



**PRELIMINARY REPORT
OF THE
MIRAMICHI AND ACADIE—BATHURST
ELECTORAL BOUNDARIES COMMISSION**

**Moncton, New Brunswick
December 2, 2004**

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Preliminary Report of the Miramichi and Acadie—Bathurst Electoral Boundaries Commission

1. Preamble

In accordance with the directives set out in Order in Council PC 2004-1196 of October 19, 2004, the Miramichi and Acadie—Bathurst Electoral Boundaries Commission hereby submits its preliminary report to the Governor in Council, in which it recommends that part of the Parish of Allardville and part of the Parish of Bathurst, as well as Pabineau Indian Reserve No. 11, presently in the electoral district of Miramichi be transferred to the electoral district of Acadie—Bathurst. The changes made to the boundaries of the parishes of Allardville and Bathurst in the 2003 Representation Order are appended to this report. Since Pabineau Indian Reserve No. 11 is completely surrounded by the Parish of Bathurst, it is agreed that, for clarity, any mention of the Parish of Bathurst in this report also includes Pabineau Indian Reserve No. 11.

2. Commission membership

The Miramichi and Acadie—Bathurst Electoral Boundaries Commission was created on October 19, 2004, by Order in Council PC 2004-1196, pursuant to Part I of the *Inquiries Act*. This independent commission is composed of a chair, the Honourable Joseph Z. Daigle, former Chief Justice of New Brunswick, and two other members, Mr. Lorio Roy, editor-director general of the daily newspaper *L'Acadie NOUVELLE*, and Mr. Pierre Foucher, law professor at Moncton University's Faculty of Law.

3. Commission's mandate and approach

The Federal Electoral Boundaries Commission for New Brunswick was established by proclamation on April 16, 2002, under subsection 3(1) of the *Electoral Boundaries Readjustment Act*. In its final report of May 29, 2003, the Commission recommended that part of the Parish of Allardville and part of the Parish of Bathurst be transferred from the electoral district of Acadie—Bathurst to the electoral district of Miramichi. This recommendation is included in the representation order that sets out the 2002 Commission's recommendations. This 2003 Representation Order was declared, by proclamation on August 25, 2003, and came into force on May 23, 2004, with the dissolution of the 37th Parliament.

In May 2004, the Federal Court ruled in *Raïche v. Canada (Attorney General)* that the Federal Electoral Boundaries Commission for New Brunswick had erred in its application of the rules governing the preparation of its recommendations with regard to transferring parts of the parishes of Allardville and Bathurst from the electoral district of Acadie—Bathurst to that of Miramichi. The Federal Court therefore set aside this recommendation made by the 2002 Commission and suspended its decision for one year.

Since the *Electoral Boundaries Readjustment Act* does not authorize the establishment of a commission to readjust the boundaries of an electoral district declared invalid by a court, this Commission was created under the *Inquiries Act* following the Federal Court's decision. According to Order in Council PC 2004-1196, the Commission is charged with the following mandate:

“(a) to consider the boundaries of the electoral districts of Miramichi and Acadie—Bathurst in New Brunswick as set out in the 2003 Representation Order with respect to the Parishes of Allardville and Bathurst, having regard any relevant information;

(b) to set out their proposed recommendations concerning any amendments to the 2003 Representation Order relating to the Parishes of Allardville and Bathurst that they consider appropriate, based on the consideration referred to in paragraph (a) and having regard to the following principles, namely, that

(i) the division of the province of New Brunswick into electoral districts and the description of the boundaries thereof shall proceed on the basis that the population of each electoral district in the province as a result thereof shall, as closely as reasonably possible, correspond to the electoral quota for the province, that is to say, the quotient obtained by dividing the population of the province as ascertained by the 2001 census by 10, which is the number of members of the House of Commons assigned to the province of New Brunswick,

(ii) the Commissioners shall consider the following in determining reasonable electoral district boundaries for Miramichi and Acadie—Bathurst, namely,

(A) the community of interest or community of identity in, or the historical pattern of, those electoral districts, and

(B) a manageable geographic size for districts in sparsely populated, rural or northern regions of the province, and

(iii) the Commissioners may depart from the application of the principle set out in subparagraph (i) in any case where the Commissioners consider it necessary or desirable to depart from it having regard to the considerations set out in clauses (ii)(A) and (B) but, in departing from the application of the principle set out in subparagraph (i), the Commissioners shall make every effort to ensure that, except in circumstances viewed by the Commissioners as being extraordinary, the population of each electoral district in the province remains within twenty-five per cent more or twenty-five per cent less of the electoral quota for the province.”

As part of its mandate, the Commission first looked at the geographic and demographic data, including electoral district maps that it received from Elections Canada’s Electoral Geography Division for the electoral districts of Acadie—Bathurst and Miramichi. The Commission read the transcripts of the public hearings held before the 2002 Commission on September 4 and 5, 2002, in Miramichi and Caraquet, and took notice of a number of the comments collected during the course of these public hearings regarding the recommendation it had made to transfer parts of the parishes of Allardville and Bathurst from the electoral district of Acadie—Bathurst to that of Miramichi. In light of this information, and on the basis of the legal principles set out in the *Electoral Boundaries Readjustment Act*, reiterated in the Commission’s mandate, as well as the principles established in the jurisprudence pertaining to this issue, the Commission believed that it should

recommend, as an initial proposal, the reintegration of those parts of the parishes of Allardville and Bathurst presently in the electoral district of Miramichi into the electoral district of Acadie—Bathurst.

4. Proposed boundary

In the notices of public hearings it issued, the Commission recommended, as an initial proposal, the following changes to the boundaries of electoral districts identified in the 2003 Representation Order with respect to the parishes of Allardville and Bathurst:

“The Commission proposes to transfer to the electoral district of Acadie—Bathurst that part of the Parish of Allardville and that part of the Parish of Bathurst presently in the electoral district of Miramichi, namely, that part of the County of Gloucester comprised of: i) that part of the Parish of Allardville lying westerly of a line described as follows: commencing at the most northwesterly corner of the Parish of Saumarez; thence northwesterly in a straight line to the most southwesterly corner of the Parish of New Bandon; ii) that part of the Parish of Bathurst lying westerly of a line described as follows: commencing at the intersection of the northerly limit of the Parish of Allardville with Highway No. 8; thence northerly along said highway to the southerly limit of the City of Bathurst.”
(including Pabineau Indian Reserve No. 11)

5. Comments collected during public hearings

In accordance with the process specified in the Commission's mandate, the notices announcing the proposed boundary as well as the dates, times and locations of public hearings were published in English and French in two wide-circulation newspapers in the province and two weekly publications in the cities of Miramichi and Bathurst. The public hearings were held on Wednesday, November 17, 2004, in Miramichi and on Thursday, November 18, 2004, in Bathurst to collect opinions and comments from interested parties.

There was no public input during the Miramichi public hearing held on November 17. However, 10 or so participants made comments or submitted presentations, personally or as spokespersons for organizations or other bodies, during the public hearing held in Bathurst on November 18. In summary, the participants unanimously supported the Commission's proposal recommending that those parts of the parishes of Allardville and Bathurst presently in the electoral district of Miramichi be transferred to the electoral district of Acadie—Bathurst. The reasons or factors cited by the participants in support of their stands are examined in greater detail in the analysis of the reasons justifying the boundary recommended by the Commission.

6. Reasons justifying the boundary of the Parish of Allardville and Parish of Bathurst

The Commission believes that the redistribution of electoral districts is based on two elements: on the one hand, the application of the principles set out in the Act and jurisprudence that govern the right to

vote guaranteed under section 3 of the *Canadian Charter of Rights and Freedoms* and the effective and equitable representation of citizens, and on the other hand, the appreciation and weighting of the factors and characteristics specific to each electoral district with regard to the principles of redistribution.

Concerning the applicable principles, section 15 of the *Electoral Boundaries Readjustment Act* identifies the key factors that must be considered, namely the province's electoral quota, and the electoral district's community of interest or identity, its historical pattern and its geographic size. This is incorporated in the Order that established this Commission and therefore applies in this case. Furthermore, the Supreme Court of Canada set out important principles in the *Reference re Prov. Electoral Boundaries (Sask.)* concerning the applicability and weighting of the various factors identified above. The following is a summary of the key principles from the majority decision in this reference. First, the Court states that "the purpose of the right to vote enshrined in s. 3 of the Charter is not equality of voting power per se, but the right to effective representation." It adds that "parity of voting power, though of prime importance, is not the only factor to be taken into account in ensuring effective representation."

In this respect, it points out that "such relative parity as may be possible of achievement may prove undesirable because it has the effect of detracting from the primary goal of effective representation." The Court cites examples where factors may justify a departure from voter parity: "Factors like geography, community history, community interests and minority representation may need to be taken into account..." It concludes that departure from voter parity can be justified "to ensure more effective representation" and "in the end, it is the broader concept

of effective representation which best serves the interests of a free and democratic society.”

The first factor relating to effective and equitable representation, which the Supreme Court describes as being of “prime importance”, is equality in the number of electors, i.e. parity of voting power. The Court leaves no doubt that the principle of parity of voting power is an essential way to ensure the most equitable representation in the province’s electoral districts. According to the 2001 census, New Brunswick has a population of 729,498. When divided by the number of MPs in Parliament (10), each district should have an electoral quota of 72,950. The Act permits a maximum of $\pm 25\%$ variance between an electoral district’s population and the province’s electoral quota. This principle is repeated in this Commission’s mandate.

Transferring parts of the parishes of Allardville and Bathurst from the electoral district of Miramichi to Acadie—Bathurst will increase the population of Acadie—Bathurst and significantly reduce Miramichi’s. This will, in turn, increase the gap between the populations of these districts and the electoral quota of 72,950. In fact, the population of Acadie—Bathurst will reach 82,929, which is 13.68% over the electoral quota, while the population of Miramichi will drop to 56,464, 22.70% under the quota. Even though the decrease in the electoral district of Miramichi is within the 25% allowed, we must acknowledge that it is very close to the limit.

Another factor to be considered in the redistribution of electoral boundaries is the geographic size of a district. This factor is included in this Commission’s mandate. It is generally recognized that it is more difficult to represent large rural districts than small urban districts. This is

why the objective of effective representation takes this into account and may justify, in certain cases, having smaller populations in geographically large rural regions.

The Commission believes that this factor applies to the electoral district of Miramichi. It has a smaller population than the province's electoral quota due to its low population density, but is the second largest district in the province. On the other hand, the electoral district of Acadie—Bathurst is the smallest of all the rural districts in the province, but it has a relatively dense population.

Furthermore, the Supreme Court recognizes the importance of considering non-demographic factors such as the community of interest and the representation of minority groups to ensure a more effective representation of an electoral district.

Among the factors that may identify a community of interest, the Commission focussed on the following: language, economic ties, patterns of business and leisure activity, lifestyles, and access to public, educational and health services.

During the public hearing held in Bathurst on November 18, 2004, all participants, without exception, agreed to transferring parts of the parishes of Allardville and Bathurst to the electoral district of Acadie—Bathurst. Four of the participants live in the Greater Bathurst Region and made personal representations. Two other participants were spokespersons for organizations or associations, namely the *Société des Acadiens et Acadiennes du Nouveau-Brunswick* and *Association francophone des municipalités du N.-B.* The mayor of Bathurst also spoke on behalf of his city and the towns and villages of Beresford,

Nigadoo, Petit-Rocher and Pointe-Verte. Two other individuals represented the Local Service Districts of Saint-Sauveur and Allardville. Mr. Charles Hubbard, MP for the electoral district of Miramichi, spoke to the Commission and those present, and a presentation was submitted on behalf of Mr. Yvon Godin, the MP for Acadie—Bathurst.

To sum up the issues and comments made by the participants, it is clear that everyone agreed that they share common economic interests with the other regions of Acadie—Bathurst and expressed a sense of belonging to their regions and the electoral district of Acadie—Bathurst. They presented a variety of factors describing the business, social and recreational interaction between individuals and communities of the Greater Bathurst Region, as well as the ties and affinities that connect them to this region. For instance, Bathurst was described as the economic hub of the region where the participants shop and where the delivery of government services (such as hospital and health care), post-secondary education at the community college, legal services, and sports and recreational activities are concentrated. As for ties created through specific economic interests, much was said about the common efforts that have been made over quite a number of years with regard to regional economic development, and the numerous regional organizations with which the participants associate to achieve their common goals. Finally, among the main social characteristics of their region, some participants said that they share a common language and collective identity with the community. In fact, it is clear from the comments collected during the public hearings that a large majority of the inhabitants of the parishes of Allardville and Bathurst share strong community identification at an economic, linguistic and cultural level with the entire electoral district of Acadie—Bathurst and, more specifically, with the Greater Bathurst Region.

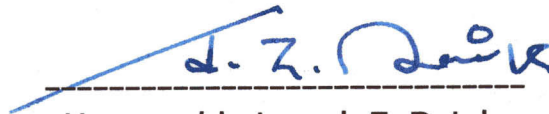
7. Recommendation

Given the existence of a linguistic, economic and cultural community of interest shared extensively by the population of the parishes of Allardville and Bathurst with the entire electoral district of Acadie—Bathurst, particularly the City of Bathurst, and to ensure more effective representation and improve the public's involvement in the electoral process and their communities, the Commission believes that it is highly desirable and justifiable to integrate these two regions into the electoral district of Acadie—Bathurst.

Finally, the Commission believes that it is justified to depart from the numerical parity of electors to ensure more effective representation of the electoral district of Acadie—Bathurst and recommends that those parts of the parishes of Allardville and Bathurst presently in the electoral district of Miramichi be transferred to the electoral district of Acadie—Bathurst.

The legal descriptions of the two electoral districts and the resulting map are appended to this report.

Dated at Moncton, New Brunswick this 2nd day of December, 2004.



Honourable Joseph Z. Daigle
Chairman



Mr. Lorio Roy
Member



Mr. Pierre Foucher
Member

Schedule

Proposed Boundaries of the electoral districts of Acadie—Bathurst and Miramichi, population and map

In the following descriptions:

- (a) reference to a “county” or “parish” signifies a “county” or “parish” as named and described in the *Territorial Divisions Act*, Chapter T-3 of the *Revised Statutes of New Brunswick*, 1973;
- (b) reference to a municipality such as a “village” signifies a “village” as named and described in the *Municipalities Order – Municipalities Act*, New Brunswick Regulation 85-6;
- (c) reference to an “Indian reserve” signifies a “reserve” as defined in the *Indian Act*, Chapter I-5 of the *Revised Statutes of Canada*, 1985;
- (d) wherever a word or expression is used to denote a territorial division, e.g., a county, parish, village, or an Indian reserve, such word or expression shall indicate the territorial division as it existed or was bounded on the first day of March 2002;
- (e) all counties, parishes, cities, towns, villages, rural communities and Indian reserves, lying within the perimeter of an electoral district are included unless otherwise described;

The population figure for each electoral district is derived from the 2001 decennial census conducted by Statistics Canada.

ACADIE—BATHURST

(Population: 82,929)

Consisting of the County of Gloucester, excepting that part of the Village of Belledune contained therein.

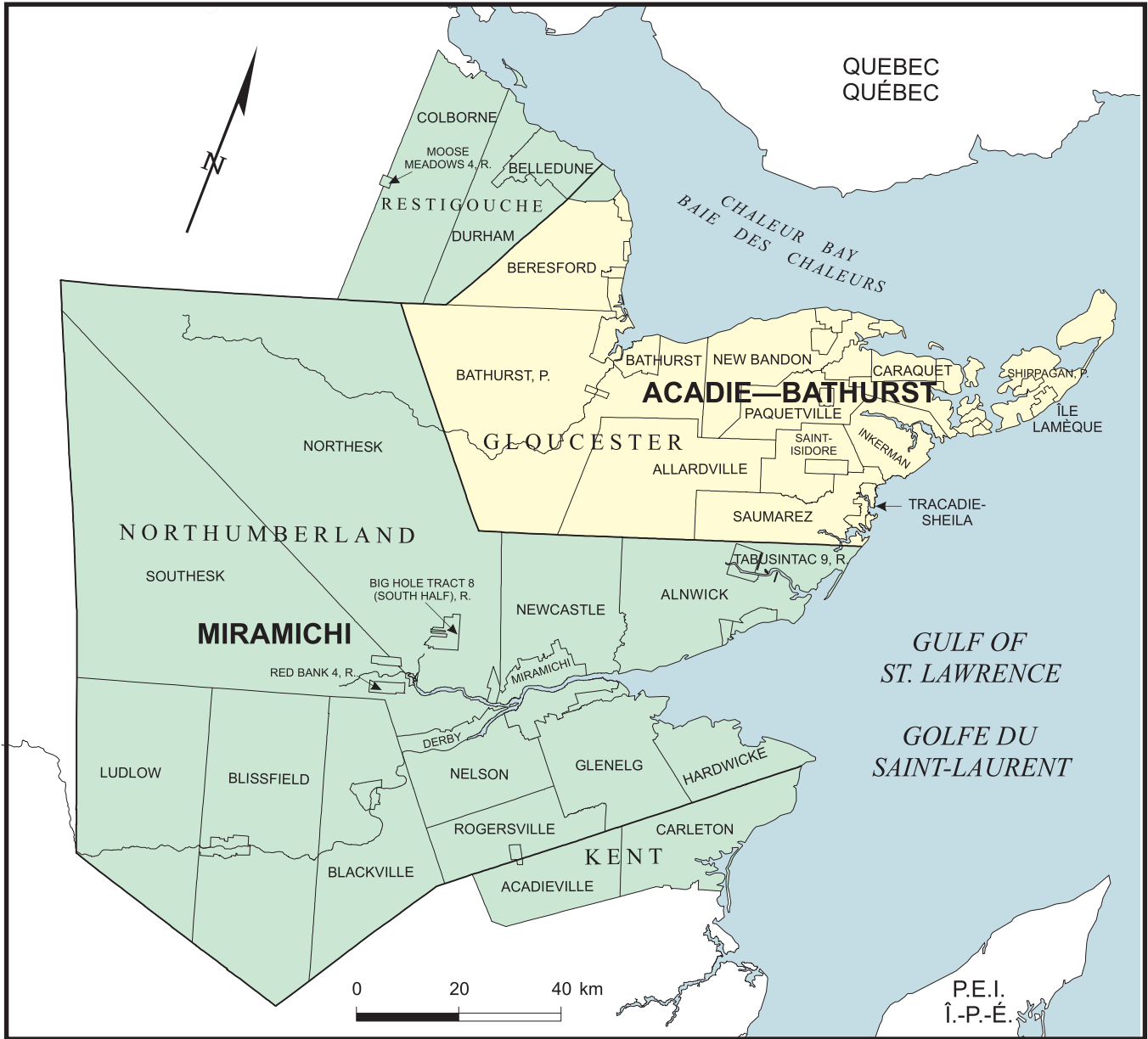
MIRAMICHI

(Population: 56,464)

Consisting of:

- (a) the County of Northumberland;
- (b) that part of the County of Gloucester comprised of that part of the village of Belledune contained therein;
- (c) that part of the County of Restigouche comprised of: the parishes of Colborne and Durham; that part of the Village of Belledune contained therein; Moose Meadows Indian Reserve No. 4; and
- (d) that part of the County of Kent comprised of: the parishes of Acadieville and Carleton; that part of the Village of Rogersville contained therein.

Proposal of the Miramichi and Acadie—Bathurst Electoral Boundaries Commission



Source: Elections Canada