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PROVINCE OF PRINCE EDWARD ISLAND
REPORT OF THE ROYAL COMMISSION
ON
ELECTORAL REFORM

Appointed under The Public Inquiries Act
(R. S. P. E. I. 1951, Chapter 130)

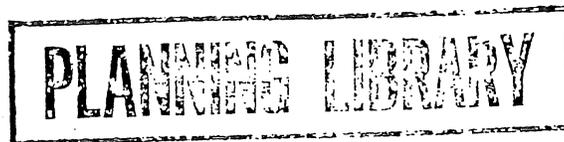


TABLE OF CONTENTS

	Page
Letter of Transmittal.....	2
Order-in-Council 13 / 61 Appointing Commission.....	3
Order-in-Council Amending 13 / 61.....	4
Commission.....	5
Endorsement on Commission.....	6
Commissioners' Report.....	7
Introduction.....	7
The Legislature.....	7
The Commission's Hearings.....	9
Recommendations.....	9
Conclusions.....	15
 Appendix "A"—Draft Election Act	
Appendix "B"—List of Briefs and Letters	
Appendix "C"—List of "Assistants"	

TO:

His Honour the Lieutenant-Governor of Prince Edward Island, -in-Council.

Sir:-

In compliance with your Commission dated the tenth day of January, 1961, we have the honour to report that we have completed our inquiry and beg to append herewith our report wherein we deal with the matters falling under Terms of Reference therein mentioned.

We append also a copy of your Commission to which reference has been made above, and with which we have tried to comply as closely as circumstances would permit.

We have the honour to be,

Sir,

Your obedient servants

.....
J. S. DesRoches, Chairman

.....
Frank MacKinnon

.....
Louis O'Connor

.....
Peter M. MacCaull

.....
Frank L. MacNutt

Charlottetown, P. E. I.
March 1962.

Copy of a Minute of His Honour the Lieutenant-Governor-in Council dated January 10, 1961.

No. 13 / 61

THE PUBLIC INQUIRIES ACT
ELECTORAL REFORM—APPOINTMENT OF
ROYAL COMMISSION

Council, having under consideration the question of electoral reform in connection with the Legislative Assembly, did and doth hereby under authority of The Public Inquiries Act (R.S.P.E.I. 1951, Chapter 130), appoint the undermentioned to be a Commission to inquire into and concerning all matters relating to the election of members to the Legislative Assembly, AND to make such recommendations as are deemed proper respecting such matters and to report thereon to the Lieutenant-Governor-in-Council.

COMMISSION

Chairman: His Honour J. S. DesRoches, Judge of the County Court of King's County

Members: Dr. Frank MacKinnon
Louis O'Connor
J. Stewart Ross, M.L.A.
R. A. Grindlay, M.L.A.

Advisor: Heath McQuarrie, M.P.

Secretary: P. S. Fielding

(L. S.)

Certified a true copy,

(Sgd.) P. S. Fielding,
Clerk of the Executive Council.

Copy of a Minute of His Honour the Lieutenant-Governor-in-Council dated April 6, 1961.

No. 176 / 61

THE PUBLIC INQUIRIES ACT
ELECTORAL REFORM—APPOINTMENT OF
ROYAL COMMISSION

Further to Minute-in-Council No. 13 / 61 Council did and doth hereby accept the resignation of J. Stewart Ross, M.L.A. and R. A. Grindlay, M.L.A. as members of the Royal Commission on Electoral Reform and in their places and stead did and doth hereby appoint the undermentioned to be members of the said Commission:-

Frank MacNutt—Malpeque

Peter M. MacCaull—Ellerslie

Certified a true copy,

(Sgd.) P. S. Fielding,
Clerk of the Executive Council.

(L. S.)

COPY OF COMMISSION

CANADA
PROVINCE OF
PRINCE EDWARD ISLAND

By His Honour

(L. S.)

The Honourable Frederick Walter Hyndman
Lieutenant-Governor of the Province
of Prince Edward Island, etc., etc., etc.

(Sgd.) F. W. Hyndman
Lieutenant-Governor

TO:

His Honour J. S. DesRoches, Judge of the County Court of
King's County, Province of Prince Edward Island.

GREETING:

Reposing especial trust and confidence in your loyalty, zeal, integrity and ability, and by virtue of the power and authority in me vested, I do hereby nominate, constitute and appoint you the said J. S. DesRoches as Chairman of a Commission to hold an inquiry under "The Public Inquiries Act" to inquire into and concerning all matters relating to the election of members to the Legislative Assembly as set out in the Minute-in-Council hereon endorsed in and for the said Province of Prince Edward Island to have, hold, occupy, possess, and enjoy the said Office of Commissioner under "The Public Inquiries Act" during pleasure. Giving and granting unto you the said J. S. DesRoches, Judge of the County Court of King's County, all the powers, rights, privileges and emoluments to the said Office belonging or in anywise appertaining.

Given under my hand and the Great Seal of this Province at Charlottetown in said Province this tenth day of January in the year of Our Lord one thousand nine hundred and sixty-one and in the ninth year of Her Majesty's Reign.

By Command,

(Sgd.) P. S. Fielding,
Deputy Provincial Secretary.

(Endorsed)

No. 13 / 61

THE PUBLIC INQUIRIES ACT
ELECTORAL REFORM—APPOINTMENT OF
ROYAL COMMISSION

Council, having under consideration the question of electoral reform in connection with the Legislative Assembly did and doth hereby under authority of The Public Inquiries Act (R.S.P.E.I. 1951, Chapter 130) appoint the undermentioned to be a Commission to inquire into and concerning all matters relating to the election of members to the Legislative Assembly And to make such recommendations as are deemed proper respecting such matters and to report thereon to the Lieutenant-Governor-in-Council.

COMMISSION

Chairman: His Honour J. S. DesRoches, Judge of the County Court of King's County

Members: Dr. Frank MacKinnon
Louis O'Connor
J. Stewart Ross, M.L.A.
R. A. Grindlay, M.L.A.

Advisor: Heath McQuarrie, M.P.

Secretary: P. S. Fielding

INTRODUCTION

Pursuant to the directive contained in the Terms of Reference in this Commission, a conference of the commissioners was convened for the third day of May, 1961—The Terms of Reference, “to inquire into and concerning all matters relating to the election of members to the Legislative Assembly, And to make such recommendations as are deemed proper respecting such matters and to report thereon, to the Lieutenant-Governor-in-Council”, were interpreted to mean a complete examination of all the legislation and practice in Prince Edward Island dealing with elections.

It seemed desirable to the Commission on entering upon their duties, to examine not only The Election Act (R.S.P.E.I. 1951, Chapter 48), The Legislative Assembly Act (R.S.P.E.I. 1951, Chapter 185), and The Controverted Elections (Provincial) Act (R.S.P.E.I. 1951, Chapter 31), but also the history and the background of our present Legislature and the amendments to the Statutes and practice governing elections which have from time to time been enacted.

THE LEGISLATURE

The Legislature of Prince Edward Island has developed to fit the tiny province it serves. Because the machinery of government is enormous in relation to the size, population and resources of the Island, constitutional growth and political experience have resulted in certain unique legislative arrangements. These arrangements are taken for granted now. But it must not be forgotten that during the period when such larger and wealthier Islands as Cape Breton and Vancouver Island were annexed to the mainland, Prince Edward Island was allowed a government of its own only with great reluctance and many misgivings, and the development of that government, largely an accident of history, was a long and painful process. It is significant, too, that the political situation in Prince Edward Island has changed very little in the past one hundred years.

The Legislature of Prince Edward Island was established in 1769 and first summoned in 1773. There were only eighteen members at first because, in pioneering days, it was difficult to get even that number of interested people to serve. The House had limited powers because most of the responsibility and revenue lay with the British government and the Island was not yet developed. It met spasmodically; it had to become experienced in parliamentary privileges and procedures; and it had to go through the usual struggles with the Governor and Executive Council that marked the growth of all legislatures in the British Empire. It was not until 1851 that responsible government was established on the Island and the House assumed the role it plays today.

The powers of the House are clear: (1) to enable the people's representatives to make the laws by which the Province is governed; (2) to express ideas and opinions on public business; and (3) to praise or criticize the actions of the executive. The structure of the House and the methods by which it operates must be judged in the light of these powers and the efficiency of their exercise.

The Legislative Assembly of today dates back only to 1893. Before that the Legislature consisted of three parts—the Lieutenant-Governor, the Legislative Council, and the Legislative Assembly. Both the old Council and the old Assembly were abolished in 1893 and replaced by a new body called the Legislative Assembly. The Legislature now consists of the Lieutenant-Governor and the Legislative Assembly.

The reason for this change was partly the consolidation of upper and lower houses which took place in all provinces except Quebec, which still maintains a second chamber, and partly the fact that the old Legislature was too large for the Island. The difficulties under which this change was made are indicated by the fact that it took sixty years to make it.

The Legislative Assembly at present consists of thirty members, fifteen Councillors elected on a property franchise and fifteen Assemblymen elected on a popular franchise. This unique combination served two purposes. In the first place it was the only solution which would meet the wishes of the two old Houses and permit the change of 1893. In the second place, and more important, it solved the perennial problem of making an electoral system work in a very small province. Thirty members seemed the only logical number: more meant too many for the voting population; less seemed insufficient to maintain a proper balance between the number of members and the number of cabinet ministers. But thirty constituencies would mean thirty very tiny areas in which the amount of politics per vote would be impractical for the efficient conduct of public business. Consequently fifteen constituencies were set up with two members each, elected on two different franchises in two separate contests. The two franchises and contests served the practical purposes of seeing that propertied interests which had "a stake in the community" were represented, avoiding the pitting of members of one party against each other which would result from a four—or more—man contest, and enabling the political parties to arrange balanced contests with candidates from different areas, religions and occupations. All these arrangements were the result of the extremely bitter turmoil which characterized Island politics from 1773 to 1893 and were designed to make the Legislative Assembly and the electoral system work in practice.

The nature of the Executive Council has had a marked effect on the Assembly and its election. There are nine ministers, and the Island has tried every method from having twelve ministers to permitting no ministers at all in the House including, until recently, the frequent use of ministers without portfolio. The number of nine has been found a workable figure: more means too many and not enough for each to do: less means too small an executive for discussion and administration. Moreover there has always been a real problem in parliamentary government everywhere in adjusting the size and power of the executive in relation to the Legislature, and the Island government has had decades of struggle with it. Nine ministers in a 30-man house is one of the highest proportions in the world—almost a third of the House and always a large fraction of the majority group. The severe limitation on the Premier's selection of a Cabinet and the power of the Cabinet in relation to that of the House are unmatched anywhere in Canada except in Newfoundland. This point has had an important bearing on the composition of the House described above.

The structure of a Legislature is, of course, only one feature of parliamentary government. The calibre of the members and the method of their election are just as important. On Prince Edward Island 50,000 voters elect thirty members; consequently the election is a highly concentrated process involving small areas and few voters. And, because of the lack of county administration and the limited amount of municipal administration, the method of election is affected in unusual ways by the functions which members are expected to perform. The history of elections on the Island has always featured an intensity of politics and, consequently, it is one of exceptional bitterness, violence, and rivalry in the early days and of difficult manoeuvrings in modern times. The electoral system of the Province must always be judged in relation to these facts, for many decades of experience lie behind the present electoral legislation.

Another important factor must be remembered. In the Island Legislature, as in all representative assemblies, two essential purposes determine the functions of members—to represent the wishes of the people and to get the people's business done. These purposes are essential to democracy. Often they are quite compatible. But, paradoxically enough, they are often not compatible: for the wishes of some people are not necessarily those of all the people, the wishes are sometimes obscure and often conflicting, and the wishes of majorities are not always the powerful ones or even the right ones. And getting public business done is a complicated process of which probably nine-tenths is unfamiliar to the people either because it is too complicated or they are not sufficiently interested in it. These are well-known limitations of democracy which have had effects on the development of all legislatures and the Island Legislative Assembly is no exception.

THE COMMISSION'S HEARINGS

The Commissioners held seven private meetings prior to the Public Hearings with the last of such on August 30, 1961. At these meetings, The Election Act and correlated Acts were studied and they were compared with the Dominion Election Act and with the Report of the Royal Commission on Electoral Reform in Nova Scotia. The Commissioners noted changes which their reading and discussions suggested as they went along but formed no firm or fixed opinions until well after the final Briefs and verbal presentations had been presented.

The first Public Hearing was held in the Law Courts Building in Charlottetown on September 13, 1961 after notice thereof had been published in the Island press. The Commissioners proceeded to Summerside on September 25th, to Montague on October 11th, to Alberton on October 23rd, to Souris on November 7th, to Charlottetown on November 15th, and held a final Public Hearing in Charlottetown on November 24th. All these Hearings were well-advertised in advance so that everyone in Prince Edward Island would have an opportunity to be heard.

At these hearings, the Commissioners heard twelve Briefs, many persons made verbal presentations, and six letters were received from interested individuals. These Briefs, representations and letters, in the opinion of the Commissioners, covered the whole field for investigation at the present time. The main points stressed were multiple voting, the property vote and the distribution of seats. The Commissioners are pleased with the number and variety of ideas presented. Although the Commission began its inquiry and hearings in early May 1961, it was not until after the 15th of December that the substance of the Briefs was extracted and general agreement was reached.

RECOMMENDATIONS

1. Multiple Voting:

The practice of multiple voting, perhaps going to the extreme of a man and his wife voting in every Electoral District in the Province, is in our opinion illogical and conducive to confusion and inequality because of difference in property valuation. We noted a widespread demand for its abolition.

Recommendation:

We recommend the abolition forthwith of multiple voting in Prince Edward Island.

2. Property Vote:

The property vote, which is a very different thing from the multiple vote, was given much study by the Commission. Some Briefs opposed it, often confusing it with the multiple vote, and some favoured it.

Recommendation:

The majority of the Commission recommend that the property vote be retained but be exercised only once in any Election by any one qualified voter and that it be cast either (1) in respect of the property situated in the Electoral District in which the voter resides or (2) should he not own property in the District in which he resides, in respect of property situated in a District immediately adjoining the District in which he resides, and that the property be of the minimum value of one thousand dollars instead of three hundred and twenty-five dollars as at present.

We also recommend that the distinction between Councillor and Assemblyman be retained as essential to the two-member, two-contest constituency of this Province, and that, where a voter may vote on both popular and property franchise he must do so together and only once in one Electoral District.

3. Readjustment of Representation:

This question of distribution of seats in the Legislative Assembly gave us much difficulty and was the focal point of many of our considerations. We discussed the usual factors involved in distribution: population, geography, taxes paid, trading and marketing convenience, and common interests. Statistics may help to indicate the problem.

In the 1959 Provincial Election, the following number of votes were cast:-

KINGS COUNTY

FOR COUNCILLOR

First District.....	1,813
Second District.....	1,514
Third District.....	1,488
Fourth District.....	1,779
Fifth District.....	1,351
	<hr/>
	7,945

FOR ASSEMBLYMAN

First District.....	2,282
Second District.....	1,803
Third District.....	1,758
Fourth District.....	2,125
Fifth District.....	1,597
	<hr/>
	9,565

TOTAL VOTES CAST.....17,510

QUEENS COUNTY

FOR COUNCILLOR

First District.....	2,535
Second District.....	2,885
Third District.....	2,902
Fourth District.....	2,070
Charlottetown & Royalty.....	5,372
	<hr/>
	15,764

FOR ASSEMBLYMAN

First District.....	2,979
Second District.....	3,372
Third District.....	3,504
Fourth District.....	2,360
Charlottetown & Royalty.....	10,010
	<hr/>
	22,225
TOTAL VOTES CAST.....	37,989

PRINCE COUNTY

FOR COUNCILLOR

First District.....	3,597
Second District.....	2,150
Third District.....	1,865
Fourth District.....	3,092
Fifth District.....	2,806
	<hr/>
	13,510

FOR ASSEMBLYMAN

First District.....	4,067
Second District.....	2,408
Third District.....	2,243
Fourth District.....	3,766
Fifth District.....	4,566
	<hr/>
	17,050
TOTAL VOTES CAST.....	30,560

Total Votes for Councillor.....37,219

Total Votes for Assemblyman.....48,840

As a general statement we believe that these statistics would indicate that a redistribution of seats would be desirable, provided the recommendations were not too drastic.

Recommendation:

We recommend the following distribution:

Prince County—Five Districts—Ten Seats

First District—Lots No. 1, 2, 3, 4, 5, 6 and Savage Island

Second District—Lots No. 7, 8, 9, 10, 11, 12, 13 and Lennox Island

Third District—Lots No. 14, 15, 16, 17 exclusive of the Town of Summerside and the Summerside Airport.

Fourth District—Lots No. 18, 19, 25, 26, 27, 28 and Indian Island and the Islands in Richmond Bay except Lennox Island

Fifth District—Town of Summerside and Summerside Airport

Queens County—Six Districts—Twelve Seats

First District—Lots No. 20, 21, 22, 29, 30 and 67

Second District—Lots No. 23, 24, 31, 32, 65, Robinson's Island and St. Peters Island

Third District—Lots No. 33, 34, 35, 36, 37 and 48

Fourth District—Lots No. 49, 50, 57, 58, 60, 62 and Governor's Island.

Fifth District—All that portion of Charlottetown and Royalty including Victoria Park and Poplar Island lying north and west of a line drawn as follows: COMMENCING on the shore of North River at the centre line of the western extremity of Brighton Road and running thence east along the centre lines of Brighton Road and of Euston St. to Longworth Avenue, thence northeast along the centre lines of Longworth Avenue, and the St. Peters Road to the Brackley Point Road, thence north along the centre line of the Brackley Point Road to the Royalty Road, thence west, north and west along the centre line of the Royalty Road to the shore of North River aforesaid and thence along the said shore to the place of commencement.

Sixth District—Shall comprise and include all the remaining portion of Charlottetown Common and Royalty not included in the Fifth Electoral District.

Kings County—Four Districts—Eight members

First District—Lots No. 43, 44, 45, 46 and 47

Second District—Lots No. 38, 39, 40, 41, 42 and 56.

Third District—Lots No. 66, 51, 52, 53, 54, 55, the Town of Georgetown & Boughton Island.

Fourth District—Lots No. 59, 61, 63, 64 and the Islands in Murray Harbour.

4. Voting Age:

Representation has been made to us that the voting age be reduced from twenty-one years to eighteen or nineteen years. On the one hand the voting age under The Dominion Election Act is now twenty-one years and persons under twenty-one are still considered minors-in-law with few exceptions. On the other hand young people today are more familiar with public questions than formerly and veterans with overseas service vote at eighteen.

Recommendation:

We recommend that the voting age remain at twenty-one years to conform with The Dominion Election Act.

5. Voters' List:

There has never been an official voters' list for Provincial Elections in this Province although there is provision for such lists in Federal Elections. It would be some help to candidates, their agents and workers on Election Day, but we found on investigation that it would be very complicated and expensive.

Recommendation:

We recommend that no voters' list be prepared until such time as satisfactory procedure and financial arrangements can be made therefor.

6. Chief Electoral Officer:

The task of preparing for an election is difficult and requires personnel with considerable experience. In the past, much of this preparation has been done from the Provincial Secretary's Office. We believe that the Provincial Secretary, an elected official and an interest party in the outcome of the election, should be removed from this area of possible controversy.

Recommendation:

We recommend that an electoral officer, full time or part time, as the exigencies of the situation may require, with pay commensurate to the services rendered and free from all party affiliation be appointed and be responsible only to the Legislative Assembly.

7. Revision of Election Act:

Prince Edward Island is an agricultural and fishing Province. The population has been more or less stable for the past sixty years with the exception of Charlottetown and Summerside. But many changes could occur within the next few years.

Recommendation:

We recommend that a revision of the Election Act and related Acts be made after every Dominion Census is completed and statistical returns are available.

8. Voting Time Off:

There is no provision now to permit employees time off to vote. While most employers grant such time willingly, it has been brought to our attention that some employers arrange their employees' time in such a way that it is difficult for them to vote. The Dominion Election Act provides for a three hour break for employees to vote at Federal Elections.

Recommendation:

We recommend a one hour break, in addition to ordinary time off for meals, for employees on polling day at Provincial Elections. With the great number of cars and generally good roads in the Province and with no great distances to travel, a one hour break should be sufficient for this purpose.

We further recommend that the voting hours on Election Day be from 9:00 a.m. to 6:00 p.m. official time.

9. Compulsory Voting:

On this matter, we have had representations both for and against. We doubt the value of a vote obtained under compulsion.

Recommendation:

We recommend that no compulsory voting legislation be enacted.

10. Increase of Remuneration for Members:

Even though the average session in Prince Edward Island lasts generally from five to seven weeks, the present remuneration is not sufficient for time spent and services rendered by members on behalf of their constituents.

Recommendation:

We recommend an increase of five hundred dollars per representative per year over the present Statutory remuneration as provided in Section 46 of the Legislative Assembly Act. A suitable amendment to the Legislative Assembly Act should be enacted to provide for such increase.

11. Corrupt Practices:

Recommendation:

We do not recommend changes in The Controverted (Provincial) Election Act until a fair trial is given the amendments suggested in this report.

12. Election Advertising:

Some who have appeared before us would like to see frivolous election advertising cut out. It would appear to be a difficult matter to control and no suggestions were made as to how it could be controlled.

Recommendation:

We recommend that no action be taken at the present time.

13. Candidates' Deposit:

Representation has been made that the deposit on nomination should be reasonably low to give the poor man an equal opportunity of being nominated with the well-to-do man.

Recommendation:

We recommend that the present one hundred dollars deposit be retained as being reasonable because there does not appear to be any real hardship if the candidate is a serious one.

14. Party Affiliation Marked on Ballot:

We heard all the arguments for and against this suggested change but we feel no change is either desirable or necessary at the present time.

Recommendation:

We recommend that the party affiliation of candidates be not printed on the ballot paper.

15. Advance Poll:

There is no provision for Advance Polls in this Province except at Federal Elections. Any elector who expects to be absent from the Province on Election Day and for that reason will be unable to vote should be permitted to do so at an Advance Poll.

Recommendation:

We recommend that advance Polls be provided for. We recommend that no more than one be set up for each County.

16. The Provincial Election Act should follow The Dominion Election Act:

The Royal Canadian Legion Branch, Summerside, and verbal representations from other areas in the Province have suggested to us that the Provincial Election Act should follow The Dominion Election Act *mutatis mutandis*. We are inclined to agree with the Nova Scotia Commissioners on electoral reform in that Province who report as follows:—

“From the beginning the Commission (Nova Scotia) was aware of the benefits which would arise from conformity, where possible, with the legislation set out in The Canada Elections Act. Elections, both Federal and Provincial, are normally held at intervals of four years and require the services of a large number of personnel from various walks of life for a short period. In many cases these personnel and electors are the same in both Federal and Provincial Elections. They should not be confused by unnecessary differences in terminology and procedure of the respective Statutes. Similarity in terms and procedure therefore become important.”

Recommendation:

We recommend that the Prince Edward Island Election Act conform to The Dominion Election Act in terms and procedure as near as possible.

DRAFT ELECTION ACT

17. Appended hereto is a draft Election Act marked Appendix "A" which we drafted after consideration of existing Provincial Legislation, applicable provisions of The Dominion Election Act and the suggestions of those who appeared before us.

In this Draft Act will be found certain suggested enactments concerning such matters as Proclamation, Election Notices and Teste of Writ. We have already recommended that certain Sections of The Election Act be rewritten, amended or struck out.

PRESENTATIONS

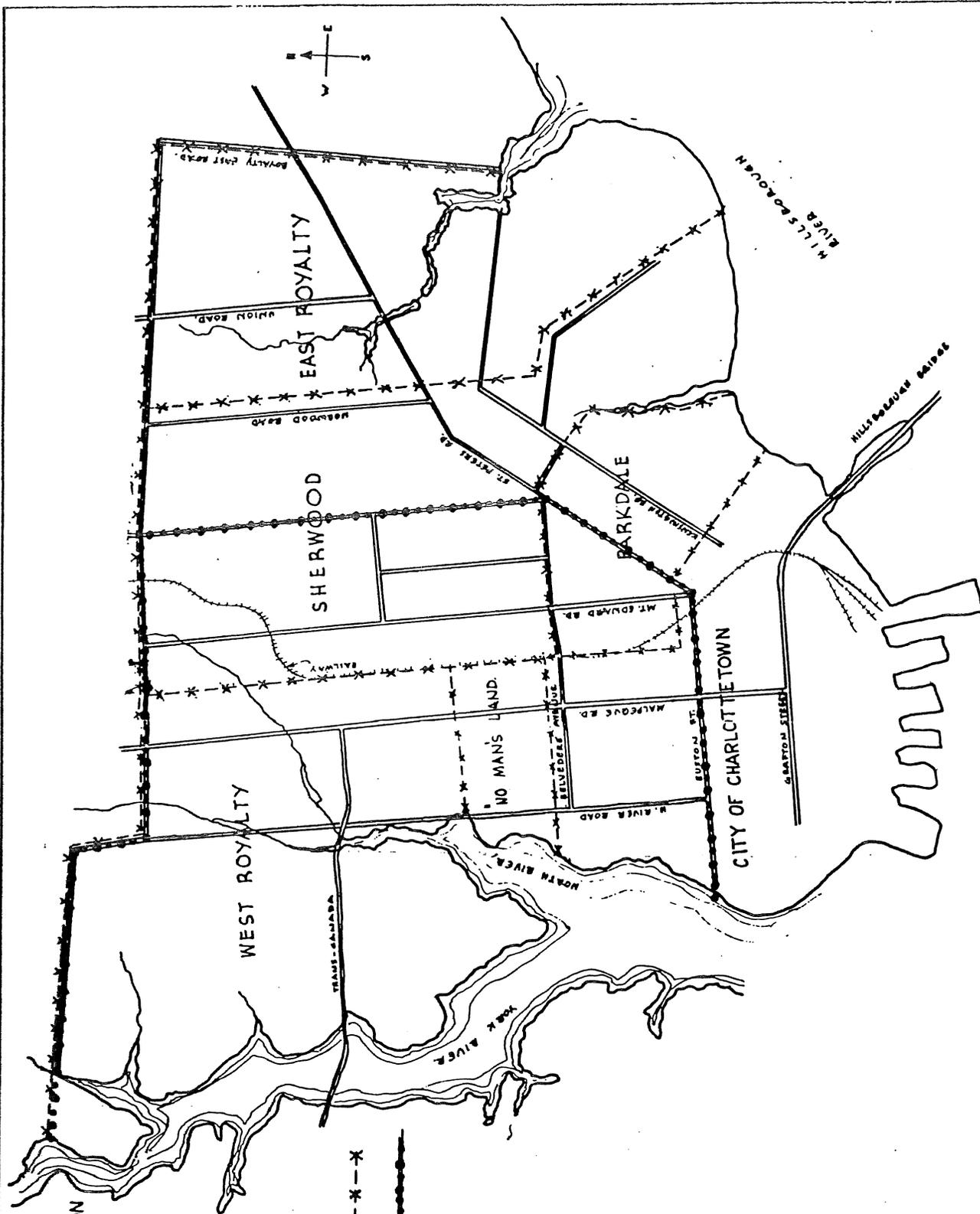
18. Appended hereto as Appendix "B" is a list of the Briefs presented, and letters received.

APPRECIATION

19. The Commission wishes to express deep appreciation to its Secretary, Mr. P. S. Fielding, for the help and advice which he gave the Commission in its deliberations.

Respectfully submitted,

J. S. DesRoches, Chairman
Frank MacKinnon
Louis O'Connor
Peter M. MacCaull
Frank L. MacNutt



APPROXIMATE POPULATION

CHARLOTTETOWN	19,000
PARKDALE	1,900
SHERWOOD	1,600
EAST ROYALTY	250
WEST ROYALTY	400
NO-MAN'S LAND	50
TOTAL	23,100

LEGEND

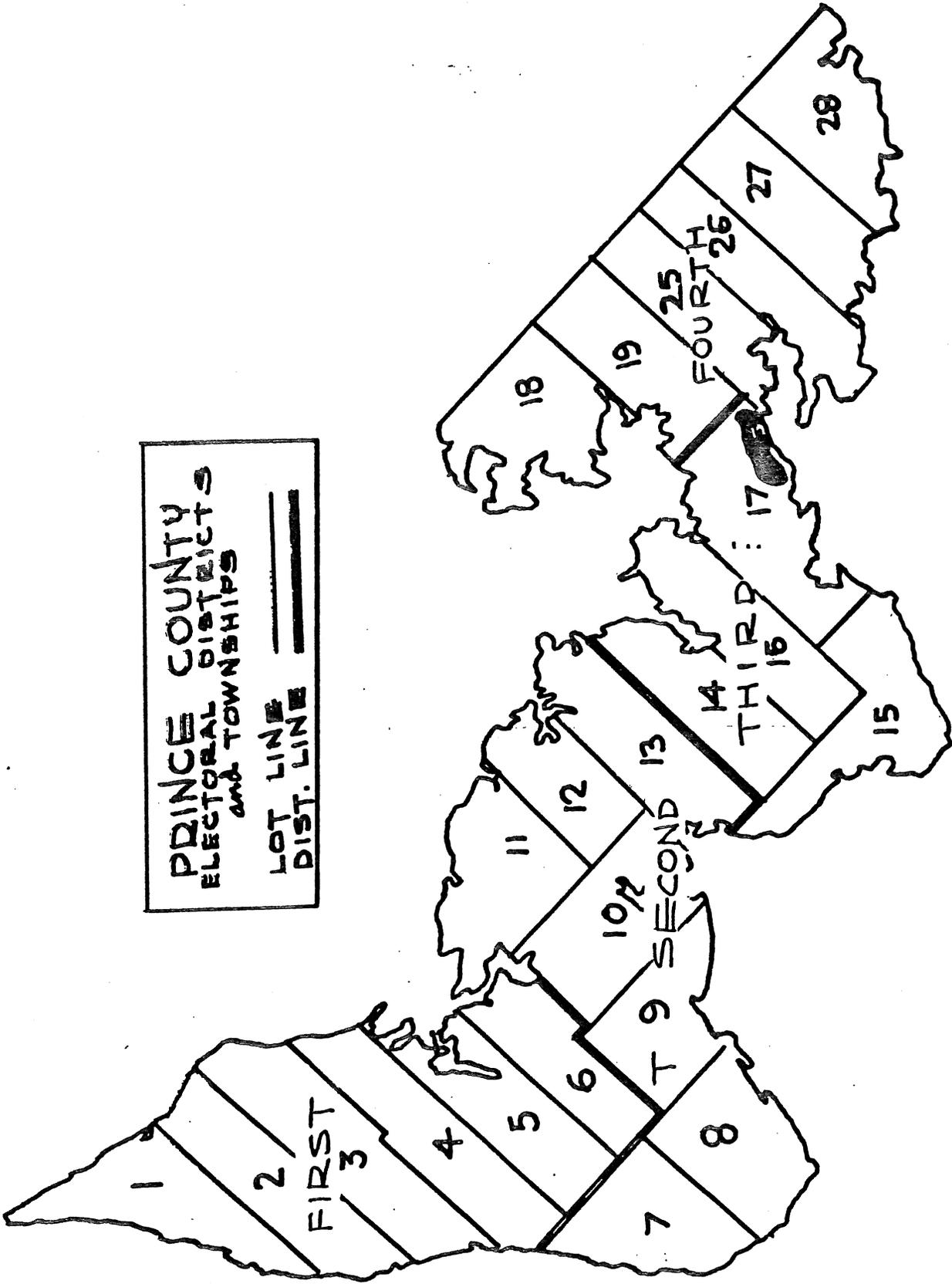
CITY & VILLAGE BOUNDARIES * - * - *

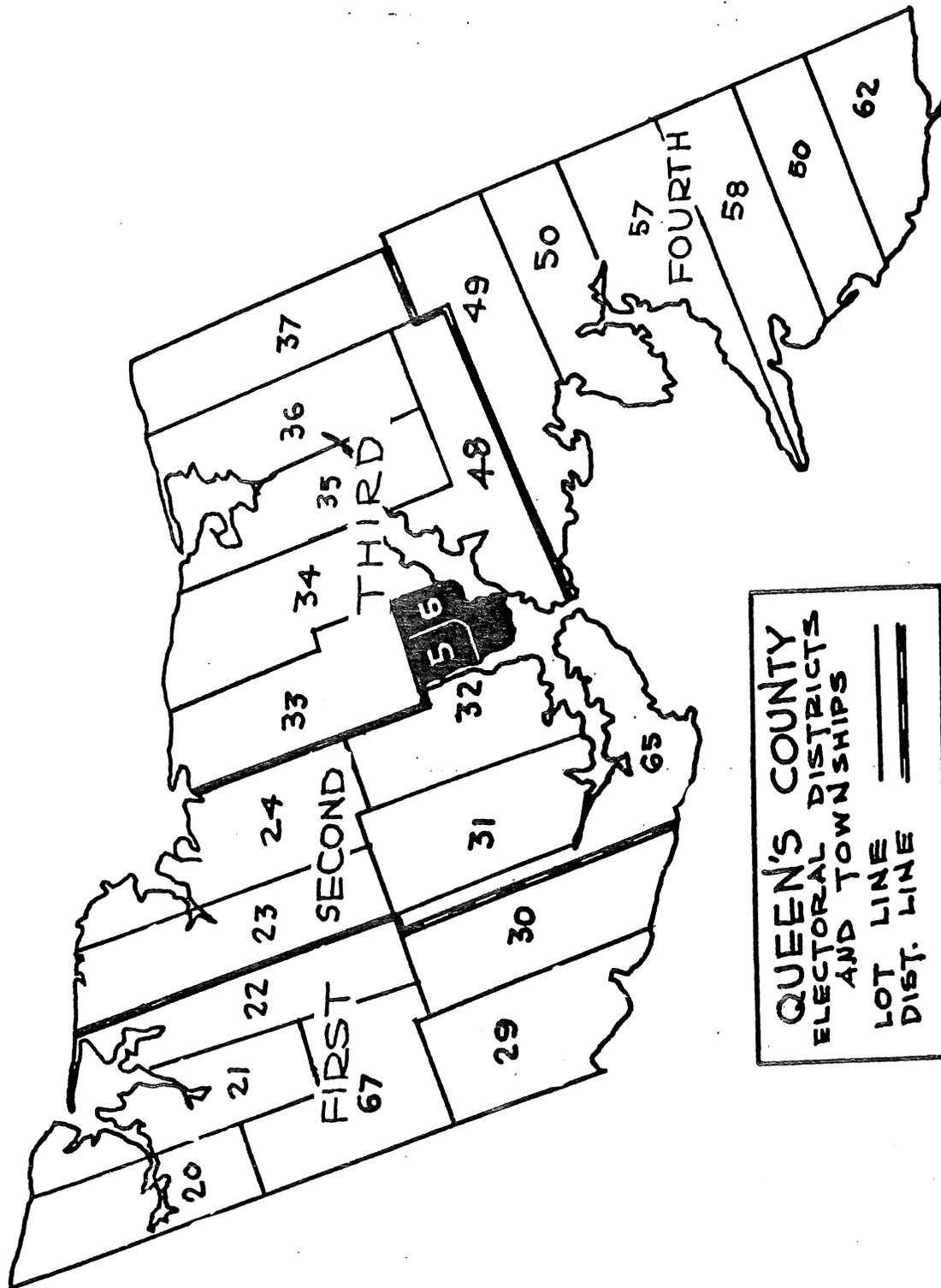
SUGGESTED ELECTORAL BOUNDARIES

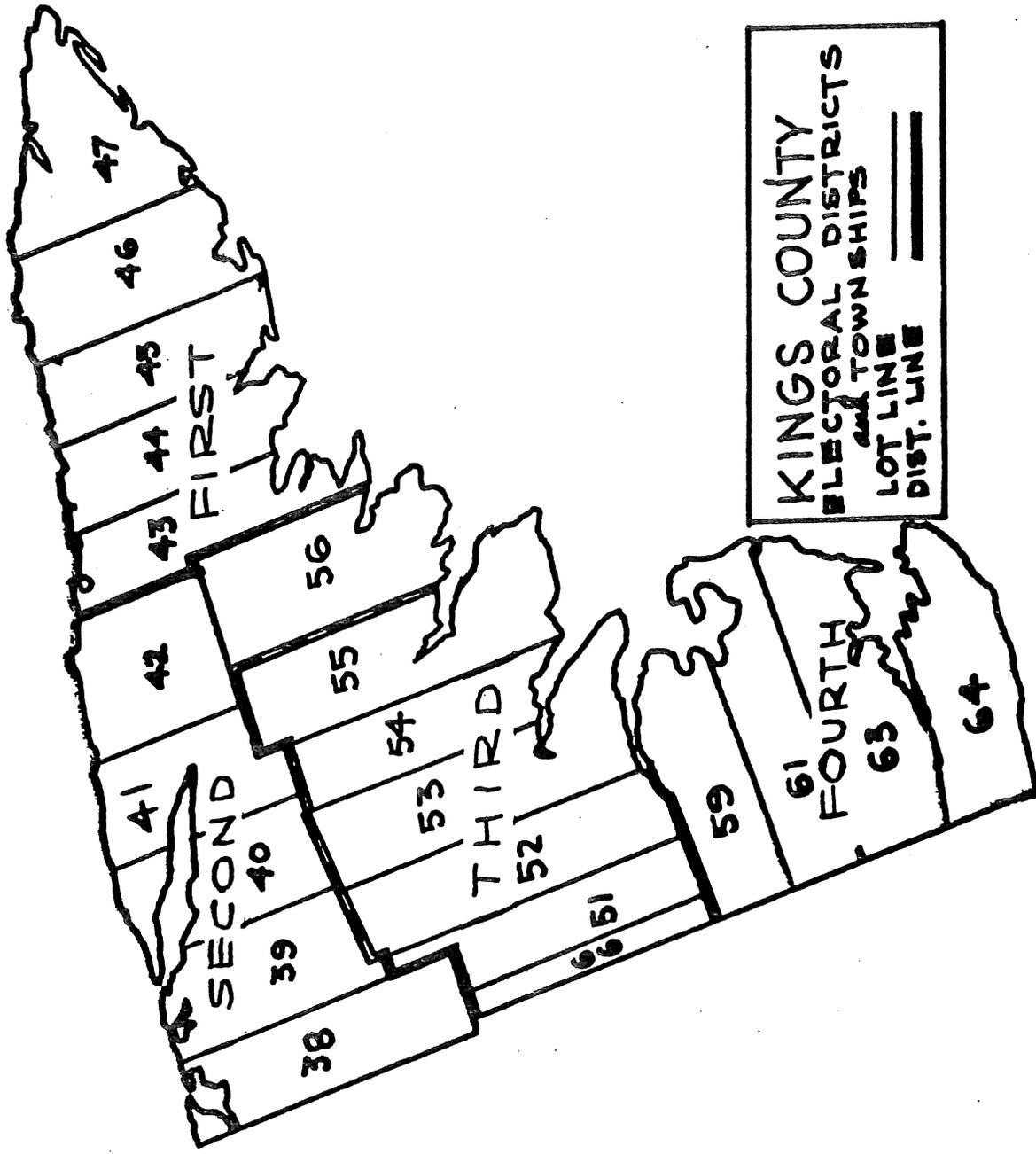
DIAGRAMMATIC MAP OF CHARLOTTETOWN & ADJOINING AREAS.

PRINCE COUNTY
ELECTORAL DISTRICTS
and TOWNSHIPS

LOT LINE ———
DIST. LINE ———







KINGS COUNTY
ELECTORAL DISTRICTS
 and
TOWNSHIPS
 LOT LINE
 DIST. LINE