for all people in Ontario, and based on the principle of one person, one vote, that every vote counts and every vote counts the same, a commission could not look at changing the way we distribute southern Ontario to make it all equal.

The presentations we got from northern Ontario and from the people who presented suggested that they needed the lower population per riding; it was based on the ridings otherwise becoming too large. They didn’t say that people needed more clout for their individual vote. They needed to be able to contact their member of Parliament and their member of the Legislature, and vice-versa: the member needed to serve all their population. That doesn’t change the fact that we can create fairness in voting and value for votes by having a look at how we distribute southern Ontario.

Since we are going to keep northern Ontario in this bill, based on an electoral commission’s report that was previously done by the federal commission, then at least we’ve had a third party look at that. I think we have to

balance that, because the commission that looked at them last time didn’t look at them in isolation, northern Ontario to southern Ontario. So if you keep northern Ontario the same way, it’s not a given that the commission would have changed southern Ontario to the way it’s now being changed. We now have a total package in the province that will not serve the whole province well. From our party, we strongly support the principle of keeping the northern Ontario ridings the way they are, but we think it should be balanced with looking at the whole province as to how we could better serve all our people.

The other thing that was pointed out to us in presentations was the need to have a look at how we divide the province up to serve the Ontario Legislature and to serve the people of Ontario as opposed to the federal need, which is presently what we have. What we’re going to have in southern Ontario, again, is the way the federal government’s commission deems the best way to serve their needs, as opposed to the best way to serve Ontario’s needs.

With that, I’ll end there, I guess. That points out why we think it’s necessary to have a third party look at it, and this schedule is the type and how we would set up that third party to meet the needs of the people of Ontario.

The Chair: Thank you. Ms. Churley.

Ms. Churley: Thank you very much. Let me officially apologize for being late. I had it in my schedule for 10:30 for some reason. Therefore, I didn’t have the opportunity to make opening statements but this gives me an opportunity to say what I wanted to say anyway, because it has to do with what my opening statements might be.

First of all, let me say that I support the concept of an independent commission. In fact, I would submit that if a truly independent commission, and not the government making these decisions, did this work, there would be more seats for the north, not just one. As I said during clause-by-clause, it was the previous Tory government that made the decision to throw a bunch of chairs off a flatbed truck and say, “There are too many politicians wasting your money and we’re getting rid of a bunch of them and we’re going to go by the federal boundaries.” That’s what I said in my statement during clause-by-clause.

Now there’s an attempt to try to fix some of that but only in the north. In saying that, I did not say that we shouldn’t be attempting to fix it in the north. In fact, if we had an independent commission, I would. Let me repeat that there should be more seats in the north, because I understand the geography very, very well. I grew up in Labrador; I understand better than most, actually. I have to say that some of the northern members’ misrepresentation of what I was trying to say smacked of—I’m trying to find a word that I can use in a parliamentary way.

Mr. Hardeman: Norm mentioned that.

Ms. Churley: Yes. It smacked of duplicity, I guess.

Mr. Ted McMeekin (Ancaster–Dundas–Flamborough–Aldershot): The first time that’s ever happened.

Ms. Churley: Yes, the first time. I would say that Mike Brown must be worried about his seat. He's certainly not going to get my vote—I'll put that on the record right now; he's running for Speaker—because he's proven himself to not be fit for that chair, given the misinformation that he put out about my statements here in this committee, suggesting that I didn't support further seats in the north, when I was trying to make the point, perhaps somewhat clumsily—

Interjection.

Ms. Churley: No, but Mike Brown as well, who did a particular story relating to me, completely misrepresenting what I said here; that is, that we do have to be concerned about the whole province, including the south. I represent a Toronto riding, and I'm going to tell you who else agrees with me and who would support an independent commission. Perhaps the two Liberal Mikes from the northern ridings didn't realize this, but I'm going to quote to you what another Mike—Mike Colle, who's now a minister of the Liberal government—said in the House in response to Bill 214, which, incidentally, I did vote for and which was also left out in the House. I have the voting record on that.

Here's what Mr. Colle said in the House. It's in Hansard:

“Anyway, I would just like to say that this bill”—he's talking about Bill 214—“doesn't really deal with some of the fundamental, core issues. One of the core issues I find is that you could put the provinces of Saskatchewan, Prince Edward Island, Newfoundland and Nova Scotia into the city of Toronto: again, Saskatchewan with 995,000; Prince Edward Island, 137,000; Newfoundland, 517,000; Nova Scotia, 937,000. We've only got 21 seats here. In those provinces, they've got about 200 members provincially.

“The previous government talked about how representation was bad. ‘Too many elected officials; get rid of them.’ The public needs good representation. The present system doesn't reflect the public's needs, never mind the geographic needs my friend talked about, which are real. There is also diversity. In the city of Toronto, you can go from street to street and there are totally different, dramatic needs. From the poor in the Jane Street corridor to Lawrence Heights in my riding of Eglinton—Lawrence to St. James Town, wherever you go, dramatic needs aren't being met with our present electoral system. It's really doing a disservice to democracy the way it's structured right now. Unless we start to come to grips with those problems of representation that exist not only in the north but that exist all over, it doesn't do democracy a good turn, the way we are looking at things right now.”

That is not dissimilar to what I said during clause-by-clause in this meeting, where I was as a member representing my constituents in Toronto and in southern Ontario, while at the same time supporting changes in the north but talking about it looking at all the districts of Ontario and having a fair system for all. I support most of the submissions made to the committee about the need to

reconfigure the system right across Ontario, because what we're doing now, as has been pointed out, for instance, by Dr. Robert J. Williams, associate professor, department of political science, University of Waterloo—he says that “Bill 214 creates a system of representation that has no real coherence or consistency,” and representation in the rest of Ontario will be “determined by calculations and principles embedded in the federal Electoral Boundaries Readjustment Act and the process for boundary revisions ... implicit in it. Therefore, the number of seats in the Ontario Legislative Assembly is dependent upon a calculation related to the population of the other provinces and not a determination of the constituencies needed to provide Ontarians with effective representation within their own ... political system,” and so on.

We had some very intelligent and very good presentations at the public hearings, and indeed my comments were based upon those. Let me reiterate again that I agree with Liberal minister Mike Colle, that while we support the additional riding for the north, there needs to be fairness across the province. We have diverse communities here in Toronto. Academics and experts have been pointing this out, and, believe me, we will be hearing more about this. You're getting away with it for now, and Liberal members are getting away with accusing me, as a New Democrat, of not supporting the north, and that's a lot of fun; I understand politics. But I think it's fair to say that once this bill passes—because, in fact, I supported it, as did my caucus, in the last session, and we will again, with its flaws—we'll be looking to the government to take the next step and put in place a fair, independent process to determine boundaries across the province that is fair to everybody.

1100

As for this motion, the amendment before us today, I'm not sure at this point if I will support it or not, because it's literally a bill in itself. I certainly support the concept and I expect the Liberals will as well. If you do, I'll send the press release to the north. But I think you should. I think we would all agree that we need to look at a fairer system. What the Tories did was wrong and we need to fix it, but you can't isolate out parts of the province and leave Hamilton and Toronto and southern Ontario out. That's all I'm trying to say here. As for this amendment, it is really a bill unto itself, which I'd have to look more closely at and see if that is the best way to set up a commission at this point. It's too long and involved for me to make that decision here and now. Having said that, I certainly support a further process to allow an independent commission to look at the overall system across the province so that there's fairness for all.

The Chair: Thank you. Ms. Mossop?

Ms. Mossop: I think what we've had is a bleeding of arenas here, where the political discussion often takes place in the media, and a different tone and a different flavour in that arena is bleeding over to what has been really, on the whole, an incredibly constructive process. We've all heard the same sorts of things in committee

and public hearing, and we heard them as well. There was just excellent input in this area and discussion around this of issues that go well beyond even what you're proposing and discussing here. The problem, I guess, that we're running into is that there's not enough time, as Ms. Churley has pointed out, to deal with this. There isn't enough time to get a commission up and running and to make these sorts of decisions by the next election. There is the issue of whether or not following the federal lines, as happened under the previous government, is wise. So there really is a need for a fulsome discussion on this. How should Ontarians be represented in their Legislature? There are a lot of issues around it—so not in disagreement at all. Sorry about the bleeding of politics into this committee, because I think the work has been pretty constructive. We have heard some amazing things in the discussion, it's been excellent, and I think we need to continue on that. I think this is a good piece for the citizens' assembly and to move forward as a separate item. So my hat's off to both of you, and that's where we are.

The Chair: Thank you. Mr. Hardeman, one last word?

Mr. Hardeman: I just want to reiterate that I agree with Ms. Churley to some extent, and with Ms. Mossop as well, that we need to have a broader look at how we deal with this issue. The reason that this amendment is forwarded is because the only way we can see making the changing of the boundaries that we're going to see between now and the next election representative of what the people want, as opposed to what Queen's Park wants, is that you have to have some way to have an arm's-length commission to do that. That's why it's in here as a schedule. As mentioned, it should be a bill on its own. I'm not going to deny it should be a bill on its own, but I think the issue was brought up by Ms. Mossop about there not being time to introduce a bill and have it approved and have it apply now. It would seem, if it is the government's intent to look at a better way to do it to make sure that it's done fairly, then we would stay with what we have until we could do it properly rather than changing it and assuming that in the next three months, after they get through with the other select committee on the reform, we will again change the boundaries and deal with that again.

My concern is that this will be implemented and nothing more will be done on it because it was just completed. I think we can make this bill work properly by having a third party look at how the distribution should be done to accommodate not only the people in the north, but also the people in Toronto.

I think it's also important to recognize that this bill doesn't say that it's a maximum of 11 seats in northern Ontario; it's a minimum of seats in northern Ontario. As was suggested by Ms. Churley, if it wasn't the right number of seats, because of the demographics and the geography of northern Ontario, the commission could decide that. It only makes sure that the numbers do not go down for northern Ontario.

The Chair: Further comments? Mr. McMeekin had his hand up first.

Mr. McMeekin: I just want to comment briefly. In some respects, we're living between memory and hope here. It wasn't that long ago that the previous government took certain steps which, in hindsight, they perhaps see as being the wrong way to go. We celebrate those "aha" moments any time they occur. In that sense, I have some sympathy for my colleague Mr. Hardeman who's struggling to put a position that may be too strict a paradox: to insist that somebody else do something that they obviously couldn't do. To talk about balance to serve all our people I thought was interesting.

Ms. Mossop's reference to the citizens' assembly, I thought, was rather instructive. I think it's important that whatever happens down the road, it be seen to be unencumbered by political interest. In that respect, the citizens' assembly's perspective on this will be very helpful and hopefully a healthy one.

Particularly, Ms. Mossop, given the timeline concern that you've identified, it seems to me the best of both worlds when a government that pledges—as I understand the election campaign—to maintain the 11 northern ridings follows through with that while, at the same time, moving forward with a precedent that in the most significant respects was set by the previous government around boundaries consistent with federal ridings while, at the same time, building in the potential for some genuine objective citizen review and critique of both.

I think—and Ms. Mossop captured it rather well—we're in a very good position to do that, Mr. Chairman, with the pending citizens' assembly, which was, of course, reflective of the current government's desire to bring more transparency to that whole process.

We have to move on, obviously. We've got expectations out there in terms of ridings and what have you. We have made certain commitments to the north, but we've also made a commitment to a process that could have some pretty powerful impacts. I think Mr. Hardeman would agree with that. So we're down a path that some of us, on reflection, might not have wanted to go down, but, notwithstanding, decisions have consequences and we're moving forward with a very balanced perspective.

The Chair: Thank you. It was the Chair's intention to get a brief comment from each caucus, which has turned into two. So, Ms. Churley, would you like to have a second and final word on this?

Ms. Churley: Yes, sure. I appreciate the comments from the Liberal members.

Again, I just want to reiterate that I can't support this amendment before us. We do need to move forward with this and I'm supporting it today, as I did in the House, but I just want to say that I really do believe that we need to look—and there's going to be a whole process in place which I'm involving myself in and I have certain demands on how that should be set up and will want certain input into that. But I would have been happier had

this bill not cherry-picked out pieces, because that's one of the problems we have here.

I know there was some urgency to move on the northern riding and a few other priorities. As you know, I pushed for real-time disclosure, and I'm glad to see that, but what we really need, as some of our deputants said, is to re-establish the Ontario Legislative Assembly's right to determine the boundaries that work best for us as provincial politicians, not federal politicians, because, as has been pointed out, our responsibilities are very different. I think of Howard Hampton, who is mentioned a lot as the person with the biggest geographic area, and some of the northern members and the kinds of day-to-day issues that we are involved in—unlike, forgive me, my federal colleagues. Unlike our federal colleagues, the real issues that we deal with are much closer to home, so we should have the right, and I think we need to move back to a system where we establish what is best for our constituents at a provincial level. That's the kind of thing I want to move on to, looking at proportional representation and all of those things we've been talking about. But that is where I believe we have to determine our own destiny in terms of what's best for our own people at a provincial level.

The Chair: Thank you. The committee will recess for five minutes while the Chair consults with staff.

The committee recessed from 1110 to 1119.

The Chair: Can we please bring the committee back to order. The Chair appreciates the clarification and the explanation of schedule 1 by Mr. Hardeman, and certainly the comments and suggestions by Ms. Churley, Ms. Mossop and others.

After hearing the proposal for schedule 1 and hearing from the three parties, the Chair has consulted with our legislative counsel and the Chair has, after consultation, ruled the proposed schedule 1 to be out of order. While not passing judgment on the content or the value of schedule 1, on which we heard a broad range of opinion, legislative counsel echoes the feeling of the table that the schedule is beyond the scope of the bill sent to this committee by the House, which approved prior to sending the bill here the scope of the bill. In order to strike out a schedule and to substitute an entire schedule, the Chair is unwilling to enter into such a precedent. As such, schedule 1 is ruled out of order, and as such, Mr. Hardeman, your proposed amendment to subsection 4(1) should also, consequently, be out of order, as it depends on schedule 1.

Mr. Hardeman: Which amendment was that, Mr. Chairman?

The Chair: Page 19.

Mr. Hardeman: Mr. Chairman, that being just the title of the act, I have no problem seeing the same fate of the two issues. I am disappointed and personally in disagreement with the legislative counsel's decision that in fact this is out of order. But obviously I'm one person and you are another, and you have slightly more authority than I do, so I guess we'll have to accept the fact that you've ruled it out of order. I do not believe that

this changes the bill; I believe that it just provides another way of implementing the intent of the bill that was sent here, to make it more democratic. I just don't believe that that could be out of order, but if it is, we'll take your word for it.

The Chair: Thank you. Just to clarify, the decision to rule it out of order is the decision of the Chair, not that of legislative counsel.

While we are still considering schedule 1, while Mr. Hardeman's motion has been ruled out of order, shall section 1 of schedule 1 carry?

Mr. Hardeman: Could I ask for a recorded vote?

The Chair: Recorded vote. Those in favour of section 1 of schedule 1 as originally in the bill?

Ms. Churley: I thought we were deliberating as to whether or not it's in order.

The Chair: No, this is the original schedule 1, as in the bill.

Ms. Churley: Sorry. We were all confused.

The Chair: The proposed amended schedule 1 has been ruled out of order.

Ms. Churley: Let me put it on the record that all three parties were confused about what you were asking us to vote on here.

Ms. Mossop: That's right. But we're OK now.

The Chair: It in fact took the Chair a little bit of careful study to figure it out as well.

Section 1 of schedule 1: Those in favour?

Ayes

Churley, Kular, McMeekin, Mossop, Sergio, Wynne.

Nays

Hardeman.

The Chair: Section 1 is carried.

Section 2 of schedule 1: Are there any comments, questions or amendments?

Ms. Mossop: I move that paragraph 2 of subsection 2(1) of the Representation Act, 2005, as set out in schedule 1 to the bill, be amended by adding at the end, "subject to subsection (2.1)."

The Chair: Questions? Comments?

Mr. Hardeman: Could I have an explanation of what it does?

Ms. Mossop: This is actually something that we heard in committee about the names of the ridings provincially and federally lining up, so motions 17 and 18 are together. The effort is to make sure that the names line up federally and provincially to get away from the confusion. That's something we heard in the hearings the other day.

The Chair: Shall the amendment carry? Carried.

Other amendments?

Ms. Mossop: I move that section 2 of the Representation Act, 2005, as set out in schedule 1 to the bill, be amended by adding the following subsection:

“Name changes

“(2.1) For the purposes of paragraph 2 of subsection (1), the following rules apply with respect to the names of southern electoral districts:

“1. If, as the result of a redistribution under the Electoral Boundaries Readjustment Act (Canada) that takes place after September 1, 2004, a new federal electoral district is established with the same boundaries as one of the 96 southern electoral districts, that southern electoral district is renamed so as to have the same name as the new federal electoral district.

“2. If a federal electoral district with the same boundaries as one of the 96 southern electoral districts is renamed by an act of Parliament that comes into force after September 1, 2004, that southern electoral district is renamed so as to have the same name as the federal electoral district.

“3. A name change under paragraph 1 or 2 takes effect on the same day as the establishment or renaming of the federal electoral district, unless the establishment or renaming takes effect during the period that begins on the day after the day a writ is issued for a general election or for a by-election in the southern electoral district and ends on polling day, in which case the change of name is postponed to the day after polling day.”

The Chair: Questions and comments? Ms. Churley, you had your hand up first.

Ms. Churley: I support this, but I do have a question around it. I want to make sure I understand it. The question is based on an experience I had in my riding of Toronto–Danforth, which used to be called at one time, if you recall, Riverdale, and was changed to Broadview–Greenwood, all within my time in this place. After the Conservatives changed the boundaries to correspond with the federal boundaries without consultation with me, the member for the riding of Broadview–Greenwood, Dennis Mills, who was then the MP, changed the name at the Ottawa level to Toronto–Danforth. We just happened to find out about it because I have good staff who found out on a Web site that it was going on. There was no consultation, and we had no say in the change of the name.

Of course, the name was changed. It went through due process here in the Legislature, and we were able to get some money out of the Board of Internal Economy to help me pay for the new sign and the new letterhead and all that entailed. I don't think that this amendment deals with the name change.

Jack Layton, by the way, is now changing the name yet again—get ready for it—I think to Riverdale–East York–Danforth; those three names will be mentioned in it, which will then impact provincially again. I support it, by the way, because the people of East York and Riverdale were very upset about the change from Broadview–Greenwood to Toronto–Danforth without consultation with them after the amalgamation. It was a huge problem in the riding, so I support the change of the name once again, which will once again impact provincially, however, and will mean—well, since I'm leaving soon anyway, I guess it'll correspond that a new

sign and letterhead will have to be done by the member. But that is an interesting question to put forth: how we're going to address this issue of federal members changing the name, as in some cases, without proper consultation.

Ms. Mossop: This isn't actually going to be an issue until after the next provincial election because we don't have our boundaries matching up yet. However, I think perhaps that it again will be part of the discussions for the citizens' assembly, because that gets into the issue of boundaries as well.

Ms. Churley: I just wanted to put on the record that it does complicate things.

Mr. Hardeman: I guess my question is somewhat the same as Ms. Churley's. Because of the date of September 1, 2004, it means that this just extends and that all the changes made in the last redistribution will now also be changed in name for Ontario ridings. Is that right?

Ms. Mossop: After the next election, because the boundaries aren't changing until—well, after the redistribution. So it won't take effect until the redistribution.

Mr. Hardeman: What I'm talking about is that the name change has taken place federally already.

Ms. Mossop: Yes.

Mr. Hardeman: So the same thing couldn't happen where all of a sudden, for whatever reason, the federal government decides to change the name of a riding and then ours is automatically committed to change, according to this.

Ms. Churley: Yes, it still would be.

Mr. Hardeman: I guess my question would be, why would the government want to do that? My riding has had the same name for 100 years and just because somebody at the federal level doesn't like it any more, they change it to something else. Why would that automatically make it acceptable to us?

Mr. McMeekin: That's what you did when you were in government. You did that in government; that's exactly what you did.

Mr. Hardeman: No, but why does this have to be there, then, if it's already done? You can't suck and blow at the same time. It's one way or the other. Either it's not done and you're doing it or it is done and you don't need it.

Ms. Mossop: We are actually being consistent from the standpoint of the constituents. This is something for the constituents, to make it a little easier for them to follow this ball as these changes have started, as the member noted, previously, and as we carry on forward, so as to keep it consistent until we can deal with this in a larger way with the citizens' assembly.

Ms. Churley: Can I ask another question? This refers specifically to southern districts. What about northern Ontario?

Ms. Mossop: That's a good—I need to consult, sorry.

The Chair: Sure. Shall we consider the amendment?

Mr. Hardeman: Recorded vote.

Ms. Churley: Can I hear an answer to my question?

Ms. Mossop: Yes. It's because the boundaries aren't changing in the north, so they are not going to be

consistent, so they won't be following the federal boundaries.

The Chair: Mr. McMeekin, you get absolutely the last word here.

Mr. McMeekin: My riding is affectionately known as "ADFA" at the moment. Yours with the R-E-D will be affectionately known as "RED," which is our colour, isn't it?

Interjections.

The Chair: You might start it with "Greenwood-Riverdale" something or other.

OK. Those in favour of the amendment?

Ayes

Churley, Kular, McMeekin, Mossop, Sergio, Wynne.

Nays

Hardeman.

The Chair: I declare the amendment carried.

Shall section 2, as amended, carry? Carried.

May I have the committee's permission to consider sections 3, 4, 5 and 6 of schedule 1 in a block? OK. Shall sections 3, 4, 5 and 6 carry? Carried.

Shall schedule 1 of the bill, as amended, carry? Carried.

Moving back to section 4, the only amendment tabled, Mr. Hardeman, was the one that the Chair has ruled out of order. May I have the permission of the committee to consider sections 4, 5 and 6 of the bill as a block?

Mr. Hardeman: Recorded vote.

The Chair: Is that permission to consider them as a block? OK. Shall sections 4, 5 and 6 of the bill carry?

Ayes

Churley, Kular, McMeekin, Mossop, Sergio, Wynne.

Nays

Hardeman.

The Chair: I declare the sections carried.

Shall the title of the bill carry? Carried.

Shall Bill 214, as amended, carry?

Mr. Hardeman: Recorded vote.

Ayes

Churley, Kular, McMeekin, Mossop, Sergio, Wynne.

Nays

Hardeman.

The Chair: Shall I report the bill, as amended, to the House? Carried.

Thank you very much for your time today, ladies and gentlemen. The committee is adjourned.

The committee adjourned at 1134.

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