

# VOTING IN A TIME OF CHANGE

**SINGAPORE'S 2020  
GENERAL ELECTION**

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Voting in a Time of Change: Singapore's 2020 General Election

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# DELINEATION AND DISCRETION: THE DRAWING OF ELECTORAL BOUNDARIES IN SINGAPORE\*

Kevin YL Tan



*Heng Swee Keat took leave of Tampines GRC as he was moved to East Coast GRC.*

## INTRODUCTION

While Article 65(4) of the Singapore Constitution limits the life of each Parliament to five years, this is not a fixed term. Under Singapore's received Westminster system of government, Parliament may be dissolved at any time before the end of this five-year term for general elections to be called.<sup>1</sup> The July 2020 general election for the 14<sup>th</sup> Parliament was no different. Based on the fact that the opening of the 13<sup>th</sup> Parliament was on 15 January, 2016, Parliament was not due to be dissolved till 14 January, 2021. Instead, Parliament was dissolved on 23 June, 2020, for elections to be held on 10 July, 2020.

Discretion over when to dissolve Parliament—subject to the President's approval<sup>2</sup>—is a major advantage held by the incumbent party. Theoretically, the incumbent can use this to its advantage in being better prepared for the upcoming election. This discretion is also invoked when the government needs reaffirmation of public support, though this has never happened in Singapore. As the People's Action Party (PAP) has been in power since 1959, and has

\* I would like to thank Jaclyn L. Neo, Jack Lee and Alvin Tan for their most helpful comments and suggestions on an earlier draft of this chapter. All errors and views remain mine entirely.

<sup>1</sup> Interestingly, the United Kingdom has, since 2011, adopted a 5-year fixed term for all Parliaments and early elections may only be called under special circumstances. See Fixed Term Parliament Act 2011 (United Kingdom).

<sup>2</sup> Article 65(3), Constitution of the Republic of Singapore.

had a commanding majority of the seats since 1968, such forms of snap elections have never been thought necessary. Instead, everyone watches for telltale signs of impending elections, such as the announcement of increased government spending or popular policies. But the one clear signal that elections are afoot is when the Prime Minister appoints the Electoral Boundaries Review Committee (EBRC) to study the electoral divisions and present its report to Parliament.

When the EBRC released its report on 13 March, 2020, after many months of anticipation, voters were told that there would be a Parliament of 93 seats comprising representatives to be elected from 14 Single Member Constituencies (SMCs) and 17 Group Representation Constituencies (GRCs). This was up from 89 seats, from 13 SMCs and 16 GRCs, in 2015. At first glance, increasing the size of Parliament by four seems unremarkable, given that Singapore's voting population grew by almost 200,000 from 2,458,058 in 2015 to 2,647,372 in 2020. A closer look at the details of the EBRC's report, however, shows that three SMCs—Sengkang West, Punggol East and Fengshan—were eliminated, while four new SMCs were created in Kebun Baru, Marymount, Punggol West and Yio Chu Kang. It is worth noting that the constituencies that were eliminated were the ones which the ruling PAP had won but fared the poorest in GE2015.<sup>3</sup> A new GRC was created in Sengkang by amalgamating the old Punggol East and Sengkang West and some parts of the old Ang Mo Kio GRC. The size of all GRCs ranged only between four and five members each. The number of MPs in two five-member GRCs—Pasir Ris—Punggol and Ang Mo Kio—were reduced from six to five while the erstwhile five-member GRC of Bishan—Toa Payoh was reduced to four members. The composition of two former four-member GRCs—West Coast and East Coast—was increased to five

<sup>3</sup> The PAP won Sengkang West with a popular vote of 62.1%, Fengshan by 57.5% and Punggol East by 51.8%.

members each.<sup>4</sup> It is also worthwhile noting that while the PAP won East Coast GRC in 2015, it had done so with a majority of 60.63%, the lowest majority in all the GRCs it won. There was also widespread speculation that former PAP MP Tan Cheng Bock—now Secretary-General of the newly formed Progress Singapore Party (PSP)—was most likely to contest in West Coast, his old stomping ground.

What gives the Prime Minister authority to convene the EBRC? What powers does this ad hoc Committee have in determining how electoral boundaries are drawn? Are such decisions reviewable in a court of law? This chapter considers the nature and limits of the Prime Minister's administrative discretion, the genesis of the power to appoint and direct the EBRC, the application of this discretion through the years, and the legal issues and consequences arising from the exercise of that discretion.

## THE LEGAL LIMITS OF THE MINISTER'S DISCRETION

The Prime Minister's discretion to determine how electoral boundaries are drawn stems from Section 8 of the Parliamentary Elections Act (PEA), which reads:

- 8.—(1) The Minister may, from time to time, by notification in the Gazette specify the names and boundaries of the electoral divisions of Singapore for purposes of elections under this Ordinance.
- (2) The number of electoral divisions of Singapore shall be the total number of the electoral divisions specified in the notification made under subsection (1).

Section 8A of the PEA further provides for the specifying of two

<sup>4</sup> Chew Hui Min, 'Key changes to electoral boundaries: What you need to know', *Channel News Asia*, 13 Mar 2020, <https://www.channelnewsasia.com/news/singapore/key-changes-to-the-electoral-boundaries-what-you-need-to-know-12535208> (accessed 1 Nov 2020).

types of constituencies—GRCs and SMCs—with the requirement that there “shall at all times be at least 8 electoral divisions which are not group representation constituencies”.<sup>5</sup> But beyond these general edicts, there is absolutely no guideline on how the Minister’s power under Sections 8 and 8A will be exercised. There are, for example, no limits on the number of GRCs the Minister may create, or the composition of each GRC, save that each GRC should have at least one Malay, Indian or Other ethnic minority member.<sup>6</sup> More importantly, there are no indications on how the Minister might decide how the “names and boundaries of the electoral divisions of Singapore” are to be determined and drawn up. Does this mean that the Prime Minister may do as he or she chooses? Is this discretion unfettered? Is there anything to stop the Prime Minister from abolishing constituencies that habitually vote for the opposition? Or create 100 GRCs overnight?

The notion of an unfettered discretion is anathema to the concept of the rule of law, which requires that all persons, including the state are under the law, and that the law applies equally to everyone. As the Court of Appeal so eloquently put it in *Chng Suan Tze v Minister for Home Affairs & Ors* (1988):

In our view, the notion of a subjective or unfettered discretion is contrary to the rule of law. All power has legal limits and the rule of law demands that the courts should be able to examine the exercise of discretionary power. If therefore the Executive in exercising its discretion under an Act of Parliament has exceeded the four corners within which Parliament has decided it can exercise its discretion, such an exercise of discretion would be *ultra vires* the Act and a court of law must be able to hold it to be so (...). It must be clear therefore that the boundaries

of the decision maker’s jurisdiction as conferred by an Act of Parliament is a question solely for the courts to decide.<sup>7</sup>

The Courts is thus tasked to ensure that the executive authorities—in this case, the Prime Minister exercising his discretion under the PEA—do not exceed their jurisdiction and act outside the law. In determining the legality of executive action, the Court must first decide the exercise of discretion requires the satisfaction of a ‘precedent fact’, an objective requirement for the power to be exercised. An example of a precedent fact under Section 8 of the PEA is the requirement that the person exercising the discretion must be a Minister and not a Permanent Secretary, and that the Minister in question is the one who is responsible for the conduct of elections in Singapore.

Next, the Court will consider if the Minister has exceeded his jurisdiction in making a decision that is tainted by the 3 ‘T’s—illegality, irrationality or procedural impropriety. This test, so pithily stated by Lord Diplock in the UK House of Lords decision of *Council of Civil Service Unions & Ors v Minister for the Civil Service*, and adopted by Singapore’s Court of Appeal<sup>8</sup> states:

By ‘illegality’ (...) I mean that the decision-maker must understand correctly the law that regulates his decision-making power and must give effect to it. Whether he has or not is par excellence a justiciable question to be decided, in the event of dispute, by those persons, the judges, by whom the judicial power of the state is exercisable.

By ‘irrationality’ I mean (...) a decision which is so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be

<sup>5</sup> Section 8A(1A), Parliamentary Elections Act (Cap 218), Singapore Statutes.

<sup>6</sup> Article 39A, Constitution of the Republic of Singapore.

<sup>7</sup> *Chng Suan Tze v Minister for Home Affairs & Ors and Other Appeals* [1988] 2 SLR(R) 525, at 553–554.

<sup>8</sup> *Ibid*, at 563.

decided could have arrived at it.

(...) I have described the third head as ‘procedural impropriety’ rather than failure to observe basic rules of natural justice or failure to act with procedural fairness towards the person who will be affected by the decision. This is because susceptibility to judicial review under this head covers also failure by an administrative tribunal to observe procedural rules that are expressly laid down in the legislative instrument by which its jurisdiction is conferred, even where such failure does not involve any denial of natural justice.<sup>9</sup>

How do we apply the above test? How do we determine whether the exercise of ministerial discretion is legal and not illegal, irrational or procedurally improper? Let us consider each head in turn.

## I. Illegality

Illegality occurs when a decision-maker fails to act within his or her legally defined jurisdiction. This is the principle of *ultra vires* in administrative law. A decision-maker acts illegally if it acts in excess of authority by doing something it is not empowered to do. As a corollary, the decision-maker also acts illegally if it fails to exercise its discretion at all. In exercising a discretion, the decision-maker is expected to apply its mind to the matter and not simply act under another’s instruction or delegate that discretion to someone else.

To know the legal limits of a particular discretionary power, we need to look first at the statute granting that power. In this case, it would be the PEA. As we have seen above, the provisions concerning the Minister’s discretion in delineating electoral boundaries are laid down in very broad terms. The only limitations are that:

(a) There shall be at least 8 SMCs;<sup>10</sup>

(b) The size of each GRC shall be between 3 and 6 members;<sup>11</sup>

(c) The number of members returned by all GRCs should comprise at least one-quarter of the total number of members returned at a general election;<sup>12</sup> and

(d) The number of GRCs requiring at least one candidate to belong to the Malay community shall be three-fifths the total number of GRCs.<sup>13</sup>

A simple case of illegality will occur if, under Section 8 of the PEA, the Minister decides to gazette only six SMCs even though Section 8A mandates that there shall be at least eight SMCs, or that there shall be two ‘super GRCs’ with eight members each. It would also be illegal if a Minister who is not given charge of the Elections Department attempts to exercise this discretion. Finally, if the Minister in charge of elections fails to exercise his or her discretion, whether simply delegating it to someone else or taking direction from his or her ministerial colleagues, that would be an illegality too. Section 8(1) of the PEA merely delegates the discretion for drawing of electoral boundaries to the Prime Minister (as minister in charge of elections).

Since 1958, the Prime Minister, and prior to each general election, the Prime Minister convenes an ad hoc committee to assist in the drawing of electoral boundaries. This committee was initially called the Electoral Boundaries Delimitation Committee (1958–1968), subsequently the Electoral Boundaries Delineation Committee (1968–1991) and finally the Electoral Boundaries Review Committee (1991 to date). Once the Committee has completed its work, a

<sup>10</sup> Section 8A(1A), PEA.

<sup>11</sup> Section 8A(1)(a), PEA.

<sup>12</sup> Section 8A(2), PEA.

<sup>13</sup> Article 39A, Constitution, and section 8A(3), PEA.

<sup>9</sup> *Council of Civil Service Unions & Ors v Minister for the Civil Service* [1985] 1 AC 374, at 410–411.

Parliamentary White Paper is prepared and submitted to the Prime Minister for his consideration. The question must thus be, what does the Prime Minister take into consideration when making his final decision? Indeed, does the Prime Minister actually make the decision personally? The only clue is gleaned from previous Committee reports, all of which laconically state that, “The Government has accepted the recommendations of the Committee and will implement them in the next General Election” or “The Government proposes to accept and implement the recommendations of the Committee at the next General Election.” It would thus appear that in the exercise of his Section 8 discretion, the Prime Minister has habitually sub-delegated to “the Government”—which in this case appears to be the Cabinet. This delegation is not something envisaged nor provided for under Section 8 of the PEA and is arguably an illegal sub-delegation.

## II. Irrationality

Under Lord Diplock’s formulation, an irrational decision is one which is “so outrageous in its defiance of logic or of accepted moral standards that no sensible person who had applied his mind to the question to be decided could have arrived at it”. This is sometimes referred to as ‘*Wednesbury* unreasonableness’, after the case of *Associated Provincial Picture Houses, Limited v Wednesbury Corporation (1948)*<sup>14</sup> where Lord Greene MR characterised an irrational decision as “something so absurd that no sensible person could ever dream that it lay within the powers of the authority”.<sup>15</sup> The classic example of an irrational decision was where a red-haired teacher is dismissed on account of the colour of her hair.<sup>16</sup>

For ‘reasonableness’ to be ascertained, it is necessary, once again, to

<sup>14</sup> [1948 1 KB 223.

<sup>15</sup> *Ibid.*, at 229.

<sup>16</sup> *Ibid.*

return to the power-conferring statute. As we noted above, there is little guidance beyond the specific limitations on the number of SMCs and GRCs and GRC sizes to be found in the PEA itself. What did the drafters have in mind? Section 8 of the PEA had its origins in Section 8 of the Legislative Assembly Elections Ordinance 1954,<sup>17</sup> which was enacted by the Legislative Council following recommendations of the Rendel Constitution Commission. The original provision read:

8.— The Governor may, from time to time, by Proclamation in the *Gazette* specify the names and boundaries of the electoral divisions of the Island for purposes of elections under this Ordinance.

In 1959, when Singapore attained self-government, Section 8 was amended to transfer the Governor’s power to the Minister in charge of elections. The mode of declaring electoral boundaries was resultantly changed from that of a “Proclamation” to “notification”.<sup>18</sup> With this modification, Section 8 of the Ordinance<sup>19</sup> now read:

8.— The Minister may, from time to time, by notification in the *Gazette* specify the names and boundaries of the electoral divisions of the Island for purposes of elections under this Ordinance.

We must now turn our attention to what the drafters of this provision had in mind back in 1954. That year, the Rendel Constitutional Commission considered the question of elections and delineation of electoral districts and recommended that electoral divisions be delimited in accordance with the following principles:

(a) Divisions should be drawn up with reference to centres of

<sup>17</sup> Ordinance No 26 of 1954, Singapore.

<sup>18</sup> Transfer of Powers (No 2) Ordinance, Ordinance 72 of 1959, Singapore.

<sup>19</sup> Enacted law was referred to as Ordinances during the colonial era. In 1965, when Singapore became an independent unitary state, all references to ‘Ordinances’ were changed to ‘Acts’.

population, though not on a basis of numerical equality. Due regard paid to such factors as geography, communications and density of population. Divisions should contain sufficient number of electors to ensure that the elections take place on a genuinely democratic basis;

(b) On the basis of an estimated 300,000 electors on the Register, there should be twenty-four divisions with an average of about 12,500 electors in each division. The number of electors in a division would, however, vary from about 25,000 in densely populated areas to 5,000 to less populated areas;

(c) To ensure proper representation of the rural areas, candidates need not necessarily be resident in the division in which they stand. It is thus envisaged that sparsely populated areas would have considerably smaller electoral divisions. As many divisions as possible should be ‘mixed’, *ie*, partly urban and partly rural in character.

(d) A Boundary Delimitation Committee should be appointed to delineate the boundaries of the electoral divisions in accordance with these general principles, and provisions would need to be made for the periodical revision of boundaries and of the numbers of divisions, to take account of increases and movements of the population, the provisions of housing, the construction of new towns, etc.<sup>20</sup>

The Rendel Commission did not, however, make any recommendation on how the Boundary Delimitation Committee would be constituted, nor what specific powers it would possess. Following the adoption of the Rendel Commission’s recommendations, the first-ever general election was planned for 1955. To facilitate the election, the Legislative

<sup>20</sup> *Report of the Constitutional Commission* (Singapore: Government Printing Office, 1954) at para 107.

Council passed the Singapore Legislative Assembly Elections Ordinance in November 1954.<sup>21</sup>

What do these recommendations tell us about how Section 8 is to be used? The four basic principles upon which electoral boundaries are to be drawn tell us the following. First, it was clear to the Rendel Commission that insofar as was possible, voting should take place in a genuinely democratic manner where the ‘value’ of each vote would be, insofar as practicable, equal to that of another. Second, given the way in which the Singapore population was settled throughout the island in 1954, it was imperative to ensure that there was proper representation for both urban and rural areas. Third, in delineating electoral boundaries, “[d]ue regard should be paid such factors as geography, communications and density of population”.

The Rendel Commission did not make specific recommendations as to which individual or governing body should undertake the electoral boundary delimitation exercise, although it did propose a Boundary Delimitation Committee to do so in accordance with the principles above. It is thus arguable that if boundary delineation or delimitation was to be carried out in defiance of these principles, such action might be considered ‘irrational’. We will consider this issue in greater detail in the next section when we examine how discretion under Section 8 has hitherto been exercised by the Government.

### III. Procedural Impropriety

The duty of an administrative authority to act fairly is the basis of this head of review. This is particularly so when the exercise of that authority adversely affects the rights of individuals. The common law principle of natural justice consists of two general requirements: *audi alteram partem* (the right to be heard) and *nemo iudex in res sua* (no

<sup>21</sup> Ordinance No 26 of 1954, Singapore.

person shall be a judge in his or her own cause). This head of review may be relevant if the Minister's exercise of discretion in drawing or redrawing electoral boundaries violates an individual's vested rights. In such a case, procedural fairness requires that the individual who has been adversely affected by the Minister's decision should have the right to be heard, i.e., the right to present his or her case, and to have the hearing before an impartial tribunal.

## DRAWING ELECTORAL BOUNDARIES: A HISTORICAL PERSPECTIVE

How has ministerial discretion under Section 8 of the PEA been exercised since 1954? Looking back to the past will show that while the authorities in charge of elections were assiduous in conforming to the principles established by the Rendel Commission in the early years, the decisions enacted by the EBRC in recent times are not guided by these same clear and robust principles for delineation. This is problematic from a constitutional and democratic perspective. Quite clearly, the early Committees were troubled by the lack of guiding principles and sought to establish principles of their own that were in line with the objectives set out in the 1954 Rendel Commission Report.

### I. The Pre-Independence Years

On 27 March, 1954, shortly after the Rendel Commission presented its recommendations, a working party comprising EVG Day (Chairman of the Rural Board), DH Komlosy (Head of the Government Diagnostic Survey Team), JG Aspinall (City Assessor) and M Ponnuduray (Acting Supervisor of Elections) was appointed to submit proposals for the setting of electoral boundaries.<sup>22</sup> Following

<sup>22</sup> *Report of the Electoral Boundaries Delimitation Committee Singapore* (Singapore: Government Printing Office, 1954) at 1.

the submission of a provisional report on 14 April, 1954 and a final report on 12 May, 1954, the Governor appointed the Boundaries Delimitation Committee to “make definitive recommendations in the light of the proposals contained in the Report”.<sup>23</sup> The Governor determined that the Committee would be chaired by an official Chairman and comprise: two Unofficial Members of the Legislative Council to be selected from amongst themselves; two members of the City Council, also selected from amongst themselves; a member of the Rural Board; and the Acting Supervisor of Elections as Secretary. When constituted, the Committee—which was drawn from the Legislative Council and the Rural Board and headed by an independent Chairman—consisted of George G Thomson (Chairman), John Laycock, CR Dasaratha Raj, AP Rajah, S Jaganathan, HJC Kulasingha and M Ponnuduray.<sup>24</sup>

The Committee closely followed the principles for delimitation detailed in paragraph 107 of the Rendel Commission Report as set out above, even though the “figures for the distribution of electors on the island” were not available.<sup>25</sup> While accepting the “need to relate the boundaries” recommended “to the geography and communications of the area, to its density of population and to either the established territorial communities or to the new centres of community development on the island”, the Committee also acknowledged the “special difficulties” on an island “which is predominantly urban and undergoing great changes in the residential pattern of its population”.<sup>26</sup> Working off the 1947 official Census and taking a “calculated risk”, the Committee proposed that Singapore be divided into three types of constituencies—urban, rural and mixed:

<sup>23</sup> Ibid.

<sup>24</sup> Ibid. Thomson was at the time the Government's Public Relation Officer, while M Ponnuduray was the Acting Supervisor of Elections. Laycock and Raj were members of the Legislative Council; Rajah and Jaganathan members of the City Council, while Kulasingha was Unofficial member of the Rural Board.

<sup>25</sup> *Report of the Electoral Boundaries Delimitation Committee Singapore* (Singapore: Government Printing Office, 1954) at para 7.

<sup>26</sup> Ibid., at para 8.



We recommend 7 rural divisions (8 with the Southern Islands division), 5 ‘mixed’ and 12 urban. The total population of the 8 rural divisions is 257,500, an average of 32,200 in each division. The total population of the 5 ‘mixed’ divisions is 187,000, an average of 37,400 in each division, while the total population of the 12 urban divisions is 669,500, an average of 55,800 in each division. The rural divisions vary from 29,100 (or 11,700 with the Southern Islands division) to 45,000 in population; the urban from 44,000 to 63,600. The ‘mixed’ divisions vary from 31,000 to 41,700.<sup>27</sup>

In making their recommendations, the Committee tried to ensure parity of representation between the three different types of electoral divisions while being mindful of the voters’ sense of place and identity:

We tried to look at our proposed divisions through the eyes of the elector and the candidate. The elector should see clearly why he is in one division rather than in another: lines of demarcation, therefore, must be easy to follow. The area should not be bigger than the elector would travel normally and with ease. He must see that he has a common interest with his fellow electors. From the point of view of the candidate, the division must not be too large in number or diverse in interest for him to canvass his electors, or care for his constituents, once elected. He is concerned with the roads and with centres where he can hold meetings. It would also be his wish to represent a division where the community of interest and its distinctiveness from the interests of others is clear, and in speaking for which he can make his contribution to the deliberations of the Council or Assembly more distinctive and valuable. These considerations are of necessity differently balanced in the different circumstances of

each division but we are confident that the general pattern of the divisions is such as to give in the Legislative Assembly (...) a true representation of the electors.<sup>28</sup>

In 1958, an all-party Boundaries Delimitation Committee was established to prepare electoral divisions for the 1959 general election. George Thomson, who was at the time Director of Information Services, chaired this Committee with Ponnudurai (then Commissioner of Elections) as Secretary. But unlike the first committee, the other members of this Committee were representatives of the major political parties then active in Singapore: Tang Peng Yew (Labour Front);<sup>29</sup> Darus Shariff (UMNO-MCA Alliance); Thio Chan Bee (Liberal Socialist Party); and Toh Chin Chye (PAP). The Committee’s terms of reference had been set out by Acting Chief Minister Abdul Hamid bin Haji Jumat in a letter dated 18 June, 1957, as follows:

- (1) To examine proposals presented by the Chief Secretary’s Ministry for the delimitation of 51 electoral divisions for the purpose of Legislative Assembly elections;
- (2) To consider what modification, if any, of these proposal is required in light of —
  - (a) the Government’s intention to enact a Singapore Citizenship Ordinance before the next Legislative Assembly elections are due to be held; and
  - (b) to make recommendations to the Governor accordingly.<sup>30</sup>

According to the Committee’s report, no proposals had been presented

<sup>28</sup> Ibid, at para 10.

<sup>29</sup> Following his election to the City Council, Tang was replaced by Stanley Chua of the Labour Front in February 1958.

<sup>30</sup> *Report of the All-Party Committee for the Delimitation of Legislative Assembly Electoral Divisions, together with a Statement by the Government*, Cmd 11 of 1958 (Singapore: Government Printers, 1958).

<sup>27</sup> Ibid., at para 9.

by the Chief Secretary's Ministry. The Committee nonetheless had the "advantage and the advice and assistance of the officers of that Ministry and the Ministry of Local Government, Lands and Housing".<sup>31</sup> The Committee noted the limitations of its terms of reference: the need to work from existing polling districts and the boundaries of the City and District Councils., the need to increase the number of members in the Legislative Assembly from 25 to 51 and the "decision in principle to have single-member constituencies".<sup>32</sup> The Committee noted that the figure of 51 was arrived at by doubling the number of elected members in the present Assembly and adding one member for the Southern Islands Division, while also observing that the figure was determined "without any consideration of its relationship to the size of the total electorate and, having gained currency, has assumed rather than calculated, to be the right number".<sup>33</sup> It is noteworthy that the Committee was conscious of the fact that it was being instructed to increase the size of the Assembly from 25 to 51 without there being any particularly cogent reason for doing so.

The Committee then set out the principles under which they would undertake their task. Of the eight principles set out, the following bear repeating:

- (a) Most important of all is the democratic principle that wherever he votes one elector's weight should carry equal weight with another's. There should therefore be the nearest approximation to equality in the number of electors registered in each Division<sup>34</sup> [... although] the principle of equality should be modified in constituencies where population is scattered;<sup>35</sup>
- (b) As the voters are not mere units in a mathematical

<sup>31</sup> Ibid., at para 5.

<sup>32</sup> Ibid., at para 10.

<sup>33</sup> Ibid.

<sup>34</sup> Ibid., para 13.

<sup>35</sup> Ibid., at para 15.

calculation, but men and women sharing, and bound by, the common interests of the community of their neighbours, consideration must be given to identity of interest, either in the local community and its services as the focus of the pattern of their lives, or in the occupation, followed by the majority, e.g. farming or fishing. Villages, should not, therefore, if it can be avoided, be divided between two or more electoral divisions; and similarly villages without common interests should not be forced together;<sup>36</sup>

(c) Further, boundaries should not only be clear on the map, but clear on the ground to electors. Clearly defined natural features, such as rivers or ridges or hills, or vacant areas such as swamplands, or artificial features such as roads have, therefore, been used as boundaries, wherever possible;<sup>37</sup> and

(d) Consideration [should be] given to the problems of the candidate in canvassing his constituency, i.e. it should be compact in shape, and should include roads which make access as easy as possible, and reduce, as much as possible, the distances to be covered.

It can be seen from the foregoing that even though the 1958 Committee was given a very wide remit as to how the 51 constituencies were to be delineated, it adopted a set of principles that were fully consonant with those recommended by the Rendel Commission in 1954. The Committee then went into great detail, justifying the delineation of each electoral division on the principles it had adopted. The Committee was patently conscious and noticeably uncomfortable with its ad hoc nature and offered the following recommendation:

<sup>36</sup> Ibid., para 14.

<sup>37</sup> Ibid., para 16.

Finally, we appreciate that we were established as an *ad hoc* body to carry out an essential part of the preparation for the new constitution. But it is our view that in the light of the growing responsibilities of a fully elected Assembly and with the steady change in distribution of population within the Island, the machinery for the delimitation of boundaries should be formalised and given the authority and direction of the Assembly.<sup>38</sup>

The Committee noted that in the United Kingdom, a system for delimitation was set out in separate legislation which established a Commission for Redistribution of Seat and also “lays down the principles which shall be followed by the Commission”. Such a model would be ideal given that the Committee “found it necessary” to define its own principles and then apply them. It proposed that the nominal Chairman for such a Commission should be the Speaker of Parliament as it would “emphasise the association of this Commission” with the legislative rather than the executive branch of government. Additionally, the Committee proposed the appointment of a High Court judge as Deputy Chairman of the Committee to preside over all meetings on behalf of the Speaker; that two other members of the Commission should be appointed by the Home Secretary and Minister of Housing and Local Government “after consultation with the Opposition”; and the appointment of two other ‘assessors’—the Registrar General and the Director of Ordnance Survey. Further, all political parties should agree that they would “at any time the right of making representations to the Commission, on changes in the existing boundaries”.<sup>39</sup> Finally, the Committee proposed that “immediately after the election of the new Legislative Assembly” in 1959, an Act be passed to provide for a “permanent machinery for the delimitation of boundaries”. A Committee would then need to be established to make recommendations pertaining

to the structure, composition and role of this machinery, to pave the way for a ‘redistribution bill’ along the lines of the UK’s 1944 Redistribution of Seats Act.<sup>40</sup>

## II. Boundary Review Committees 1963–1976

After the 1959 general election, no steps were taken to consider or operationalise the 1958 Committee’s recommendations. Indeed, the next general election was held on 21 September, 1963 without any change in electoral divisions. It was only in December that year that the Government appointed Stanley Toft Steward, Permanent Secretary to the Prime Minister’s Office, to head a new electoral boundaries delimitation committee to review the boundaries of the 51 electoral divisions. Other members of the Committee were the Chief Architect of the Housing and Development Board (HDB); the Chief Planner; the Commissioner for Lands; M Ponnuduray; Hussin bin Kamari; and JB de Souza (Secretary).<sup>41</sup> This new Committee was charged with reviewing the electoral boundaries with the view to adjusting them for “more equal representation throughout all the 51 constituencies”.<sup>42</sup> The Committee submitted its interim report on 16 November, 1964 and its final report on 26 January, 1966; however, this report remained unpublished. In the meantime, Singapore seceded from the Federation of Malaysia on 9 August, 1965 and the report was “affected by the march of events with the consequence that it had become outdated”.<sup>43</sup>

The next electoral boundaries delineation committee was established in May 1967 in preparation for the 1968 general election. It was chaired by Wong Keng Sam, Acting Permanent

<sup>38</sup> *Ibid.*, para 38.

<sup>39</sup> *Ibid.*

<sup>40</sup> 7 & 8 Geo 6 c 41.

<sup>41</sup> ‘Boundary review committee’, *Straits Times*, 11 Dec 1963, at 8.

<sup>42</sup> ‘A special team will adjust S’pore electoral boundaries’, *Straits Times*, 29 Oct 1963, at 11.

<sup>43</sup> *White Paper on the Report of the Electoral Boundaries Delineation Committee on the Review of the Boundaries of the Present Fifty-One Parliament Electoral Divisions* (Singapore: Government Printers, 1967), para 3.

Secretary to the Deputy Prime Minister and its members were KR Chandra (Permanent Secretary, Ministry of Law); Teh Cheang Wan (Chief Architect, HDB); Tan Jake Hooi (Chief Planner); M Ponnudurai; and JB De Souza (Secretary). The Committee was charged with reviewing the boundaries but “without eliminating any of the existing constituencies” and to “recommend such changes or adjustments” necessary to ensure “more equal representation” throughout all constituencies in accordance with the register of citizens kept by the Commissioner of National Registration. The reason for retaining the original 51 electoral divisions was that they had “acquired significance as distinct and separate entities and have established themselves with the formation of the Citizens’ Consultative Committees”. As such, changes and adjustments would only be made to those electoral divisions that were viewed as “abnormally large”.<sup>44</sup>

A point of considerable importance is that the Committee decided that to even out the sizes of the constituencies and their voters, and to make the value of each vote more or less equal, it would adopt a 20% deviation from the mean as a standard of computation. The mean number of voters is derived from taking the total number of voters in Singapore and dividing it by the total number of constituencies to be created. The 20% deviation would thus establish a range within which the size of each constituency would fall. The following table shows how this deviation works to establish that range in the 1968 general election.<sup>45</sup>

<sup>44</sup> Ibid.

<sup>45</sup> Interestingly, the Committee did not abide by its own 20% deviation guideline. The smallest constituency in 1968 was Crawford with 7,190 electors while the largest was Bukit Merah with 19,319 electors. As we can see, the number of voters in Bukit Merah is 2.7 times as many as those in Crawford.

Total Number of Voters in 1968	Number of Constituencies in 1968	Average or Mean Number of Voters per constituency	Smallest constituency size based on 20% deviation from the mean	Largest constituency size based on 20% deviation from the mean
759,367	58	$759,367 \div 58 = 13,092$ voters	$13,092 \times 80\% = 10,476$ voters	$13,092 \times 120\% = 15,710$ voters

This formula had originally been proposed by the Stewart Committee of 1963.<sup>46</sup> Ten abnormally large constituencies were sub-divided and eight new electoral divisions were created to even out the number of voters in each division, thus eliminating the electoral division of Southern Islands. The redrawing of boundaries meant that there would be a total of 58 constituencies up for grabs at the 1968 general election.

By this time, it was clear that the PAP government had no intention of revisiting the recommendations of the 1958 Committee on the establishment of a permanent machinery to the delineation of electoral boundaries. Instead, a new ad hoc committee would be appointed every three to four years to study the existing boundaries with the view to recommending changes and adjustments “necessary to ensure more equal representation throughout all constituencies” based on fresh electoral registers prepared for this purpose. By this time, however, the principles formulated by the 1958 Committee—i.e., to make boundaries clear both on the map and on the ground; and to be mindful for the local community’s identity of interests—appear to have been abandoned, with only the equality principle being operative. Boundaries would be drawn to “ensure more equal representation” throughout Singapore, with a 20% deviation from the mean size of the average division. This formula continued to guide the Committees of 1971<sup>47</sup> and 1976.<sup>48</sup>

<sup>46</sup> Ibid., para 4.

<sup>47</sup> See *White Paper on the Report of the Electoral Boundaries Delineation Committee on the Review of the Boundaries of the Present Fifty-Eight Parliament Electoral Divisions*, Cmd 21 of 1971 (Singapore: Government Printers, 1971).

<sup>48</sup> *White Paper on the Report of the Electoral Boundaries Delineation Committee 1976*, Cmd 10 of 1976 (Singapore: Government Printers, 1976).

### III. Boundary Committees 1980–1988

While the terms of reference for the Committees of 1980<sup>49</sup> and 1984<sup>50</sup> continued to adopt the same ‘ensure more equal representation’ template, the Committee of 1980 decided to increase the deviation from mean from 20% to 30%. The fact that no reason was given for this change merits comment. If the objective is to ensure a ‘more equal number of electors throughout the constituencies’, then the deviation from mean should be *reduced*, and not increased. By increasing the deviation allowable, the number of electors throughout the constituencies becomes *less equal* and not more.

Between 1958 and 1980, successive Committees have worked within the original 20% deviation adopted in 1968, back when the population was concentrated in the city centre and many parts of rural Singapore were sparsely populated. With the HDB building public housing all over Singapore at breakneck speed, this was no longer the case in 1980. By this time, there were HDB ‘new towns’ spread all over the island, in Queenstown, Bukit Ho Swee, Brickworks and Henderson, Bendemeer, Boon Keng, Kallang Bahru, Tanjong Rhu, Chai Chee, MacPherson, Upper Aljunied, Whampoa, Old Airport Road, Bedok, Marine Parade, Marsiling, Telok Blangah, Haig Road, Eunos, Toa Payoh, Bedok, Ang Mo Kio, Clementi, West Coast, and Hougang.

The following table shows how big a difference an increase from 20 to 30% deviation would make, using the 1984 election figures as a baseline.

Total number of voters in 1984	Average or Mean Number of Voters per constituency	Smallest constituency size based on 20% deviation from the mean	Largest constituency size based on 20% deviation from the mean	Smallest constituency size based on 30% deviation from the mean	Largest constituency size based on 30% deviation from the mean
1,495,389	1,495,389 voters ÷ 79 seats = 18,929 voters	15,143	22,715	13,250	24,607
Actual Implementation of deviation formula in GE1984:				13,571 Brickworks	26,897 Nee Soon

Given the demographic shifts that were naturally spreading the population more evenly throughout the island, what was the logic for adopting the 30% deviation which continues to be used by all subsequent Committees right up till 2020? The 1984 Committee came closest to explaining the adoption of the 30% deviation when it stated that it was “not practical or desirable to limit the size of every electoral division to 21,000 as that would entail massive redrawing of boundaries”.<sup>51</sup> Had the Committee decided this as a matter of convenience? What about the instruction to ensure more equal representation?

Even with the creation of GRCs in 1988, the Government continued to instruct the 1988 Committee to review present boundaries with the view to “ensuring more equal number of electors throughout all constituencies”. In 1988, the Committee was additionally charged with creating the “maximum number of Group Representation Constituencies” under the PEA. The continued use of the 30% deviation may thus be seen as irrational or, at the very least, unreasonable.

<sup>49</sup> *White Paper on the Report of the Electoral Boundaries Delineation Committee 1980*, Cmd 8 of 1980 (Singapore: Government Printers, 1980).

<sup>50</sup> *White Paper on the Report of the Electoral Boundaries Delineation Committee 1984*, Cmd 8 of 1984 (Singapore Government Printers, 1984).

<sup>51</sup> *Ibid.*, para 2.

#### IV. Boundary Committees Since 1991

By the time Goh Chok Tong took over as Prime Minister and took charge of the Elections Department, the Committee—now renamed the Electoral Boundaries Review Committee—was no longer charged with reviewing the electoral boundaries in a manner that would ensure more equal representation throughout the constituencies. The terms of reference for the 1991 Committee were simply to:

(...) recommend the required number of Group Representation Constituencies and Single Member Constituencies in accordance with the provisions of the Parliamentary Elections Act (Chapter 218), by, wherever possible, the amalgamation of two or more constituencies.<sup>52</sup>

There was no mention of the equality principle. This became the template for all subsequent terms of reference to subsequent Committees. The table on the following page summarises the relevant terms of reference of Committees from 1996 to 2020.

From the foregoing, it can be seen that from 1991 onwards, the Prime Minister—as minister in charge of elections—exercised his discretion in an absolute manner by instructing the EBRC to simply draw lines without any guidance or principle. Of course, the instruction to create a minimum number of SMCs is constitutionally mandated and would have constrained the EBRC in any case.

What was the rationale for reducing the size of GRCs since 2011? Could it have been triggered by the PAP's loss of Aljunied GRC to the Worker's Party that year? This is especially puzzling since it was the same PAP government who pushed to increase the size of GRCs from three to four in 1991 and then from four to a maximum of six in 1996 on the ground that larger GRCs would

<sup>52</sup> *The Report of the Electoral Boundaries Review Committee, 1991*, Cmd 12 of 1991 (Singapore: Government Printers, 1991), para 1.

Year	Terms of Reference
1996	To recommend the number of GRCs and SMCs based on the number of electors in the Electoral Register and ensure a minimum of eight SMCs with one of them consisting principally the boundary of the former MacPherson. <sup>1</sup>
2001	To recommend the number of GRCs and SMCs based on the number of electors in the Electoral Register and ensure a minimum of eight SMCs, taking into consideration populations shifts. <sup>2</sup>
2006	To recommend the number of GRCs and SMCs based on the number of electors in the Electoral Register and ensure a minimum of eight SMCs, taking into consideration populations shifts. <sup>3</sup>
2011	To recommend the number of GRCs and SMCs based on the number of electors in the Electoral Register and to create smaller GRCs and fewer six-member ones, so the average size of GRCs does not exceed five. There should be at least 12 SMCs. <sup>4</sup>
2015	To recommend the number of GRCs and SMCs based on the number of electors in the Electoral Register and to create smaller GRCs and so as to reduce the average size of GRCs below five. There should be at least 12 SMCs. <sup>5</sup>
2020	To recommend the number of GRCs and SMCs based on the number of electors in the Electoral Register and to further reduce the average size of GRCs, to have more than the current 13 SMCs. <sup>6</sup>

<sup>1</sup> *The Report of the Electoral Boundaries Review Committee, 1991*, Cmd 12 of 1991 (Singapore: Government Printers, 1991), para 1.

<sup>2</sup> *The Report of the Electoral Boundaries Review Committee, 1996*, Cmd 17 of 1996 (Singapore: Government Printers, 1991), para 1.

<sup>3</sup> *The Report of the Electoral Boundaries Review Committee, 2001*, Cmd 9 of 2001 (Singapore: National Printers, 2001) para 1.

<sup>4</sup> *The Report of the Electoral Boundaries Review Committee, 2006*, Cmd 5 of 2006 (Singapore: National Printers, 2006) para 1.

<sup>5</sup> *The Report of the Electoral Boundaries Review Committee, 2011*, Cmd 3 of 2011 (Singapore: National Printers, 2006), para 1.

<sup>6</sup> *The Report of the Electoral Boundaries Review Committee, 2015*, Cmd 7 of 2015 (Singapore: National Printers, 2015), para 1.

allow the government to devolve more power to the Town Councils and Community Development Councils (CDCs) and give voters a “bigger stake in the result of their choice, because team MPs will manage more matters, including some duties of the Government” now carried out by the Ministries of Community Development and Education and the hospitals.<sup>53</sup> The Government was so convinced by the logic of this scheme that it had earlier amended the PEA to provide that up to three-quarters of all MPs should come from

<sup>53</sup> Constitution of the Republic of Singapore (Amendment) Bill, Second Reading, *Singapore Parliamentary Debates*, vol 66, 28 Oct 1996, at col 757.

GRCs.<sup>54</sup> In 1996, after the Constitution was changed, the cap on the number of MPs coming from GRCs was removed and all that remained was the requirement that there be a minimum of eight SMCs.<sup>55</sup> The following tables show how the number of SMCs has shrunk and grown slightly over the years and how the GRCs have been structured since the time of its creation:

Year	Number of SMCs	Number of GRCs	Total number of candidates	Number of candidates in SMCs	Percentage of candidates in SMCs
1988	42	13	81	42	53.30%
1991	21	15	81	21	26.60%
1997	9	15	83	9	10.70%
2001	9	14	84	9	10.10%
2006	9	14	84	12	10.10%
2011	12	15	87	12	13.20%
2015	13	16	89	13	14.20%
2020	14	17	93	14	13.60%

Year	Number of GRCs	Breakdown of GRC membership			
		3 member	4-Member	5-Member	6-Member
1988	13	13	—	—	—
1991	15	—	15	—	—
1997	15	—	5	6	4
2001	14	—	—	9	5
2006	14	—	—	9	5
2011	15	—	2	11	2
2015	16	—	6	8	2
2020	17	—	6	11	—

What, one might ask, happened to this much vaunted objective? Did it somehow evaporate after 2011? Why has the Prime Minister

been instructing the EBRC to reduce the size of GRCs over the past three elections? If there is a rationale or logic behind this change of heart, it is nowhere in evidence. In his speech during the debate on the President's address in January 2016, Prime Minister Lee Hsien Loong pointed to the need to strike a balance between large and small GRCs as bigger GRCs benefit from "having an anchor Minister take care of their affairs" and "better economies of scale" in running programmes and the Town Council, while smaller GRCs "create a closer connection" between MPs and their residents. He added that smaller GRCs and more SMCs had been created between 2011 and 2015, and "the results have been good". He would thus instruct the EBRC to "reduce the average size of GRCs further, and to create more SMCs" for 2020.<sup>56</sup> What might we glean from this statement? Are these reasons related to more even representation, or enhancing Singaporeans' rights to vote? Or was this an admission that the Government made a mistake by creating too many large GRCs?

## LEGAL ISSUES ARISING FROM THE EXERCISE OF DISCRETION

I return to where I started: What is the nature of ministerial discretion under Section 8 of the PEA?

In the absence of clear guidelines on how that discretion is to be exercised, we need to start with basic principles. The objective of Section 8 is to provide for the proper delineation of electoral divisions in Singapore so that fair and free elections might be held. As voting is the constitutional right of every citizen, the drawing of electoral boundaries must necessarily promote this right in as fair a manner as possible. Set out below are ways in which this objective may *not* have been met.

<sup>54</sup> Parliamentary Elections (Amendment) Act 1991, Act 9 of 1991, Singapore Statutes.

<sup>55</sup> Parliamentary Elections (Amendment) Act 1996, Act 42 of 1996, Singapore Statutes.

<sup>56</sup> Prime Minister Lee Hsien Loong, Speech during the Debate on the President's Address, *Singapore Parliamentary Debates*, 27 Jan 2016, vol 94.

## V. Malapportionment<sup>57</sup>

One of the biggest difficulties with electoral boundary delineation is the dividing up of electoral divisions into roughly the same size, with each having roughly the same voting population. From a practical perspective, it is impossible to get constituencies to be of identical sizes, which is why electoral commissions adopt allowable deviations from the average or mean size of constituencies. However, the allowable deviation should not be too large or malapportionment may occur.

Between 1958 and 1980, successive Committees adopted a 20% deviation from the mean because it was felt that such a deviation was necessary to even out the distribution of an electorate that tended to be concentrated in urban areas with those living in the sparsely populated rural areas. Ironically, the 1980 Committee—and all subsequent Committees that followed—adopted a 30% deviation even though Singapore's population distribution was becoming much more evenly distributed due to the building of HDB new towns all over the island. As noted above, such a large deviation makes the distribution of voters across the constituencies *less equal*, not more.

There is no standard acceptable deviation from the mean. In countries like Armenia, Germany and the Czech Republic, a maximum deviation of 15% is allowed, while Canada requires the boundaries of any constituency that hits the threshold of a 25% deviation to be redrawn.<sup>58</sup> I would argue that if a deviation formula allows for one constituency to have double the 'voting power' of another, malapportionment is clear. From a purely mathematical point of view, a 30% deviation runs us very close to such malapportionment.

<sup>57</sup> Some of the following arguments and points had previously been raised in *Defending the Legitimacy of Singapore Elections: MARUAH Position Paper on Electoral Boundary Delineation Q3 2014* (Singapore: Maruah, 2014).

<sup>58</sup> Lisa Handley et al, *Delimitation Equity Project: Resource Guide* (Centre for Transitional and Post-Conflict Governance, 2006) at 29.

At 30% deviation, the ratio of the smallest to the largest constituency would be 1:1.86. A further 5% deviation would change that ratio to 1:2.08. In other words, it takes more than twice the number of voters in some constituencies to send a representative into Parliament than others.

Over the years, the deployment of the 30% deviation has led to significant inequities in voting power. As can be seen from the chart below, voters in Potong Pasir SMC are the most 'powerful' in Singapore since it takes far fewer of them to elect a representative into Parliament than the other constituencies. Indeed, if one looks at the 2015 figures, the Potong Pasir voter is almost twice as potent as a voter from Bukit Panjang SMC. In other words, it takes twice as many voters in Bukit Panjang to send an MP to Parliament compared with voters in Potong Pasir.

One other observation from the above chart is that in all the

Year	Average no. of electors per MP	Smallest allowable no. of electors based on 30% deviation	Highest allowable no. of electors based on 30% deviation	Smallest Constituency	Largest Constituency
2001	24,249	16,974	31,524	16,616 (Potong Pasir)	28,465 (Nee Soon East)
2006	25,689	17,982	33,395	15,888 (Potong Pasir)	32,586 (Nee Soon East)
2011	27,001	18,900	35,101	17,327 (Potong Pasir)	33,053 (Bukit Panjang)
2015	27,651	19,355	35,946	17,407 (Potong Pasir)	34,317 (Bukit Panjang)
2020	27,900	19,530	36,270	19,731 (Potong Pasir)	35,437 (Bukit Panjang)

elections in this century, the EBRC failed to adhere to its own 30% deviation (insofar as the minimum number is concerned), except



for GE2020.

There are two basic problems with this malapportionment. First, not all voters are treated alike and this may violate Article 12 of the Constitution which guarantees to all persons, “equal protection of the law”. Second, the exercise of discretion with regard to constituency sizes and demographics bears no relation to the object of Section 8 of the PEA, which is to provide for free and fair elections on the basis of voter equality. This may therefore lead to a potential legal challenge on grounds of administrative illegality or irrationality.

## VI. Irrationality and Illegality

As pointed out above, the underlying rationale that drove the change in the number of GRCs and SMCs—or the post-2011 reduction in the size of GRCs—remains unclear. If these changes cannot be justified, they can be struck down as being irrational. Worse still, if it can be shown that the Prime Minister’s decision was actuated by some extraneous or collateral political purpose, the decision may well be struck down for bad faith or *mala fides*.

A number of interesting observations may be made with respect to the boundary drawing exercise. One is the disappearance of wards that the PAP had performed poorly in, especially SMCs. The most obvious change came about after the 1991 general election, the first helmed by Goh Chok Tong as Prime Minister. That election, which had been called early because it was thought that the ground was sweet, turned out poorly for Goh’s team which managed to score only 61% of the popular vote. The PAP lost four SMCs—Bukit Gombak, Hougang, Nee Soon and Potong Pasir—and scored less than 60% in six other SMCs.<sup>59</sup> In the general election that followed, the EBRC recommended

<sup>59</sup> They were: Bukit Batok (51.82%); Braddell Heights (52.27%); Nee Soon South (52.76%); Changi (53%); and Yuhua (56.16%).

reducing the total number of SMCs from 21 to nine. These were then absorbed into the constitutionally enlarged GRCs, which had up to six members each. In 2011, the PAP won all the SMCs except for Hougang. Its next worst performing SMC was Joo Chiat, where it scored a majority of just 51.02%. Joo Chiat SMC was subsequently eliminated and absorbed into the neighbouring constituencies in the next general election in 2015. As noted above, the constituencies in which the PAP won but fared the poorest in the general election of 2015 were also eliminated by the EBRC report of 2020.<sup>60</sup>

It is worth pointing out that in the Prime Minister’s terms of reference to the 1997 EBRC, the Committee was instructed to carve out what had hitherto been MacPherson constituency from Marine Parade GRC. MacPherson constituency was created in 1968 and was absorbed into Marine Parade in 1991. The reason for this highly unusual move was the widely publicised exchange of letters between the PAP’s Matthias Yao (who was part of the Marine Parade GRC team and in charge of the MacPherson area) and the Singapore Democratic Party’s Chee Soon Juan, which culminated in Chee challenging Yao to stand one-on-one against him in the next general election. Yao retained his seat in Parliament and MacPherson was re-absorbed into Marine Parade GRC in 2011, but was carved out again as an SMC in 2015. If the purpose for reinstating MacPherson as an SMC in 1997 was purely to allow Yao to respond to Chee’s challenge, the use of discretion in this instance should be regarded as being exercised for an improper purpose and hence illegal. Carving out the SMC does nothing for the PEA’s legislative object, which is to ensure fairer elections and equality of the vote. Interestingly, MacPherson was once again carved out of Marine Parade GRC in 2015 as a separate SMC following speculation that Tin Pei Ling was elected in 2011 on the coattails of Senior Minister Goh Chok Tong, and that it

<sup>60</sup> The PAP won Sengkang West with a popular vote of 62.1%; Fengshan by 57.5% and Punggol East by 51.8%.

was necessary to prove otherwise.

## CONCLUSION

The PEA was enacted in the dying days of colonial government in Singapore. It was fully intended that a proper, permanent mechanism for the drawing of electoral boundaries be established and instituted. Despite the fact that the pioneering 1954 and 1958 Committees worked hard to establish logical principles to guide the exercise of executive discretion, nothing was done by the Committees that followed, to further this. It may well be that by leaving the rules vague, the incumbent government holds an advantage over its opposition. Even so, the exercise of power is necessarily constrained by law, and good law requires clear and fair rules be established and enforced. To confer on any authority an absolute discretion is to place that authority above the law. Good rules work both ways. A strong and robust rule of law requires that regardless of who is in power, the law applies equally and fairly to all. While the PAP may not have seriously contemplated their losing power yet, it must surely also be in its interest to have a proper mechanism with clear rules in place. Until such time, and so long as these issues remain uncertain, the likelihood of an administrative challenge is ever-present. It is high time that Singapore has an independent and permanent electoral boundaries committee that reports to Parliament.