

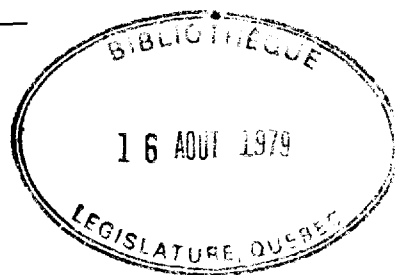
FOURTH SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 9

Québec Election Act

First reading
Second reading
Third reading



M. ROBERT BURNS

Ministre d'État à la réforme électorale et parlementaire

L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

This bill revises the Electoral Act and replaces the Provincial Controverted Elections Act. Its main objects are:

- 1. to establish the conditions required to be an elector;*
- 2. to provide that any elector, except for certain persons whom it identifies, may be elected to the Assemblée nationale du Québec;*
- 3. to prescribe the methods to be followed for the various stages of the election and for the exercise of the right to vote;*
- 4. to determine the procedure for judicial recount and contestation of an election;*
- 5. to define the functions and powers of the director general and the election officers;*
- 6. to entrust the director general with the responsibility of framing the regulations provided for by this bill, subject to their approval by the Standing Committee on the Assemblée nationale du Québec.*

Bill 9

Québec Election Act

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enacts as follows:

TITLE I

INTERPRETATION

1. In this act, unless the context indicates otherwise,

(1) “official agent”, “authorized association” and “authorized party” have the same meaning as in the Act to govern the financing of political parties (1977, chapter 11);

(2) “electoral division”, “electoral precinct” and “polling subdivision” mean a territorial division effected in view of the election of a member to the Assemblée nationale du Québec in accordance with the Act respecting electoral representation (1979, chapter *insert here the chapter number of Bill 10*);

(3) “poll book” means the register in which the poll clerk enters the particulars relating to the conduct of the voting.

For the purposes of this act, the word “oath” includes a solemn affirmation.

TITLE II

ELECTORS

2. To be an elector, a person must, on the date fixed for the polling,

(1) be of the full age of eighteen years;

- (2) be a Canadian citizen;
- (3) have been domiciled in Québec for at least twelve months;
- and
- (4) not be under any legal disqualification.

However, neither the director general of elections, the director general of financing of political parties or his assistants, nor any member of the Commission de la représentation électorale may be an elector.

3. Persons interdicted for insanity and persons in close treatment pursuant to the Mental Patients Protection Act (1972, chapter 44) do not have the capacity to be electors.

4. The director general of elections, the returning officer, the director general of financing of political parties and his assistants, the judges of the courts of justice and the Public Protector shall not participate in elections.

5. To exercise his right to vote, an elector must be entered on the electoral list.

He shall exercise his right to vote at the polling station of the polling subdivision where his domicile is situated at the end of the period for revision of the electoral list.

6. The domicile of a woman separated *de facto* is determined as if she were unmarried.

7. A person who temporarily leaves his domicile to work or to study in another locality shall vote in the polling subdivision of his domicile or in that where he resides for the purposes of his work or studies.

8. A person contemplated in section 7 is deemed to have made his choice if, at the time of revision, he requests the entry of his name on the electoral list of the polling subdivision where he resides. This change does not amend the register of electors established under the Act respecting the register of electors (1979, chapter *insert here the chapter number of Bill 3*) and is valid only for the current election.

9. An inmate retains his domicile notwithstanding his detention.

10. A person who is exercising a function outside Québec for the Gouvernement du Québec or the Canadian Government retains his domicile in Québec.

TITLE III

CANDIDATES

11. Any elector may be elected to the Assemblée nationale du Québec.

12. However, the following persons are disqualified:

- (1) judges of the courts of justice;
- (2) the official agent of a candidate or of a political party during an election;
- (3) a candidate at a previous election whose official agent has not produced, within the prescribed period, the return or statement provided for in the Act to govern the financing of political parties and who has not been excused for the delay by order of a judge;
- (4) members of the Parliament of Canada;
- (5) inmates for the term of the sentence of imprisonment to which they have been condemned.

13. No person may be a candidate for election in more than one electoral division at the same time.

14. The director general of elections, the director general of financing of political parties or a member of the Commission de la représentation électorale who wishes to be nominated as a candidate at an election must give to the President of the Assemblée nationale du Québec or the Secretary General, a written notice of his resignation within three months preceding the date on which the Government has instituted an election.

TITLE IV

ELECTION PERIOD

CHAPTER I

WRITS OF ELECTION

15. The holding of an election is instituted by a writ of the Government addressed to the director general of elections. This writ enjoins him to hold an election on the date fixed therein and indicates each division in which an election must be held.

The director general shall send a copy of the writ to the returning officer of each division contemplated, and the returning officer must comply with it.

16. At general elections, the election date is the same for all the electoral divisions.

17. Where the seat of a member in the Assemblée nationale du Québec becomes vacant, the writ of election must be issued not later than six months after the vacancy.

18. An election takes place on the fifth Monday following the issue of the writ of election, unless it is a holiday, in which case the election takes place on the following day.

19. On receiving a copy of the writ, the returning officer shall immediately establish an official office in an easily accessible place in the electoral division, and communicate the address to the director general, to each authorized association and to the public.

The official office must be open from nine o'clock in the morning until ten o'clock in the evening.

20. The returning officer shall publish an election calendar in the form provided in Schedule A.

21. The returning officer shall send to every dwelling in his division, not later than the twenty-second day preceding that of the polling, a manual prepared by the director general of elections in cooperation with the director general of financing of political parties. This manual informs citizens on the right to vote, the electoral list and its revision, the financing of political parties and of candidates and the terms and conditions of participation in the vote.

22. The returning officer must send to the electors, not later than the second day preceding polling day, a reminder informing them of the place and the hours of the polling and of the particulars that will be contained in the ballot paper.

CHAPTER II

NOMINATION PAPERS

23. A person wishing to offer himself as a candidate must, not later than ten o'clock in the evening of the sixteenth day preceding polling day, file a nomination paper at the official office of the returning officer.

24. A person offering to be a candidate may designate a person to act in his name as his delegate.

25. The nomination paper must be made in the form prescribed by regulation and be signed by the person wishing to offer himself as a candidate. The nomination paper shall indicate his surname and given name, the address of his domicile, his date of birth, his occupation and, where that is the case, his political affiliation. In addition, it shall indicate the name of his official agent and, if he chooses to appoint one, the name of his delegate.

26. A candidate may use his ordinary given name, alone or with his surname, provided that he enters that given name on the nomination paper, that it is the name by which he is commonly known in political, professional or social life and that he is acting in good faith.

27. Proof of the name is established by filing the act of birth or any other identification paper prescribed by regulation.

28. The indication of the person's political affiliation is confirmed by a letter from the leader of the authorized party recognizing the person as the party's candidate.

29. A nomination paper must bear the signature of at least one hundred electors of the electoral division for which that nomination paper is filed.

Only the person offering himself as a candidate or his delegate is authorized to collect these signatures.

30. No elector may sign more than one nomination paper.

31. The person collecting the supporting signatures shall declare under oath that he knows the signatories, that they have affixed their signatures in his presence and that, to his knowledge, they are electors of that electoral division.

32. The penalties applicable to the signatory to a nomination paper who is not an elector, who is not domiciled in the division or who signs more than one nomination paper must be set forth on the form itself.

33. A person offering himself as a candidate must attach a photograph to his nomination paper in accordance with the standards prescribed by regulation.

That photograph must bear on the back the signature of two electors who know the person offering himself as a candidate,

attesting the authenticity of the photograph of that person and confirming that the name and address indicated in the nomination paper are those of that person.

34. The returning officer must immediately receive the nomination paper if it is complete and if all the required documents are attached to it.

He shall then give a receipt, which is proof of the nomination.

35. An elector may examine any nomination paper received, at the official office of the returning officer. A candidate may obtain a copy of that nomination paper.

36. An employer must, upon request, grant leave without pay to an employee who is a candidate or who acts as the official agent of a candidate. The period of leave begins on the date on which the nomination paper is received by the returning officer and ends on the eighth day after polling day. The employee may terminate that leave at any time.

The leave so obtained shall not be subtracted from the period of vacation to which the employee is entitled.

37. If the returning officer has received only one nomination paper at the end of the period provided for the filing of nomination papers, he shall return the candidate as elected and immediately inform the director general.

CHAPTER III

PROCLAMATION

38. At the end of the period for the filing of nomination papers, the returning officer shall draw up a proclamation.

39. The proclamation shall set forth, in the form provided in Schedule B, the surname and given name of each candidate, his political affiliation where that is the case, his address and the surname and given name of his official agent and of his delegate, if any.

40. The proclamation shall be posted up in the official office of the returning officer and transmitted to each candidate or his delegate.

CHAPTER IV

WITHDRAWAL OR DEATH OF A CANDIDATE

41. A candidate may withdraw his candidacy if he delivers to the returning officer a declaration to that effect, signed by himself and by two electors of his division.

42. The name of the candidate must not appear on the ballot paper if the declaration of withdrawal is filed with the returning officer within three days after the expiry of the period provided for the filing of nomination papers.

However, if the declaration is filed more than three days after the expiry of that period and it is impossible to print new ballot papers, the deputy returning officer must strike off the name of the candidate from every ballot paper.

43. If, after the withdrawal, there remains but one candidate, the returning officer shall return him as elected and immediately inform the director general.

44. Where a candidate dies between the twenty-first day preceding polling day and the close of the poll, the polling day is postponed.

Nomination papers must then be filed not later than the second Monday following the day of the death of the candidate and the election takes place on the subsequent second Monday.

The returning officer shall, after informing the director general, immediately publish, in the manner prescribed by regulation, a notice informing the electors of the new period for the filing of nomination papers and of the new election date. The election is then conducted as an ordinary election.

CHAPTER V

ELECTION

DIVISION I

ADVANCE POLLING

SUBDIVISION I

GENERAL PROVISIONS

45. The returning officer must, before the twenty-eighth day preceding polling day, establish in his electoral division as many advance polling stations as he considers necessary; he shall determine which polling subdivisions are attached to each and inform each candidate and each authorized association.

46. The returning officer shall appoint, in the form prescribed by regulation, a deputy returning officer and a poll clerk for each polling station, in accordance with sections 71 and 72, and remit to them the electoral list that will be used therein.

47. The polling station shall be open from two o'clock in the afternoon until ten o'clock in the evening, on Sunday and Monday, the seventh and eighth days preceding polling day.

48. Election officers, handicapped persons, inmates or persons who have reason to believe they will be absent or unable to vote in the subdivision on polling day may vote in the advance poll.

49. A person having reason to believe he will be absent or unable to vote in the polling subdivision on polling day and wishing to vote in the advance poll must sign an affidavit to that effect remitted to him by the deputy returning officer. His surname, given name, address and date of birth must also be indicated.

50. Subject to sections 51 and 52, the voting shall be conducted as on polling day.

51. At the end of the first day of voting, the deputy returning officer shall place the documents necessary for the voting in an envelope, seal it and affix his initials to it. The poll clerk and the agents who are present may affix their initials to it. The deputy returning officer shall place the envelope in the

ballot box, and close and seal the box in the manner prescribed by regulation.

52. At the beginning of the second day, the deputy returning officer, in the presence of the poll clerk and of the agents present, shall open the ballot box and resume possession of the objects necessary for the voting. At the end of that day, the same procedure shall be followed as at the end of the first day. The deputy returning officer shall remit the ballot box to the returning officer or to the person designated by him, and the latter shall have custody of it until the counting of the votes.

53. The returning officer or the person designated by him shall proceed with the counting of the votes, from eight o'clock in the evening on polling day, at such place as he may determine and in accordance with sections 112 to 123.

54. The returning officer shall send to the candidates the list of the electors of the division who have voted in the advance poll and, to the deputy returning officer who will act on election day, those of his polling subdivision.

The poll clerk shall enter the necessary particulars in the poll book.

SUBDIVISION II

SPECIAL PROVISIONS ON THE VOTING OF INMATES

55. At general elections, the warden of a house of detention must, within three days after the issue of the writ of election, furnish the director general of elections with a list of the electors who are detained in that establishment. That list shall indicate, in addition to the address where the inmate has his domicile, his surname, given name, date of birth and sex.

That list constitutes the electoral list that must be used at the advance poll. The director general of elections must immediately send an abstract of it to every returning officer concerned, indicating to him the name of the electors whose votes will be counted in his division. The latter shall then inform each candidate.

56. The returning officer of the division in which the house of detention is situated must send a copy of the electoral list to every inmate and set up an office in the house of detention to receive applications for the entry and striking off of names and for corrections to the list. That list must then be revised in accordance with the Act respecting the register of electors.

57. The returning officer of the electoral division in which the house of detention is situated shall establish in it, in cooperation with the warden of the house of detention, as many polling stations as he considers necessary.

58. The director general of elections shall send to the returning officer of the division in which the house of detention is situated the ballot papers of the various divisions in which the inmates are domiciled.

59. The polling station shall be open from ten o'clock in the morning until ten o'clock in the evening, on Monday, the seventh day preceding election day.

60. Voting shall be conducted as on polling day.

61. After the close of the poll, the deputy returning officer shall send to the returning officer the ballot box and the documents that were used in the conduct of the polling, in the manner prescribed by regulation.

62. On polling day, after the close of the polling stations, the director general shall count the votes in the presence of a representative of each authorized party wishing to be represented.

63. The director general shall immediately send the results and a statement of the poll to every returning officer concerned and to each candidate.

64. For the application of this subdivision, the director general may make any agreement he considers expedient with the warden of any house of detention established under an act of the Parliament of Canada.

DIVISION II

PREPARATION FOR THE POLL

SUBDIVISION I

POLLING STATIONS

65. The returning officer shall establish a polling station for each polling subdivision.

66. The polling stations of an electoral precinct must be grouped in one place, which must be a public place. However, if

that is impossible, the returning officer may establish these polling stations at any other place.

67. A municipality, a school board and an establishment established under the Act respecting social services and health services (1971, chapter 48) must allow the use of their premises free of charge for the establishment of polling stations.

Polling day is a holiday in every educational establishment situated in a division in which an election is held.

68. The director general shall give such instructions as he considers expedient to the returning officer on the manner of arranging and identifying a place where a polling station is established.

SUBDIVISION II

POLLING OFFICERS

69. The polling officers shall be chosen from among the electors of the electoral division and remunerated in accordance with the standards and scales established by regulation.

70. The returning officer shall appoint an officer in charge of information and order at every place where there is a group of polling stations.

71. The returning officer shall appoint as deputy returning officer the person recommended by the candidate of the authorized party whose candidate came first at the last election or by the independent member elected as such if he is again nominated.

He shall appoint as poll clerk the person recommended by the candidate of the authorized party whose candidate came second.

72. In a new division or in a division whose boundaries have been changed since the last election, the director general shall decide which candidates are entitled to make the recommendations provided for in section 71.

73. The recommendations must be sent to the returning officer not later than the fourteenth day preceding the polling. Failing recommendations or when the person recommended is not qualified for that function, the returning officer shall make the nomination without other formality.

74. On the twelfth day preceding the polling, the returning officer shall post up in his office and send to each candidate the list of the deputy returning officers and poll clerks he has appointed.

He shall immediately inform the candidates of any changes to that list.

75. The functions of the deputy returning officers are

- (1) to see to the arrangement of the polling station;
- (2) to ensure that the polling is properly conducted and maintain order;
- (3) to facilitate the exercise of the right to vote and ensure the secrecy of the vote;
- (4) to transmit the results of the vote to the returning officer and remit the ballot box to him.

76. The returning officer shall remit to the deputy returning officer, in a sealed ballot box, after affixing his initials to the seals, a copy of this act and the regulations, the electoral list of the polling subdivision, the list of the persons who voted in the advance poll, a poll book, the required number of ballot papers and the forms.

In addition, he shall remit to him the objects necessary for the conduct of the polling.

SUBDIVISION III

AGENTS

77. A candidate may designate a person and give him a mandate by power of attorney to represent him before the deputy returning officer and the officer in charge of information and order.

78. The power of attorney shall be signed by the candidate or his delegate and be presented to the deputy returning officer. It is valid for the duration of the polling.

79. The candidate may assist his agent in the exercise of his functions and may himself be present wherever his agent is authorized to act.

80. The agent must declare under oath, in the form prescribed by regulation, that he will not disclose the name of the candidate for whom a person has voted in his presence.

SUBDIVISION IV

BALLOT PAPERS AND BALLOT BOXES

81. The returning officer shall cause the ballot papers to be published in accordance with the model provided in Schedule D and the directives of the director general.

82. The paper necessary for the printing of the ballot paper shall be provided by the director general. This paper shall contain a thread which neither the director general nor the maker may reveal.

83. The ballot paper shall be provided with a counterfoil and a stub both bearing the same number on the reverse. The ballot papers shall be numbered consecutively.

84. The ballot paper must permit each candidate to be clearly identified and must contain on the obverse, in alphabetical order, first, the surname and given name of the candidate of each authorized party, with the spelling used in the nomination paper, and then, those of the other candidates; on the reverse, a space shall be reserved for the initials of the deputy returning officer, the name and address of the printer and the designation of the electoral division.

The name of the authorized party shall appear under the name of the candidate of that party; the indication "independent" shall be entered under the name of the independent candidate if he has applied for it in his nomination paper.

85. The returning officer shall remit to each deputy returning officer, at the same time as the objects necessary for the vote, a sufficient number of ballot papers, but not greater by over twenty-five than the number of electors entered.

86. The director general shall cause ballot boxes to be made, in accordance with the standards he may fix, in sufficient number for each electoral division.

These ballot boxes shall be made of durable material and of uniform size and shape; they must bear the official emblem of Québec.

87. Between the date of issue of the writ of election and that of publication of the notice contemplated in section 132, the returning officer shall have custody of the ballot boxes. Outside that period, the director general shall give custody of the ballot boxes for an electoral division to the sheriff of the judicial district

or the registrar of the registration division in which that division is situated.

DIVISION III

THE VOTE

SUBDIVISION I

PRELIMINARY FORMALITIES

88. The officer in charge of information and order, the deputy returning officer and the poll clerk shall be present at the polling station one hour before opening.

The agents of the candidates may be present from the same moment. They may attend any operation conducted there.

89. The deputy returning officer, in the presence of the poll clerk, shall open the ballot box and examine the objects necessary for the holding of the poll, complying with the directives issued by the director general.

90. The place where the polling stations are situated and the polling officers must be identified in the manner prescribed by regulation.

91. At the time fixed for the opening of the poll, the deputy returning officer and the poll clerk must see that the ballot box contains no ballot paper. It shall then be sealed and placed on the table of the polling station so as to be visible to the polling officers.

SUBDIVISION II

TIME OF VOTING

92. The polling shall take place from ten o'clock in the morning until eight o'clock in the evening.

93. During polling hours, the director general and the returning officer must be easily accessible to candidates and their delegates.

94. An employer must grant to an elector in his employ, during the hours the polling stations are open, at least four consecutive hours to vote, not counting the time normally allowed for meals. No deduction of wages nor any penalty may be imposed on the employee by reason of this leave.

SUBDIVISION III

EXERCISE OF THE RIGHT TO VOTE

95. Not more than one voter may be admitted to the polling station at the same time.

96. The elector shall indicate his surname, given name and date of birth to the deputy returning officer and the poll clerk.

97. The deputy returning officer shall admit an elector to vote if the elector has not already voted, if he is entered on the electoral list of the polling subdivision and if his surname, given name, address and date of birth correspond to those appearing on the electoral list.

The deputy returning officer shall, after initialling it, remit a ballot paper to the elector admitted to vote.

98. The poll clerk shall then enter on the electoral list a note to the effect that the elector has voted.

99. After receiving a ballot-paper, the elector shall enter the polling booth, mark the ballot paper and fold it; he shall leave the polling booth, allow the initials of the deputy returning officer to be examined by the polling officers and by every agent of a candidate who wishes to do so; the deputy returning officer shall detach the counterfoil and the elector himself shall place the ballot paper in the ballot box.

100. If the initials appearing on the back of the ballot paper are not those of the deputy returning officer, he must cancel it and the poll clerk must indicate it in the poll book.

101. The deputy returning officer shall give a new ballot paper to an elector who has inadvertently marked or spoiled his ballot paper, and cancel the spoiled ballot.

102. An elector who declares under oath that he is unable to mark his ballot paper himself may be assisted by either the deputy returning officer or the poll clerk in the presence of the agents, or by an elector of the same electoral precinct who declares under oath that he has not assisted another elector during the polling. In either case, an indication of it is made in the poll book.

103. The deputy returning officer must provide a visually handicapped person with a template to enable him to vote with-

out assistance. The deputy returning officer shall then indicate to him the order in which the candidates appear on the ballot paper.

104. Before the deputy returning officer remits a ballot paper, he, the poll clerk or the agent of a candidate may require a person to declare under oath, in the form prescribed by regulation, that he is an elector. The poll clerk shall indicate the reasons for that requirement, and the name of the person who made it, in the poll book.

105. A deputy returning officer shall not give a ballot paper to a person who refuses to take an oath, and this must be indicated in the poll book.

106. An elector under whose name a person has already voted may nevertheless be admitted to vote after making the oath in the form prescribed by regulation; this must be indicated in the poll book.

107. An elector whose name does not appear on the copy of the electoral list used in the polling station although it is on the original at the office of the returning officer, may obtain an authorization to vote, in the form prescribed by regulation, from the returning officer or the poll clerk.

An elector who has obtained such an authorization shall present it to the deputy returning officer and declare under oath that he is indeed the person who obtained it. An entry shall then be made of it in the poll book.

108. On the premises of a polling station, no person may use anything to signify his political affiliation or express his support of a party or a candidate.

109. The returning officer and the deputy returning officer have, for the purposes of the exercise of their functions, all the powers of a justice of the peace.

110. If it is not possible for the polling to begin at the fixed time, or if it is interrupted by irresistible force or cannot be concluded for a lack of ballot papers, it shall be continued until it has lasted ten hours.

111. Any electors on the premises of a polling station at the close of the poll who have not been able to exercise their right to vote before the appointed time may exercise their right to vote, and the deputy returning officer shall declare the polling closed after they have voted.

DIVISION IV

PROCEEDINGS AFTER CLOSE OF POLL

112. After the close of the poll, the deputy returning officer and the poll clerk shall proceed with the counting of the votes. The candidates and their agents may attend.

113. Before opening the ballot box, the poll clerk shall enter in the poll book

- (1) the number of electors having voted;
- (2) the number of ballot papers spoiled or cancelled and of those not used; and
- (3) the names of the persons who have exercised functions as polling officers or agents, indicating those entitled to remuneration.

114. The deputy returning officer, the poll clerk and the agents of the candidates shall use the compiling sheet provided by the director general for the counting of the votes.

115. The deputy returning officer shall open the ballot box, count the votes by taking, one by one, the ballot papers placed in the ballot box and allow each person present to examine them.

116. The deputy returning officer shall declare valid every ballot paper on which an elector has clearly expressed his choice by any mark whatever.

However, the deputy returning officer shall reject every ballot paper which

- (1) has not been furnished by him;
- (2) does not bear the initials of the deputy returning officer;
- (3) has not been marked;
- (4) has been marked in favour of more than one candidate;
- (5) has been marked in favour of a person who is not a candidate;
- (6) has been marked elsewhere than in one of the circles;
- (7) bears fanciful or injurious entries; or
- (8) bears a mark allowing the elector to be identified.

117. No ballot paper may be rejected for the sole reason that the counterfoil has not been detached. In such a case, the deputy returning officer shall detach the counterfoil and destroy it.

118. The deputy returning officer shall consider every objection raised by a candidate or the agent of a candidate regarding the validity of a ballot paper and decide it immediately. The objection and the decision of the deputy returning officer shall be entered in the poll book.

119. After counting the ballot papers and drawing up a statement of the votes given for each candidate and of the rejected ballot papers, the deputy returning officer shall place, in separate envelopes, the ballot papers assigned to each candidate, the rejected ballot papers, the unused ballot papers and the statement of the vote. He shall then seal these envelopes.

The deputy returning officer, the poll clerk and those agents wishing to do so shall affix their initials to the seals.

These envelopes and the poll book shall be placed in the ballot box.

120. The deputy returning officer shall remit to the agent of each candidate and to the returning officer a statement of the poll drawn up as in Schedule E, indicating the results of the vote.

121. The deputy returning officer shall seal the ballot box, and he, the poll clerk and those agents wishing to do so shall affix their initials to the seals.

122. The deputy returning officer shall remit the ballot box to the returning officer or to the person designated by the latter to receive it.

CHAPTER VI

ADDITION OF VOTES

123. The returning officer shall notify each candidate or his delegate of the time when he is ready to proceed with the addition of the votes.

That addition of votes is conducted in the official office of the returning officer and every candidate, delegate or elector may attend it.

124. The returning officer shall proceed with the addition of the votes by using the statements of the poll contained in the ballot boxes and compiling the votes given for each candidate in each polling subdivision of the division.

125. If a statement of the poll has not been placed in the ballot box or if the returning officer has been unable to obtain a ballot box, he shall adjourn the addition of the votes until he obtains that statement or ballot box.

If it appears impossible to obtain them, he shall continue with the addition.

126. The candidate who, when the addition is completed, has received the greatest number of votes shall be declared elected.

127. In the case of a tie-vote, the returning officer shall institute judicial recount proceedings.

CHAPTER VII

PUBLICATION OF THE RESULTS

128. The director general must, as soon as possible after the election, publish a detailed return of the election, containing, in particular, the results for each electoral precinct.

129. As soon as the returning officer has transmitted the results of the addition of the votes to the director general, he shall communicate them to every person requesting it.

130. If no application for a judicial recount is filed before the expiry of four days after the addition of the votes, the returning officer shall transmit a declaration to the director general informing him of the name of the elected candidate.

The returning officer shall send a copy of the declaration to each candidate.

131. The director general shall enter the names of the candidates declared elected and the official results of the poll in a register.

132. After informing the President of the Assemblée nationale du Québec or the Secretary General, the director general shall, as soon as possible, publish a notice in the *Gazette officielle du Québec* indicating the surnames and given names of the

elected candidates, their political affiliations and the names of their respective electoral divisions.

From the publication of that notice, an elected candidate is a member of the Assemblée nationale du Québec.

TITLE V

JUDICIAL RECOUNT

133. An elector or a candidate in an electoral division may demand a judicial recount of the votes.

134. The candidate who came second, or his agent, where the majority is not over one thousand of the votes cast, may demand a recount free of charge.

135. The demand for a recount is made by way of a motion to a judge of the Provincial Court of the judicial district in which the electoral division where the election was held is situated in whole or in part.

136. The motion must be presented within four days of the addition of the votes.

Except in the case of a demand for a recount contemplated in section 127, the petitioner must deposit five hundred dollars within the same period to guarantee any costs that may result from his demand.

137. The recount must begin within four days from the presentation of the motion.

For that purpose, the judge shall give notice in writing to the director general and to the candidates of the date, time and place at which he will recount the votes.

The judge shall also summon the poll clerk and the returning officer, and order the returning officer to bring the ballot boxes.

138. This motion must be considered before any other matter of which the court is seized.

139. On the appointed day, the judge shall examine the ballot-papers and the other documents contained in the ballot box. He shall correct the statement of the poll if necessary.

The candidates and their agents may take part in the recount.

140. To decide whether or not a ballot is valid, the judge shall verify whether it was furnished by the deputy returning officer of the polling station where it was cast and whether the initials inscribed on it are those of the deputy returning officer.

Where a ballot box is missing, the judge shall take the appropriate means to ascertain the result of the vote.

141. While the recount is in progress, the judge has the custody of the ballot boxes.

142. Immediately upon the completion of the recount, the judge shall render his decision on the result of the vote.

The deputy returning officer shall thereupon declare elected the candidate who received the greatest number of votes and inform the director general, who shall proceed as in section 132.

143. If there is a tie-vote or all the votes are cancelled, a new election is held.

The returning officer, after informing the director general, shall immediately publish a notice in the form prescribed by regulation informing the electors of the new period for the filing of nomination papers and the new election date.

The nomination papers must be filed not later than the second Monday following the day of the judge's decision, and the election must be held on the second subsequent Monday. The election is conducted as an ordinary election.

144. The judge shall fix the costs according to such tariff as the government may prescribe by regulation.

Where the election results remain unchanged by the judge's decision, the costs of the candidate who received the greatest number of votes are assumed by the petitioner.

145. The deposit in guarantee of the costs is remitted to the candidate who is declared elected, up to the amount of his costs.

146. If the judge fails to comply with this title, the aggrieved party may, within the four succeeding days, petition a judge of the Court of Appeal to issue an order enjoining the judge's compliance.

TITLE VI

CONTESTATION OF ELECTIONS

147. An elector or a candidate in an electoral division may contest an election if the election or the proclamation of the elected candidate is irregular, or if the elected member is guilty of a corrupt practice making him ineligible or disqualified to sit in the Assemblée nationale du Québec.

148. An election is contested by way of a motion to the Provincial Court of the judicial district in which the electoral division where the election was held is situated in whole or in part.

This motion must be presented within thirty days of the publication in the *Gazette officielle du Québec* of the notice contemplated in section 132 or thirty days of a person's being found guilty of a corrupt practice contemplated in section 119 of the Act to govern the financing of political parties.

149. The petitioner, within the period provided in section 148, must deposit one thousand dollars to guarantee any costs that may result from his motion.

150. The chief judge, the senior associate chief judge or the associate chief judge of the Provincial Court shall designate three judges to hear the motion to contest the election.

151. Subject to section 138, the motion must be considered before any other matter of which the court is seized.

152. The judges shall determine the mode of proof and procedure which they consider appropriate in view of the prompt settlement of the contestation.

153. The director general and the returning officer for the electoral division for which the election was held must be made parties to the case.

154. The fact that the respondent has accepted a post which disqualifies him to sit in the Assemblée nationale du Québec or has abandoned his seat as a member does not prevent the making of the motion or interrupt the hearing.

Convocation, prorogation or dissolution of the Assemblée nationale du Québec does not suspend proceedings.

155. The court shall decide whether the election was regularly held. If the election was regular, the court shall confirm the proclamation or proclaim another candidate elected; it shall void the election if it was irregular.

156. Once the decision acquires authority as a decided case, the director general shall transmit a certified true copy of it to the President or to the Secretary General of the Assemblée nationale du Québec, who shall immediately inform the members.

Where the decision changes the results of the election, the director general shall proceed as in section 131 or 132.

157. An appeal lies to the Court of Appeal on a question of law from the final decision rendered on the motion.

Such an appeal must be brought within fifteen days from the decision.

158. The appeal must be heard by preference, and the decision is final and without appeal.

TITLE VII

ADMINISTRATION OF ELECTIONS

CHAPTER I

THE DIRECTOR GENERAL OF ELECTIONS

DIVISION I

APPOINTMENT

159. On a motion of the Prime Minister, the Assemblée nationale du Québec, by a resolution approved by two-thirds of its members, shall appoint a director general of elections chosen from among the electors and fix his salary.

160. The director general shall be appointed for a term of office of five years, which may be renewed; notwithstanding the expiry of his term of office, the director general shall remain in office until he is reappointed or replaced.

161. The director general may resign at any time by giving notice in writing to the President of the Assemblée nationale du Québec; he shall not be dismissed except by a resolution approved by two-thirds of the members of that assembly.

162. Before taking office, the director general shall make the solemn affirmation provided in Schedule C before the President of the Assemblée nationale du Québec.

163. The director general shall exercise his functions on a full-time basis.

164. If the director general is temporarily incapacitated or in case of vacancy, the Government may designate a person to perform the duties of the director general for a period not exceeding six months.

DIVISION II

FUNCTIONS AND POWERS

165. The function of the director general is to see to the application of this act; he is responsible, in particular,

- (1) with respect to the supervision of elections, for
 - (a) ensuring the training of the election officers;
 - (b) supervising the conduct of the voting;
 - (c) issuing directives and establishing forms to be used for the application of this act;
 - (d) inquiring into possible irregularities in election activities;
- (2) with respect to the information of the public, for
 - (a) giving any person requesting it any advice and information relating to the application of this act;
 - (b) maintaining an information centre on this act and making the information relating to elections available to the public;
 - (c) examining and assessing election procedures;
 - (d) promoting the implementation of new electoral procedures and, following an agreement with the leaders of the authorized parties represented in the Assemblée nationale du Québec, testing them at by-elections;
 - (e) holding information sessions and conferences at regular intervals for the benefit of the political parties and the public;
 - (f) furnishing, at the request of a political party, the information necessary for the training of the agents of candidates, while allowing other political parties to delegate observers;
 - (g) making any advertisement he considers necessary.

166. The tariff for the remuneration of election officers shall be fixed by regulation, according to the duties of each officer.

The agent of a candidate who has recommended the appointment of a deputy returning officer or a poll-clerk shall receive the same remuneration as the poll-clerk when he is acting in a polling station.

The director general shall pay the other expenses relating to elections in accordance with the tariff established by regulation.

167. Any person may request the director general to inquire into the application of this act.

168. The director general may refuse to make or to pursue an inquiry where he considers the request frivolous, vexatious or made in bad faith, or unnecessary in the circumstances.

169. Each time the director general refuses to make or to pursue an inquiry at the request of a person, he must notify that person and give the reasons therefor in writing.

170. In respect of his inquiries, the director general and such members of his personnel as he may designate are vested with the powers and immunity of commissioners appointed under the Public Inquiry Commission Act (Revised Statutes, 1964, chapter 11).

171. Not later than 30 June each year, the director general shall make a report of his activities for the preceding year to the President of the Assemblée nationale du Québec.

That report must, in particular, contain a statement of the complaints received and how each was dealt with, and the informational and training activities carried on and, where appropriate, recommend new electoral procedures.

DIVISION III

THE PERSONNEL OF THE DIRECTOR GENERAL

172. The Civil Service Act (1978, chapter 15) applies to the personnel required for the administration of elections.

173. The director general may retain, on a temporary basis, the services of any person he considers necessary for the holding of a poll.

174. The director general shall define the duties of the members of his personnel and direct their work.

No member of that personnel may engage in partisan work.

175. Before taking office, the members of the personnel of the director general and the returning officer must make an oath as in Schedule C before the director general.

176. Documents and copies emanating from the office of the director general are authentic if they are signed by the director general or by any person designated by him.

CHAPTER II

ELECTION OFFICERS

177. The returning officer, the election clerk and his assistants, the deputy returning officer, the poll clerk and the officer in charge of information and order are election officers.

Before taking office, every election officer shall make an oath as in Schedule C.

178. No elector convicted of a corrupt electoral practice may become an election officer for five years following his term of imprisonment or, where there is no imprisonment, the date of his conviction.

179. While in office, no election officer may engage in partisan work.

180. In carrying out their duties of office, all election officers except the officer in charge of information and order may administer the oaths provided for in this act, and they must do so gratuitously.

For that purpose, election officers act as commissioners for oaths within the meaning of the Courts of Justice Act (Revised Statutes, 1964, chapter 20).

181. If an election officer ceases to perform his duties of office, he shall be replaced, if practicable, in the same manner as he was appointed.

182. An election officer who is dismissed must return all the official documents in his possession to the director general or to the person designated by him.

183. Every employer must, on demand, grant leave to an employee who is an election officer to enable him to perform his duties; the employer is prohibited from dismissing an employee for that reason.

The leave thus obtained shall not be subtracted from the period of vacation to which the employee is entitled. The employer is not required to remunerate his employee for his period of leave.

CHAPTER III

THE RETURNING OFFICER

184. A returning officer is appointed by the government for each electoral division, on the recommendation of the director general of elections.

185. The director general shall make his recommendation after selecting by public competition three persons qualified as electors domiciled in the electoral division or in a contiguous division.

That competition must be devised to allow impartial consideration of the merits of the recommended persons.

186. A notice of competition must be published by the director general so as to allow every qualified person a reasonable opportunity to apply.

187. The term of office of a returning officer is five years; that term may be renewed.

188. The director general shall determine by regulation the conditions for the exercise of the functions of a returning officer and the standards and scales of his remuneration.

189. On the appointment of a returning officer, the director general shall publish a notice of it in the *Gazette officielle du Québec*.

190. On being appointed, the returning officer shall appoint a person qualified as an elector to act as election clerk. That person must not be his spouse, his ascendant or descendant, his brother, sister, father-in-law, step-father, mother-in-law, step-mother, brother-in-law, sister-in-law, son-in-law or daughter-in-law.

If he considers it necessary, the returning officer, with the consent of the director general, may appoint one or more assistants to assist the election clerk.

191. The election clerk shall assist the returning officer in the exercise of his functions and replace him in case of absence or inability to act.

192. The returning officer, under the authority of the director general of elections, is responsible, in his electoral division, for the application of this act and the training of the election officers.

193. The director general may dismiss a returning officer who neglects the performance of his duties.

194. Where the office of returning officer is vacant, the director general shall appoint a substitute until another returning officer is appointed.

TITLE VIII

PENAL PROVISIONS

195. Every person who

- (1) offers himself as a candidate, knowing he is disqualified;
 - (2) uses a name other than his surname or ordinary name in his nomination paper;
 - (3) signs a nomination paper, knowing he is not an elector in the electoral division for which the nomination paper is filed;
 - (4) signs more than one nomination paper;
 - (5) presents himself as an official candidate of an authorized party, knowing the letter contemplated in section 28 does not exist or is false;
 - (6) spreads false news of the withdrawal of a candidate;
 - (7) is a returning officer and knowingly receives a nomination paper which is incomplete or not supported by all the required documents;
 - (8) is an employer and refuses to grant leave without pay to an employee who becomes a candidate or acts as the official agent of a candidate or party,
- is guilty of an offence.

196. Every person who

- (1) votes more than once at the same election;

(2) permits a person to vote without being registered on the electoral list;

(3) votes without being entitled to vote;

(4) knowingly prints or uses a false ballot-paper or alters or counterfeits a ballot-paper;

(5) modifies or imitates the initials of the deputy returning-officer;

(6) acts as the agent of a candidate without a mandate by a power of attorney or uses a false power of attorney;

(7) is a deputy returning officer and remits a ballot-paper to a person refusing to take the oath contemplated in section 104;

(8) is an employer and refuses to grant four hours' leave to vote to an employee;

(9) is an election officer and arrives late at the polling-station in order to delay the opening of the poll,

is guilty of an offence.

197. Every person who

(1) falsifies the statement of the poll;

(2) knowingly destroys a ballot-paper before the end of the period for the contestation of the election;

(3) is a returning officer and issues a fraudulent proclamation,
is guilty of an offence.

198. Every person who

(1) performs duties reserved to the election officers without being qualified as an elector, without being officially appointed or without making the oath required;

(2) is the director general of elections, one of his officers or an election officer and fraudulently neglects or refuses to act, or acts against this act;

(3) is an employer and refuses to grant leave to an employee to enable him to become an election officer,

is guilty of an offence.

199. Every person who is guilty of an offence, other than a corrupt practice contemplated in sections 201 to 203, is liable, in addition to the costs,

(1) for a first offence, to a fine of not under 100 dollars nor over 1 000 dollars in the case of a natural person and, in default of payment, imprisonment for not over three months and, in the case of an artificial person, a fine of not under 300 dollars nor over 3 000 dollars;

(2) for a subsequent offence within five years, to a fine of not under 200 dollars nor over 2 000 dollars in the case of a natural person and, in default of payment, imprisonment for not over six months or, in the case of an artificial person, a fine of not under 600 dollars nor over 6 000 dollars.

200. Whoever contravenes a provision of this act or the regulations for which no penalty is provided, is guilty of an offence and liable, on summary proceeding, to a fine of not over 200 dollars and, in default of payment, imprisonment for not over two months.

201. Every person who knowingly violates or attempts to violate the secrecy of voting, inhibits or attempts to inhibit the freedom to vote, prevents or attempts to prevent an operation related to the vote, or alters or attempts to alter the results of the election, is guilty of a corrupt practice.

202. Every person who, in order to influence the vote of an elector, obtains or attempts to obtain his vote or incites him to refrain from voting by promising or granting a benefit to him, is guilty of a corrupt practice.

203. Every person who votes or attempts to vote by falsely assuming the name and qualifications of an elector or by borrowing the name of a fictitious or deceased person, is guilty of a corrupt practice.

204. Every person who is guilty of a corrupt practice contemplated in sections 201 to 203 is liable to a fine of from 100 dollars to 1 000 dollars and imprisonment for one to twelve months; in default of payment of the fine, the person is liable to additional imprisonment for not over three months.

205. Every person who is found guilty of a corrupt practice loses, for a period of five years from the date of the final judgment, the right to participate, vote or be a candidate in an election and he shall not hold any office to which appointment is under the authority of the Government.

Furthermore, where the person found guilty of such a practice is a member of the Assemblée nationale du Québec, his election is null.

206. Every person who knowingly performs or omits to perform an act in view of aiding a person to commit an offence or a corrupt practice contemplated in sections 201 to 203 or who advises, encourages or incites a person to commit an offence is himself guilty of the offence or corrupt practice.

207. Proceedings under this act are instituted pursuant to the Summary Convictions Act (Revised Statutes, 1964, chapter 35) by the director general of elections or by any person generally or specially authorized by him for such purpose.

Notwithstanding section 13a of this act, proceedings may be instituted under this act within five years following the date of the offence or corrupt practice.

TITLE IX

REGULATIONS

208. The director general shall frame draft regulations on those matters which must be provided for by regulation under this act.

Such draft regulations shall be submitted to the approval of the Standing Committee on the Assemblée nationale du Québec.

Once approved, with or without amendment by the said committee, the regulations shall be published in the *Gazette officielle du Québec*, and they come into force on the date of such publication or any later date fixed therein.

209. The first regulations respecting the matters contemplated in section 208 shall be made by the Government.

Not later than thirty days before the making of a regulation contemplated in the first paragraph, the Government shall publish a draft copy in the *Gazette officielle du Québec*.

After its adoption by the Government, such regulation comes into force on the date of its publication in the *Gazette officielle du Québec* or any later date fixed therein.

TITLE X

FINAL PROVISIONS

210. In any act, proclamation, order in council or document, where the expression "electoral district" appears, it is to be construed as "electoral division".

211. No legal proceedings may be brought against the director general, the members of his personnel or the election officers by reason of an official act performed in good faith in the exercise of their functions.

212. No extraordinary recourse or provisional remedy provided for in the Code of Civil Procedure lies against them in the exercise of their functions.

A judge of the Court of Appeal may, on motion, summarily annul any writ, order or injunction issued or granted contrary to this section.

213. Any operation contemplated by this act that is not carried out within the prescribed period may be carried out as soon as possible if this can still have the desired effect.

214. Sections 21c, 24 and 27 to 32 of the Legislature Act (Revised Statutes, 1964, chapter 6) are repealed.

215. This act replaces the Election Act (Revised Statutes, 1964, chapter 7) and the Provincial Controverted Elections Act (Revised Statutes, 1964, chapter 8).

[**216.** The sums required for the application of this act shall be taken out of the consolidated revenue fund.]]

217. This act comes into force on the day of its sanction.

SCHEDULE A

ELECTION CALENDAR

SATURDAY
30.

FRIDAY
31.

THURSDAY
32.

WEDNESDAY
33.

TUESDAY
34.

MONDAY
35.

SUNDAY

PERIOD DURING WHICH AN ELECTION MAY BE INSTITUTED

23.

24.

25.

26.

27. Presentation of the list of places where advance polling-stations are established

29.

33

16. Final date for filing a nomination paper

17.

18.

19.

20.

22. Final date for sending to parties and to electors a copy of the electoral list and of the elector's manual

9.

10.

11. Last day for sending each candidate the list of returning officers and poll clerks

15.

13. Last day for withdrawal of a candidate

12. Last day for sending each candidate the list of returning officers and poll clerks

2. Last day for sending reminders

3.

4.

5.

6. Advance poll of inmates

8. Advance poll

0. Polling day

1.

SCHEDULE B

PROCLAMATION

(Section 39)

Electoral division of

NOTICE

Public notice is hereby given to the electors of the electoral division of that a poll is necessary for the election taking place in this division and that as a result a poll will be opened;

That the persons nominated for this election are:

1. Bonenfant, Marie, (*political affiliation*), (*address*), whose official agent and delegate are
2. Bureau, Jean-Charles, (*political affiliation*), (*address*), whose official agent and delegate are
3. Larrivée, Pierre-A., (*political affiliation*), (*address*), whose official agent and delegate are

All interested persons are enjoined to read this notice and govern themselves accordingly.

Given under my hand, at,
this19....

.....

Returning Officer




SCHEDULE C

OATH OR SOLEMN AFFIRMATION OF ALLEGIANCE,
OF OFFICE AND OF DISCRETION


I, A.B., swear (*or* solemnly declare) that I will act with loyalty and true allegiance to the established authority and that I will fulfil the duties of my office with honesty, impartiality and justice, and that I will not accept any sum of money or consideration of any kind for anything I have done or could do in carrying out the duties of my office, for the purpose of furthering the purchase from or exchange with the Government of anything whatsoever, apart from my salary and any allowance that is given to me by law or by an order of the Government. In addition, I swear (*or* solemnly declare) that I will neither disclose nor make known anything whatsoever that I have learned in the exercise of my office, unless I have been duly authorized to do so.

SCHEDULE D

OBVERSE

	Marie BONENFANT political affiliation	
	Jean-Charles BUREAU political affiliation	
	Pierre-A. LARRIVÉE independent	

REVERSE

No.			
No.			
		Assemblée nationale du Québec	
		Returning officer's initials	
		Electoral division of:	
		21 June 1979	
		Lucien Lamothe, Printer 117, rue Notre-Dame est Montreal	

SCHEDULE E

STATEMENT OF POLL

Electoral division of

Polling-subdivision No.....

I, the undersigned, returning officer, certify that at the election held this day of a member to serve in the Assemblée nationale du Québec, the candidates listed below received the number of votes set opposite their respective names:

<i>Name of candidate</i>	<i>Number of votes</i>
.....
.....
.....
.....
.....
.....
.....

and also that:

..... ballot-papers (number in letters)	were rejected in counting the ballots;
..... ballot-papers (number in letters)	were not used.

Given under my hand, at
this

.....
Returning Officer