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# NATIONAL ASSEMBLY

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FIRST SESSION

THIRTY-THIRD LEGISLATURE

Bill 106

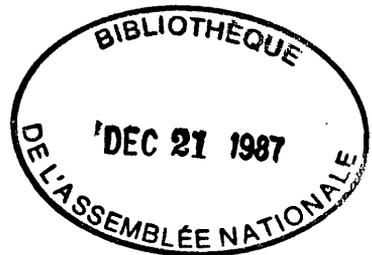
## **An Act respecting school elections**

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**Introduction**

**Introduced by  
Mr Claude Ryan  
Minister of Education**



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## EXPLANATORY NOTES

*The object of this bill is to establish a body of rules governing the election of school commissioners and, in consequence, it replaces sections 48, 49 and 78 to 168 of the Education Act.*

*The proposed legislation will apply to every school board as defined in the Education Act, except a regional school board, the Cree School Board and the Kativik School Board.*

*The bill provides that, henceforth, school elections will be held every three years on the third Sunday in November. At a general school election, all the seats of commissioners will be open for nominations.*

*Under the bill, every school board has an obligation to divide its territory into electoral divisions in the three months preceding the 1st of September in the year of a general election. The number of electoral divisions will be fixed at a number varying from 9 to 19 according to the number of pupils other than adults who are enrolled in the schools of the school board but the Government will have the power to authorize, following an application therefor, a school board to add two, four or six electoral divisions where it considers it justified by the exceptional size of the territory of the school board, the number of municipalities involved or the remoteness of one of them. The presence of a sufficient number of persons belonging to a linguistic minority may also justify the establishment of two, four or six additional divisions. The additional electoral divisions may coincide wholly or in part with the other electoral divisions.*

*With respect to the election of the commissioners of a dissentient school board, the number of electoral divisions is three, but the Government will have the power to authorize a greater number of electoral divisions.*

*The bill recognizes that every natural person of full age who is a Canadian citizen and a qualified elector who has been domiciled in Québec for at least twelve months from the date of the poll is entitled to vote. A person having parental authority over a child attending school under an agreement becomes, if he is otherwise qualified as an elector, entitled to vote at the election of the commissioners of the school board where the child is attending school.*

*The bill provides that any elector who has been domiciled in the territory of a school board for six months or more on the date of the poll may be a candidate at the election of school commissioners, and any elector who has parental authority over a child who is attending school under an agreement is deemed to have a second domicile in the territory of the school board where the child is attending school.*

*On the question of disqualification from voting, the bill provides that there is no obligation to apply to a court of justice for a ruling on the disqualification of a person where it is incontestable as in the case of appointment to an office not compatible with the office of school commissioner or of conviction for an indictable offence.*

*With regard to election proceedings, the bill tends towards the best possible harmonization with the rules applicable for a provincial election under the Election Act, taking into account the adjustments that are required by the context of a school election. More particularly, the bill provides for advance voting on the seventh day preceding the day of the poll for any handicapped person and any person who has reason to believe that he will be absent or unable to vote on polling day.*

*The bill allows candidates to be grouped under a ticket recognized by the returning officer and rules are provided for the recognition of a ticket by the returning officer. In that case, the name of the ticket must appear on the ballot paper under the name of the candidate.*

*It provides for the reimbursement of election expenses for any candidate who obtains 15% or more of the votes. The amount of the reimbursement is determined according to the rules established by government regulations.*

*It provides that every person who performs duties as an election officer or is a candidate at a school board election is entitled to a leave of absence without pay and without loss of benefits.*

*It provides that vacancies occurring in the office of commissioners are to be filled by co-optation if there remains less than 12 months in the term or by a by-election if there remains more than 12 months.*

*Finally, the bill includes concordance amendments required for the proper carrying out of its provisions.*

#### ACTS AMENDED BY THIS BILL

- (1) The Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1);
- (2) The Education Act (R.S.Q., chapter I-14).



# Bill 106

## **An Act respecting school elections**

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

### CHAPTER I

#### SCOPE

**1.** Every school board within the meaning of the Education Act (R.S.Q., chapter I-14), except a regional school board, the Cree School Board and the Kativik School Board, is subject to this Act.

### CHAPTER II

#### DATE OF ELECTIONS

**2.** An election shall be held every three years for all the seats of commissioners who must be elected in accordance with this Act.

**3.** Polling day shall be the third Sunday in November.

**4.** If the election is not held on the prescribed date, the Government may appoint the commissioners. Only persons qualified to be commissioners may be appointed.

Notwithstanding the foregoing, the Government may order that an election be held and fix the dates of the various proceedings leading to an election.

## CHAPTER III

## ELECTORAL DIVISIONS

**5.** Within three months before the 1st of September in the year in which the election of school commissioners is held, the council of commissioners shall divide the territory of the school board into electoral divisions.

**6.** The number of divisions shall vary from 9 to 19 according to the number of pupils, other than adults, enrolled in the schools of the school board; the number shall be:

- (1) 9 divisions if there are fewer than 2 000 pupils;
- (2) 11 divisions if there are 2 000 pupils or more but fewer than 3 000;
- (3) 13 divisions if there are 3 000 pupils or more but fewer than 4 000;
- (4) 15 divisions if there are 4 000 pupils or more but fewer than 5 000;
- (5) 17 divisions if there are 5 000 pupils or more but fewer than 6 000;
- (6) 19 divisions if there are 6 000 pupils or more.

**7.** The Government may, by order, authorize a school board to establish two, four or six electoral divisions in addition to the number prescribed in section 6, where it considers it to be justified by

- (1) the exceptional size of the territory of the school board;
- (2) the number of municipal corporations in the territory of the school board;
- (3) the isolated location of a municipal corporation in the territory.

The order is published in the *Gazette officielle du Québec* and comes into force before the 1st of September in the year in which the election of commissioners is held.

**8.** In the case of a dissentient school board, the number of divisions shall be three, but at the request of the council of commissioners, the Government may authorize a greater number of divisions.

**9.** Where the school board provides instruction to a majority of pupils eligible for instruction in English, the Government may, by order, establish two, four or six electoral divisions in addition to the number prescribed in section 6 where the number of pupils attending the schools of the school board who are not eligible for instruction in English is 200 or more or represents 5% or more of the school enrollment of the school board.

Where the school board provides instruction to a majority of pupils who are not eligible for instruction in English, the Government may, by order, establish two, four or six electoral divisions in addition to the number prescribed in section 6 where the number of pupils attending the schools of the school board who are eligible for instruction in English is 200 or more or represents 5% or more of the school enrolment of the school board.

An electoral division established under this section may coincide wholly or in part with one or more electoral divisions established under section 6 or 7.

The order is published in the *Gazette officielle du Québec* and comes into force before the 1st of September in the year in which the election of commissioners is held.

**10.** The council of commissioners shall assign a name or a number to each electoral division.

It shall give a public notice containing a description of the boundaries of the divisions, using the names of the streets wherever possible.

**11.** The division of the territory of a school board into electoral divisions is valid only for the first general election following the coming into force of the division and for every by-election held before the next general election.

**12.** If the council of commissioners fails to perform its obligations under sections 5, 6 and 10, the Minister of Education may appoint a person to perform such obligations at the expense of the school board.

## CHAPTER IV

## PARTIES TO AN ELECTION

## DIVISION I

## ELECTORS

**13.** Every person who, on the date of the poll, is a Canadian citizen of full age, who has been domiciled in Québec for 12 months or more and who is not disqualified from voting on any of the grounds set out in the Election Act (R.S.Q., chapter E-3.2) is entitled to vote.

**14.** To exercise his right to vote, a person must be entered on the list of electors.

**15.** Every elector shall be entered on the list of electors of the division in which his domicile is situated.

In the cases referred to in section 9, the elector shall be entered on the list of the division in which he chooses to vote.

**16.** If the domicile of an elector is situated in the territory of more than one school board, the elector must vote at the election of the commissioners of the school board where he or his child is enrolled as a pupil.

If the elector is not enrolled as a pupil or has no children enrolled in the schools of either school board he may, at his option, vote at the election of the commissioners of either school board.

**17.** An elector who owns a taxable immovable situated in a territory that is common to more than one school board shall vote at the election of the commissioners of the school board to which he chooses to pay his school taxes.

If the elector has not exercised his option with regard to the payment of school taxes he may vote at the election of the commissioners of either school board.

**18.** The option in respect of the exercise of the right to vote must, to be valid for a school election, be made before the expiry of the time prescribed for an application for an alteration to the list of electors.

**19.** Dissentients may alone vote at the election of the commissioners of a dissentient school board.

**20.** Where a school board is bound by an agreement with another school board to provide developmental and cognitive learning services or instructional services to a pupil of the other school board, in accordance with the Education Act, the pupil's parents who qualify as electors may vote in the electoral division of the school board where the school attended by the pupil is situated.

For the purposes of this section, the word "parent" refers to the person having parental authority.

**21.** The domicile of a person is as provided in the Civil Code for all civil purposes.

Notwithstanding the foregoing, a person who has left his principal establishment in Québec for more than one year is deemed to have changed his domicile, except where he carries on duties outside Québec on behalf of the Government of Québec or of Canada.

## DIVISION II

### CANDIDATE

**22.** Every elector who, on the date of the poll, has been domiciled in the territory of the school board for six months or more and is not interdicted, is not under close treatment pursuant to the Mental Patients Protection Act (R.S.Q., chapter P-41) and is not under the protection of the Public Curator may be a candidate at the election of school commissioners.

The elector referred to in section 20 is deemed to have, from the date occurring six months before the date of the poll, a second domicile in the electoral division of the school board where the school attended by the pupil is situated.

**23.** The following persons are not eligible to the office of school commissioner:

- (1) Members of the National Assembly;
- (2) Members of the Parliament of Canada;
- (3) justices of any court of justice;
- (4) a member of the personnel of the school board;
- (5) a person sentenced to imprisonment.

Disqualification under subparagraph 5 applies for the term of the sentence but ceases if the person obtains a pardon for the offence committed.

### DIVISION III

#### ELECTION OFFICERS

**24.** The director general of the school board is the returning officer *ex officio*. He may refuse to act as such only with the authorization of the Minister of Education who shall, in that case, appoint another person to replace him.

**25.** The returning officer shall appoint an election clerk to assist him in the performance of his duties.

**26.** If the returning officer is unable to exercise his duties, the election clerk shall replace him and he must notify the Minister who may, in that case, appoint another person as the returning officer.

**27.** The returning officer may, if he considers it appropriate, appoint assistants to whom he may delegate in writing the exercise of all or part of his powers and duties under this Act.

**28.** The returning officer may also retain, on a temporary basis, the services of any person he considers necessary.

**29.** The returning officer, the election clerk, the assistants, the persons required by the returning officer and polling officers are election officers.

Before taking office, every election officer, except the returning officer, must swear before the returning officer or a person designated by the latter that he will perform the duties of his office faithfully and to the best of his judgment and ability.

**30.** Election officers shall be chosen from among persons who are qualified electors; they may also be chosen from among the employees of the school board.

**31.** The returning officer may dismiss any election officer who neglects to perform his duties, engages in partisan work or is not qualified for the office.

An election officer who has been dismissed shall return all the official documents in his possession to the returning officer.

**32.** The school board shall fix the tariff of remuneration and expenses of election officers who are not school board employees. The tariff cannot exceed that fixed under the Election Act.

DIVISION IV

REPRESENTATIVES OF CANDIDATES AND POLL RUNNERS

**33.** A ticket recognized under Division III of Chapter V may designate a person for each polling station where a vote may be cast in favour of one or several of its candidates, and give him a power of attorney to represent the candidate or all the candidates, as the case may be, before the deputy returning officer.

**34.** An independent candidate may designate a person for each polling station where a vote may be cast in his favour, and give him a power of attorney to represent him before the deputy returning officer.

**35.** A candidate may be present wherever his representative is authorized to act, assist him in performing his duties or replace him.

A candidate who has no representative may act where a representative would be authorized to act.

**36.** A recognized ticket may designate a poll runner for each polling place where there is a polling station at which a vote may be cast in favour of one or several of its candidates, and give him a power of attorney to periodically collect a list of the persons who have already exercised their right to vote.

An independent candidate may in the same manner designate a poll runner for each polling place where there is a polling station at which a vote may be cast in his favour.

The first two paragraphs do not apply to advance polls.

**37.** A person who pleads guilty to or is convicted of an offence that is a corrupt electoral practice within the meaning of section 164 or the Election Act is disqualified from holding office as a representative or a poll runner.

The disqualification shall continue for five years from the day on which the judgment convicting the person becomes a *res judicata*.

**38.** The power of attorney shall be signed by the leader of the ticket, by the independent candidate or by the person designated for that purpose by the leader or candidate in a writing transmitted to the returning officer.

The power of attorney shall be presented to the deputy returning officer.

**39.** The power of attorney of a representative is valid for the duration of the poll and the counting of votes at the polling station to which he is assigned. The power of attorney of a poll runner is valid for the duration of the poll.

## CHAPTER V

### ELECTION PROCEEDINGS

#### DIVISION I

##### NOTICE OF ELECTION

**40.** Not later than 75 days before polling day, the returning officer shall give a public notice setting forth the following particulars:

- (1) the place, dates and hours for filing nomination papers;
- (2) the fact that if two or more candidates are nominated for a seat of commissioner, an advance poll and a poll will be held to elect one of them;
- (3) the date of the advance poll and the opening and closing times of the polling station or stations on that day;
- (4) the date of the poll and the opening and closing times of the polling station or stations on that day;
- (5) the name of the election clerk;
- (6) the telephone number and address of the office of the returning officer.

#### DIVISION II

##### LIST OF ELECTORS

##### § 1.—*Preparation*

**41.** The returning officer shall prepare the list of electors of each electoral division not more than 75 and not less than 45 days before the day of the poll.

The list shall be prepared by taking from the latest electoral list prepared under the Election Act the names of the persons qualified as electors pursuant to section 13, and entering thereon the names of the persons contemplated by section 20.

The returning officer shall take such other measures as are necessary to complete the list.

**42.** When preparing the list of electors, the returning officer shall enter the name of the persons who are entitled to vote at the election of the commissioners of the school board or who have chosen to exercise their right to vote at such election pursuant to sections 16 to 18.

**43.** Not later than 45 days before the day of the poll, the returning officer shall deposit the list of electors of each electoral division at the head office of the school board.

**44.** Not later than five days after the deposit of the list of electors, the returning officer shall give a public notice of the deposit of the list of electors of each electoral division and indicating the place where it may be examined.

The notice shall also indicate the place, days and hours fixed for filing applications for entry, striking off or correction.

**45.** If on the 40th day preceding the day of the poll the list of electors has not been prepared or deposited or if the notice prescribed in section 44 has not been given, the Minister may appoint a person to carry out the formalities that have not been observed, at the expense of the school board.

#### § 2.—*Revision*

**46.** Within five days after the notice of deposit of the list of electors, any person who believes that his name or the name of another person has been wrongfully omitted from or entered on the list of electors or that his designation or that of another person is erroneous may file with the returning officer a written application for entry, striking off or correction.

**47.** At the end of the five day period, the returning officer shall fix a date, within the next seven days, when the council of commissioners will examine the applications for entry, striking off or correction.

The returning officer shall give one clear day's notice to every applicant and every person referred to in an application.

**48.** On the appointed day, the council of commissioners shall examine the applications and give the parties concerned an opportunity to be heard.

The council may hear the interested parties and their witnesses, if any, under oath.

**49.** The council of commissioners may confirm or correct the list of electors and correct any clerical error.

The returning officer shall initial every alteration made to the list of electors.

### § 3.—*Coming into force*

**50.** The list of electors comes into force 27 days before the date of the poll.

**51.** Not later than 26 days before the day of the poll, the returning officer shall send, free of charge, a copy of the list of electors to each ticket recognized under Division III of this chapter.

The returning officer shall send to each independent candidate a copy of the list of electors of the division where he has filed his nomination paper.

**52.** No clerical error in the preparation, revision or putting into force of the list of electors affects the validity of the list unless it results in actual injustice.

## DIVISION III

### NOMINATIONS AND TICKETS

**53.** A person wishing to be a candidate shall file a nomination paper at the office of the returning officer not more than 16 and not less than 14 days before the day of the poll, from 10:00 a.m. to 5:00 p.m.

A person wishing to be a candidate may designate in writing a person to act in his name as his mandatary.

**54.** Candidates may be grouped into tickets recognized by the returning officer.

**55.** Any ticket which undertakes, through its leader, to present candidates for at least two-thirds of the seats of commissioners open for nominations at the next election may apply for recognition.

**56.** The leader of the ticket shall transmit to the returning officer a written application for recognition containing the following particulars:

(1) the name of the ticket;

(2) the address to which communications intended for the ticket must be sent;

(3) the name, address and telephone number of the leader of the ticket.

The application must also contain the undertaking which entitles the ticket to apply for recognition.

The application must be accompanied with the names, addresses and signatures, for at least two-thirds of the seats of commissioners open for nominations, of the eligible persons declaring their intention to be candidates of that ticket for those seats.

**57.** The returning officer shall grant the recognition to a ticket applying therefor in accordance with sections 55 and 56.

The returning officer shall refuse to recognize a ticket if its name includes the word "independent" or is likely to mislead the electors as to which ticket they are voting for.

The recognition has effect for the purposes of the next general election and every by-election held before the general election following the next one.

**58.** A recognized ticket is not authorized to change its name except with the approval of the returning officer. The returning officer shall refuse to approve any change if the proposed name includes the word "independent" or is likely to mislead the electors as to which ticket they are voting for.

An application for approval is made by means of a writing from the leader of the ticket.

**59.** The returning officer shall, unless the election proceedings are recommenced pursuant to Division III of Chapter VI, withdraw the recognition of a ticket where, at the end of the nomination period it

offers candidates for less than two-thirds of the seats of commissioners open for nominations or where the number of candidates remaining after that period but before the end of the polling period is under the required minimum.

The returning officer shall also withdraw the recognition of a ticket which has changed its name to include the word "independent" or when the new name is likely to mislead the electors as to which ticket they are voting for.

**60.** The nomination paper shall state the name, date of birth, address and occupation of the candidate, indicate the division for which he is a candidate and include an affidavit certifying that he is eligible.

**61.** The nomination paper of the candidate of a recognized ticket shall state that he is the candidate for that ticket.

**62.** The nomination paper shall be signed by the candidate and supported by ten electors of the electoral division for which the nomination paper is filed.

Each elector shall enter his address opposite his signature as it appears on the list of electors.

**63.** The nomination paper shall be accompanied with a proof of the candidate's identity and a statement signed by him or his mandatory certifying that he knows the signatories, that they signed the nomination paper in his presence and that to the best of his knowledge they are electors of the school board.

After examining the proof of identity, the returning officer shall keep a true copy and return the original to the person filing the nomination paper or his mandatory.

**64.** The nomination paper of the candidate of a recognized ticket must be accompanied with a letter signed by the leader of the ticket certifying that the person is its official candidate for the seat concerned.

**65.** No person may be a candidate in more than one electoral division of the same school board.

**66.** A person may be a candidate under the given name and surname he ordinarily uses provided 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.

**67.** The returning officer shall receive, without delay, every nomination paper meeting the requirements of this Act.

The returning officer shall in that case issue an acknowledgment of receipt, which is proof of the nomination.

**68.** Any elector may examine any nomination paper received, at the office of the returning officer.

**69.** Every candidate may, on request, obtain, free of charge, a copy of any nomination paper the filing of which has been accepted.

**70.** If, at the expiry of the nomination period, the returning officer has received only one nomination for an electoral division, he shall declare that candidate elected.

**71.** If, at the expiry of the nomination period, the returning officer has received no nomination for an electoral division, he shall schedule a new nomination period for that electoral division from 10 a.m. to 5 p.m. on the second following Friday. The poll shall, in that case, be held on the third subsequent Sunday.

The returning officer shall publish, as soon as possible, a notice informing the electors of the new nomination period and new polling date.

**72.** If, at the expiry of the new nomination period, the returning officer has received no nomination, he shall inform the Minister who shall, within 30 days of being so informed, fill the office of commissioner.

**73.** A candidate may withdraw at any time by filing with the returning officer a declaration to that effect bearing his signature.

**74.** The name of a candidate who has withdrawn shall not appear on the ballot paper.

Notwithstanding the foregoing, if it is impossible to print new ballot papers in time for the poll, the deputy returning officer shall strike off the name of the candidate from every ballot paper.

If the withdrawal of a candidate occurs while voting is in progress, all the votes cast in his favour shall be cancelled.

**75.** If, after the withdrawal of a candidate, there remains only one candidate, the returning officer shall declare him elected.

**76.** If a candidate dies after the nomination period but before the close of the poll, the returning officer shall recommence the election proceedings for the electoral division concerned, as provided in section 71.

#### DIVISION IV

##### POLL

#### § 1.—*Notice of poll*

**77.** If the returning officer has received more than one nomination for an electoral division, he shall announce that a poll will be held by publishing a notice indicating

(1) for each division where a poll is necessary, the given name, surname, address and occupation of each candidate, in alphabetical order of the candidate's surnames;

(2) the date and time when advance polling stations will be open and the electors entitled to vote thereat;

(3) the date, place and time when polling stations will be open on polling day.

The notice shall also indicate the name of the recognized ticket to which a candidate belongs, where that is the case.

**78.** The returning officer shall post up the notice of poll at the head office of the school board at the expiry of the nomination period.

The returning officer shall send a copy of the notice to any school board whose schools are attended by pupils pursuant to an agreement in order that the notice be posted up at the head office of that school board.

#### § 2.—*Advance poll*

**79.** The returning officer shall, seven days before polling day, establish as many advance polling stations as he considers necessary.

**80.** Except if otherwise provided, the provisions of this division relating to a regular poll held in a polling station, adapted as required, apply to the advance poll.

**81.** The advance polling station shall be open from 2:00 p.m. to 10:00 p.m., on Sunday of the week preceding polling day.

**82.** Election officers on duty on polling day, handicapped persons, persons who have reason to believe they will be absent or unable to vote on polling day and the parents of pupils attending school under an agreement may vote at the advance poll.

**83.** A person who has reason to believe that he will be absent or unable to vote on polling day and wishes to vote at the advance poll shall, before receiving a ballot paper, declare under oath that he will be absent or unable to vote on polling day. A note thereof shall be entered in the poll book.

**84.** When an elector is admitted to vote in an advance poll, the poll clerk shall enter his given name, surname and address in the poll book and shall make an entry thereof on the list of electors in the space reserved for that purpose.

**85.** After the close of the advance polling station, the poll clerk shall enter in the poll book the particulars prescribed in section 122.

The deputy returning officer shall place in separate envelopes the ballot papers found in the ballot box, the spoiled or cancelled ballot papers, the unused ballot papers and the list of electors; he shall then seal the envelopes. These envelopes, except the envelope containing the list of electors, shall be placed in the ballot box together with the poll book. The deputy returning officer shall seal the ballot box and affix thereto a secure seal bearing a number.

The deputy returning officer shall then deliver the ballot box to the returning officer or the person designated by him.

### § 3.—*Poll officers*

**86.** The returning officer shall establish as many polling stations as he considers necessary.

The polling stations of an electoral division must be grouped in one public place. However, if the returning officer considers it preferable by reason of the size of the electoral division, the number of electors or the presence of a hospital centre or a reception centre in the electoral division, he may establish these stations at more than one place.

**87.** The returning officer shall appoint a deputy returning officer and a poll clerk for each polling station.

**88.** The deputy returning officer shall, in particular,

- (1) see to the physical arrangement of the polling station;
- (2) ensure that the polling is properly conducted and that order is maintained;
- (3) facilitate the exercise of the right to vote and ensure the secrecy of the vote;
- (4) proceed with the counting of the votes;
- (5) transmit the results of the vote to the returning officer and deliver the ballot box to him.

**89.** The poll clerk shall, in particular,

- (1) enter in the poll book the particulars relating to the conduct of the polling;
- (2) assist the deputy returning officer.

**90.** The returning officer may, to maintain peace and order, require the assistance of peace officers or of any other person.

§ 4.—*Materials required for the poll*

**91.** The returning officer shall cause ballot papers to be printed in the form prescribed in Schedule I.

The paper used to make the ballot papers must be of sufficient weight that writing does not appear through it.

**92.** The ballot paper must have a counterfoil and be attached to a stub. The counterfoil and the stub must bear the same number on the reverse and be numbered consecutively.

**93.** The ballot paper must allow each candidate to be identified.

The ballot paper must contain, on the obverse,

- (1) the name of each candidate, his given name preceding his surname;
- (2) under each name, the name of the recognized ticket to which the candidate belongs, where such is the case;
- (3) a circle for the elector's mark opposite the particulars pertaining to each candidate.

**94.** The ballot paper shall contain, on the reverse,

- (1) the number of the ballot paper appearing on the counterfoil and the stub;
- (2) a space reserved for the initials of the deputy returning officer;
- (3) the name of the school board;
- (4) the name or number of the electoral division concerned;
- (5) the date of the poll;
- (6) the name and address of the printer.

The designation of the electoral division concerned must correspond to that appearing in the nomination papers.

**95.** Where several candidates have the same given name and surname, the returning officer shall, to avoid the possibility of confusion, enter their occupation and, if necessary, their address under their name. Where that is the case, he shall make the same entries for each candidate.

**96.** When delivering the ballot papers to the returning officer, the printer shall produce an affidavit containing the description of the ballot papers printed by him, showing the number of ballot papers delivered to the returning officer, and certifying that he has not furnished any other ballot paper to any other person and that he has none in his possession.

**97.** The returning officer shall obtain as many ballot boxes as are necessary for the conduct of the election.

Every ballot box shall be made of durable material and of uniform size and shape.

#### § 5.—*Preliminary proceedings*

**98.** Not later than the day preceding the day of the poll, the returning officer shall deliver to the deputy returning officer, in a sealed ballot box, after affixing his initials to the seals, the list of electors of the polling station, a poll book, the required number of ballot papers, the forms and the materials and documents required for the poll and the counting of votes. He shall also supply the deputy returning officer with a voting compartment.

**99.** The deputy returning officer and the poll clerk shall be present at the polling station one hour before the opening of the poll.

**100.** A candidate or his representative may be present at the polling station with the deputy returning officer and the poll clerk and observe any operation taking place in the polling station.

**101.** The deputy returning officer, in the presence of the poll clerk, shall open the ballot box and examine the documents found in it and the materials required for the poll, and comply with the directives issued in that respect by the returning officer.

**102.** At the time fixed for the opening of the poll, the deputy returning officer and the poll clerk shall inspect the ballot box to verify that it contains no ballot paper. It shall then be sealed and placed in front of the deputy returning officer, on the table of the polling station.

### § 6.—*Polling*

**103.** Polling shall take place from 9:00 a.m. to 7:00 p.m.

**104.** Every employer shall 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 salary or wages and no penalty may be imposed on the employee by reason of this leave.

**105.** Not more than one elector shall be admitted to a polling station at one time.

**106.** The elector shall give his surname, given name and address and, if so requested, his age and occupation to the deputy returning officer and to the poll clerk.

**107.** The deputy returning officer shall admit an elector to vote if he has not already voted, if he is entered on the list of electors used at the polling station and if his surname, given name, address and, where such is the case, his age and occupation, correspond to those appearing on the list of electors.

**108.** The deputy returning officer shall, after writing his initials in the space reserved for that purpose and detaching the counterfoil, give a ballot paper to the elector admitted to vote.

**109.** Every person presenting himself to vote shall, if requested by the deputy returning officer, a candidate or his representative, make the following declaration before the deputy returning officer:

“I swear (*or* solemnly affirm) that I am a qualified elector and that I have not already voted in this election.”.

If the elector refuses, he shall lose his right to vote in the current election and an entry thereof shall be made in the poll book, in accordance with the form provided in Schedule II.

**110.** The elector whose designation does not correspond exactly to that appearing on the list of electors may nevertheless be admitted to vote after making the declaration provided in section 109.

**111.** After receiving a ballot paper, the elector shall proceed to the voting compartment and, without undue delay, mark his ballot paper in one of the circles and fold it.

**112.** The elector shall leave the voting compartment, and allow the initials of the deputy returning officer to be examined by the latter, the poll clerk and every representative or a candidate who wishes to do so. The elector, in full view of the persons present, shall then detach the stub and remit it to the deputy returning officer, who shall destroy it, and the elector himself shall place his ballot paper in the ballot box.

The elector shall mark his ballot by making a cross, an “X”, a check mark or a line on the ballot with a pen or, as the case may be, the pencil given to him by the deputy returning officer at the same time as the ballot paper.

**113.** As soon as an elector has voted, the poll clerk shall indicate it on the list of electors in the space reserved for that purpose.

**114.** If the initials appearing on the back of the ballot are not those of the deputy returning officer, the latter shall cancel the ballot and the poll clerk shall make an entry thereof in the poll book.

**115.** 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 marked or spoiled ballot paper.

**116.** An elector who declares under oath that he is unable to mark his ballot paper himself by reason of a handicap or because he cannot read may be assisted by an elector of the same electoral division. If the elector is unable to propose anyone to assist him, the deputy returning officer shall provide that service. An entry thereof shall be made in the poll book.

**117.** An elector under whose name a person has already voted may nevertheless be admitted to vote after making the declaration provided in section 109. An entry thereof shall be made in the poll book.

**118.** An elector whose name does not appear on the list of electors used at the polling station but appears on the revised list of electors in the possession of the returning officer may obtain a written authorization to vote from the returning officer or the election clerk.

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

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

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

## CHAPTER VI

### PROCEEDINGS AFTER CLOSE OF POLL

#### DIVISION I

##### COUNTING OF VOTES

**121.** After the close of the poll, the deputy returning officer, assisted by the poll clerk, shall count the votes. The candidates and their representatives may attend.

**122.** Before the ballot box is opened, the poll clerk shall enter in the poll book

(1) the number of electors who have voted;

(2) the number of ballot papers inadvertently marked, spoiled or cancelled and the number of unused ballot papers.

**123.** 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 each ballot.

**124.** The deputy returning officer shall declare valid every ballot paper which an elector has marked in one of the circles as provided in section 112.

Notwithstanding the foregoing, the deputy returning officer shall reject every ballot paper which

- (1) has not been furnished by him;
- (2) has not been marked;
- (3) has been marked in favour of more than one candidate;
- (4) has been marked elsewhere than in one of the circles;
- (5) bears fanciful or injurious entries; or
- (6) bears a mark by which the voter can be identified.

**125.** The deputy returning officer shall reject every ballot paper that does not bear his initials. However, the ballot paper shall not be rejected where all of the following conditions are met:

(1) the number of ballot papers found in the ballot box corresponds to the number of ballot papers which, according to the list of electors and the poll book, as the case may be, were placed in it;

(2) the ballot papers found in the ballot box which bear no initials are, on their face, those furnished by the deputy returning officer;

(3) the deputy returning officer signs an affidavit attesting that he inadvertently omitted or forgot to affix his initials to a specified number of ballot papers.

The deputy returning officer shall then, in full view of the persons present, affix his initials to the back of every ballot that does not bear them, and shall enter on each ballot, following his initials, a note indicating that they were affixed as a correction. An entry thereof shall be made in the poll book.

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

Furthermore, no ballot paper may be rejected for the sole reason that the mark made in one of the circles by the elector extends beyond the circumference of the circle.

**127.** The deputy returning officer shall consider every objection raised in relation to the validity of a ballot and decide it immediately. The objection and the decision of the deputy returning officer shall be entered in the poll book.

**128.** After counting the ballots, the deputy returning officer shall draw up a statement of the poll according to the form provided in Schedule III.

He shall give a copy of the statement to the representative of every candidate and shall keep a copy to be delivered to the returning officer.

**129.** The deputy returning officer shall then place, in separate envelopes, the ballot papers marked in favour of each candidate, the rejected ballot papers, the inadvertently marked, spoiled or cancelled ballot papers, the unused ballot papers and the statement of the poll. He shall seal the envelopes.

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

The envelopes, the poll book and the list of electors shall be placed in the ballot box.

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

The deputy returning officer shall deliver the ballot box to the returning officer or to the person designated by him.

## DIVISION II

### ADDITION OF VOTES

**131.** The addition of the votes shall begin at 9 o'clock in the morning of the day following the poll. It shall take place at the office of the returning officer and any candidate or elector may be present.

**132.** The returning officer shall add the votes by using the statements of the poll contained in the ballot boxes and compiling the votes cast in favour of each candidate in each polling station of the electoral division.

**133.** If the statement of the poll has not been enclosed in a ballot box or if a ballot box has not been returned to the returning officer, he shall adjourn the addition of the votes until he obtains the missing statement or ballot box.

If it is impossible to obtain them, he shall use the statement of the poll given to him or, failing that, the statement of the deputy returning officer or of a representative, and he shall continue with the addition.

**134.** The returning officer shall return the candidate who has received the largest number of votes.

He may then communicate to any person requesting it the results of the addition.

**135.** In the case of a tie for first place, the returning officer shall make a new addition of the votes.

If the tie-vote still exists after the new addition, the returning officer shall apply to the Provincial Court in accordance with the provisions of section 138.

### DIVISION III

#### RECOUNT

**136.** Any candidate or his representative may apply for a recount on the ground that a deputy returning officer has in counting the votes, improperly counted any ballot, improperly rejected any ballot or made an incorrect statement of the number of ballots cast for any candidate.

**137.** The candidate who came second, or his representative, may apply for a recount where the majority is not over 5% of the votes cast.

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

**139.** The motion must be presented within four days after the addition of the votes.

**140.** The recount shall begin within four days after the presentation of the motion and be carried out as rapidly as possible.

**141.** The judge shall give notice in writing of at least one clear day to the returning officer and to the candidates of the day, time and place where the recount will take place.

The judge shall summon the election clerk and the returning officer, and order the returning officer to bring the ballot boxes and the statements of the poll of the electoral division concerned.

**142.** On the appointed day, the judge, in the presence of the returning officer and election clerk, shall recount the votes.

**143.** Sections 124 and 126 apply for the purpose of deciding the validity of a ballot paper and the judge may for that purpose take the measures he considers appropriate.

**144.** If a ballot box or required documents are missing, the judge shall take the appropriate measures to ascertain the results of the vote. For that purpose, he is vested with the powers and immunity of a commissioner appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37).

Every person testifying on that occasion before the judge has the same privileges and immunity as a witness before the Superior Court, and articles 307 and 309 of the Code of Civil Procedure (R.S.Q., chapter C-25) apply, adapted as required.

**145.** While the recount is in progress, the judge has the custody of the ballot boxes and their contents, and of all the other documents that have been delivered to him.

**146.** Upon the completion of the recount, the judge shall compile the votes cast in favour of each candidate, verify or rectify any statement of the poll and certify the results of the vote.

The judge shall return the ballot boxes and all the other documents used for the recount to the returning officer.

**147.** The returning officer shall declare elected the candidate who received the largest number of votes.

If the tie-vote still exists after a recount, the returning officer shall order a new election for the electoral division concerned and shall fix the dates for nominations and for the poll.

**148.** The judge shall award and fix the amount of the costs according to the tariff established by government regulation.

Where the election results remain unchanged, the costs of the candidate who received the largest number of votes shall be assumed by the person who applied for the recount.

The person who applied for a recount pursuant to section 137 shall pay no costs.

**149.** Costs are recoverable in the same manner as costs awarded in ordinary cases before the Provincial Court.

#### DIVISION IV

##### DECLARATION OF ELECTION

**150.** If no application for a recount is filed within the time prescribed, the returning officer shall declare elected the candidate who has received the largest number of votes. He shall send a copy of the declaration to each candidate.

**151.** School commissioners shall take office on the date of the declaration of election.

Every commissioner shall remain in office until a new election is held, unless his seat becomes vacant for one of the reasons set out in section 181.

**152.** The returning officer shall keep the documents relating to the election until the time allowed for contestation has expired.

**153.** The returning officer shall enter the names of the candidates declared elected and the official results of the poll in the school board register.

**154.** The returning officer shall issue, without undue delay, a public notice stating the given name and surname of every elected candidate and the electoral division he represents.

#### CHAPTER VII

##### ELECTORAL CODE OF ETHICS

#### DIVISION I

##### SECRECY OF VOTING

**155.** Voting is secret.

**156.** No elector may, on the premises of a polling station, indicate publicly, in any manner, in favour of which candidate he proposes to vote or has voted.

No candidate, representative or election officer may, on those premises, attempt to learn in favour of which candidate an elector proposes to vote or has voted.

The building in which the polling station is located and any neighbouring place where the indications of the elector or the actions of the candidate, representative or election officer may be heard or seen by the electors waiting in line are considered to be the premises of a polling station.

**157.** No deputy returning officer or elector who has given assistance to another elector may disclose for which candidate the elector has voted.

**158.** No person may be compelled to disclose for which candidate he has voted.

## DIVISION II

### PARTISAN PUBLICITY AND PARTISAN WORK

**159.** No person may, on the premises of a polling station, use a sign to indicate his association with a recognized ticket or his support for or opposition to a ticket or candidate or ideas promoted or opposed by the latter, or engage in any other form of partisan publicity.

The building in which the polling station is located and any neighbouring place where the sign or partisan publicity may be seen or heard by the electors waiting in line are considered to be the premises of the polling station.

**160.** No election officer may engage in partisan work from the time he has made his oath.

**161.** No employee of a school board may engage in partisan work in relation to an election of the commissioners of the school board.

The prohibition includes any association representing the interests of such employees.

**162.** Attending a meeting of the candidates on a recognized ticket, making a contribution to a candidate or affixing a signature in support of a nomination or an application for authorization does not constitute partisan work.

The first paragraph does not apply to the secretary general of the school board or to any other employee of the school board while he is an election officer.

## CHAPTER VIII

### CONTESTATION OF ELECTIONS

**163.** The election of a school commissioner may be contested by a candidate or by five electors where the election or the declaration pertaining to it is irregular, or, where a corrupt electoral practice was used which causes the election of the school commissioner to be null.

**164.** Every offence described in section 202, in paragraph 4 of section 203, in paragraphs 1, 2, 3, 4 and 10 of section 204, in paragraphs 1 and 3 of section 205 and in sections 206, 207 and 209 is a corrupt electoral practice.

**165.** An election is contested by way of a motion to the Superior Court of the judicial district in which all or part of the electoral division where the election was held is situated.

**166.** The motion shall be presented within 30 days after the declaration of election or within 30 days after the corrupt electoral practice is known if it becomes known after the declaration of election.

**167.** The returning officer shall be made a party to the case.

**168.** The summons is made by way of a writ to which is attached, to stand in lieu of a declaration, the motion provided for in section 165.

**169.** Proceedings are conducted in accordance with the ordinary rules of the Code of Civil Procedure but the motion is heard and decided by preference.

**170.** The rules of proof are those in force in civil matters.

**171.** The fact that the respondent has accepted a post which disqualifies him from holding a seat or has abandoned his seat as a school commissioner does not prevent the making of the motion or interrupt the hearing.

**172.** The court shall decide whether

(1) the election is null;

(2) the school commissioner whose election is contested was duly elected or declared elected;

(3) another person was elected, indicating who that other person is.

**173.** If the hearing establishes

(1) that a corrupt electoral practice was used by a candidate or, with his knowledge and consent, by another person, the candidate shall be considered guilty of a corrupt electoral practice, and if he has been elected, his election is null;

(2) that a corrupt electoral practice was used by the representative of a candidate, the election of that candidate is null.

The election of a candidate shall not be declared null pursuant to subparagraph 2 of the first paragraph if it is established that the deed is of minor gravity and could not have affected the outcome of the election, and that the candidate, in good faith, took reasonable precautions to carry on an honest campaign for election.

**174.** If the hearing establishes that a candidate, personally or through another person, committed an offence described in section 207 or 209, the court shall subtract, from the number of votes which appear to have been given in favour of the candidate, one vote for each person who voted at that election and in respect of whom, according to the evidence, the candidate is guilty of that offence.

**175.** The election of a candidate shall not be declared null by reason of an offence against this division that does not constitute a corrupt electoral practice, if the court comes to the conclusion that the offence could not have changed or significantly affected the outcome of the election.

**176.** No election may be declared null by reason of a failure to observe a formality prescribed for the proceedings relating to the polling or for the counting of votes or by reason of the disqualification of an election officer if the election proceedings have been conducted in accordance with the principles established by this Act and the inobservance or disqualification has not affected the outcome of the election.

**177.** No election may be declared null by reason of a failure to observe the prescribed time limits, unless the inobservance has affected the outcome of the election.

**178.** No election may be declared null by reason of the fact that a person who supports a nomination is not an elector.

**179.** The decision of the Superior Court is final.

**180.** If the court annuls the election of one or several school commissioners without designating another person elected, it shall order a new election, determine the nomination period and fix the date of the poll.

## CHAPTER IX

### PROCEDURE APPLICABLE TO THE FILLING OF VACANCIES ON THE COUNCIL OF COMMISSIONERS

#### DIVISION I

##### VACANCIES

**181.** The term of office of a school commissioner ends

(1) upon his death;

(2) upon his resignation;

(3) upon his failure to attend six consecutive sittings of the council of commissioners held at intervals of at least seven days;

(4) upon his becoming disqualified from sitting on the council;

(5) upon his becoming ineligible to the office of commissioner.

In the case contemplated in the second paragraph of section 22, the term of office of a school commissioner ends upon the child's ceasing to attend the school of the school board or upon termination of the agreement.

**182.** A school commissioner may resign from office by transmitting a writing to that effect signed by him to the secretary general of the school board.

The term of the commissioner ends on the date of transmission of the writing or on any later date specified therein.

The secretary general shall transmit the writing to the council of commissioners at the next sitting.

**183.** The term of a commissioner who fails to attend sittings of the council of commissioners ends at the opening of the seventh consecutive sitting he has failed to attend.

**184.** The term of a commissioner who is disqualified or became disqualified during his term of office ends on the date on which the judgment declaring him disqualified becomes a *res judicata*.

**185.** The term of a commissioner who, after being elected, becomes disqualified pursuant to section 23 ends on the day he takes an office referred to in section 23.

**186.** The term of a commissioner whose disqualification results from the fact that he has pleaded guilty to or been convicted of an offence under an Act of the Parliament of Québec or of Canada and is sentenced to a term of imprisonment ends, except in the case of an immediate pardon, on the day the judgment convicting him becomes a *res judicata* or on the day the final sentence is pronounced, whichever is later.

**187.** The term of a commissioner ends on the date the judgment declaring the nullity of his election or ousting him from office becomes a *res judicata*.

**188.** The secretary general of the school board who ascertains that one of the seats of the commissioners is vacant shall notify the council of commissioners at the next sitting.

## DIVISION II

### BY-ELECTIONS AND APPOINTMENTS

**189.** If 12 months or less remain before the end of the term of the commissioner in whose seat a vacancy has occurred, the council of commissioners shall fill the vacancy within thirty days, after consultation with the parents' committee instituted under the Education Act. The person appointed must have the qualifications required of a school commissioner.

The school board shall give public notice of the surname and given name of the person appointed.

**190.** If more than 12 months remain before the end of the term of office of the commissioner in whose seat a vacancy has occurred, the returning officer of the school board shall hold an election to fill the office.

The list of electors for the election is that used at the election of the commissioner in whose seat a vacancy has occurred, subject to applications for entry, striking off or correction.

The provisions of Chapters IV to XIII, adapted as required, apply to the election. The notice of election provided for in section 40 must, however, be given within 30 days from the date on which the seat is deemed to be vacant.

## CHAPTER X

### LEAVE WITHOUT PAY

**191.** Every employer shall, upon written request, grant a leave without pay to his employee who is a candidate at a school election.

**192.** The leave begins on the later of the following dates:

- (1) the day on which the employee becomes a candidate;
- (2) the first day for which the employee requested the leave.

The leave ends on the day a person is declared elected to the office for which the employee was a candidate.

**193.** Every employer shall, upon written request, grant a leave without pay to his employee who is an election officer.

The employee may be granted a full-time or a part-time leave depending on the terms and conditions of his employment as an election officer.

**194.** No employer may, by reason of the leave, dismiss, lay off, suspend, demote or transfer an employee, or do anything that would adversely affect any of the benefits attached to his employment.

The leave does not interrupt the continuous service of the employee.

While on leave, the employee may continue to contribute to all the plans in which he is a participant provided he applies therefor in writing at the beginning of the leave and pays the totality of the premiums, including the employer's contribution.

At the expiry of the leave, the employee is entitled to the benefits he would have received if he had been at work during that time.

**195.** An employee believing himself the victim of a contravention of this chapter may file a complaint with the labour commissioner general appointed under the Labour Code (R.S.Q., chapter C-27). In that case, sections 15 to 20, 49 to 51, 118 to 137, 139 to 140.1 and 150 to 152 of the Labour Code apply, adapted as required.

**196.** An employee governed by a collective agreement or the association certified to represent him may elect to invoke the grievance settlement and arbitration procedure instead of filing a complaint with the labour commissioner general. In that case, sections 17, 100 to 100.10 and 139 to 140.1 of the Labour Code apply, adapted as required.

The arbitrator shall refuse to hear the grievance if a complaint is filed with the labour commissioner general at the same time the grievance settlement and arbitration procedure is invoked.

## CHAPTER XI

### ELECTION EXPENSES OF CANDIDATES

**197.** After an election, every candidate who has obtained at least 20% of the votes is entitled to a reimbursement of his election expenses by the school board.

Every candidate elected by acclamation and every candidate at an election where proceedings are recommenced by reason of the death of a candidate is also entitled to a reimbursement.

The amount of the reimbursement shall be fixed in accordance with the rules determined by government regulation.

**198.** To be entitled to a reimbursement, a candidate must file an itemized statement of his expenses in the form prescribed by the school board. The statement must be accompanied with the relevant invoices, receipts and other vouchers.

**199.** For the purposes of section 197, the expression "election expenses" means all expenses incurred during an election period to promote or oppose, directly or indirectly, the election of a candidate, propagate or oppose the program or policy of a candidate or approve or disapprove courses of action advocated or opposed by a candidate or acts done or proposed by a candidate or its supporters.

Expenses incurred before the election period for the purchase or production of any literature, object, advertising material or radio or

television programs used or broadcast during the election period for the purposes mentioned in the first paragraph are deemed to be election expenses.

For the purposes of this section, the expression “election period” means the period beginning on the day of publication of the notice of election and ending on the day of the poll.

## CHAPTER XII

### GENERAL PROVISIONS

**200.** The Government shall, by regulation, determine rules for the fixing of the amount of election expenses that may be reimbursed to a person who is a candidate for the office of school commissioner.

The regulation comes into force 15 days after the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.

**201.** A public notice prescribed by this Act shall be published in at least one newspaper having general circulation in the territory of the school board.

The notice shall set forth its object and be published within the time prescribed or, failing that, as soon as possible.

## CHAPTER XIII

### PENAL PROVISIONS

**202.** Every person who, at the time of the preparation or revision of the list of electors,

(1) knowingly includes the name of a person who should not be entered,

(2) knowingly omits to include the name of a person who should be entered,

(3) makes an application for the entry of a name he knows to be fictitious or to be that of a deceased person or of a person not qualified as an elector, or

(4) makes an application for the striking off of the name of a person he knows is a qualified elector

is guilty of an offence.

**203.** Every person who

(1) offers himself as a candidate knowing he is not eligible as a commissioner,

(2) supports a nomination when he is not an elector,

(3) offers himself as a candidate in more than one electoral division of the same school board, or

(4) knowingly spreads false news of the withdrawal of a candidate, is guilty of an offence.

**204.** Every person who

(1) votes more than once at the same school board election,

(2) permits a person to vote without being entered on the list of electors, except in the cases referred to in section 118,

(3) votes without being entitled to vote,

(4) votes or attempts to vote by falsely assuming the name and quality of an elector or by using the name of a fictitious or deceased person,

(5) knowingly prints or uses a false ballot paper or alters or counterfeits a ballot paper,

(6) being a printer, keeps any ballot paper in his possession or delivers any ballot paper to a person other than the returning officer,

(7) modifies or imitates the initials of the deputy returning officer,

(8) acts as the representative of a candidate when his power of attorney is false,

(9) being a deputy returning officer, gives a ballot paper to a person who refuses to make the oath required, or

(10) being a deputy returning officer, knowingly admits to vote a person who has already voted,

is guilty of an offence.

**205.** Every person who

- (1) falsifies the poll book or the statement of the poll,
  - (2) knowingly destroys a ballot paper before the end of the period for the contestation of the election ,or
  - (3) being a returning officer, makes or issues a fraudulent declaration of election,
- is guilty of an offence.

**206.** Every returning officer or election officer who fraudulently neglects or refuses to act, or acts in contravention of the provisions of this Act, is guilty of an offence.

**207.** 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 any proceeding relating to the vote, or alters or attempts to alter the results of the election, is guilty of an offence.

**208.** Every employer who

- (1) contravenes any of sections 191 to 194, or who
  - (2) uses his authority or his influence to incite any of his employees to refuse to become a candidate or an election officer or to abandon that office after having accepted it,
- is guilty of an offence.

**209.** Every person who

- (1) being a candidate, or with a candidate's consent, attempts to influence the vote of an elector or to induce him to abstain from voting by promising or giving him any benefit, or
  - (2) to obtain or because he has obtained a benefit, votes or agrees to vote for a candidate or abstains or agrees to abstain from voting,
- is guilty of an offence.

The foods or non-alcoholic beverages served or consumed at a meeting held by a candidate or the candidates on a recognized ticket do not constitute benefits for the purposes of the first paragraph.

**210.** Every person who is guilty of an offence under either of paragraphs 2 and 3 of section 203, any of paragraphs 1 to 3, 6, 7 and 9 of section 204 or section 208 is liable, in addition to costs, to a fine of not less than \$100 nor more than \$1 000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$300 nor more than \$3 000, and for any subsequent offence within two years of a conviction for the same offence, to a fine of not less than \$200 nor more than \$2 000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$600 nor more than \$6 000.

**211.** Every person who is guilty of an offence under section 202, either of paragraphs 1 and 4 of section 203, any of paragraphs 4, 5, 8 or 10 of section 204 or any of sections 205 to 207 and 209 is liable, in addition to costs, to a fine of not less than \$500 nor more than \$5 000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$1 500 nor more than \$15 000 and, for any subsequent offence within two years of a conviction for the same offence, to a fine of not less than \$1 000 nor more than \$10 000 in the case of a natural person or, in the case of a legal person, to a fine of not less than \$3 000 nor more than \$30 000.

**212.** Every person who, by his act or omission, incites another person to commit an offence may be found guilty of the offence as if he had committed it himself if he knew or should have known that his act or omission would probably result in aiding the commission of the offence.

**213.** Every person who by his encouragement, advice or order, induces another person to commit an offence may be found guilty of the offence, and of any other offence committed by the other person, as if he had committed it himself if he knew or should have known that such encouragement, advice or order would probably result in the commission of the offences.

**214.** Proceedings under this chapter are instituted in accordance with the Summary Convictions Act (R.S.Q., chapter P-15) by the Attorney General, by any person generally or specially authorized by him for that purpose or by any elector of the school board.

## CHAPTER XIV

### CONCORDANCE AMENDMENTS

**215.** Schedule A to the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q.,

chapter A-2.1) is amended by striking out the figures and words “86 to 101 and” in the reference to the Education Act”.

**216.** Section 39 of the Education Act (R.S.Q., chapter I-14) is replaced by the following section:

“**39.** Any erection of school municipalities, division of same or alteration of the boundaries thereof may apply only to the Roman Catholics or the Protestants within such territory. In such case, the notice to be given by the Minister in the *Gazette officielle du Québec*, as stated in section 40, shall mention the fact.

In such a case, a person other than a Catholic or a Protestant who is not contemplated in sections 487 and following, and domiciled or a ratepayer in a territory common to a school municipality for Catholics and a school municipality for Protestants may enrol his children in the schools of either school board, at his option, which is bound to accept them.”

**217.** Section 47.5 of the said Act is replaced by the following section:

“**47.5** In the cases provided for in sections 46, 47, 47.1 and 47.2, the commissioners shall, for the purposes of the next election held in accordance with the Act respecting school elections (1988, chapter *insert here the chapter number of this Act*), divide their territory into electoral divisions in the manner provided for in sections 5 to 12 of the said Act.”

**218.** Subdivision 2 of Division I of Part III of the said Act is repealed.

**219.** Section 52.1 of the said Act is amended by adding, after the second paragraph, the following paragraphs:

“To be a representative of the parents’ committee, a person must

(a) be the delegate of a school committee;

(b) have been domiciled in the territory of the school board for at least six months;

(c) not be interdicted, under close treatment pursuant to the Mental Patients Protection Act (R.S.Q., chapter P-41) or under the protection of the Public Curator.

Section 23 of the Act respecting school elections applies, adapted as required, to the representative of the parents’ committee.”

**220.** Section 52.2 of the said Act is amended by replacing the words “in the first paragraph of section 164” in the second and third lines of the second paragraph by the words “in section 181 of the Act respecting school elections”.

**221.** Section 58 of the said Act is amended by replacing the words “of three school trustees” in the third line of the first paragraph by the words “the first school trustees”.

**222.** Section 63 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Within 30 days following the service of the declaration of dissent, the dissentients shall elect their trustees as prescribed by the Act respecting school elections.”

**223.** Section 65 of the said Act is amended by replacing the second paragraph by the following paragraph:

“Within 30 days following the service of the notice of dissent, the dissentients shall elect their trustees as prescribed by the Act respecting school elections. The trustees elected shall remain in office until the date fixed for the election of school commissioners.”

**224.** Section 71 of the said Act is amended by replacing the words “before the 1st of May” in the fourth line by the words “before the 1st of June”.

**225.** Section 72 of the said Act is replaced by the following section:

“**72.** The receipt by the chairman of the commissioners and by the chairman of the trustees, or by their secretaries, of the notice provided for in section 71, shall place the person who gave such notice under the jurisdiction of the commissioners from the 1st of July; that person must, if he is a ratepayer, pay his school taxes to that school board.”

**226.** Section 74 of the said Act is amended by replacing the first paragraph by the following paragraph:

“**74.** Each corporation of school commissioners or trustees is subject to the authority of a council of commissioners composed of all the school commissioners or trustees of the corporation elected or appointed in accordance with the Act respecting school elections, and of the commissioner or trustee, or commissioners or trustees, representing the parents’ committee.”

**227.** Subdivisions 1 to 12 of Division IV of Part III of the said Act are repealed.

**228.** Section 172.1 of the said Act is amended by replacing the words “in section 164” in the second line of the second paragraph by the words “in section 181 of the Act respecting school elections”.

**229.** Section 177 of the said Act is amended by replacing the second paragraph by the following paragraph:

“No person, except a school commissioner or trustee, as the case may be, may take part in the deliberations of the council of commissioners without permission from the chairman.”

**230.** Section 293 of the said Act is amended by replacing, in paragraph *a*, the words “when the school board establish new school wards, alter the limits of wards already established, unite two or more wards or separate such wards”, by the words “when the commissioners”.

**231.** The said Act is amended by inserting, after section 354.1, the following sections:

**“354.1.1** The owner of a taxable immovable situated in a territory common to a school board for Catholics and a school board for Protestants shall pay his school assessment to the school board where his children are enrolled.

If such a person has no children enrolled in either school board, he may, at his option, pay his school assessment to either school board.

To be valid for the purposes of a school year, an option in respect of the payment of school assessment must be made before the 1st of April of the preceding school year and be transmitted before that date to the school boards concerned. The school board favoured by the option shall, without delay, inform the regional school board of which it is a member and the municipality within the meaning of the Act respecting municipal taxation of the option made. The option shall remain valid for each of the school years which precedes the year of the next school election.

Failing an option under this section, section 391, adapted as required, applies to the payment of school taxes.

**“354.1.2** If the person contemplated in section 354.1.1 has not exercised his option under that section for the school year during which

a school election is held and that person is an elector, he shall pay his school assessment to the school board where he exercises his right to vote for each of the next school years which precede the year in which the next election will take place.

**“354.1.3** Any payment of school assessment to a school board that is a member of a regional school board entails the obligation to pay school assessments to the regional school board.”

**232.** Section 396 of the said Act is replaced by the following section:

**“396.** Where an assessment is submitted for approval to the electors, the vote shall be taken in accordance with sections 397 to 399.5, and sections 13 to 21, 24 to 32 and 77 to 162 of the Act respecting school elections apply, adapted as required, when the vote is held.”

**233.** Section 397 of the said Act is replaced by the following section:

**“397.** The list of electors for the referendum is the list used at the last general election of school commissioners, subject to applications for entry, striking off or correction.

The list of electors shall be filed not less than 45 days before the date of the referendum.

Sections 46 to 49 of the Act respecting school elections apply to the revision of the list of electors used for the purposes of the referendum.”

**234.** Section 399.4 of the said Act is replaced by the following section:

**“399.4** Sections 163 to 180 of the Act respecting school elections, adapted as required, apply to the referendum.”

**235.** Section 433 of the said Act is amended by replacing the words “in section 164” in the eighth and ninth lines by the words “in section 181 of the Act respecting school elections”.

**236.** Section 498 of the said Act is amended by striking out the fourth paragraph.

**237.** Sections 535 to 537 of the said Act are replaced by the following sections:

**“535.** Each school board is under the authority of a council of commissioners composed of all the school commissioners of the corporation and one commissioner representing the parents’ committee for each of the primary and secondary levels.

**“536.** The Act respecting school elections applies to the division of the territory of the school board into electoral divisions and to the election of commissioners.

**“537.** The representatives of the parents’ committee shall be elected in accordance with section 52.1 or the second paragraph of section 544.”

**238.** Sections 538 to 542 of the said Act are repealed.

**239.** Section 543 of the said Act is amended by replacing the word and figures “sections 48, 82, 117, 169” in the third and fourth lines of the first paragraph by the word and figure “section 169”.

**240.** Section 567 of the said Act is replaced by the following section:

**“567.** When an assessment is submitted for approval to the electors, the vote shall be taken in accordance with sections 567.1 to 567.4, and sections 13 to 21, 24 to 32 and 77 to 180 of the Act respecting school elections, adapted as required, apply when the vote is held.

For the purposes of the first paragraph, the director general of the council has the rights, powers and obligations conferred on the returning officer.”

**241.** Section 567.1 of the said Act is replaced by the following section:

**“567.1** The list of electors for the referendum is the list used at the last general election of school commissioners, subject to applications for entry, striking off or correction.

The list of electors shall be deposited not less than 45 days before the date of the referendum.

Sections 46 to 49 of the Act respecting school elections apply to the revision of the list of electors used for the purposes of the referendum.”

**242.** Section 567.5 of the said Act is replaced by the following section:

**“567.5** The Protestant School Board of Greater Montréal and the Commission des écoles catholiques de Montréal shall each be subject to the authority of a council of commissioners composed of all the school commissioners of the corporation and one commissioner representing the parents’ committee for each of the primary and secondary levels.”

**243.** Section 567.6 of the said Act is replaced by the following section:

**“567.6** The Act respecting school elections applies to the division of the territory of the school board into electoral divisions and to the election of the commissioners.

The representatives of the parents’ committee shall be elected in accordance with section 52.1 or the second paragraph of section 544 of this Act.”

**244.** Section 567.8 of the said Act is amended by striking out the figures “48, 82, 117” in the fourth line.

**245.** Section 567.12 of the said Act is amended by striking out the last sentence of the second paragraph.

**246.** Forms 3 to 5 and 20 to 23 appended to the said Act are repealed.

## CHAPTER XV

### TRANSITIONAL AND FINAL PROVISIONS

**247.** The school commissioners in office on (*insert here the date of the coming into force of this Act*) shall remain in office until the third Sunday of November 1990.

Any vacancy occurring in any of the circumstances described in section 181 shall be filled in accordance with this Act.

**248.** In any Act, regulation, by-law, order, ordinance or other document, a reference to sections 48, 49 and 78 to 168 of the Education Act is deemed to be a reference to the equivalent provision of this Act.

**249.** In any Act, regulation, by-law, ordinance, order, contract or other document, the expressions “corporation of school trustees” and “school trustees” mean a dissentient school board or the council of commissioners of a dissentient school board, respectively.

**250.** The rights, powers and obligations conferred by this Act on the returning officer shall be exercised or assumed by the secretary-treasurer in a dissentient school board.

**251.** The Minister of Education is responsible for the carrying out of this Act.

**252.** The personal information which is to appear on a document prescribed by this Act is public information for the purposes of the Act respecting Access to documents held by public bodies and the Protection of personal information.

Sections 51 and 69 apply notwithstanding the second paragraph of section 11 of the said Act.

**253.** Notwithstanding sections 3 and 10 of the Charter of human rights and freedoms (R.S.Q., chapter C-12), this Act does not encroach upon freedom of conscience or freedom of religion or upon the right to full and equal recognition and exercise of freedom of conscience and freedom of religion for the sole reason that it grants rights and privileges to a religious confession.

**254.** This Act, so far as it grants rights and privileges to a religious confession, shall operate notwithstanding the provisions of paragraph *a* of section 2 and section 15 of the Constitution Act, 1982 (Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom).

**255.** This Act comes into force on (*insert here the date of the day occurring 60 days after the day which follows the date of assent to this Act*).

SCHEDULE I

*(Section 91)*

BALLOT PAPER

OBVERSE



REVERSE

No	No	SCHOOL BOARD OF	Returning officer's initials	Electoral division of:	Date:	Printer:
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SCHEDULE II

(Section 109)

POLL BOOK

Voter's number } ..... No

NAME OF VOTER } .....

*Poll Book*

	Occupation
	Address
	Ballots not bearing the initials of the deputy returning officer
	Objections
	Oath or affirmation made
	Oath or affirmation refused
	Votes given
	Ballots spoiled or cancelled
	Voted after another voted in his name
	Voted with written authorization of returning officer
	Ballot prepared with assistance
	Remarks

SCHEDULE III

(Section 128)

STATEMENT OF POLL

School board of .....

Electoral division of .....

Polling station No. ....

Number of ballot papers received from the returning officer .....		.....
Number of ballot papers cast for ..... <i>(Name of the first candidate)</i>	.....	
Number of ballot papers cast for ..... <i>(Name of the second candidate)</i>	.....	
Number of ballot papers cast for ..... <i>(Name of the third candidate)</i>	.....	
Number of ballot papers cast for ..... <i>(Name of the fourth candidate)</i>	.....	
Number of ballot papers spoiled (not placed in box) .....	.....	
Number of ballot papers rejected in counting the votes .....	.....	
Number of ballot papers not used .....	.....	
Totals .....		.....

Given under my hand, at .....  
this.....19.

.....  
Deputy Returning Officer

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