

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class Action Division)

NO.: 500-06-001411-251

CÉDRIC POIRIER, domiciled and residing at


Plaintiff

v.

ATTORNEY GENERAL OF CANADA, with
its Québec Regional Office located at 200
René-Lévesque Boulevard West, 9th Floor,
City and District of Montréal, Province of
Québec, H2Z 1X4;

-and-

ATTORNEY GENERAL OF QUÉBEC, with
an office at 1 Notre-Dame Street East, 8th
Floor, City and District of Montréal, Province
of Québec, H2Y 1B6;

Defendants

**APPLICATION FOR AUTHORIZATION TO INSTITUTE A CLASS ACTION
AND TO OBTAIN THE STATUS OF REPRESENTATIVE**
(Articles 574 et seq. C.C.P.)

TO ONE OF THE HONOURABLE JUDGES OF THE SUPERIOR COURT, THE
PLAINTIFF RESPECTFULLY SUBMITS THE FOLLOWING:

A. INTRODUCTION

1. **"Canadian democracy is founded upon the right to vote."** (*Opitz v. Wrzesnewskyj*, [2012] 3 S.C.R. 76, para. 27, emphasis added.)
2. The democratic right of every Canadian citizen to vote in an election of the Members of the House of Commons is enshrined in Section 3 of the *Canadian Charter of Rights and Freedoms* (the "**Charter**").

3. Additionally, the democratic right of every Canadian citizen domiciled in Québec to vote in an election of the Members of the National Assembly is enshrined in Section 3 of the Charter as well as Section 22 of the *Charter of human rights and freedoms* (the “**Québec Charter**”).
4. In practice, however, thousands of Canadian citizens are **disenfranchised by process** of their constitutionally protected right to vote in elections while they are in detention in provincial, territorial, or federal facilities, either awaiting trial or serving a term of imprisonment.
5. More specifically, electoral laws **systematically** disenfranchise by process Canadian citizens who are admitted to provincial or federal facilities in the days and weeks leading up to an election.
6. As a result, these Canadian citizens are unjustifiably unable to vote and are thereby deprived of the constitutionally guaranteed right to vote under the Charter.
7. Disenfranchisement by process constitutes the deprivation of a civic right due to the absence of mechanisms or procedures allowing for the meaningful and real exercise of a civic right.

B. THE DEFENDANTS

8. The Defendant Attorney General of Canada (the “**AGC**”) answers for proceedings taken against the Crown (His Majesty in right of Canada), in its executive capacity, in damages for government officials and Ministers preparing and drafting proposed legislation subsequently enacted into law and declared invalid under the Charter, and for Parliament enacting legislation subsequently declared invalid under the Charter.
9. The AGC also answers for proceedings claiming damages arising from wrongs perpetrated by its employees, representatives, subordinates and/or agents and those of the Crown.
10. The Defendant Attorney General of Québec (the “**AGQ**”) answers for proceedings taken against the State (His Majesty in right of Québec), in its executive capacity, in damages for government officials and Ministers preparing and drafting proposed legislation subsequently enacted into law and declared invalid under the Charter, and for the National Assembly enacting legislation subsequently declared invalid under the Charter.
11. The AGQ also answers for proceedings claiming damages arising from wrongs perpetrated by its employees, representatives, subordinates and/or agents and those of the State.

C. THE CLASS

12. The Plaintiff seeks authorization to institute a class action on behalf of the persons described hereafter, comprised of Canadian citizens who were disenfranchised by process of their constitutional right to vote:

CLASS 1

“Since August 21, 2019, any Canadian citizen 18 years of age or older detained on a federal election or by-election day of the Members of the House of Commons, and who was initially admitted to detention in Canada less than 12 days prior to polling day, who was unable to vote.

Class 1 members are those who were initially admitted to detention:

Federal general elections

- Between April 17 and 28, 2025, and who were still detained on April 28, 2025 (Federal election day);
- Between September 9 and 20, 2021, and who were still detained on September 20, 2021 (Federal election day);
- Between October 10 and 21, 2019, and who were still detained on October 21, 2019 (Federal election day);

Federal by-elections

- Between August 7 and 18, 2025, and who were still detained on August 18, 2025 (Battle River—Crowfoot, Alberta);
- Between December 5 and 16, 2024, and who were still detained on December 16, 2024 (Cloverdale—Langley City, British Columbia);
- Between September 5 and 16, 2024, and who were still detained on September 16, 2024 (Elmwood—Transcona, Manitoba; LaSalle—Émard—Verdun, Québec);
- Between June 13 and 24, 2024, and who were still detained on June 24, 2024 (Toronto—St. Paul's, Ontario);
- Between February 22 and March 4, 2024, and who were still detained on March 4, 2024 (Durham, Ontario);
- Between July 13 and 24, 2023, and who were still detained on July 24, 2023 (Calgary Heritage, Alberta);

- Between June 8 and 19, 2023, and who were still detained on June 19, 2023 (Notre-Dame-de-Grâce—Westmount, Québec; Portage—Lisgar, Manitoba; Winnipeg South Centre, Manitoba; Oxford, Ontario);
- Between December 1 and 12, 2022, and who were still detained on December 12, 2022 (Mississauga—Lakeshore, Ontario).

Class 1 excludes citizens detained in a place designated under Subsection 205(1) of the *National Defence Act*, and citizens who voted prior to admission to detention, in advance polling or by mail.” (“**Class 1**”);

CLASS 2

“Since August 21, 2022, any Canadian citizen who was 18 years of age or older, domiciled in Québec and detained on a provincial election or by-election day of the Members of the National Assembly, and who was initially admitted to detention less than 16 days prior to polling day, who was unable to vote.

Class 2 members are those who were initially admitted to detention:

Québec provincial general election

- Between September 18 and October 3, 2022, and who were still detained on October 3, 2022 (Québec provincial election day);

Québec provincial by-elections

- Between February 26 and March 13, 2023, and who were still detained on March 13, 2023 (Saint-Henri—Sainte-Anne);
- Between September 17 and October 2, 2023, and who were still detained on October 2, 2023 (Jean-Talon);
- Between March 2 and 17, 2025, and who were still detained on March 17, 2025 (Terrebonne);
- Between July 27 and August 11, 2025, and who were still detained on August 11, 2025 (Arthabaska).

Class 2 excludes citizens who voted prior to admission to detention, in advance polling or by mail.” (“**Class 2**”);

(Class 1 and Class 2 are hereinafter collectively referred to as, the “**Class**”).

D. THE PLAINTIFF AND CLASS MEMBERS’ CLAIM AGAINST THE DEFENDANTS

i. General Electoral Framework

13. Since the proclamation into force of the Charter on April 17, 1982, pursuant to Section 3 of the Charter every Canadian citizen has the right to vote in an election of the Members of the House of Commons and every Canadian citizen domiciled in Québec has the right to vote in an election of the Members of the National Assembly:

3 Every citizen of Canada has the right to vote in an election of members of the House of Commons or of a legislative assembly and to be qualified for membership therein.

14. The right to vote is so sacred and fundamental to Canadian democracy that it cannot be suspended by the legislature under Section 33(1) of the Charter.
15. The right to vote is also recognized by Section 22 of the Québec Charter:

22. Every person legally capable and qualified has the right to be a candidate and to vote at an election.

16. Except where otherwise indicated, “election(s)” refers to both a general election and a by-election.
17. To **qualify as an elector**, a person must be a Canadian citizen and 18 years of age or older: Section 3 of the *Canada Elections Act*, S.C. 2000, c. 9, as subsequently amended (“**Canada Elections Act**”), and Section 1(1) and (2) of the *Election Act*, CQLR, c. E-3.3, as subsequently amended (“**Québec Election Act**”).
18. In addition to citizenship and age, residence (or domicile under the *Québec Election Act*) is a third requirement to **qualify as an elector**.
19. In federal elections, a person is entitled to vote at the polling station for the polling division in which they ordinarily reside in Canada: Section 6 of the *Canada Elections Act*. In Québec provincial elections, a person must be domiciled in Québec for six months to qualify as an elector: Section 1(3) of the *Québec Election Act*.
20. Finally, to qualify as an elector, the person must not be otherwise disqualified from voting, for example due to a conviction for corrupt electoral practice (Sections 1(5) and 568 of the *Québec Election Act*) or due to their position as the Chief Electoral Officer of Canada (“**CEOC**”) (Section 281.1 of the *Canada Elections Act*).

21. The bulk of electors vote at a polling station on election day or in advance polls prior to election day: Section 127(a) and (b) of the *Canada Elections Act* and Section 262 para. 1 and Subsection (3) of the *Québec Election Act*.
22. There are however distinct rules or voting entitlements for incarcerated electors.

ii. Voting Rules for Incarcerated Electors

23. Incarcerated electors include persons in custody in police jails or in remand custody awaiting trial and presumed innocent ("**Pretrial**") and persons serving a term of imprisonment following a conviction or guilty plea and prison sentence ("**Convicted**").
24. While in the Pretrial phase, detainees are kept in custody in provincial or territorial detention facilities ordinarily known as jails (including police jails or stations), detention centers, or correctional facilities ("**Jails**").
25. If Convicted, for terms of imprisonment of 2 years less a day, detainees are also held in custody in Jails. For terms of imprisonment of 2 years or more, Convicted detainees are held in custody in federal detention facilities, ordinarily known as penitentiaries or institutions ("**Penitentiaries**").
26. Incarcerated electors are those detained in Jails and Penitentiaries (collectively, "**Correctional Institution(s)**") who are Canadian citizens and 18 years of age or older on election day ("**Incarcerated Electors**").

a. Canada Elections Act

27. Special voting rules in the *Canada Elections Act* provide for distinct statutory entitlements for Incarcerated Electors to vote in elections of the Members of the House of Commons.
28. Part 11, Division 5 of the *Canada Elections Act* provides the federal electoral framework to which Incarcerated Electors are "*entitled*": **to vote on the 12th day before election day** (s. 245(1)).
29. The voting process outlined in the *Canada Elections Act* provides that Incarcerated Electors are to:
 - 29.1. Have access to a guide to electoral districts and a list of candidates as well as voting instructions (s. 254);
 - 29.2. Cast their ballots at mobile polling stations inside Correctional Institutions (s. 255);
 - 29.3. Vote by writing on a special ballot the name of the candidate of their choice (s. 258);

- 29.4. Fold the special ballot, place it inside an inner envelope and seal it, and then place the sealed inner envelope inside an outer envelope and seal the outer envelope (s. 258).
30. At the end of this special voting process, the outer envelopes are delivered by the election officer assigned to the polling station to the liaison officer for the Correctional Institution, which are then sent to the special voting rules administrator in the National Capital Region for counting of votes (s. 260 and 261 of the *Canada Elections Act*).
31. The *Canada Elections Act* excludes Incarcerated Electors from voting by mail (s. 231).

b. Québec Election Act

32. The *Québec Election Act* provides that Incarcerated Electors vote by mail (s. 262(2)) for the elections of the Members of the National Assembly.
33. In order to vote, Incarcerated Electors must be registered on the list of electors for their correctional facility (s. 295) and confirm and sign that they wish to be on the list of electors (s. 296 para. 1 and 2).
34. Pursuant to the *Québec Election Act*, the list of electors and the original of the signatures must be sent to the Chief Electoral Officer of Québec: **not later than the 16th day before polling day** (s. 296 para. 3).
35. The voting process outlined in the *Québec Election Act* provides that Incarcerated Electors are to:
- 35.1. Vote on a printed ballot containing the names and political affiliation of the candidates (s. 298 and Schedule III);
- 35.2. Place their ballot in an unidentified envelope, which is sealed and placed in another envelope with their signature (s. 290 and 298).
36. The *Québec Election Act* then provides that the ballots are sent to the Chief Electoral Officer of Québec (“**CEOQ**”) who verifies the signature on the envelopes (s. 292 and 298) and counts only the ballots received before the closing time of the polling stations on polling day (s. 293 and 298).

iii. Breach of Class Members’ Charter Protected Right to Vote

a. Canada Elections Act

37. In federal elections, the legislative requirement that Incarcerated Electors vote **only** “on the 12th day” before election day systematically disenfranchises Class 1 members by process of their fundamental, democratic right to vote.

38. Section 245(1) of the *Canada Elections Act* reads as follows:

245 (1) Every [incarcerated] elector is entitled to vote under this Division on the 12th day before polling day.
(...)

39. Sections 250(2) and 251(1) of the *Canada Elections Act* also directly tie into the “12th day” voting entitlement:

250 (1) (...)

(2) The polling stations shall be open on the 12th day before polling day from 9:00 a.m. and shall be kept open until every elector who is registered under subsection 251(1) has voted, but in no case shall they be kept open later than 8:00 p.m. on that day.

251 (1) Before the 12th day before polling day, each liaison officer shall ensure that an application for registration and special ballot in the prescribed form is completed for every eligible elector of the correctional institution who wishes to vote, indicating his or her place of ordinary residence as determined under subsection (2).

40. Section 178 of the *Canada Elections Act* provides that the special voting rules in Part 11, which includes incarcerated electors, apply only to general elections, but that they may be adapted by the CEOC to apply to federal by-elections.

41. To the knowledge of the AGC, thousands of Class 1 members are detained in Correctional Institutions starting 12 days or less before election day, remain detained on election day and, as a result, are knowingly deprived of their fundamental right to vote.

42. The AGC has **systematically** failed to provide a mechanism that allows every Canadian citizen admitted to a Correctional Institution less than 12 days prior to federal election day, and still in custody on election day, to vote in a federal election, thereby depriving them of their ability to properly participate in a democratic society.

43. As a result of the *Canada Elections Act*, Class 1 members have been unable to vote in federal elections, as:

43.1. Members are not entitled to leave the Correctional Institutions where they were detained in order to go to the polling station in the electoral district of their ordinary residence to vote on voting day or in advance polls; and

43.2. Members are further excluded from voting by mail (s. 231) and are excluded from the preliminary list of electors for polling day voting (s. 95(1)(a)).

44. During the Class period, three (3) general federal elections were held, namely on **October 21, 2019, September 20, 2021, and April 28, 2025.**
45. Additionally, twelve (12) federal by-elections were held in the following federal electoral districts on: August 18, 2025 (Battle River—Crowfoot, in Alberta), December 16, 2024 (Cloverdale—Langley City, in British Columbia), September 16, 2024 (Elmwood—Transcona, in Manitoba; and LaSalle—Émard—Verdun, in Québec), June 24, 2024 (Toronto—St. Paul's, in Ontario), March 4, 2024 (Durham, in Ontario), July 24, 2023 (Calgary Heritage, in Alberta), June 19, 2023 (Notre-Dame-de-Grâce—Westmount, in Québec; Portage—Lisgar, in Manitoba; Winnipeg South Centre, in Manitoba; and Oxford, in Ontario), and December 12, 2022 (Mississauga—Lakeshore, in Ontario).
46. The AGC unacceptably and unjustifiably disenfranchises Class 1 members of their right to vote, the whole as a result of administrative grounds, none of which can possibly be justified in a free and democratic society.

b. Québec Election Act

47. In provincial elections, the legislative requirement that the list and signatures of Incarcerated Electors be sent to the CEOQ **not later** than “*the sixteenth day*” before election day systematically disenfranchises Class 2 members by process of their fundamental, democratic right to vote.
48. By requiring that the list of electors who are detained be communicated by the director of a correctional facility to the CEOQ no later than the 16th day before polling day, the *Québec Election Act* ensures that any elector whose detention begins less than 16 days before polling day and continues on polling day will not be on the list of electors and will thus be deprived of the ability to vote.
49. Sections 295 and 296 of the *Québec Election Act* provide that:

295. To vote, inmates must be registered on the list of electors for their correctional facility.

The revision process provided for in Division IV of Chapter III does not apply to inmates.

296. In a general election, the director of a correctional facility draws up a list of the inmates who are electors. The list must include the name, domiciliary address, sex and date of birth of each elector.

The director asks each elector whether he or she wishes to be registered on the list of electors, and if so, has the elector confirm and sign the relevant information appearing on the list drawn up under the first paragraph.

The director sends the list of electors for the correctional facility and the original of the electors' signatures to the Chief Electoral Officer not later than the sixteenth day before polling day.

50. Section 297 para. 2 of the *Québec Election Act* provides that the information mentioned in Section 296 must be provided to the CEOQ in the case of a by-election **not later** than "*the sixteenth day*" before election day.
51. Section 262 of the *Québec Election Act* specifies that:
 - 262.** Electors vote on polling day in accordance with Division III. Alternatively, they may vote, in accordance with Divisions II to II.3, in one of the following manners:
 - (...)
 - (2) by mail, in the case of electors outside Québec and of electors who are inmates or are detained in a place of temporary detention or held in a youth custody facility under the Youth Criminal Justice Act (S.C. 2002, c. 1);
 - (...)
52. To the knowledge of the AGQ, hundreds of Class 2 members are detained in Correctional Institutions starting 16 days or less before election day, remain detained on election day and, as a result, are knowingly deprived of their fundamental right to vote, in violation of the Charter and the Québec Charter.
53. The AGQ has **systematically** failed to provide a mechanism that allows every Canadian citizen domiciled in Quebec, admitted to a Correctional Institution less than 16 days prior to Québec's provincial election day, and still in detention on election day, to vote in a Québec provincial election.
54. As a result of the *Québec Election Act*, Class 2 members have been unable to vote in the Québec provincial election, as:
 - 54.1. Members are not entitled to leave the Correctional Institutions where they were detained in order to go to the polling station in the electoral district of their ordinary domicile to vote on voting day or in advance polls; and
 - 54.2. Members are further unable to vote at the returning officer's main office or branch offices (s. 262(1)).
55. During the Class period, one (1) general provincial election of the Members of the National Assembly was held on **October 3, 2022**.
56. Additionally, four (4) by-elections were held, on March 13, 2023, October 2, 2023, March 17, 2025, and August 11, 2025 respectively in the provincial electoral districts of Saint-Henri–Sainte-Anne (Montréal), Jean-Talon (Québec), Terrebonne, and Arthabaska.

57. The AGQ unacceptably and unjustifiably disenfranchises Class 2 members of the right to vote, the whole as a result of administrative grounds which cannot possibly be justified in a free and democratic society.

c. Scope of Voter Disenfranchisement

58. It is estimated that the impact of voter disenfranchisement by process on Pretrial Incarcerated Electors, who are presumed innocent and preparing for the next step of their case, affects thousands of Canadian citizens.
59. The average daily count of adults in Pretrial custody in the provinces and territories was 15,505 in 2019/2020, 12,752 in 2020/2021, 14,414 in 2021/2022 and 16,193 in 2022/2023, the whole as appears from Statistics Canada's *Table 35-10-0154-01 Average counts of adults in provincial and territorial correctional programs*, filed as **Exhibit R-1**.
60. With respect to Convicted persons, the average daily count of adults serving prison sentences of less than 2 years in the provinces and territories was 7,946 in 2019/2020, 5,881 in 2020/2021, 5,798 in 2021/2022 and 5,915 in 2022/2023, the whole as appears from Exhibit R-1.
61. The average daily count of Convicted adults serving prison sentences of 2 years or more in federal custody was 14,022 in 2019/2020, 12,826 in 2020/2021, 12,394 in 2021/2022 and 12,667 in 2022/2023, the whole as appears from Statistics Canada's *Table 35-10-0155-01 Average counts of offenders in federal programs, Canada and regions*, filed as **Exhibit R-2**.
62. In Québec, for 2022-2023, the average daily count of persons in Pretrial custody was 2,661 whereas the average daily count of Convicted persons was 1,721, the whole as appears from the Government of Québec's "*Statistiques correctionnelles du Québec 2023-2024*", filed as **Exhibit R-3**.

iv. Legislative Context of the *Canada Elections Act* and the *Québec Election Act* regarding Voting by Incarcerated Electors

a. General Introduction

63. Electoral legislation has long included general bans on voting for Canadian citizens serving a term of imprisonment.
64. In Québec, the *Election Act*, R.S.Q. 1964, c. 7 (s. 48(1)e), disqualified inmates guilty of a criminal act punishable by a term of two years of imprisonment or more and who had not fully served their sentence from voting in provincial elections.
65. Federally, the *Canada Elections Act*, R.S.C. 1970, c. 14 (1st Supp.) (s. 14(4)(e)) and the *Canada Elections Act*, R.S.C. 1985, c. E-2 (s. 51(e)) ("**CEA 1985**") disqualified all inmates undergoing punishment in penal institutions for the

commission of an offence from voting in federal elections, irrespective of the duration of their terms of imprisonment.

66. While Inmates in Pretrial custody were not *expressly* disqualified from voting in Québec or in federal elections, no mechanisms were in place to allow them to vote, such that they were *de facto* deprived of their right to vote.
67. In 1979, the National Assembly removed its voting disqualification for inmates undergoing punishment and put in a place a voting mechanism: *Election Act*, S.Q. 1979, c. 56 ("**QEA 1979**").
68. In 1993, the Supreme Court upheld the findings of two appellate courts that the general voting disqualification in the *CEA 1985* for inmates undergoing punishment in penal institutions was unconstitutional and not justified by Section 1 of the Charter (*Sauvé v. Canada (Attorney General)*, [1993] 2 S.C.R. 438).
69. In 1993, Parliament amended the *CEA 1985* in order to, *inter alia*, narrow the voting disqualification to inmates undergoing punishment of 2 years or more.
70. In 2002, the Supreme Court held that the voting disqualification in the *CEA 1985* for inmates undergoing punishment of 2 years or more infringed on Section 3 of the Charter and was not justified under Section 1 of the Charter (*Sauvé v. Canada (Chief Electoral Officer)*, [2002] 3 S.C.R. 519) ("**Sauvé 2002**").
71. Thus, the Supreme Court of Canada has made it abundantly clear that Incarcerated Electors have a fundamental right to vote and that the AGC and AGQ must put in place mechanisms to allow Incarcerated Electors to exercise their Charter right to vote.

b. Canada Elections Act

72. In 1989, the Royal Commission on Electoral Reform and Party Financing ("**Lortie Commission**") was established and mandated to "*present a series of recommendations aimed at improving and preserving the democratic character of federal elections in Canada*" (*Libman v. Quebec (Attorney General)*, [1997] 3 S.C.R. 569, para. 45).
73. The findings of the Lortie Commission in November 1991 regarding prisoners demonstrate knowledge by the AGC that:
 - 73.1. Pretrial (remand) prisoners, while not disqualified from voting, were disfranchised by process from voting in federal elections (Vol. 1, p. 41):

(...) The *Canada Elections Act* does not disfranchise remand prisoners; **but it does not contain the provisions that would allow them to cast a vote.**

[Emphasis added.]

- 73.2. Pretrial (remand) prisoners are presumed innocent and should not be denied the right to vote due to incarceration (Vol. 1, p. 43):

Third, remand prisoners, that is, those awaiting trial, are incarcerated. A count of inmates in provincial institutions during that period also showed that more than 4000 prisoners, that is, 22 per cent of the total population, were on remand and had not been convicted. (Landreville and Lemonde 1991 RC) **In our society, a person is considered innocent until proven guilty, and these people should therefore not be denied the vote simply because they are incarcerated.**

[Emphasis added.]

the whole as appears from Chapter 2, Volume 1, of the Lortie Commission's report, filed as **Exhibit R-4**.

74. To allow detainees to vote, the Lortie Commission proposed legislation providing for the establishment of mobile polling stations in institutions to vote on election day as well as voting by special ballot up until, and including on, election day.
75. The AGC disregarded the proposal, knowing that Canadian citizens would be denied the right to vote as a result.
76. In February 1992, the House of Commons ordered that a Special Committee on Electoral Reform be appointed and empowered to undertake a comprehensive review of the Lortie Commission's report ("**Special Committee**").
77. The Special Committee heard testimony from the president of the Lortie Commission, Mr. Pierre Lortie, that:

First, **the right to vote must be established in the electoral law in ways that are consistent with the letter and the spirit of the Charter, which guarantees this most fundamental democratic right.** Unjustified exclusions must be removed. Only those limitations that are demonstrably justified in a free and democratic society can be accepted. (*Minutes of Proceedings and Evidence of the Special Committee ("MPE")*, 1:18, 26-02-1992)

[Emphasis added.]

the whole as appears from Issue no. 1 of the *Minutes of Proceedings and Evidence of the Special Committee on Electoral Reform*, filed as **Exhibit R-5**.

78. The Special Committee heard testimony from Mr. Jean-Pierre Kingsley, Chief Electoral Officer of Canada, that:

- 78.1. Prisoners are disenfranchised by process from voting due to administrative measures:

However, there is one thing I can tell you. When an election or a referendum is called—and this is something I experienced myself—whether or not the legislation is written a certain way and whether or not Elections Canada has to go before the courts, we are all alone in this. In all **our defences before the courts**, we never stated that people did not have the right to vote. **We simply said: we do not have the authority to allow them to vote based on current administrative measures.** (MPE, 5:46, 24-11-1992)

[Emphasis added.]

- 78.2. Courts will denounce disfranchisement by process of prisoners due to administrative measures:

At some point, a court is going to come out and say: they are not opposed to your right to vote; they are simply saying they do not have the authority to put in place the appropriate administrative mechanisms; **let us give them those administrative mechanisms.** Judges have the right to vote, the mentally-ill have the right to vote, prisoners have the right to vote, and soon, people outside Canada will have the right to vote—without exception. When the court ruled that prisoners had the right to vote, the court did not say: only this or that category of prisoners can vote. **It said that all prisoners have the right to vote.** (MPE, 5:46-47, 24-11-1992)

[Emphasis added.]

the whole as appears from Issue no. 5 of the *Minutes of Proceedings and Evidence of the Special Committee on Electoral Reform*, filed as **Exhibit R-6**.

79. The Special Committee further heard testimony from Mr. Jean-Claude Léger, Director, Operations, Elections Canada, that:

The first issue is the registration for voting. Again, the special election administrator is responsible for overseeing the registration and the voting process. It's coordinated by a liaison officer inside the institution who is a staff person who knows everything that's going on within the institution and can deal in a proactive way with any situation that could arise. The onus is on the elector to register.

This is basically what happens. In the federal institutions, between day 45 and day 40, application forms are made available to the inmates to be filled out. They are looked at by the liaison officer who assists and

acts as a facilitator where needed. The application is then verified by the liaison officer to determine the electoral district of the person applying. It then follows the stream in terms of voting.

In the provincial and territorial institutions, the timeframe for the application is slightly different. We're talking about day 13 to day 11. The reason for this, as was previously mentioned on one occasion, is that federal inmates are sentenced to two years or more. Therefore, you have a certain stability in terms of the register and in terms of the people who are incarcerated.

In terms of the provincial situation, it's basically almost a **turnstile situation. The average time is somewhere between 10 and 30 days.** From an **administrative point of view**, it would impose an **extraordinary burden** on the provincial authorities if they were asked to put people on the list. **No sooner are they on the list than they are out before polling day. Therefore you have a list that is practically worthless.** (MPE, 5:28-29, 24-11-1992)

[Emphasis added.]

the whole as appears from Exhibit R-6.

80. The AGC unequivocally knew that not all Canadian citizens in provincial and territorial detention would be able to vote when registrations for voting are limited to 13 to 11 days before election day
81. The Special Committee nevertheless prepared a draft bill containing a voting entitlement for incarcerated electors in federal, provincial and territorial correctional institutions to vote only "*on the tenth day*" before election day.
82. In February 1993, the Special Committee's draft bill was submitted to the House of Commons at the 3rd Session, 34th Parliament, as Bill C-114 titled *An Act to amend the Canada Elections Act* ("**Bill C-114**").
83. The legislative changes brought by Bill C-144 included the voting disqualification of persons imprisoned in a Penitentiary serving a sentence of two years or more and, for electors detained in Jails and qualified to vote, voting on the "*10th day*" prior to election day.
84. Bill C-144 did not provide any mechanism to systematically allow persons held in Jails (either Pretrial or Convicted) to vote if they entered detention less than 10 days before election day.
85. Bill C-144 received royal assent on May 6, 1993.

86. The “10th day” before election day entitlement was maintained in subsequent legislative reform, including the new electoral act enacted in May 2000 (referred to herein as the *Canada Elections Act*) by Bill C-2, *An Act respecting the election of members to the House of Commons, repealing other Acts relating to elections and making consequential amendments to other Acts* (“**Bill C-2**”).
87. With respect to inmate voter disqualification and special voting rules, Bill C-2 essentially continued the measures put in place via Bill C-144.
88. The AGC was also made aware by the CEOC of the need to review the special voting rules which govern, *inter alia*, inmates detained in the days prior to election day.
89. In his report titled *Completing the Cycle of Electoral Reforms*, following the 38th General Election held on June 28, 2004, addressed to the Speaker of the House of Commons, the Honourable Peter Milliken, the CEOC, Mr. Kingsley recommended that Parliament review the entire special voting rules process:

These general Special Voting Rules were established in their current form in **1993. They reflect the technology and circumstances of that time.** Since then, the relevant technology and circumstances **have evolved to such an extent that the rules should be reviewed and updated.**

In illustration of the value of such revision one need only consider the situation of electors **unexpectedly** admitted to hospitals in the last days of an election, after the close of the advance polls. Such electors may have intended to cast their ballots on election day, thereby receiving the benefit of the full election period to consider their vote. Consequently, they may not have taken advantage of the advance polls to vote or registered to vote by special ballot. While Elections Canada has developed a process to assist hospitalized electors to register and vote by special ballot, **electors admitted to hospital after the sixth day before polling day cannot legally take advantage of this process.**

It is not possible for the Chief Electoral Officer during an election to adapt legislative requirements to accommodate these electors, because the adaptation power under section 17 of the *Canada Elections Act* can be used only for emergencies, or for unusual or unforeseen circumstances – that is, circumstances that Parliament was not likely to have been able to foresee and deal with in the Act. The hospitalization of electors in the closing days of an election is a **regular occurrence, and therefore neither unusual nor unforeseen by Parliament.**

(...)

Hospitals are merely one example of an area for reform; other aspects of the existing Special Voting Rules also require re-examination – for example, the prohibition on electors who have registered for a special ballot from voting in any other way. (...)

The **importance of the universal right to vote**, the **diverse circumstances** that may lead electors to forfeit that right, and the changing technology and circumstances that may address these problems together warrant a **far-reaching review** of the Special Voting Rules **as they apply to electors who do not fall under specialized circumstances**. (p. 38-39)

[Emphasis added, reference omitted.]

90. Incarcerated voters who are admitted into custody after the designated voting day (at the time, the 10th day before election day) are in the same situation as the hospitalized voters described by Mr. Kingsley in that they cannot benefit from the special voting rules.
 91. In April 2018, the Minister of Democratic Institutions, the Honourable Scott Brison submitted Bill C-76 titled *An Act to amend the Canada Elections Act and other Acts and to make certain consequential amendments* to the House of Commons at the 1st Session, 42nd Parliament ("**Bill C-76**").
 92. At that time, Section 245(1) of the *Canada Elections Act* still provided for "*10th day*" voting before election day for inmates:

245. (1) Every person who is incarcerated and who is otherwise qualified to vote under this Act is entitled to vote under this Division on the 10th day before polling day.
 93. Inexplicably, rather than increasing the ability of detained electors to vote, Bill-76 did just the opposite. From the outset, Bill-76 proposed to modify s. 245(1) of the CEA to provide instead for "*12th day*" voting entitlement before election day for inmates:

245 (1) Every elector is entitled to vote under this Division on the 12th day before polling day.
- [Underlining in original.]
94. This meant that persons who entered detention on the 11th and 10th days before election day were now also unable to vote if they were still detained on election day.
 95. Bill C-76 received royal assent on December 13, 2018.

96. No explanation was provided for removing 2 additional days from the ability of detainees to vote.
97. Administrative or budgetary constraints, or even mere convenience of announcing election results the night of polling day, cannot justify the curtailing of Canadian citizens' substantive and positive Charter right to vote.
98. Bill C-76 and Bill C-2 are both direct continuations of Bill C-114 with regards to the voting entitlements of Incarcerated Electors.

c. Québec Election Act

99. In 1979, the National Assembly studied Bill 9 titled *Loi électorale du Québec*, submitted by the Justice Minister following a ministerial work committee headed by Mr. Roland Dussault ("**Bill 9**").
100. The AGQ was aware that the existing electoral framework did not allow incarcerated electors to vote, even if they were detained at the Pretrial stage. The Justice Minister, Mr. Marc-André Bédard, stated:

Je ne saurais ignorer ou passer sous silence la disposition qui étend à tous les prisonniers le droit de vote que la loi actuelle réservait aux seuls détenus pour des peines inférieures à deux ans, de même que je ne saurais ignorer qu'en vertu de ce projet de loi **les dispositions nécessaires à l'exercice de ce droit seront enfin établies**. Au-delà de la réforme électorale, cette réforme traduit une volonté réelle et pleinement réfléchie de favoriser encore davantage les possibilités de réhabilitation de ces citoyens. (National Assembly, 31st Legislature, 4th Session, October 31, 1979)

[Emphasis added.]

101. Bill 9 provided that incarcerated electors would vote by anticipation in general elections. The list of electors would be sent 8 days after the issuance of the writ of election, and advance polling would be open on the Monday of the week preceding election day (i.e., 7 days before the general election).
102. Advance polling for Incarcerated Electors was used for administrative or operational reasons:

Le Président (M. Laberge): Adopté. J'appelle l'article 59 qui est remplacé par le suivant:

M. Bédard: C'est cela, il est remplacé par le suivant: "Le bureau de vote par anticipation est ouvert de dix heures à vingt heures, le lundi de la semaine qui précède le jour du scrutin."

Le Président (M. Laberge): L'article 59 est-il adopté?

M. Fontaine: **C'est le bureau de vote par anticipation des détenus, n'est-ce pas?**

M. Bédard: **Le vote par anticipation est fait pour donner le temps nécessaire pour le transfert des boîtes au Directeur général des élections.**

M. Gratton: Vous êtes sûr qu'une journée, c'est suffisant?

M. Bédard: S'il n'y a pas de tempête. (National Assembly, Standing Committee on the Presidency of the Council and Intergovernmental Constitution, 31st Legislature, 4th Session, November 8, 1979)

[Emphasis added.]

103. Bill 9 received sanction on December 13, 1979. At this time, the Québec Charter was in force, but not the Charter.
104. In 1984, the National Assembly made changes to the electoral framework whereby the list of Incarcerated Electors would be sent "*not later than the sixteenth day*" preceding election day. Incarcerated Electors would otherwise still vote in general elections by advance polling on the Monday of the week preceding election day.
105. These changes originated in Bill 19 titled *Loi électorale* which aimed, *inter alia*, to facilitate the administrative voting process for Incarcerated Electors with a blank ballot to be filled out ("**Bill 19**").
106. Mr. Marc-Yvan Côté, Minister of the National Assembly, explained that budgetary concerns were involved in the changes:

Effectivement, le deuxième point étant le vote des détenus, **on a constaté qu'en appliquant notre loi telle qu'elle est actuellement en ce qui concerne le vote des détenus, ça coûtait une fortune.** Cela a été très clairement établi par le Directeur général des élections lors de l'étude des crédits. À ce niveau-là, **les modifications visent à économiser temps et argent au gouvernement et aux contribuables québécois dans l'exercice du vote démocratique des détenus.** (National Assembly, 32nd Legislature, 5th Session, December 14, 1984)

[Emphasis added.]

107. Bill 19 received sanction on December 21, 1984.
108. In 2006, the National Assembly made further changes to how Incarcerated Electors would vote via Bill 22 titled *An Act to amend the Election Act to encourage and facilitate voting* ("**Bill 22**").

109. Instead of voting by anticipation, Incarcerated Electors vote by mail. This change allowed Incarcerated Electors to vote in elections and by-elections, which was not previously possible. Nevertheless, in order to vote, Incarcerated Electors must still be on the list “*not later than the sixteenth day*” before election day.
110. Bill 22 was sanctioned on June 14, 2006 and the *Québec Election Act* came into force on the same day.
111. This means that persons who enter detention in the 16 days before election day are unable to vote if they are still detained on election day.
112. Restricting Canadian citizens' substantive and positive Charter right to vote cannot be justified by administrative or financial considerations, or even by the convenience of declaring election results the evening of election day.

v. The Case of the Plaintiff

113. Cédric Poirier (the “**Plaintiff**”) is a Canadian citizen, is 46 years of age, and is domiciled and resides in Canada.
114. On April 24, 2025, the Plaintiff was brought before the Court of Québec to appear detained before a judge and was remanded to Pretrial custody, the whole as appears from the *plumitif* for file 615-01-036552-258, filed as **Exhibit R-7**.
115. The Plaintiff was detained in provincial custody at a Correctional Facility, the *Établissement de détention d'Amos*, until June 18, 2025, when he pleaded guilty to one charge and was set free with conditions and received a conditional imprisonment term (Exhibit R-7).
116. The 45th General Election to elect members of the House of Commons took place April 28, 2025. Politicians of all political parties characterized the election as existential, strongly urging all eligible electors to vote
117. The Plaintiff, who initially entered detention less than 12 days before election day, was unable to vote in the 45th General Election, due entirely to the failure of the AGC to have in place any mechanism enabling him to vote.
118. When he was initially admitted to detention, the Plaintiff asked a correctional employee how he was going to be able to vote and was informed that voting had already taken place, such that he would not be able to vote.
119. The *Canada Elections Act* did not provide the Plaintiff and all Class 1 members with a mechanism to vote in a federal election upon entering custody after the “*12th day*” before election day. Such Class members were disenfranchised by process and deprived of the ability to properly participate in democracy.
120. The Plaintiff did not vote by mail or in advance polling in the 45th General Election.

vi. Liability, Reparations and Damages

121. The AGC and AGQ (the “**Defendants**”) have respectively breached Class members’ rights under Section 3 of the Charter by disenfranchising them by process of the right to vote.
122. The Defendants’ breach of Section 3 of the Charter is not demonstrably justified in a free and democratic society.
123. Administrative or budgetary concerns are unacceptable justifications as is any suggestion that allowing Incarcerated Electors to vote would create security concerns.
124. When, in February 1991, the Federal Court declared that the CEA 1985 voting disqualification of inmates undergoing punishment was unconstitutional and invalid (*Belczowski v. Canada (T.D.)*, 1991 CanLII 13518 (FC)), it pointed out that the defendant (AGC) had “***specifically eschewed any claim that allowing prisoners to vote would create undue administrative or security problems and no evidence was presented to this effect [emphasis added]***” (p. 167).
125. In February 1992, in *Belczowski v. Canada*, 1992 CanLII 8580 (FCA), the Federal Court of Appeal upheld the lower court's judgment and highlighted that:
- 125.1. The appellant (AGC) conceded that practicalities and administrative or security hurdles are insufficient justifications to deny voting rights (p. 455):

The objective of preserving the integrity of the voting process has nothing to do with the practicalities of permitting prisoners to vote: the appellant concedes that **administrative and security problems cannot be invoked to justify** paragraph 51(e).

[Emphasis added.]

- 125.2. Administrative hurdles are unjustified in modern times to deny voting rights and that treating prisoners as second-rate humans is unjustified under the Charter (p. 458-459):

Given the foregoing comments, I am not prepared to accept the objectives advanced by the Crown in support of paragraph 51(e). Indeed, it seems to me far more likely, as I have suggested earlier, that **the legislation represents nothing more than an historic holdover from the time when it was thought, for practical, security and administrative reasons, that it was quite simply impossible that prisoners should vote.** As I have indicated that ground has now been abandoned by the Crown and would in any event be **unsustainable in modern**

conditions. An examination of Schedule II to the *Canada Elections Act*, and of its detailed provisions for permitting voting by service personnel, public servants and veterans, in circumstances where it was once thought impossible to conduct a poll, **demonstrates the invalidity of such a justification for the exclusion.**

Alternatively, and far less commendably, it would appear to me that the true objective of paragraph 51(e) may be to satisfy a widely held **stereotype of the prisoner as a no-good almost sub-human form of life** to which all rights should be indiscriminately denied. That, it need hardly be said, **is not an objective which would satisfy section 1 of the Charter.**

[Emphasis added.]

126. Under the *Canada Elections Act*, the “12th day” voting entitlement was, and still is, **clearly unconstitutional.**
127. At the time of its enactment, the AGC **knew**, or subsidiarily at the very least was reckless or wilfully blind to the fact, that the *Canada Elections Act* (Bill C-2) was clearly unconstitutional as it would unjustifiably infringe on Section 3 of the Charter. The same applies to Bill C-114 (which introduced the special voting rules for inmates in 1993) and Bill C-76 (which modified the *Canada Elections Act* in 2018 to narrow the voting entitlement to the “12th day”).
128. Under the *Québec Election Act*, the requirement that Incarcerated Electors are on the list no later than “the sixteenth day” was, and still is, **clearly unconstitutional.**
129. At the time of its enactment, the AGQ **knew**, or subsidiarily at the very least was reckless or wilfully blind to the fact, that the *Québec Elections Act* (Bill 22) was clearly unconstitutional as it would unjustifiably infringe on Section 3 of the Charter. The AGQ also knew, or subsidiarily at the very least was reckless or wilfully blind to the fact, that the *Québec Elections Act* (Bill 22) unjustifiably infringed on Section 22 of the Québec Charter.
130. The Plaintiff and Class members are entitled to presume that the Defendants had knowledge of their Charter rights.
131. In *Ontario (Attorney General) v. Working Families Coalition (Canada) Inc.*, 2025 SCC 5, Justice Karakatsanis wrote:

[2] This Court has long recognized that **s. 3’s protection must be interpreted broadly and extend to the conditions under which the right to vote is formally exercised** (*Sauvé v. Canada (Chief Electoral Officer)*, 2002 SCC 68, [2002] 3 S.C.R. 519, at para. 11; *Frank v. Canada (Attorney General)*, 2019 SCC 1, [2019] 1 S.C.R. 3, at

paras. 25 and 27). The right to vote is **more than “the bare right to place a ballot in a box”** (*Dixon v. B.C. (A.G.)*, 1989 CanLII 248 (BC SC), [1989] 4 W.W.R. 393 (B.C.S.C.), per McLachlin C.J., at p. 403). It is **exercised** within a **framework of institutions and actors**, including regular elections and sittings of the legislatures guaranteed by ss. 4 and 5 of the *Charter*, political parties, candidates, campaigns, electoral districts, **laws regulating conditions for voting**, and more (...).

[Emphasis added.]

132. In *Gélinas-Faucher c. Procureur général du Québec*, 2025 QCCS 2846, Justice Catherine Piché wrote:

[148] Il en reste que toute disposition législative qui « **entrave concrètement** » la capacité d'un citoyen de participer aux élections le prive d'une possibilité réelle de voter et porte atteinte au droit de vote.

[Emphasis added and reference omitted.]

133. The Plaintiff seeks on behalf of Class members compensatory damages for the unjustified infringement of their Charter protected right to vote, as well as public law damages against the State pursuant to Section 24(1) of the Charter related to the functions of compensation for the loss and suffering caused by the breach, vindication of the right to vote, and deterrence of the State from engaging in subsequent breaches.
134. For the compensation function, all Class members are entitled to be compensated under the Charter for being treated as **second class citizens** by the State in denying their effective right to vote.
135. All Class members are also entitled to be compensated under the Charter for being deprived of their right to properly participate in democracy, inherently violating their dignity.
136. In *Sauvé 2002*, Chief Justice McLachlin wrote:

35 More broadly, denying citizens the right to vote runs counter to our constitutional commitment to the **inherent worth and dignity of every individual**. As the South African Constitutional Court said in *August v. Electoral Commission*, 1999 (3) SALR 1, at para. 17, “[t]he vote of each and every citizen is a **badge of dignity and of personhood. Quite literally, it says that everybody counts.**” The fact that the disenfranchisement law at issue applies to a discrete group of persons should make us more, not less, wary of its potential to violate the principles of equal rights and equal membership embodied in and protected by the *Charter*.

[Emphasis added.]

137. All Class members lost the opportunity to exercise their right to vote, for which they are all entitled to be compensated.
138. Under the vindication function, all Class members are entitled to obtain Charter damages for the vindication of their right to vote.
139. In *Frank v. Canada (Attorney General)*, [2019] 1 S.C.R. 3, Chief Justice Wagner wrote: “**Voting is a fundamental political right, and the right to vote is a core tenet of our democracy.**” (para. 1, emphasis added.)
140. In *Thomson Newspapers Co. v. Canada (Attorney General)*, [1998] 1 S.C.R. 877, Justice Bastarache wrote: “**Even though the override power is rarely invoked, the fact that s. 3 is immune from such power clearly places it at the heart of our constitutional democracy.**” (para. 79, emphasis added.)
141. The right to vote must be upheld and vindicated and cannot be left to gradually decay and deteriorate.
142. Canadian democracy is not immune from threats and cannot be taken for granted and left to wilt, as appears from the Statement of Prime Minister Justin Trudeau, dated September 15, 2024, filed as **Exhibit R-8**:

“**This year’s International Day of Democracy comes at a pivotal time.** Rapidly evolving technologies are disrupting our way of life. Disinformation is rampant. Global supply chains are being stretched. And climate change continues to be an existential threat. In the face of this unprecedented change, **democracies around the world are becomingly fragile** – risking economic prosperity and slipping into authoritarian waters.

Canada is not immune to these threats, and that’s why our government is taking action to strengthen democracy – making it stronger, better, and fairer. (...)”

[Emphasis added.]

143. The disenfranchisement by process of Class members is a head-on attack on their right to vote and must be vindicated via Charter damages.
144. Under the deterrence function, Class members are entitled to obtain Charter damages with the objective of deterring the Defendants from future breaches. The Defendants are well aware of the fact that incarcerated electors have been deprived of their right to vote for many years; rather than improving mechanisms to allow such persons the right to exercise their Charter rights, the Defendants have knowingly and intentionally preserved mechanisms that deprive them of a fundamental right.

145. The systemic disenfranchisement by process of Class members is a serious and egregious violation of the positive Charter right to vote.
146. The Plaintiff seeks \$15,000 from the Defendants for each Class member, per occurrence of violation of the right to vote, the whole to be recovered collectively.

COMPOSITION OF THE CLASS

147. The composition of the Class makes it difficult or impracticable to apply the rules for mandates to take part in judicial proceedings on behalf of others or for consolidation of proceedings.
148. It is impossible for the Plaintiff to contact all Class members and to obtain mandates from them since the proposed class action concerns thousands of persons across Canada.
149. The Plaintiff does not have access to the names and coordinates of the members of the Class.
150. Many Class members may still be detained, and Class members are disproportionately vulnerable or marginalized and subject to difficulties and hardships including poverty, homelessness, substance abuse, and mental health issues.
151. A class action is the appropriate procedural vehicle to give access to justice to vulnerable persons and to obtain compensation for the Defendants' wrongful conduct, which has had consequences for thousands of people.
152. The issues raised by the Plaintiff are best dealt with by one judge in a single legal proceeding, instead of encumbering the legal system with multiple proceedings.

ISSUES OF LAW AND FACT TO BE DEALT WITH COLLECTIVELY

153. The identical, similar or related issues of law or of fact, which the Plaintiff wishes to have decided collectively by this class action, are:
 - 153.1. Has the AGC failed to implement mechanisms permitting Class 1 members to exercise their constitutional right to vote?
 - 153.2. Does the "12th day" voting entitlement in Section 245(1) of the *Canada Elections Act*, as well as Sections 250(2), 251(1) and 178, unjustifiably breach Class 1 members' right to vote in federal elections and by-elections under Section 3 of the Charter?
 - 153.3. Has the AGQ failed to implement mechanisms permitting Class 2 members to exercise their constitutional right to vote?

- 153.4. Does the voting requirement to be on the list of electors “*no later than the sixteenth day*” before polling day, at Sections 295 para. 1, 296 para. 3 and 297 para. 2 the *Québec Election Act*, unjustifiably breach Class 2 members’ right to vote in Québec provincial elections and by-elections under Section 3 of the Charter?
- 153.5. Are Sections 245(1), 250(2), 251(1) and 178 of the *Canada Elections Act* and Sections 295 para. 1, 296 para. 3 and 297 para. 2 of the *Québec Election Act* to be declared invalid and unconstitutional?
- 153.6. For Class 2 members, has the AGQ unjustifiably breached their rights under Section 22 of the Québec Charter?
- 153.7. Are Class members entitled to damages and, if so, in what amount?
- 153.8. What is the quantum of damages to award to the Class members collectively?

CONCLUSIONS SOUGHT

154. The conclusions sought by the Plaintiff against the Defendants are as follows:
- 154.1. **GRANT** the class action against the Attorney General of Canada;
- 154.2. **CONDEMN** the **ATTORNEY GENERAL OF CANADA** to pay to the Plaintiff and every Class 1 member an amount of \$15,000 per occurrence of violation of the right to vote, the whole with interest and the additional indemnity provided by law since the date of the Application for authorization to institute a class action and to obtain the status of representative;
- 154.3. **CONDEMN** the **ATTORNEY GENERAL OF QUÉBEC** to pay to every Class 2 member an amount of \$15,000 per occurrence of violation of the right to vote, the whole with interest and the additional indemnity provided by law since the date of the Application for authorization to institute a class action and to obtain the status of representative;
- 154.4. **ORDER** the collective recovery of Class members’ claims;
- 154.5. **RECONVENE** the parties in the 30 days following the judgment to intervene in order to fix the distribution of the amount recovered collectively;
- 154.6. **DECLARE** invalid and unconstitutional the “*12th day*” voting entitlement in Sections 245(1), 250(2) and 251(1) of the *Canada Elections Act*, S.C. 2000, c. 9;

154.7. **DECLARE** invalid and unconstitutional the “*not later than the sixteenth day*” voting entitlement in Sections 295 para. 1, 296 para. 3 and 297 para. 2 of the *Election Act*, CQLR, c. E-3.3;

154.8. **THE WHOLE** with legal costs, including the costs of all reports, experts and publication of notices.

ADEQUATE REPRESENTATION

155. The Plaintiff is a member of the Class and has a good understanding of the case.

156. He has the motivation and interest to act as the Class representative, and he acts in good faith with the sole aim of obtaining justice for all Class members.

157. The Plaintiff wanted to vote in the 45th General Election to elect members of the House of Commons and was deprived of his right.

158. He is willing and able to invest the resources and time necessary to carry out all tasks and responsibilities related to the exercise of the proposed class action and undertakes to cooperate fully with his attorneys.

159. The Plaintiff has no conflict and is willing and capable of acting in the present matter.

NATIONAL CLASS

160. Class 1 members nationwide have been disenfranchised by process of their constitutionally protected right to vote in federal elections, as a result of the conduct of the AGC.

161. Disfranchisement by process due to the “*12th day*” voting entitlement has uniformly impaired voters’ rights across Canada during the Class period.

162. Class 1 members’ voting rights under the Charter arise out of federal legislation and create corresponding obligations of the AGC towards Class 1 members.

JUDICIAL DISTRICT

163. The Plaintiff requests that the class action be instituted in the judicial district of Montréal where the AGC has its Quebec Regional Office and where the AGQ has an office.

164. The Plaintiff’s attorneys are also domiciled in the judicial district of Montréal.

165. The present Application is well founded in fact and law.

WHEREFORE, MAY IT PLEASE THIS HONOURABLE COURT TO:

GRANT the present *Application for Authorization to Institute a Class Action and to Obtain the Status of Representative*;

AUTHORIZE the institution of the present Class action;

GRANT the status of representative to Plaintiff Cédric Poirier for the purpose of instituting the present class action for the benefit of the following class of persons:

CLASS 1

“Since August 21, 2019, any Canadian citizen 18 years of age or older detained on a federal election or by-election day of the Members of the House of Commons, and who was initially admitted to detention in Canada less than 12 days prior to polling day, who was unable to vote.

Class 1 members are those who were initially admitted to detention:

Federal general elections

- Between April 17 and 28, 2025, and who were still detained on April 28, 2025 (Federal election day);
- Between September 9 and 20, 2021, and who were still detained on September 20, 2021 (Federal election day);
- Between October 10 and 21, 2019, and who were still detained on October 21, 2019 (Federal election day);

Federal by-elections

- Between August 7 and 18, 2025, and who were still detained on August 18, 2025 (Battle River—Crowfoot, Alberta);
- Between December 5 and 16, 2024, and who were still detained on December 16, 2024 (Cloverdale—Langley City, British Columbia);
- Between September 5 and 16, 2024, and who were still detained on September 16, 2024 (Elmwood—Transcona, Manitoba; LaSalle—Émard—Verdun, Québec);
- Between June 13 and 24, 2024, and who were still detained on June 24, 2024 (Toronto—St. Paul's, Ontario);

- Between February 22 and March 4, 2024, and who were still detained on March 4, 2024 (Durham, Ontario);
- Between July 13 and 24, 2023, and who were still detained on July 24, 2023 (Calgary Heritage, Alberta);
- Between June 8 and 19, 2023, and who were still detained on June 19, 2023 (Notre-Dame-de-Grâce—Westmount, Québec; Portage—Lisgar, Manitoba; Winnipeg South Centre, Manitoba; Oxford, Ontario);
- Between December 1 and 12, 2022, and who were still detained on December 12, 2022 (Mississauga—Lakeshore, Ontario).

Class 1 excludes citizens detained in a place designated under Subsection 205(1) of the *National Defence Act*, and citizens who voted prior to admission to detention, in advance polling or by mail." (**"Class 1"**);

CLASS 2

"Since August 21, 2022, any Canadian citizen who was 18 years of age or older, domiciled in Québec and detained on a provincial election or by-election day of the Members of the National Assembly, and who was initially admitted to detention less than 16 days prior to polling day, who was unable to vote.

Class 2 members are those who were initially admitted to detention:

Québec provincial general election

- Between September 18 and October 3, 2022, and who were still detained on October 3, 2022 (Québec provincial election day);

Québec provincial by-elections

- Between February 26 and March 13, 2023, and who were still detained on March 13, 2023 (Saint-Henri—Sainte-Anne);
- Between September 17 and October 2, 2023, and who were still detained on October 2, 2023 (Jean-Talon);
- Between March 2 and 17, 2025, and who were still detained on March 17, 2025 (Terrebonne);

- Between July 27 and August 11, 2025, and who were still detained on August 11, 2025 (Arthabaska).

Class 2 excludes citizens who voted prior to admission to detention, in advance polling or by mail." ("**Class 2**");

(Class 1 and Class 2 are hereinafter collectively referred to as, the "**Class**").

IDENTIFY the principal questions of law and of fact to be dealt with collectively as:

- A. Has the AGC failed to implement mechanisms permitting Class 1 members to exercise their constitutional right to vote?
- B. Does the "12th day" voting entitlement in Section 245(1) of the *Canada Elections Act*, as well as Sections 250(2), 251(1) and 178, unjustifiably breach Class 1 members' right to vote in federal elections and by-elections under Section 3 of the Charter?
- C. Has the AGQ failed to implement mechanisms permitting Class 2 members to exercise their constitutional right to vote?
- D. Does the voting requirement to be on the list of electors "*no later than the sixteenth day*" before polling day, at Sections 295 para. 1, 296 para. 3 and 297 para. 2 of the *Québec Election Act*, unjustifiably breach Class 2 members' right to vote in Québec provincial elections and by-elections under Section 3 of the Charter?
- E. Are Sections 245(1), 250(2), 251(1) and 178 of the *Canada Elections Act* and Sections 295 para. 1, 296 para. 3 and 297 para. 2 of the *Québec Election Act* to be declared invalid and unconstitutional?
- F. For Class 2 members, has the AGQ unjustifiably breached their rights under Section 22 of the Québec Charter?
- G. Are Class members entitled to damages and, if so, in what amount?
- H. What is the quantum of damages to award to the Class members collectively?

IDENTIFY the conclusions sought by the class action to be instituted as:

GRANT the class action against the Attorney General of Canada;

CONDEMN the **ATTORNEY GENERAL OF CANADA** to pay to the Plaintiff and every Class 1 member an amount of \$15,000 per occurrence of violation of the right to vote, the whole with interest and the additional indemnity provided by law since the date of the Application for authorization to institute a class action and to obtain the status of representative;

CONDEMN the **ATTORNEY GENERAL OF QUÉBEC** to pay to every Class 2 member an amount of \$15,000 per occurrence of violation of the right to vote, the whole with interest and the additional indemnity provided by law since the date of the Application for authorization to institute a class action and to obtain the status of representative;

ORDER the collective recovery of Class members' claims;

RECONVENE the parties in the 30 days following the judgment to intervene in order to fix the distribution of the amount recovered collectively;

DECLARE invalid and unconstitutional the "12th day" voting entitlement in Sections 245(1), 250(2) and 251(1) of the *Canada Elections Act*, S.C. 2000, c. 9;

DECLARE invalid and unconstitutional the "*not later than the sixteenth day*" voting entitlement in Sections 295 para. 1, 296 para. 3 and 297 para. 2 of the *Election Act*, CQLR, c. E-3.3;

THE WHOLE with legal costs, including the costs of all reports, experts and publication of notices.

DECLARE that any member of the Class who has not requested their exclusion from the Class be bound by any judgment to be rendered on the Class action, in accordance with law;

FIX the delay for exclusion from the Class at sixty (60) days from the date of notice to members, and at the expiry of such delay, the Class members who have not requested exclusion be bound by any such judgment;

ORDER the publication of a notice to members in accordance with the terms to be determined by the Court;

ORDER the Defendants Attorney General of Canada and Attorney General of Québec to pay for the publication of a notice to members;

REFER the file to the Chief Justice so that she may fix the district in which the Class action is to be brought and the Judge before whom proceedings will be heard;

THE WHOLE with legal costs, including the costs of all publications of notices.

Signed on August 21, 2025, in Montréal

Kugler Kandestin LLP

KUGLER KANDESTIN LLP

(M^{re} Robert Kugler, Alexandre Brosseau-Wery, Éva Richard and Emily Painter)

Attorneys for the Plaintiff Cédric Poirier

1 Place Ville Marie, Suite 1170

Montréal, Québec H3B 2A7

Telephone: 514-878-2861

Facsimile: 514-875-8424

Email: *rkugler@kklex.com*

awery@kklex.com

erichard@kklex.com

epainter@kklex.com

**EXHIBITS IN SUPPORT OF THE APPLICATION FOR
AUTHORIZATION TO INSTITUTE A CLASS ACTION AND
TO OBTAIN THE STATUS OF REPRESENTATIVE**

Exhibit R-1	Statistics Canada's <i>Table 35-10-0154-01 Average counts of adults in provincial and territorial correctional programs</i> ;
Exhibit R-2	Statistics Canada's <i>Table 35-10-0155-01 Average counts of offenders in federal programs, Canada and regions</i> ;
Exhibit R-3	Government of Québec's " <i>Statistiques correctionnelles du Québec 2023-2024</i> ";
Exhibit R-4	Chapter 2, Volume 1, of the Lortie Commission's report;
Exhibit R-5	Issue no. 1 of the <i>Minutes of Proceedings and Evidence of the Special Committee on Electoral Reform</i> ;
Exhibit R-6	Issue no. 5 of the <i>Minutes of Proceedings and Evidence of the Special Committee on Electoral Reform</i> ;
Exhibit R-7	<i>Plumitif</i> for file number 615-01-036552-258;
Exhibit R-8	Statement of Prime Minister Justin Trudeau, dated September 15, 2024.

Signed on August 21, 2025, in Montréal



KUGLER KANDESTIN LLP

(M^{re} Robert Kugler, Alexandre Brosseau-Wery, Éva Richard and Emily Painter)

Attorneys for the Plaintiff Cédric Poirier
1 Place Ville Marie, Suite 1170
Montréal, Québec H3B 2A7
Telephone: 514-878-2861
Facsimile: 514-875-8424
Email: rkugler@kklex.com
awery@kklex.com
erichard@kklex.com
epainter@kklex.com

NOTICE OF PRESENTATION

TO: ATTORNEY GENERAL OF CANADA
Department of Justice Canada
Guy-Favreau Complex
East Tower, 9th Floor
200 René-Lévesque Boulevard West
Montréal, Québec H2Z 1X4

TO: ATTORNEY GENERAL OF QUÉBEC
1 Notre-Dame Street East
8th Floor
Montréal, Québec H2Y 1B6

TAKE NOTICE that the present *Application for Authorization to Institute a Class Action and to Obtain the Status of Representative* shall be presented before the Superior Court of Québec, at the Montréal Courthouse, located at 1 Notre-Dame East, Montréal, Québec, H2Y 1B6, at a date to be determined by the coordinating judge of the Class Action Division.

DO GOVERN YOURSELVES ACCORDINGLY.

Signed on August 21, 2025, in Montréal



KUGLER KANDESTIN LLP

(M^{re} Robert Kugler, Alexandre Brosseau-Wery, Éva Richard and Emily Painter)

Attorneys for the Plaintiff Cédric Poirier
1 Place Ville Marie, Suite 1170
Montréal, Québec H3B 2A7
Telephone: 514-878-2861
Facsimile: 514-875-8424
Email: rkugler@kklex.com
awery@kklex.com
erichard@kklex.com
epainter@kklex.com

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class Action Division)

NO.: 500-06-

CÉDRIC POIRIER, domiciled and residing at
[REDACTED]

Plaintiff

v.

ATTORNEY GENERAL OF CANADA, with
its Québec Regional Office located at 200
René-Lévesque Boulevard West, 9th Floor,
City and District of Montréal, Province of
Québec, H2Z 1X4;

-and-

ATTORNEY GENERAL OF QUÉBEC, with
an office at 1 Notre-Dame Street East, 8th
Floor, City and District of Montréal, Province
of Québec, H2Y 1B6;

Defendants

ATTESTATION OF ENTRY IN THE NATIONAL CLASS ACTION REGISTER
(Art. 55 of the *Regulation of the Superior Court of Québec in civil matters*)

The Plaintiff, through its undersigned attorneys, attests that the *Application for Authorization to Institute a Class Action and to Obtain the Status of Representative* will be entered in the National Class Action Registry.

Signed on August 21, 2025, in Montréal

Kugler Kandestin LLP

KUGLER KANDESTIN LLP

(M^{re} Robert Kugler, Alexandre Brosseau-
Wery, Éva Richard and Emily Painter)

CANADA
PROVINCE OF QUÉBEC
DISTRICT OF MONTRÉAL

SUPERIOR COURT
(Class Action Division)

NO.: 500-06-

CÉDRIC POIRIER, domiciled and residing at

Plaintiff

v.

ATTORNEY GENERAL OF CANADA, with
its Québec Regional Office located at 200
René-Lévesque Boulevard West, 9th Floor,
City and District of Montréal, Province of
Québec, H2Z 1X4;

-and-

ATTORNEY GENERAL OF QUÉBEC, with
an office at 1 Notre-Dame Street East, 8th
Floor, City and District of Montréal, Province
of Québec, H2Y 1B6;

Defendants

NOTICE TO THE ATTORNEY GENERAL
(Art. 76 and 77 C.C.P.)

TO: ATTORNEY GENERAL OF CANADA
Department of Justice Canada
Guy-Favreau Complex
East Tower, 9th Floor
200 René-Lévesque Boulevard West
Montréal, Québec H2Z 1X4

TO: ATTORNEY GENERAL OF QUÉBEC
1 Notre-Dame Street East
8th Floor
Montréal, Québec H2Y 1B6

TAKE NOTICE that by its *Application for Authorization to Institute a Class Action and to Obtain the Status of Representative* (the "**Application**"), the Plaintiff intends to

question and challenge the constitutionality, validity and operability of Sections 245(1), 250(2) and 251(1) of the *Canada Elections Act* (S.C. 2000, c. 9) (the “**CEA**”) and Sections 295 para. 1, 296 para. 3 and 297 para. 2 of the *Election Act* (CQLR, c. E-3.3) (the “**QEA**”).

ALSO TAKE NOTICE that by its Application, the Plaintiff seeks reparation from the Defendants for an infringement or denial of his and the Class members’ fundamental rights and freedoms under the *Canadian Charter of Rights and Freedoms* (Part I of Schedule B to the Canada Act, chapter 11 in the 1982 volume of the Acts of the Parliament of the United Kingdom) (the “**Charter**”) and the *Charter of human rights and freedoms* (CQLR, c. C-12) (the “**Québec Charter**”).

The Plaintiff, personally and on behalf of the members of the proposed Class, intends to assert the following contentions and grounds:

1. Sections 245(1), 250(2) and 251(1) of the CEA are clearly unconstitutional and must be declared invalid and of no force or effect.
2. These provisions violate the fundamental right of thousands of Canadian citizens who are detained to vote in federal elections and by-elections, enshrined in Section 3 of the Charter.
3. By providing that detained electors vote on the 12th day before polling day, these provisions ensure that any voter whose detention begins less than 12 days before polling day and continues on polling day will be deprived of the opportunity to vote.
4. There is no sufficient justification to deprive detained electors in this way of their right to vote.
5. The unconstitutionality of sections 245(1), 250(2) and 251(1) of the CEA is clear, and detained electors (Class 1) who have been disenfranchised by process of their right to vote in federal elections and by-elections since August 21, 2019 as a result of these provisions have the right to petition the federal Crown for compensatory damages as well as for an appropriate and just remedy of constitutional damages under Section 24(1) of the Charter.
6. The remedy of constitutional damages is necessary in order to fulfil the functions to compensate Class 1 members for the infringement of their right to vote, to defend and affirm the importance of the right to vote in a free and democratic society, and to deter the Crown from repeating any attempt to unduly infringe the right to vote of Canadian citizens.
7. Sections 295 para. 1, 296 para. 3 and 297 para. 2 of the QEA are also clearly unconstitutional and must be declared invalid and of no force or effect.
8. These provisions violate the fundamental right of hundreds of Canadian citizens, domiciled in Québec, to vote in provincial elections and by-elections, enshrined in

Section 3 of the Charter and Section 22 of the Québec Charter.

9. By requiring that the list of electors who are detained be communicated by the director of a correctional facility to the Chief Electoral Officer of Québec no later than the 16th day before polling day, these provisions ensure that any elector whose detention begins less than 16 days before polling day and continues on polling day will not be on the list of electors and will thus be deprived of any opportunity to vote.
10. There is no sufficient justification to deprive detained electors in this way of their right to vote.
11. The unconstitutionality of Sections 295 para. 1, 296 para. 3 and 297 para. 2 of the QEA is clear, and detained electors (Class 2) who have been disenfranchised by process of their right to vote in Québec provincial elections and by-elections since August 21, 2022 as a result of these provisions have the right to petition the State for compensatory damages as well as for an appropriate and just remedy of constitutional damages under Section 24(1) of the Charter.
12. The remedy of constitutional damages is necessary in order to fulfil the functions to compensate Class 2 members for the infringement of their right to vote, to defend and affirm the importance of the right to vote in a free and democratic society, and to deter the State from repeating any attempt to unduly infringe the right to vote of Canadian citizens domiciled in Québec.
13. The Plaintiff and all Class members seek damages in the amount of \$15,000 per occurrence of violation of the right to vote due to disenfranchisement by process.

A copy of all the pleadings already on file is attached.

ADDITIONALLY, TAKE NOTICE that the trial has not yet been scheduled in this matter.

DO GOVERN YOURSELVES ACCORDINGLY.

Signed on August 21, 2025, in Montréal



KUGLER KANDESTIN LLP

(M^{re} Robert Kugler, Alexandre Brosseau-Wery, Éva Richard and Emily Painter)

Attorneys for the Plaintiff Cédric Poirier
1 Place Ville Marie, Suite 1170
Montréal, Québec H3B 2A7

Telephone: 514-878-2861

Facsimile: 514-875-8424

Email: *rkugler@kklex.com*
awery@kklex.com
erichard@kklex.com
epainter@kklex.com

CANADA
Province of Quebec
District of Montreal

No. 500-06 - 001411-251

SUPERIOR COURT
(Class Action Division)

CÉDRIC POIRIER

Plaintiff

v.

ATTORNEY GENERAL OF CANADA

-and-

ATTORNEY GENERAL OF QUÉBEC

Defendants

APPLICATION FOR AUTHORIZATION TO
INSTITUTE A CLASS ACTION AND TO
OBTAIN THE STATUS OF REPRESENTATIVE
& NOTICE TO THE ATTORNEY GENERAL
(Articles 76-77 and 574 et seq. C.C.P.)

ORIGINAL

Me Éva Richard
KuglerKandestin
1, Place Ville Marie, Suite 1170
Montréal (Québec) Canada H3B 2A7
T: 514 878-2861
F: 514 875-8424
erichard@kklex.com