



SELECT COMMITTEE ON THE ELECTION ACT



REPORT

Special Consultations and Public Hearings on the Draft Bill to Replace the Election Act

**Québec
May 17th 2006**

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1. INTRODUCTION

On December 15, 2004, a draft bill to replace the Election Act was tabled in the National Assembly by the Minister for the Reform of Democratic Institutions. On June 15, 2005, the Assembly created a committee formed of nine MNAs and charged with studying the draft bill. In accordance with the motion that created it, the Select Committee on the Election Act was accompanied throughout its term by an eight-member citizens committee. These four men and four women, representing a diversity of age groups and geographical regions, were selected by a private firm, at random, from more than 2,400 applications received during the fall of 2005. The contribution of these private citizens enriched our own thinking considerably, and added a new dimension to our work as members of a parliamentary committee.

From the outset, our mandate was not only to study proposals for a new electoral system, but also to consult the people of Québec on possible changes in voting procedures, some of which are contained in the draft bill, and on various issues that affect the way elections are organized and carried out:

- fixed-date elections;

- polling day;
- the permanent list of electors and its revision;
- electronic voting;
- other questions regarding the draft bill and the Election Act.

Our *Information Booklet*, which outlines the main electoral measures contained in the draft bill, was published in the fall of 2005. A folder inviting the public to participate in the consultation process was subsequently mailed to 3,340,000 Québec households. At the end of January 2006, we took our work on the road, criss-crossing the province for almost seven weeks.

We made every effort to encourage broad participation in the consultation process. People could present briefs, certainly, but they could also give their opinions in person or write their comments on the consultation form available in the *Information Booklet* or on-line. A total of 1,170 Quebecers sent their comments directly to our website; another 371 completed the paper form and returned it to us in the postage-paid return envelope provided for that purpose. In all, approximately 4,200 copies of the booklet were distributed. Exceptionally for this type of consultation, participants could voice their opinions without having to present a brief; 380 groups and individuals asked to be heard in this way.

Overall, we received 371 briefs and heard 379 individuals and organizations during general and special consultations.

This first part of our report contains our comments and recommendations with regard to voting procedures. Its brevity is explained by the fact that very few consultation participants provided comments on these questions. The electoral system and the representation of women and ethnocultural minorities in the National Assembly will be dealt with in Part II of the report, to be tabled shortly.

The recommendations of the citizens committee were taken into account and, in some cases, were a source of inspiration to us and reflect our own recommendations.

The measures contained in the draft bill are the subject of section 2, while section 3 deals with measures that, though not included in the draft bill, were discussed during the consultation process and may well form the basis of amending legislation in the future. For all of the proposed measures discussed below, we have mentioned the number of groups and individuals who supported the measure during general and special consultations. A number of other topics raised during consultations have also solicited our comments. All the observations and recommendations below were adopted by the Committee unanimously.

2. MEASURES CONTAINED IN THE DRAFT BILL

2.1 Revision of the list of electors: a longer revision period and a more efficient revision process

The draft bill provides for a longer revision period and a process of revision that would be more responsive to voters' needs. Specifically, it proposes that the revision period be extended, that mobile boards of revisors be set up, and that revision requests sent by mail, fax or electronic means be accepted.

During public hearings, 9 of the 11 groups and individuals who expressed their views on the subject were in favour of the proposed changes.

We support the idea of simplifying the revision process and extending the revision period. The citizens committee did not give an opinion on this subject.

It is therefore recommended:

That revision of the list of electors be facilitated by a longer revision period and by the creation of a board of revisors in each electoral division, and of additional boards and mobile boards as required.

That it not be possible to request changes in the list of electors by mail, fax or e-mail.

2.2 Voting at the office of the returning officer

The draft bill provides that electors be able to vote at the office of the returning officer as of the 27th day before polling day.

During public hearings, 8 of the 13 groups and individuals who presented briefs on the subject were in favour of this measure.

While we support the measure generally, as a means of facilitating the vote, we also feel that such voting should be restricted to a period that begins at the closure of nominations and ends at the start of advance polling. Our position with regard to the start-date of such voting (i.e., not before the closure of nominations) is partly a response to a concern of the citizens committee and owes something to one of their recommendations. Another recommendation of the citizens committee—

that electors be able to vote in their home electoral divisions via a polling station in the electoral division where they temporarily reside—also sparked our interest, but since this bears a relation to voting by correspondence, we preferred to wait until the advisory committee of the Chief Electoral Officer has completed its examination of that issue.

It is therefore recommended:

That electors be able to vote in their home electoral divisions via an office of the returning officer from the 15th to the 9th day before polling day, and during no other period. However, electors should be able to make an application for that purpose as of the 20th day before polling day.

2.3 Advance polling

Under the current rules, advance polling takes place from 2:00 p.m. to 9:00 p.m. on the Sunday and Monday of the week preceding polling day. The draft bill retains the days for advance polling (the Sunday and Monday) but proposes two full days, extending the time by four hours per day—from 9:30 a.m. to 8:30 p.m.

Of the 14 participants who expressed an opinion on this proposal during the consultation process, 7 were in favour and 7 were opposed.

We agree with the general objective of making advance polling more accessible, although no consensus was reached as to the hours for advance polling. A recommendation of the citizens committee, which also favours increased access, influenced our own thinking on this subject.

It is therefore recommended:

That the hours of advance polling be extended in order to facilitate the vote for as many people as possible.

That it be left to the Chief Electoral Officer's advisory committee to decide on the new hours for advance polling.

2.4 Mobile advance poll and mobile advance polling stations

The draft bill makes no mention of maintaining the present system of mobile polling stations, since the voters concerned would, under its provisions, vote by correspondence. It does, however, provide for the creation of “mobile advance polling stations” to reach more voters. Such stations would be set up during the advance-polling period in the common areas of hospitals and of residential centres providing long-term care, and would even allow persons with mobility problems to vote from their room or apartment.

Of the participants who expressed themselves on this subject, 10 supported the measure unconditionally, 2 supported it with conditions, 1 opposed it and 1 expressed reservations about implementing such stations in private-sector residences.

During public hearings, 2 people spoke in favour of mobile polling stations and 1 organization voiced its opposition.

During the by-elections held in Outremont and Verchères on December 12, 2005, and in Sainte-Marie–Saint-Jacques on April 10, 2006, the three political parties with seats in the House signed two agreements with the Chief Electoral Officer to test a number of new measures designed to facilitate the vote. Accordingly, mobile advance polling stations were set up for the period of advance polling. In addition, on the 9th and the 6th

day before polling day, mobile polling stations were put in place wherever mobile advance polling stations had not been set up. Before recommending that this measure become permanent, we would like to hear the Chief Electoral Officer's opinion on the subject.

The recommendations of the citizens committee in this regard are aimed at making advance polling more accessible, an objective to which we also subscribe.

With regard to mobile polling stations, we feel that the provisions of the current Election Act should continue to apply, since, in our view, the Chief Electoral Officer's advisory committee has not yet concluded its discussion on voting by correspondence.

It is therefore recommended:

That, subject to any comments, observations or recommendations the Chief Electoral Officer may make on the by-election trials held in Outremont, Verchères and Sainte-Marie–Saint-Jacques, a mobile advance poll be considered.

In addition, we believe that the current Election Act provisions regarding mobile polling stations should continue to apply.

2.5 Voting by correspondence

The draft bill provides that any elector who wishes to vote by correspondence should be able to do so.

Of the 29 consultation participants who spoke on this subject, 17 were in favour of the measure.

However, in our view, no satisfactory solution emerged from the consultations or from the discussions that followed. Voting by correspondence involves practices that pit the goal of facilitating the vote against the goal of preserving the security of the voting system. We hope that the Chief Electoral Officer's advisory committee will continue the examination of this issue. We do believe, however, that the right to vote by correspondence could be extended to inmates, a measure that would solve a number of problems associated with voting in prisons.

The citizens committee rejected the draft bill proposal on voting by correspondence, and many of their concerns are justified. However, we do not favour outright rejection of the measure.

It is therefore recommended:

That the Chief Electoral Officer's advisory committee study the possibility of making voting by correspondence an option for all electors.

That voting by correspondence be implemented in the prison system.

3. MEASURES NOT CONTAINED IN THE DRAFT BILL

3.1 Polling day

Of the 30 individuals and groups who expressed an opinion on the matter during public hearings, 20 were in favour of a Sunday election day. The citizens committee agreed, and has made a recommendation to that effect.

Our view is that such a change would be premature at the present time; in addition, no consensus emerged on this question in the course of our work. The Chief Electoral Officer's arguments were often based on technical points that, while important, should not form the only basis of decision. It would have been useful if the Chief Electoral Officer could have demonstrated that such a change would increase voter turnout.

Further arguments from the Chief Electoral Officer, to justify the change, would be welcome.

It is therefore recommended:

That polling day continue to be Monday.

That, since the correlation between Sunday elections and increased voter turnout has not been demonstrated, the Chief Electoral Officer examine the subject in more detail to justify a change in this regard.

3.2 Fixed-date elections

In the course of our consultations, we could hardly fail to note the large number of participants who favoured fixed-date elections for Québec. Of the 66 groups and individuals who gave an opinion on the matter during public hearings, 61 were in favour of adopting a fixed-date system.

The possibility is decidedly worth examining, but the wide-ranging implications of such a change require further study.

It is therefore recommended:

That the government examine the possibility of implementing a fixed-date system, taking into account, for example,

- *studies on the subject;*
- *constitutional implications;*
- *British Columbia's experience (fixed-date elections since 2001);*
- *bill 191, introduced by the Member for Rivière-du-Loup.*

This subject will be examined in greater detail in Part II of our report, which deals with the electoral system.

3.3 Voter identification

Although the draft bill makes no provision for an elector's card, the idea found favour with 15 consultation participants.

Our position, partly inspired by the recommendations of the citizens committee, is that while different means of identifying voters are deserving of study, it would not be advisable to introduce a special ID card for voters at the present time.

It is therefore recommended:

That the Chief Electoral Officer's advisory committee examine new ways of identifying voters, such as the addition of bar codes, for electronic identification, to the Québec health insurance card.

3.4 Ballots bearing candidates' photos or party logos

A photo- or logo-bearing ballot was proposed by a number of groups, in particular literacy groups. In the course of our general and special consultations, seven groups and individuals supported the notion, one group was opposed, and one individual touched upon the subject without giving an opinion. The possibility of using photos *and* logos was also raised.

We support the adoption of this type of ballot, as does the citizens committee. However, we also believe that a test period should precede permanent implementation, given the technical challenges that the Chief Electoral Officer would have to meet.

It is therefore recommended:

That a ballot bearing each candidate's photo or party logo be tried in by-elections, and that the Chief Electoral Officer's advisory committee, on the basis of these trials, examine the possibility of using such a ballot in general elections.

3.5 Campus polling stations for CÉGEPs and universities

Encouraging young adults to vote was an issue of particular concern to the citizens committee, and one that was raised repeatedly, both orally and in writing, during the consultation process. The setting up of polling stations on CÉGEP and university campuses was seen as the solution in some quarters, as was advance polling. We agree that the question bears looking into.

It is therefore recommended:

That the Chief Electoral Officer's advisory committee examine the possibility of setting up boards of revisors, advance polling stations and, on election day, polling stations on CÉGEP and university campuses.

3.6 Electronic voting

There were 7 consultation participants (individuals and groups) who expressed support for electronic voting while 15 feared the possible negative consequences of using new technologies in the electoral context. The citizens committee advocated electronic ballot boxes that generate a paper record. Although somewhat wary of electronic systems

ourselves, we agree that the Chief Electoral Officer should conduct trials with such boxes, as long as the boxes provide a paper record.

It is therefore recommended:

That electronic voting be used in general elections only after conclusive tests have been carried out in a significant number of by-elections to ensure that the risk of fraud and other abuse is not increased. The ballot boxes should be of the kind that generate a paper record.

3.7 Persons under curatorship

During general consultations the question whether persons under curatorship should be given the right to vote was answered in the affirmative by the Public Curator and in the negative by the Public Protector.

The arguments of the Public Curator did not convince us that a change should be considered in this regard, and we made no recommendation on the subject.

3.8 Compulsory voting

The question whether voting should be compulsory was raised only peripherally, with inconclusive results.

4. RECOMMANDATIONS

The Committee's recommendations are as follows:

1. That revision of the list of electors be facilitated by a longer revision period and by the creation of a board of revisors in each electoral division and of additional boards and mobile boards as required.
2. That it not be possible to request changes in the list of electors by mail, fax or e-mail.
3. That electors be able to vote in their home electoral divisions via an office of the returning officer from the 15th to the 9th day before polling day, and during no other period. However, electors should be able to make an application for that purpose as of the 20th day before polling day.
4. That the hours of advance polling be extended in order to facilitate the vote for as many people as possible.
5. That it be left to the Chief Electoral Officer's advisory committee to decide on the new hours for advance polling.

6. That, subject to any comments, observations or recommendations the Chief Electoral Officer may make on the by-election trials held in Outremont, Verchères and Sainte-Marie–Sainte-Jacques, a mobile advance poll be considered.
7. That the current Election Act provisions regarding mobile polling stations continue to apply.
8. That the Chief Electoral Officer's advisory committee study the possibility of making voting by correspondence an option for all electors.
9. That voting by correspondence be implemented in the prison system.
10. That polling day continue to be Monday.
11. That, since the correlation between Sunday elections and increased voter turnout has not been demonstrated, the Chief Electoral Officer examine the subject in more detail to justify a change in this regard.
12. That the government examine the possibility of implementing a fixed-date system, taking into account, for example,
 - studies on the subject;

- constitutional implications;
- British Columbia's experience (fixed-date elections since 2001);
- I bill 191, introduced by the Member for Rivière-du-Loup.

13.That the Chief Electoral Officer's advisory committee examine new ways of identifying voters, such as the addition of bar codes, for electronic identification, to the Québec health insurance card.

14.That a ballot bearing each candidate's photo or party logo be tried in by-elections, and that the Chief Electoral Officer's advisory committee, on the basis of these trials, examine the possibility of using such a ballot in general elections.

15.That the Chief Electoral Officer's advisory committee examine the possibility of setting up boards of revisors, advance polling stations and, on election day, polling stations on CÉGEP and university campuses.

16.That electronic voting be used in general elections only after conclusive tests have been carried out in a significant number of by-elections to ensure that the risk of fraud and other abuse is not increased. The ballot boxes should be of the kind that generate a paper record.