



The Supreme Court of Canada confirms that the infringement of the right to vote by a Quebec law that interrupts the process of delimiting electoral divisions is not justified.

Section 3 of the *Canadian Charter of Rights and Freedoms* guarantees the right to vote. This right includes not only the right to cast a vote, but also the right to effective representation of voters. To this end, electoral divisions are revised periodically by an independent body to take into account the demographic changes of the population. This case concerns the constitutional validity of a Quebec law that interrupts this revision process and the issue of whether the resulting infringement of the right to vote is justified.

The Commission de la représentation, an independent body, is responsible for revising Quebec's electoral map. In 2023, it tabled a preliminary report proposing to change the boundaries of several electoral divisions, notably by reducing their number in two regions, including Gaspésie. Following public consultations and reactions by the National Assembly, the legislature enacted, in 2024, the *Act to interrupt the electoral division delimitation process*, which put an end to the process under way and postponed its resumption until after Quebec's next general election.

Voters challenged the validity of the *Act*. They claimed that it leads to a violation of the right to vote by requiring that a general election be held based on an electoral map that does not respect their right to effective representation. The Superior Court recognized that the right to vote is infringed, but found that the infringement is justified under section 1 of the Charter. This section allows a government to limit certain rights, but only if it can show that this limit is reasonable and justified in a free and democratic society. The Court of Appeal concluded instead that the *Act* is unconstitutional and is therefore without effect. The Attorney General of Quebec then appealed the decision to the Supreme Court of Canada.

The Supreme Court dismissed the appeal. The judgment was delivered orally by Chief Justice Wagner on the day of the hearing with reasons to follow.

The Attorney General failed to demonstrate that the Court of Appeal had made a reviewable error.

Writing for a majority of the Court, Justice Kasirer explained that in this case, the existence of an infringement of the right to vote was not challenged before the Supreme Court. The issue before the Court was whether this infringement was justified under section 1 of the Charter.

According to Justice Kasirer, the Court of Appeal did not make a reviewable error in its analysis of section 1. It could accept a more precise pressing and substantial objective, that is, the preservation of an electoral division in Gaspésie, and conclude that there was a rational connection between this objective and the *Act*. However, the *Act* did not satisfy the minimal impairment requirement. Justice Kasirer indicated that as the Court of Appeal explained, it was possible, among other things, for the legislature to enact a law temporarily protecting the electoral divisions in Gaspésie while leaving the Commission to complete its work for the rest of Quebec.

Justice Kasirer also stated that the fact that a law has been passed unanimously by the National Assembly is not enough to make it valid. Although such unanimity may be relevant, it does not relieve the state from having to show that the law meets the requirements of the Charter. That is not the case here, and the *Act* therefore remains without effect.

Breakdown of the decision: *Majority:* Justice [Kasirer](#) dismissed the appeal (Chief Justice [Wagner](#) and Justices [Karakatsanis](#), [Martin](#), [Jamal](#), [O'Bonsawin](#) and [Moreau](#) agreed) | *Dissenting:* Justices [Côté](#) and [Rowe](#) would have allowed the appeal

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