

Decision, 12 March 2003

Election Act
(R.S.Q., c. E-3.3)

Chief electoral officer
— **Identification of detainees**

Decision of the chief electoral officer pursuant to the powers conferred upon him by section 490 of the Election Act, concerning the identification of detainees

WHEREAS Order in Council number 370-2003, issued on March 12, 2003, enjoined the chief electoral officer to hold general elections in Québec on April 14, 2003 ;

WHEREAS section 337 of the Election Act (R.S.Q., c. E-3.3) provides that electors must, at the time of voting, establish their identity by producing their health-insurance card, driver's licence or probationary licence, Canadian passport or any other document that has been issued by the Government or a government department or body and is determined by regulation of the Government ;

WHEREAS section 337 provides that an elector who has not been able to establish his identity as stipulated in the preceding paragraph shall be directed to the identity verification panel ;

WHEREAS section 335.2 provides that an elector who has been directed to the identity verification panel must, if he wishes to be admitted to vote, declare under oath that he is the elector registered on the list of electors and :

— be accompanied by a person who identifies himself in accordance with the first paragraph of section 337, attests under oath to the identity of the elector and signs a sworn statement provided for that purpose, indicating his name, address and date of birth ; the person in question may identify no more than one elector, other than his spouse or relative, during an election ;

or

— produce two documents providing evidence of his name, including one that bears his photograph ;

or

— produce two documents providing evidence of his name, which together provide evidence of his address and date of birth ;

WHEREAS section 335.4 provides that the chairman of the identity verification panel shall give the elector a certificate attesting that he has validly established his identity ;

WHEREAS these provisions are to be applied to a general election for the first time since they came into force ;

WHEREAS detainees held in custodial facilities are subject to the same requirements as other citizens, in terms of establishing their identity in order to vote ;

WHEREAS many detainees held in such facilities will be unable to produce one of the documents stipulated in the Act as proof of their identity, due to the security rules enforced by the custodial facilities ;

WHEREAS the verification process stipulated in sections 335.2 and 335.4 of the Election Act cannot be applied in accordance with law ;

WHEREAS the inability to apply the provisions of the Election Act concerning identification may compromise the exercise of voting rights for detainees held in custodial facilities ;

WHEREAS section 490 of the Election Act allows the chief electoral officer to adapt a provision of the Act where he observes that, subsequent to an exceptional circumstance, it does not meet the demands of the situation ;

WHEREAS the chief electoral officer has informed the authorized parties represented in the National Assembly of his intention to use the provisions of the said section, and has taken the steps required to inform the other authorized parties, the candidates and the electors in question ;

The chief electoral officer, pursuant to the powers conferred upon him by section 490 of the Election Act, has decided to adapt sections 337, 335.2 and 335.4 of the said Act, as follows :

1. A detainee who is unable to present one of the documents stipulated in section 337 of the Election Act may be identified by a member of the staff of the custodial facility who has been designated by the facility's manager to act in that capacity ;

2. A member of the staff of the custodial facility may attest to the identity of a detainee on more than one occasion during the poll ;

3. A member of staff attesting to the identity of a detainee need not take an oath, give his date of birth or address, or present identification;

4. The register kept by the members of the identity verification panel pursuant to section 335.2, and the certificate referred to in section 335.4., shall be replaced by a form allowing the chairman of the identity verification panel to identify the persons taking advantage of the identification procedures stipulated in this decision.

This decision shall take effect on the date of the order enjoining the chief electoral officer to hold general elections in Québec.

Québec, 12 March 2003

MARCEL BLANCHET,
*Chief Electoral Officer and
Chairman of the Commission
de la représentation électorale*

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