

IN THE SUPREME COURT OF CANADA

IN THE MATTER OF Section 53 of the *Supreme Court Act*, R.S.C. 1985, c. S-26;

AND IN THE MATTER OF a Reference by the Governor in Council concerning reform of the Senate, as set out in Order in Council P.C. 2013-70, dated February 1, 2013

FACTUM

ATTORNEY GENERAL OF NEW BRUNSWICK

(Pursuant to Rule 46 of the *Rules of the Supreme Court of Canada*)

ATTORNEY GENERAL OF NEW BRUNSWICK

Legal Services Branch
Centennial Building, Room 447
P.O. Box 6000
Fredericton, NB E3B 5H1
Telephone: (506) 453-2222
Facsimile: (506) 453-3275
Email: david.eidt@gnb.ca
denis.theriault@gnb.ca

David E. Eidt

Denis G. Thériault

Counsel for the Attorney General of New
Brunswick

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors
160 Elgin Street, 26th Floor
Ottawa, ON K1P 1C3
Telephone: (613) 786-0139
Facsimile: (613) 563-9869
Email: henry.brown@gowlings.com

Henry S. Brown, Q.C.

Ottawa Agents for the Counsels for
Attorney General of New Brunswick

DEPARTMENT OF JUSTICE CANADA
 234 Wellington Street, Room 1161
 Ottawa, ON K1A 0H8
 Telephone: (613) 957-4763
 Facsimile: (613) 954-1920
 Email: robert.frater@justice.gc.ca

Robert J. Frater
Christopher M. Rupar
Warren J. Newman
 Counsel for the Attorney General of Canada

HUNTER LITIGATION CHAMBERS LAW
CORPORATION
 1040 Georgia Street West, Suite 2100
 Vancouver, BC V6E 4H1
 Telephone: (604) 891-2401
 Facsimile: (604) 647-4554
 Email: jhunter@litigationchambers.com

John J. L. Hunter, Q.C.
Amicus Curiae

PROFESSOR DANIEL JUTRAS
 University of McGill
 3644 Peel Street
 Montreal, QC H3A 1W9
 Telephone: (514) 398-6604
 Facsimile: (514) 398-4659
 Email: daniel.jutras@mcgill.ca

Amicus Curiae

SUPREME ADVOCACY LLP
 Barristers and Solicitors
 397 Gladstone Avenue, Suite 1
 Ottawa, ON K2P 0Y9
 Telephone: (613) 695-8855
 Facsimile: (613) 695-8580
 Email: mfmajor@supremeadvocacy.ca

Marie-France Major
 Counsel for the *Amicus Curiae*
 John J.L. Hunter, Q.C.

SUPREME ADVOCACY LLP
 Barristers and Solicitors
 397 Gladstone Avenue, Suite 1
 Ottawa, ON K2P 0Y9
 Telephone: (613) 695-8855
 Facsimile: (613) 695-8580
 Email: mfmajor@supremeadvocacy.ca

Marie-France Major
 Counsel for the *Amicus Curiae*
 Professor Daniel Jutras

ATTORNEY GENERAL OF ALBERTA

Constitutional Law Branch
 9833 - 109 Street, 4th Floor
 Edmonton, AB, T5J 3S8
 Telephone: (780) 427-0072
 Facsimile: (780) 425-0307
 Email: margaret.unsworth@gov.ab.ca

Ms. Margaret Unsworth, Q.C.

Counsel for the Attorney General of Alberta

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors
 160 Elgin Street, 26th Floor
 Ottawa, ON K1P 1C3
 Telephone: (613) 786-0139
 Facsimile: (613) 563-9869
 Email: henry.brown@gowlings.com

Henry S. Brown, Q.C.

Ottawa Agents for the Counsel for the
 Attorney General of Alberta

ATTORNEY GENERAL OF MANITOBA

Constitutional Law Branch
 405 Broadway, Suite 1205
 Winnipeg, MB R3C 3L6
 Telephone: (204) 945-0717
 Facsimile: (204) 945-0053
 Email: heather.leonoff@gov.mb.ca

Ms. Heather S. Leonoff, Q.C.

Counsel for the Attorney General of Manitoba

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors
 160 Elgin Street, 26th Floor
 Ottawa, ON K1P 1C3
 Telephone: (613) 786-0139
 Facsimile: (613) 563-9869
 Email: henry.brown@gowlings.com

Henry S. Brown, Q.C.

Ottawa Agents for the Counsel for the
 Attorney General of Manitoba

ATTORNEY GENERAL OF SASKATCHEWAN

Constitutional Law Branch
 1874 Scarth Street, Suite 820
 Regina, SK S4P 4B3
 Telephone: (306) 787-8385
 Facsimile: (306) 787-9111
 Email: graeme.mitchell@gov.sk.ca

Mr. Graeme G. Mitchell Q.C.

Counsel for the Attorney General of
 Saskatchewan

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors
 160 Elgin Street, 26th Floor
 Ottawa, ON K1P 1C3
 Telephone: (613) 786-0139
 Facsimile: (613) 563-9869
 Email: henry.brown@gowlings.com

Henry S. Brown, Q.C.

Ottawa Agents for the Counsel for the
 Attorney General of Saskatchewan

ATTORNEY GENERAL OF NOVA SCOTIA

5151 Terminal Road, 4th Floor
 P.O. Box 7, Central Station
 Halifax, NS B3J 2L6
 Telephone: (902) 424-4024
 Facsimile: (902) 424-1730
 Email: goresea@gov.ns.ca

Mr. Edward A. Gores, Q.C.

Counsel for the Attorney General of Nova
 Scotia

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors
 160 Elgin Street, 26th Floor
 Ottawa, ON K1P 1C3
 Telephone: (613) 786-0139
 Facsimile: (613) 563-9869
 Email: henry.brown@gowlings.com

Henry S. Brown, Q.C.

Ottawa Agents for the Counsel for the
 Attorney General of Nova Scotia

**ATTORNEY GENERAL OF PRINCE EDWARD
ISLAND****STEWART MCKELVEY**

Barristers and Solicitors
 65 Grafton Street
 PO Box 2140, Central Station
 Charlottetown, PE C1A 8B9
 Telephone: 902-629-4549
 Facsimile: 902-566-5283
 Email: scampbell@stewartmckelvey.com

D. Spencer Campbell, Q.C.

Counsel for the Attorney General of Prince
 Edward Island

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors
 160 Elgin Street, 26th Floor
 Ottawa, ON K1P 1C3
 Telephone: (613) 786-0139
 Facsimile: (613) 563-9869
 Email: henry.brown@gowlings.com

Henry S. Brown, Q.C.

Ottawa Agents for the Counsel for the
 Attorney General of Prince Edward Island

**ATTORNEY GENERAL OF THE NORTHWEST
TERRITORIES**

PO Box 1320, Station Main
 Yellowknife, NT X1A 2L9
 Telephone: (867) 920-3248
 Facsimile: (867) 873-0234
 Email: brad_patzer@gov.nt.ca

Mr. Bradley E. Patzer

Counsel for the Attorney General of the
 Northwest Territories

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors
 160 Elgin Street, Suite 2600
 Ottawa, ON K1P 1C3
 Telephone: (613) 233-1781
 Facsimile: (613) 563-9869
 Email: brian.crane@gowlings.com

Brian A. Crane, Q.C.

Ottawa Agents for the Counsel for the
 Attorney General of the Northwest Territories

ATTORNEY GENERAL OF NUNAVUT

Legal & Constitutional Law Division
 PO Box 1000, Station 500
 Iqaluit, NS X0A 0H0
 Telephone: (867) 975-6332
 Facsimile: (867) 975-6349
 Email: ntarnow@gov.nu.ca

Mr. Norman M. Tarnow

Counsel for the Attorney General of Nunavut

GOWLING LAFLEUR HENDERSON LLP

Barristers and Solicitors
 160 Elgin Street, Suite 2600
 Ottawa, ON K1P 1C3
 Telephone: (613) 233-1781
 Facsimile: (613) 563-9869
 Email: brian.crane@gowlings.com

Brian A. Crane, Q.C.

Ottawa Agents for the Counsel for the
 Attorney General of Nunavut

BERNARD, ROY & ASSOCIÉS

Barristers and Counsels
 1 Notre-Dame Street East, Suite 800
 Montréal, QC H2Y 1B6
 Telephone: (514) 393-2336 Ext: 51467
 Facsimile: (514) 873-7074
 Email: jybernard@justice.gouv.qc.ca

Jean-Yves Bernard**Marise Visocchi**

Counsels for the Attorney General of Québec

NOËL & ASSOCIÉS

Barristers and Counsels
 111 Champlain Street
 Gatineau, QC J8X 3R1
 Telephone: (819) 771-7393
 Facsimile: (819) 771-5397
 Email: p.landry@noelassociés.com

Pierre Landry

Agents for the Counsel for the Attorney General
 of Québec

ATTORNEY GENERAL OF BRITISH COLUMBIA

1001 Douglas Street
 P.O. Box 9280 Stn Prov Govt
 Victoria, BC V8W 9J7
 Telephone: (250) 356-5597
 Facsimile: (250) 356-9154
 Email: nancy.ag.brown@gov.bc.ca

Nancy E. Brown

Counsel for the Attorney General of British
 Columbia

BURKE-ROBERTSON

Barristers and Solicitors
 441 Maclaren Street, Suite 200
 Ottawa, ON K2P 2H3
 Telephone: (613) 236-9665
 Facsimile: (613) 235-4430
 Email: rhouston@burkerobertson.com

Robert E. Houston, Q.C.

Ottawa Agents for the Counsel for the
 Attorney General of British Columbia

ATTORNEY GENERAL OF ONTARIO

720 Bay Street, 7th Floor
 Toronto, ON M5G 2K1
 Telephone: (416) 326-4454
 Facsimile: (416) 326-4015
 Email: Michel.Helie@ontario.ca

Michel Y. Hélie

Joshua Hunter

Counsel for the Attorney General of Ontario

BURKE-ROBERTSON

Barristers and Solicitors
 441 Maclaren Street, Suite 200
 Ottawa, ON K2P 2H3
 Telephone: (613) 236-9665
 Facsimile: (613) 235-4430
 Email: rhouston@burkerobertson.com

Robert E. Houston, Q.C.

Ottawa Agents for the Counsel for the
 Attorney General of Ontario

**ATTORNEY GENERAL OF NEWFOUNDLAND
 AND LABRADOR**

4th Floor, East Block
 Confederation Bldg.
 St. John's, NL A1B 4J6
 Telephone: (709) 729-2869
 Facsimile: (709) 729-2129

Barbara Barrowman

Counsel for the Attorney General of
 Newfoundland and Labrador

BURKE-ROBERTSON

Barristers and Solicitors
 441 Maclaren Street, Suite 200
 Ottawa, ON K2P 2H3
 Telephone: (613) 236-9665
 Facsimile: (613) 235-4430
 Email: rhouston@burkerobertson.com

Robert E. Houston, Q.C.

Ottawa Agents for the Counsel for the
 Attorney General of Newfoundland and
 Labrador

**THE HONOURABLE SERGE JOYAL,
 SENATOR, PC**

250 East Block
 Parliament of Canada
 Ottawa, ON K1A 0A4
 Telephone: (613) 943-0434
 Facsimile: (613) 943-0441
 Email: joyals@sen.park.gc.ca

Intervener

HEENAN BLAIKIE LLP

Barristers and Counsels
55 Metcalfe Street, Suite 300
Ottawa, ON K1P 6L5
Telephone: (613) 236-7908
Facsimile: (866) 296-8395
Email: mpower@heenan.ca

Mark C. Power

Jennifer Klinck

Perri Ravon

Sébastien Grammond, Ad.E.

Counsels for the Intervener
Fédération des communautés francophones et
acadienne du Canada

COX & PALMER

Barristers and Counsels
644 Main Street, Suite 500
Moncton, NB E1C 1E2
Telephone: (506) 856-9800
Facsimile: (506) 856-8150
Email: cmichaud@coxandpalmer.ca

Christian E. Michaud

Serge Rousselle

Counsels for the Intervener
Société de l'Acadie du Nouveau-Brunswick inc.

HEENAN BLAIKIE LLP

Barristers and Counsels
55 Metcalfe Street, Suite 300
Ottawa, ON K1P 6L5
Telephone: (613) 236-8071
Facsimile: (613) 236-9632
Email: pravon@heenan.ca

Perri Ravon

Ottawa Agents for the Counsels for the Intervener
Société de l'Acadie du Nouveau-Brunswick inc.

STIKEMAN ELLIOTT LLP

Barristers and Solicitors
50 O'Connor Street, Suite 1600
Ottawa, ON K1P 6L2
Telephone: (613) 566-0546
Facsimile: (613) 230-8877
Email: nmchaffie@stikeman.com

Nicholas McHaffie

Counsel for the Intervener
The Honourable Anne C. Cools, Senator, P.C.

TABLE OF CONTENTS

	PAGE
PART I – FACTS	1
Overview	1
Facts	2
PART II – ISSUES	7
PART III – ARGUMENTS	10
Term limits for senatorial appointments (Reference Question 1)	10
Consultation processes with provincial and territorial legislatures for the appointment of senators (Reference Questions 2 and 3)	12
Property qualifications (Reference Question 4)	15
Abolition of the Senate (Reference Questions 5 and 6)	15
PART VI – COSTS	19
PART V – ORDER SOUGHT	19
PART VI – TABLE OF AUTHORITIES	20
PART VII – STATUTES	21

PART 1 – FACTS

Overview

1. Historical context is an important component in the interpretation of Canada's constitutional framework. See *Reference Re: Secession of Quebec*, [1998] 2 R.C.S. 217, at p. 240 (hereinafter "*Re: Secession of Quebec*");

In order to endure over time, a constitution must contain a comprehensive set of rules and principles which are capable of providing an exhaustive legal framework for our system of government. Such principles and rules emerge from an understanding of the constitutional text itself, the historical context, and previous judicial interpretations of constitutional meaning.

2. As an active participant at the Charlottetown Conference and Quebec Conference in 1864, the Province of New Brunswick (hereinafter "New Brunswick") values the foundational role it played in the Canadian Confederation including the establishment of the Upper House (hereinafter "Senate").

3. New Brunswick shares this Court's view that the Senate was created as a means of protecting sectional and provincial interests: see *Re: Authority of Parliament in Relation to the Upper House*, [1980] 1 S.C.R. 54, at p. 68 (hereinafter "*Re: Upper House*").

4. The Senate is an important and essential component of our federal form of government. As stated by this Court in *Re: Secession of Quebec*, at p. 241:

The salient aspects of the agreement may be briefly outlined. There was to be a federal union featuring a bicameral central legislature. Representation in the Lower House was to be based on population, whereas in the Upper House it was to be based on regional equality, the regions comprising Canada East, Canada West and the Maritimes. The significance of the adoption of a federal form of government cannot be exaggerated. Without it, neither the agreement of the delegates from Canada East nor that of the delegates from the maritime colonies could have been obtained.

5. Although New Brunswick is of the view that the Senate is an essential component of the federal legislative process, it remains committed to meaningful Senate reform within the boundaries of our constitutional framework.

6. Over the past several months the Senate and issues related to Senate reform have dominated the Canadian media landscape.

7. Although there is no shortage of opinions when it comes to what would constitute meaningful Senate reform, the Attorney General of New Brunswick (hereinafter “AGNB”) is cognizant that the within Reference by the Governor in Council concerning reform of the Senate, Order in Council P.C. 2013-70 (hereinafter “Reference”), will address the method by which the proposed reforms could be implemented as opposed to what reforms should be implemented.

Facts

8. In 1864, New Brunswick was an active participant at the Charlottetown Conference and the Quebec Conference where the establishment of the Senate generated a significant amount of debate.

9. Transcripts of the parliamentary debates in the Provincial Parliament of Canada on the subject of Confederation confirm the extent to which equality in the Senate was a factor in the provinces ultimately reaching an agreement and the extent to which the protection of local interests was of concern to the “less numerous” provinces such as New Brunswick:

Sir John A. Macdonald

In order to protect local interests, and to prevent sectional jealousies, it was found requisite that the three great divisions into which British North America is separated, should be represented in the Upper House on the principle of equality.

(Parliamentary Debates on the Subject of the Confederation of the British North American Provinces, Quebec, 1865, p. 35; Tab 2, p. 13 of New Brunswick’s Record)

The Honourable George Brown

Our Lower Canada friends have agreed to give us representation by population in the Lower House, on the express condition that they shall have equality in the Upper House. On no other condition could we have advanced a step; and, for my part, I am quite

willing they should have it. In maintaining the existing sectional boundaries and handing over the control of local matters to local bodies, we recognize, to a certain extent, a diversity of interests; and it was quite natural that the protection for those interests, by equality in the Upper Chamber, should be demanded by the less numerous provinces.

(Parliamentary Debates on the Subject of the Confederation of the British North American Provinces, Quebec, 1865, p. 88; Tab 2, p. 24 of New Brunswick's Record).

10. In New Brunswick, pre-Confederation debate focused on the merits of Confederation itself but more specifically on concerns about the number of representatives New Brunswick would have in the House of Commons and how, based on projected population increases, benefits to the province would be negatively impacted in the future:

Mr. Costigan (Tuesday, May 30, 1865)

We are three distinct people, but were to be governed by one general Government, and that was to be carried on by a majority vote; that majority was to rule the country and tax the people as they saw fit. According to the construction of Government we would be represented by fifteen representatives, and these would have to fight against 145. Although I might have much respect for the ability of our representatives, yet I would not have much reason to expect that they would have much success in anything they undertook for the benefit of the Province.

(Reports of the Debates of The House of Assembly of the Province of New Brunswick, during the Session of 1865, p. 110; Tab 3, p. 29 of New Brunswick's Record)

11. Regarding the structure of the proposed Senate, there were concerns it would not, in some circumstances, succeed in "holding out" against the House of Commons:

Mr. Gilbert (Thursday, June 1, 1865)

The hon. member has referred to the Upper House of twenty-four members being able to put a veto upon anything that might prove disadvantageous. But it is very well known that the Upper House cannot always hold out against the people's House; this has been proved in the House of Lords in England, and at last they must yield. Our very best rights would be jeopardized, and if we have no local rights then why should we keep up a local Parliament here, and another in Nova Scotia?

(Reports of the Debates of The House of Assembly of the Province of New Brunswick, during the Session of 1865, p. 126; Tab 3, p. 33 of New Brunswick's Record)

12. Following Confederation, there were lingering concerns about the Senate including the method by which Senators were appointed. These concerns were discussed in a conference held in the City of Quebec in October 1887 which featured representatives of the Executive Government of five of the provinces of Canada, including New Brunswick:

Whereas at a Conference held in the City of Quebec in the month of October last, of delegates and members representing the Executive Government of five of the Provinces of Canada, called for the purpose of conferring upon questions of Inter-Provincial interest; it was unanimously Resolved as follows:

“Whereas, in framing the British North America Act 1867, and defining therein the limits of the Legislative and Executive powers and functions of the Federal and Provincial Legislatures and Governments, the authors of the Constitution performed a work, new, complex and difficult, and it was to be anticipated that experience in the working of the new system would suggest many needed changes; that twenty years’ practical working of the Act has developed much friction between the Federal and Provincial Governments and Legislatures, has disclosed grave omissions in the provisions of the Act and has shewn (when the language of the Act came to be judicially interpreted) that in many respects what was the common understanding and intention had not been expressed, and that important provisions in the Act are obscure as to their true intent and meaning; and whereas the provision of Provincial autonomy is essential to the future well-being of Canada; and if such autonomy is to be maintained, it has become apparent that the Constitutional Act must be revised and amended, therefore the representatives and delegates of the Provinces of Ontario, Quebec, Nova Scotia, New Brunswick and Manitoba, duly accredited by their respective Governments, and in Conference assembled, believing that they express the views and wishes of the people of Canada, agree upon the following Resolutions as the basis upon which the Act should be amended; subject to the approval of the several Provincial Legislatures.”

[...]

4. “That a leading purpose of the Senate was to protect the interests of the respective Provinces as such; that a Senate to which the appointments are made by the Federal Government, and for life, affords no adequate security to the Provinces; and that, in case no other early remedy is provided, the British North America Act should be so amended as to limit the term for which Senators hold office, and to give the choice, as vacancies occur, to the Province to which the vacancy belongs, until, as to any Province, one half of the members of the Senate representing such Province are Senators chosen by the Province; that thereafter the mode of selection be as follows: if the vacancy is occasioned by the death, resignation or otherwise of a Senator chosen by the Province, that Province to choose his successor; and if the vacancy is occasioned by the death, resignation or otherwise of any other Senator, the vacancy to be filled as now provided by the Act, but only for a limited term of years.”

(Journals of the House of Assembly of the Province of New Brunswick, from the 1st of March to the 6th of April, 1888: Being the Second Session of the Twenty Sixth General Assembly, pp. 59-66; Tab 4, pp. 38-39 of New Brunswick's Record)

13. As the provinces continued to adjust to the realities of Confederation, the Maritime Provinces continued to air their grievances in light of their view that they did not receive the same treatment by the Federal Government as compared to other areas of the country. In 1926, the Federal Government announced the Royal Commission on Maritime Claims which was tasked with inquiring into the grievances of the Maritime Provinces. Once again, the issue of protecting and developing local and regional interests was the subject of debate in New Brunswick as well as in the other Maritime Provinces.

(Report of the Royal Commission on Maritime Claims, 1926; Tab 5, pp. 46-88 of New Brunswick's Record).

14. The ongoing debate about the purpose and role of the Senate in Canada is well documented. Whether it's in the context of changes to the senatorial term in 1965, the constitutional debates leading up to the *Constitution Act, 1982* or discussions in the context of the failed Meech Lake Accord (1987) and Charlottetown Accord (1992), the Senate and possible reforms thereto have remained on the provincial and federal governments' respective agendas.

15. As stated earlier, the Senate was created on the principle of equal and regional representation.

16. In 1867, New Brunswick and Nova Scotia, combined, held 24 of the 72 seats in the Senate. Ontario and Quebec each had 24 seats. In the House of Commons, New Brunswick held 15 of the 181 seats as compared to 82 for Ontario, 64 for Quebec and 19 for Nova Scotia.

17. New Brunswick currently has 10 seats in the 308-seat House of Commons and 10 seats in the 105-seat Senate. In accordance with the *Fair Representation Act*, S.C. 2001, c. 26, following the next federal election New Brunswick will have 10 seats in a 338-seat House of Commons.

18. The realities of Canadian demographics are such that “less numerous” provinces such as New Brunswick must maintain an interest in protecting and strengthening their voices in national affairs.

19. The protection of sectional and provincial interests, in addition to the protection of minority interests, is of utmost importance and New Brunswick submits the Senate, based on the principles upon which it was created, has an important role to play in this regard.

20. Although New Brunswick is of the view that the Senate is an essential component of the federal legislative process, it remains committed to meaningful Senate reform within the boundaries of our constitutional framework.

21. On June 1, 2012, New Brunswick introduced Bill 64, *An Act Respecting the Selection of Senate Nominees*, in the Legislative Assembly (hereinafter “*NB Act*”). The *NB Act* has not yet received Royal Assent and the Government of New Brunswick has confirmed it will wait for the outcome of the within Reference before proceeding with any new legislation.

22. Although legislation such as the *NB Act* would not be binding upon the federal government in terms of who is ultimately appointed to the Senate, Alberta serves as an example of the federal government having respected the wishes of that province’s electorate in relation to some senatorial appointments (*Senatorial Selection Act*, RSA 2000, c S-5).

23. The objective of the *NB Act* was to take a meaningful first step towards a more effective and democratic Senate by allowing New Brunswickers’ to elect Senate nominees. It is through this lens and in consideration of the principles of federalism, as well as the boundaries of our constitutional framework, that New Brunswick will address the Reference questions.

PART II - ISSUES

24. The Reference questions, as set out in Order P.C. 2013-70, dated February 1, 2013, are as follows:

1. Pour chacune des limites ci-après proposées pour la durée du mandat des sénateurs, le Parlement du Canada détient-il, en vertu de l'article 44 de la *Loi constitutionnelle de 1982*, la compétence législative voulue pour apporter les modifications à l'article 29 de la *Loi constitutionnelle de 1867* afin de prévoir :

(a) un mandat d'une durée fixe de neuf ans, tel que le propose l'article 5 du projet de loi C-7, *Loi sur la réforme du Sénat*;

(b) un mandat d'une durée fixe de dix ans ou plus;

(c) un mandat d'une durée fixe de huit ans ou moins;

(d) un mandat d'une durée fixe de deux ou trois législatures;

(e) le renouvellement du mandat des sénateurs, tel que le propose l'article 2 du projet de loi S-4, *Loi constitutionnelle de 2006 (durée du mandat des sénateurs)*;

(f) une limite à la durée du mandat des sénateurs nommés après le 14 octobre 2008, tel que le propose le paragraphe 4(a) du projet de loi C-7, *Loi sur la réforme du Sénat*;

(g) une limite rétrospective à la durée du mandat des sénateurs nommés avant le 14 octobre

1. In relation to each of the following proposed limits to the tenure of Senators, is it within the legislative authority of the Parliament of Canada, acting pursuant to section 44 of the *Constitution Act, 1982*, to make amendments to section 29 of the *Constitution Act, 1867* providing for:

(a) a fixed term of nine years for Senators, as set out in clause 5 of Bill C-7, the *Senate Reform Act*;

(b) a fixed term of ten years or more for Senators;

(c) a fixed term of eight years or less for Senators;

(d) a fixed term of the life of two or three Parliaments for Senators;

(e) a renewable term for Senators, as set out in clause 2 of Bill S-4, *Constitution Act, 2006 (Senate tenure)*;

(f) limits to the terms for Senators appointed after October 14, 2008 as set out in subclause 4(1) of Bill C-7, the *Senate Reform Act*; and

(g) retrospective limits to the terms for Senators appointed before October 14, 2008?

2008?

2. Le Parlement du Canada détient-il, en vertu de l'article 91 de la *Loi constitutionnelle de 1867* ou de l'article 44 de la *Loi constitutionnelle de 1982*, la compétence législative voulue pour édicter des lois qui permettraient de consulter, dans le cadre d'un processus national, la population de chaque province et territoire afin de connaître ses préférences quant à la nomination de candidats sénatoriaux, conformément au projet de loi C-20, *Loi sur les consultations concernant la nomination des sénateurs*?

3. Le Parlement du Canada détient-il, en vertu de l'article 91 de la *Loi constitutionnelle de 1867* ou de l'article 44 de la *Loi constitutionnelle de 1982*, la compétence législative voulue pour prévoir un cadre qui viserait l'édiction des lois par les législatures provinciales et territoriales – conformes à l'annexe du projet de loi C-7, *Loi sur la réforme du Sénat* –, pour consulter leurs populations afin de faire connaître leurs préférences quant à la nomination de candidats sénatoriaux?

4. Le Parlement du Canada détient-il, en vertu de l'article 44 de la *Loi constitutionnelle de 1982*, la compétence législative voulue pour abroger les paragraphes 23(3) et (4) de la *Loi constitutionnelle de 1867* concernant la qualification des sénateurs en matière de propriété?

5. Pourrait-on, par l'un des moyens ci-après, avoir recours à la procédure normale de modification prévue à l'article 38 de la *Loi constitutionnelle*

2. Is it within the legislative authority of the Parliament of Canada, acting pursuant to section 91 of the *Constitution Act, 1867*, or section 44 of the *Constitution Act, 1982*, to enact legislation that provides a means of consulting the population of each province and territory as to its preferences for potential nominees for appointment to the Senate pursuant to a national process as was set out in Bill C-20, the *Senate Appointment Consultations Act*?

3. Is it within the legislative authority of the Parliament of Canada, acting pursuant to section 91 of the *Constitution Act, 1867*, or section 44 of the *Constitution Act, 1982*, to establish a framework setting out a basis for provincial and territorial legislatures to enact legislation to consult their population as to their preferences for potential nominees for appointment to the Senate as set out in the schedule to Bill C-7, the *Senate Reform Act*?

4. Is it within the legislative authority of the Parliament of Canada, acting pursuant to section 44 of the *Constitution Act, 1982*, to repeal subsections 23(3) and (4) of the *Constitution Act, 1867* regarding property qualifications for Senators?

5. Can an amendment to the Constitution of Canada to abolish the Senate be accomplished by the general amending procedure set out in section

de 1982, pour abolir le Sénat :

38 of the *Constitution Act, 1982*, by one of the following methods:

(a) ajouter une disposition distincte prévoyant que le Sénat serait aboli à une date précise, à titre de modification à la *Loi constitutionnelle de 1867*, ou de disposition distincte des *Lois constitutionnelles de 1867 à 1982* s'inscrivant néanmoins dans la Constitution du Canada;

(a) by inserting a separate provision stating that the Senate is to be abolished as of a certain date, as an amendment to the *Constitution Act, 1867* or as a separate provision that is outside of the *Constitution Acts, 1867 to 1982* but that is still part of the Constitution of Canada;

(b) modifier ou abroger en tout ou en partie les renvois au Sénat dans la Constitution du Canada;

(b) by amending or repealing some or all of the references to the Senate in the Constitution of Canada, or;

(c) abroger les pouvoirs du Sénat et éliminer la représentation des provinces en vertu des alinéas 42(1)b) et c) de la *Loi constitutionnelle de 1982*?

(c) by abolishing the powers of the Senate and eliminating the representation of provinces pursuant to paragraphs 42(1)(b) and (c) of the *Constitution Act, 1982*?

6. Si la procédure normale de modification prévue à l'article 38 de la *Loi constitutionnelle de 1982* ne permet pas d'abolir le Sénat, faudrait-il recourir à la procédure de consentement unanime prévue à l'article 41 de cette loi?

6. If the general amending procedure set out in section 38 of the *Constitution Act* is not sufficient to abolish the Senate, does the unanimous consent procedure set out in section 41 of the *Constitution Act, 1982* apply?

25. The AGNB submits, for the reasons provided hereafter, that the Reference questions should be answered as follows:

Question 1 (a)-(g): No.

Question 2: No.

Question 3: No.

Question 4: Yes.

Question 5 (a)-(c): No.

Question 6: Yes.

PART III – ARGUMENTS

26. The Reference questions will be addressed within the following four categories:
- i) Term limits for senatorial appointments (Reference Question 1);
 - ii) Consultation processes with provincial and territorial legislatures for the appointment of senators (Reference Questions 2 and 3);
 - iii) Property qualifications for Senators (Reference Question 4); and
 - iv) Abolition of the Senate (Reference Questions 5 and 6).

Term limits for senatorial appointments (Question 1)

27. Although New Brunswick is committed to meaningful Senate reform, including the possibility of term limits for senatorial appointments, it acknowledges the presence of some constitutional obstacles which cannot be ignored.

28. The preamble of the *Constitution Act, 1867* states as follows:

WHEREAS the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom: [...] (emphasis added)

29. In the United Kingdom, members of the House of Lords hold office for life. Transcripts of the parliamentary debates in the Provincial Parliament of Canada on the subject of Confederation confirm that the life tenure was deliberately adopted. As Sir John A. MacDonald stated:

We resolved then, that the constitution of the Upper House should be in accordance with the British system as nearly as circumstances would allow. An hereditary Upper House is impracticable in this young country. [...] The only mode of adapting the English system to the Upper House, is by conferring the power of appointment to the Crown (as the English peers are appointed), but that the appointments should be for life. (emphasis added)

(*Parliamentary Debates on the Subject of the Confederation of the British North American Provinces*, Quebec, 1865, p. 35; Tab 2, p. 13 of New Brunswick's Record)

30. In *Re: Upper House*, this Court confirmed, at p. 76, that the imposition in 1965 of compulsory retirement at age seventy-five did not change the essential character of the Senate. However, when asked whether it was within the authority of the Parliament of Canada to enact legislation to change the tenure of members of the Senate, this Court stated at p. 76:

At some point, a reduction of the term of office might impair the functioning of the Senate in providing what Sir John A. MacDonald described as "the sober second thought in legislation". The Act contemplated a constitution similar in principle to that of the United Kingdom, where members of the House of Lords hold office for life.

31. The voluminous materials filed in conjunction with this Reference highlight concerns about the potential effects of term limits for senatorial appointments. These include, *inter alia*, threatening the independence and institutional memory of the Senate.

32. Regardless of the potential consequences of term limits for senatorial appointments, New Brunswick submits that section 44 of the *Constitution Act, 1982* does not provide the Parliament of Canada with the legislative authority to amend section 29 of the *Constitution Act, 1867*.

33. The power conferred to the Parliament of Canada by section 44 of the *Constitution Act, 1982* is subject to sections 41 and 42 of the *Constitution Act, 1982*.

34. Section 42(1)(b) of the *Constitution Act, 1982* confirms that an amendment to the Constitution of Canada in relation to "the powers of the Senate or method of selecting Senators" may only be made in accordance with the general amending formula provided at section 38(1) of the *Constitution Act, 1982*.

35. New Brunswick submits that the existence of a general amending formula in the *Constitution Act, 1982* (section 38), as opposed to unilateral action by the Parliament of Canada (section 44) or unanimous consent by the Senate, House of Commons and the legislative assembly of each province (section 41), is evidence of an intended compromise in the face of complex constitutional questions. As stated by Professor Don Desserud, Dean of Arts, University of Prince Edward Island:

Constitutional change in Canada is a complicated, tedious and at times impossible affair. However, the rules governing amendments are there precisely to ensure that changes made to the Constitution, and to those institutions defined by it, are conducted with the appropriate level of consultation. The amending formulae found under Part Five of the CA 1982 are not perfect. Some are probably too strict; perhaps others are too lenient. But they provide a balance between the expedience of unilateral powers of amendment and the rigidity of unanimity. Section 38 provides that compromise, and section 42 enhances it.

I do not claim the case that I have made here against unilaterally imposing nine-year terms on the Senate is airtight. I doubt such a case could be concocted. And were the Government restricted to choosing between unilateral amendment or one requiring unanimity in making its reforms, then I might well be sympathetic to the unilateral argument. However, the CA 1982 provides a third option. It is there to provide a sensible compromise between those two extremes. Section 38 and its companion Section 42 are there precisely because it is difficult to know what effects constitutional changes will have, in particular over those institutions meant to serve the nation as a whole, like the Senate. But both of these sections recognize that changes will need to be made, so they provide a reasonable way of doing so, and one befitting a federation. To circumvent these sections is to undermine the federal integrity of the Constitution.

(Desserud, Don, *An expert opinion of Bill C-7 an Act respecting the selection of senators and amending the Constitution Act, 1867 in respect of Senate term limits* (December 2012); Volume 5, Tab 37, p. 106 of the Record filed by the Attorney General of Quebec; Tab 6, pp. 155-156 of New Brunswick's Record)

36. Although this Court has yet to interpret what is encompassed by the expression "the powers of the Senate" in section 42(1)(b) of the *Constitution Act, 1982*, New Brunswick submits that the imposition of term limits for senatorial appointments goes to the essential character of the Senate especially when considering the principles of federalism, the terms upon which the Senate was created and the equalizing role it was intended to play in the federal legislative process.

Consultation processes with provincial and territorial legislatures for the appointment of senators (Questions 2 and 3)

37. Section 52(3) of the *Constitution Act, 1982* is clear in stating that amendments to the Constitution of Canada shall be made only in accordance with the authority contained in the Constitution of Canada. Section 91(1) of the *British North America (No. 2) Act, 1949* contained

the previous amending authority but that section was repealed as a result of the *Constitution Act, 1982*; more specifically Part V of the *Constitution Act, 1982*.

38. The power conferred to the Parliament of Canada by section 44 of the *Constitution Act, 1982* is subject to sections 41 and 42 of the *Constitution Act, 1982*.

39. Section 42(1)(b) of the *Constitution Act, 1982* states that an amendment to the Constitution of Canada in relation to “the powers of the Senate or method of selecting Senators” may only be made in accordance with the general amending formula provided at section 38(1) of the *Constitution Act, 1982* (emphasis added).

40. A review of pre-Confederation debates confirms that the idea of an elected Senate was considered and rejected. The objective was for the constitution of the Senate to be in accordance with that of the British system, as stated in the preamble of the *Constitution Act, 1867*. This included conferring the power of appointing Senators to the Crown (*Parliamentary Debates on the Subject of the Confederation of the British North American Provinces*, Quebec, 1865, p. 35; Tab 2, p. 13 of New Brunswick’s Record).

41. The federal government is proposing two different consultative methods for the appointment of senators and is asking if it possesses the legislative authority to enact legislation in that regard pursuant to either section 91 of the *Constitution Act, 1867* or section 44 of the *Constitution Act, 1982*. Although both proposals are described as being consultative, it is New Brunswick’s understanding that the results of any of the proposed electoral processes for the election of Senate nominees would be respected by the federal government.

42. New Brunswick submits that Bill C-20, the *Senate Appointment Consultations Act* (hereinafter “Bill C-20” / “Question 2”), is essentially a direct federal election of Senators governed by federal legislation. On the other hand, it is submitted that Bill C-7, the *Senate Reform Act* (hereinafter “Bill C-7” / “Question 3”), would require provinces to enact legislation for the election of Senate nominees in accordance with the framework provided for in the federal legislation.

43. New Brunswick submits that the Parliament of Canada does not have the legislative authority pursuant to s. 91(1) of the *Constitution Act, 1867* or s. 44 of the *Constitution Act, 1982* to enact legislation that provides a means of consulting the population of each province and territory as to its preferences for potential nominees for appointment to the Senate pursuant to a national process or to establish a framework setting out a basis for provincial and territorial legislatures to enact legislation to consult their populations as to their preferences for potential nominees for appointment to the Senate.

44. It is submitted that to effect such change would require a constitutional amendment pursuant to section 38(1) of the *Constitution Act, 1982* as well as consequential amendments to, for example, section 3(1) of the *Canadian Charter of Rights and Freedoms* which only provides Canadian citizens with 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”.

45. New Brunswick distinguishes Bill C-20 and Bill C-7 from its own attempt to pass legislation for the election of Senate nominees (*NB Act*).

46. It is submitted that the proposed *NB Act*, a provincial endeavor with no impact on any other province or territory, would not be binding upon the federal government in terms of who is ultimately appointed to the Senate.

47. New Brunswick repeats that the objective of the *NB Act* was to take a meaningful first step towards a more effective and democratic Senate by allowing New Brunswickers’ to elect Senate nominees.

48. However, when considering the principles of federalism, the terms upon which the Senate was created and the equalizing role the Senate was intended to play in the federal legislative process, it is submitted that any significant reform to a national institution, including federal legislation for the election of Senate nominees, should involve the appropriate level of constitutional consultation with the provinces and territories as intended by section 38(1) of the *Constitution Act, 1982* and should not be accomplished unilaterally by the Parliament of Canada.

Property qualifications for Senators (Question 4)

49. Sections 23(3) and 23(4) of the *Constitution Act, 1867* provide property qualifications for Senators (hereinafter “property qualifications”).

50. New Brunswick submits that these property qualifications are distinguishable from the residence qualifications stipulated at section 23(5) of the *Constitution Act, 1867* (hereinafter “residence qualifications”).

51. The residence qualifications of Senators are included in subsection 42(1)(c) of the *Constitution Act, 1982* which, it is submitted, emphasizes their importance and distinctiveness as compared to property qualifications which are not included in subsection 42(1)(c).

52. New Brunswick recognizes section 23(6) of the *Constitution Act, 1867* and the potential implications for Senators from the Province of Quebec if sections 23(3) and 23(4) of the *Constitution Act, 1867* were to be repealed without also repealing or amending section 23(6) or without considering section 43 of the *Constitution Act, 1982* which provides for the amendment of provisions relating to some but not all provinces.

53. New Brunswick submits that in general, and subject to the considerations noted in paragraph 52 (above), the repeal of the property qualifications for Senators would not change the essential character of the Senate and, accordingly, could be achieved unilaterally by the Parliament of Canada pursuant to section 44 of the *Constitution Act, 1982*.

Abolition of the Senate (Questions 5 and 6)

54. Pre-Confederation debates confirm the extent to which the composition of the Senate was a factor in the provinces ultimately reaching an agreement and the extent to which the protection of local interests was of concern to less populated provinces such as New Brunswick. As stated earlier:

Sir John A. Macdonald

In order to protect local interests, and to prevent sectional jealousies, it was found requisite that the three great divisions into which British North America is separated should be represented in the Upper House on the principle of equality.

(Parliamentary Debates on the Subject of the Confederation of the British North American Provinces, Quebec, 1865, p. 35; Tab 2, p. 13 of New Brunswick's Record)

The Honourable George Brown

Our Lower Canada friends have agreed to give us representation by population in the Lower House, on the express condition that they shall have equality in the Upper House. On no other condition could we have advanced a step; and, for my part, I am quite willing they should have it. In maintaining the existing sectional boundaries and handing over the control of local matters to local bodies, we recognize, to a certain extent, a diversity of interests; and it was quite natural that the protection for those interests, by equality in the Upper Chamber, should be demanded by the less numerous provinces.

(Parliamentary Debates on the Subject of the Confederation of the British North American Provinces, Quebec, 1865, p. 88; Tab 2, p. 24 of New Brunswick's Record)

55. The *Constitution Act, 1867*, at section 17, states that "There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons".

56. This Court confirmed the importance of the Senate in *Re: Secession of Quebec*, at p. 241:

The salient aspects of the agreement may be briefly outlined. There was to be a federal union featuring a bicameral central legislature. Representation in the Lower House was to be based on population, whereas in the Upper House it was to be based on regional equality, the regions comprising Canada East, Canada West and the Maritimes. The significance of the adoption of a federal form of government cannot be exaggerated. Without it, neither the agreement of the delegates from Canada East nor that of the delegates from the maritime colonies could have been obtained.

57. In *Re: Upper House*, at p. 56, this Court emphasized that the Senate, as a participant in the legislative process, has a "vital role as an institution forming part of the federal system" with one of its primary purposes being the protection of sectional and provincial interests.

58. This Court went one step further in *Re: Upper House* by confirming, at p. 56, the limitations of the power of amendment then conferred by section 91(1) of the *British North America (No. 2) Act, 1949*:

The power of amendment conferred by s. 91(1) is thus limited and it relates to the constitution of the federal government in matters of interest only to that government; the continued existence of the Senate as a part of the federal legislative process is implied in the exceptions provided in s. 91(1).

59. It is submitted that since 1867 the role and function of the Senate have not changed. In fact, following this Court's decision in *Re: Upper House*, the federal, provincial and territorial governments engaged in the constitutional negotiations which led to the *Constitution Act, 1982*.

60. The *Constitution Act, 1982* contains no explicit or implicit provision by which the Senate can be abolished.

61. The federal government's formulation of Reference Questions 5 and 6 concedes that at the very least the application of the general amending formula set out at section 38 of the *Constitution Act, 1982* is required for the abolition of the Senate.

62. New Brunswick submits that the Senate cannot be abolished pursuant to the general amending formula set out at section 38 of the *Constitution Act, 1982* as it is inconceivable that a fundamental component of the Parliament could be eliminated without unanimous consent.

63. Subsection 42(1)(b) of the *Constitution Act, 1982* states that the general amending formula is required for an amendment to the "powers of the Senate and the method of selecting Senators". It is submitted that the continued existence of the Senate is implied and that explicit language for abolishment of the Senate would have been inserted in Section 42 had that been the intention of the federal government, provinces and territories at that point in time.

64. New Brunswick submits that the only possible method by which the Senate could be abolished is by virtue of the unanimous consent procedure set out in section 41 of the *Constitution Act, 1982*.

65. As stated earlier, the Senate is one of three components of the Parliament, as set out in section 17 of the *Constitution Act, 1867*. It is also an institution which exemplifies our federal union and the principles of federalism that underlie our Constitution. Accordingly, pursuant to section 41(a) of the *Constitution Act, 1982* it is submitted that the abolition of the Senate is an amendment to the Constitution in relation to the “office of the Queen”.

66. Furthermore, if the Senate were to be abolished Part V of the *Constitution Act, 1982* would need to be amended as a Senate resolution is a component of various amending procedures include the general amending formula (section 38), amendments by unanimous consent (section 41) and the amendment of provisions relating to some but not all provinces (section 43) and section 41(e) of the *Constitution Act, 1982*, clearly states that the unanimous consent procedure is required for an amendment to “this Part”; referring to Part V of the *Constitution Act, 1982*.

67. New Brunswick submits that the provisions in Part V of the *Constitution Act, 1982* relating to this Court support the submission that unanimous consent is required for the abolition of the Senate. As stated in the Memorandum of Argument filed on behalf of the Honourable Anne C. Cools (Intervener) in support of her motion for leave to intervene:

The amending provisions pertaining to this Honourable Court gives [sic] a very important comparison. Changes to “the composition of the Supreme Court of Canada”, by paragraph 41(d) of the *Constitution Act, 1982*, require the unanimous consent process. The general amendment process is provided for in paragraph 42(1)(d) for other matters in relation to the Supreme Court of Canada (“subject to paragraph 41(d), the Supreme Court of Canada”). Neither paragraph refers expressly to the abolition of the Supreme Court of Canada, but it simply cannot make sense to include abolition in the basket clause of paragraph 42(1)(d) simply because it is not referred to expressly in paragraph 41(d). To do so would mean that it is easier to abolish the Supreme Court of Canada than it is to change its composition.

(The Honourable Anne C. Cools, Memorandum of Argument filed in support of a Motion for Leave to Intervene, at p. 19, par. 60).

68. Relying on the principles of federalism, the terms upon which the Senate was created and the equalizing role it was intended to play in the federal legislative process, New Brunswick

submits that neither the *Constitution Act, 1867* nor the *Constitution Act, 1982* contemplate the abolition of the Senate.

69. To require anything less than unanimous consent would undermine Canada's constitutional foundation including the terms upon which New Brunswick and the other provinces and territories agreed to enter into Confederation.

PART IV - COSTS

70. The AGNB does not seek costs on this intervention and respectfully requests that no costs be ordered against the AGNB.

PART V – ORDER SOUGHT

71. The AGNB respectfully requests permission to present oral arguments at the hearing of this matter in accordance with the Court's instructions.

72. The AGNB respectfully submits, for the reasons provided herein, that the Reference questions should be answered as follows:

Question 1 (a)-(g): No.

Question 2: No.

Question 3: No.

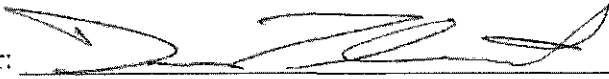
Question 4: Yes.

Question 5 (a)-(c): No.

Question 6: Yes.

RESPECTFULLY SUBMITTED this 27th day of August, 2013.

ATTORNEY GENERAL OF THE PROVINCE OF NEW BRUNSWICK, Intervener

Per: 

David E. Eidt and Denis G. Theriault
Counsel for the Attorney General of New Brunswick

PART VI – TABLE OF AUTHORITIES

Paragraph Number

Case Law

<i>Re: Authority of Parliament in Relation to the Upper House</i> , [1980] 1 S.C.R. 54	3,31,60,61,62
<i>Reference Re: Secession of Quebec</i> , [1998] 2 S.C.R. 217	1,4,59

Other

Desserud, Don, <i>An expert opinion of Bill C-7 an Act respecting the selection of senators and amending the Constitution Act, 1867 in respect of Senate term limits</i> (December 2012)	36
Journals of the House of Assembly of the Province of New Brunswick, from the 1 st of March to the 6 th of April, 1888: Being the Second Session of the Twenty Sixth General Assembly, (Fredericton: G.E. Fenety, Queen's Printer, 1888).....	12
Parliamentary Debates on the Subject of the Confederation of the British North American Provinces (Quebec: Hunter, Rose & Co., 1865)	9,30,57
Report of the Royal Commission on Maritime Claims (Ottawa: F.A. Acland, King's Printer, 1926)	13
Reports of the Debates of The House of Assembly of the Province of New Brunswick, during the Session of 1865 (Saint John: Geo W. Day, 1865).....	10,11

PART VII – STATUTES

Bill 64, <i>An Act Respecting the Selection of Senator Nominees</i> , 2 nd Session, 57 th Legislature New Brunswick, 60-61 Elizabeth II, 2011-2012 (First Reading, June 1, 2012)	21
<i>British North America (No. 2) Act</i> , 1949, 13 Geo. VI, c. 81 (U.K.)	38,61
<i>Constitution Act</i> , 1867, 30 & 31 Victoria, c. 3 (U.K.)	25,29,33,41,42,45,46,49,52,53,55,58,62,68,71
<i>Constitution Act</i> , 1982, being Schedule B to the Canada Act 1982, c. 11 (U.K.)	14,25,33-40,42,46,47,51,54-56,62-71
<i>Fair Representation Act</i> , S.C. 2001, c. 26	17
<i>Senatorial Selection Act</i> , RSA 2000, c S-5	22

Bill 64, *An Act Respecting the Selection of Senator Nominees*, 2nd Session, 57th Legislature New Brunswick, 60-61 Elizabeth II, 2011-2012 (First Reading, June 1, 2012)

Her Majesty, by and with the advice and consent of the Legislative Assembly of New Brunswick, enacts as follows:

INTERPRETATION

Definitions

1 The following definitions apply in this Act.

“candidate” means a person who files a nomination paper under section 7 and meets the requirements set out in section 18. (*candidate*)

“registrant” means a person intending to run as a candidate in the next senatorial election whose registration has been accepted by Elections New Brunswick under section 18. (*personne inscrite*)

“Senate nominee” means a person whose name is on a Senate nominees list in accordance with this Act. (*candidat sénatorial*)

“senatorial election” means an election in which one or more Senate nominees are selected. (*élection sénatoriale*)

Sa Majesté, sur l’avis et avec le consentement de l’Assemblée législative du Nouveau-Brunswick, édicte :

INTERPRÉTATION

Définitions

1 Les définitions qui suivent s’appliquent à la présente loi.

« candidat » Personne qui dépose une déclaration de candidature conformément à l’article 7 et remplit les conditions énoncées à l’article 18. (*candidate*)

« candidat sénatorial » Personne dont le nom figure sur une liste de candidats sénatoriaux conformément à la présente loi. (*Senate nominee*)

« contrôleur » S’entend au sens de la définition que donne de ce terme la *Loi sur le financement de l’activité politique*. (*Supervisor*)

« élection sénatoriale » Élection à laquelle sont sélectionnés un ou plusieurs candidats

“Supervisor” means Supervisor as defined in the *Political Process Financing Act*. (*contrôleur*)

sénatoriaux. (*senatorial election*)

« personne inscrite » Personne qui entend se porter candidate à la prochaine élection sénatoriale et qui s’est inscrite auprès d’Élections Nouveau-Brunswick conformément à l’article 18. (*registrant*)

Senate nominees list

2(1) A Senate nominees list that is prepared in accordance with this Act may be used in relation to appointments to the Senate for vacancies related to New Brunswick.

2(2) A Senate nominees list shall be established for each senatorial district following a senatorial election that is held in accordance with this Act.

2(3) A Senate nominees list that is prepared in accordance with this Act shall be used for the purpose of permitting two Senate nominees from each senatorial district to be summoned to the Senate.

Liste de candidats sénatoriaux

2(1) Les sénateurs qui doivent être nommés pour représenter la province en cas de vacance au Sénat peuvent l’être à partir d’une liste de candidats sénatoriaux préparée conformément à la présente loi.

2(2) Une liste de candidats sénatoriaux est établie pour chaque circonscription sénatoriale à la suite d’une élection sénatoriale tenue conformément à la présente loi.

2(3) Une liste de candidats sénatoriaux préparée conformément à la présente loi est utilisée afin de permettre que deux candidats sénatoriaux par circonscription sénatoriale soient nommés au Sénat.

SENATORIAL ELECTIONS

Senatorial elections

3(1) A senatorial election shall be held in each senatorial district concurrently with a quadrennial election held under the *Municipal Elections Act*.

3(2) Despite subsection (1), the Lieutenant-Governor in Council, at least 120 days before the ordinary polling day for the election in a senatorial district, may order that a senatorial election under subsection (1) not be held in a senatorial district if no vacancy is anticipated in the Senate corresponding to that senatorial district before the next quadrennial elections held under the *Municipal Elections Act*.

3(3) Despite subsection (1), the Lieutenant-Governor in Council may order the Municipal Electoral Officer to hold senatorial elections in

ÉLECTIONS SÉNATORIALES

Élections sénatoriales

3(1) Une élection sénatoriale est tenue dans chaque circonscription sénatoriale conjointement avec une élection quadriennale tenue en vertu de la *Loi sur les élections municipales*.

3(2) Malgré le paragraphe (1), le lieutenant-gouverneur en conseil peut, au moins cent vingt jours avant le jour ordinaire du scrutin d’une élection sénatoriale visée au paragraphe (1), ordonner qu’elle n’ait pas lieu dans une circonscription sénatoriale si aucune vacance correspondant à cette circonscription n’est anticipée au Sénat avant la prochaine élection quadriennale tenue en vertu de la *Loi sur les élections municipales*.

3(3) Malgré le paragraphe (1), le lieutenant-gouverneur en conseil peut ordonner au directeur des élections municipales de tenir des

one or more senatorial districts separately from quadrennial elections held under the *Municipal Elections Act*.

élections sénatoriales dans une ou plusieurs circonscriptions sénatoriales à une date distincte de l'élection quadriennale tenue en vertu de la *Loi sur les élections municipales*.

3(4) If a senatorial election is to be held separately from a quadrennial election held under the *Municipal Elections Act*, the Lieutenant-Governor in Council shall order the senatorial election at least 120 days before the ordinary polling day for the senatorial election.

3(4) Si une élection sénatoriale aura lieu à une date distincte de l'élection quadriennale tenue en vertu de la *Loi sur les élections municipales*, le lieutenant-gouverneur en conseil prend un décret en conseil ordonnant l'élection au moins cent vingt jours avant le jour ordinaire du scrutin de l'élection sénatoriale.

Municipal Electoral Officer

4 The role and responsibilities of the Municipal Electoral Officer in relation to senatorial elections are the same as those that are set out in subsection 5(2) of the *Municipal Elections Act*.

Directeur des élections municipales

4 Le rôle et les responsabilités du directeur des élections municipales par rapport aux élections sénatoriales sont les mêmes que ceux que prévoit le paragraphe 5(2) de la *Loi sur les élections municipales*.

Senatorial districts

5(1) The Electoral Boundaries and Representation Commission shall:

(a) divide the Province into five senatorial districts;

(b) name each senatorial district; and

(c) establish the geographic boundaries of each senatorial district according to the following formula:

$$A \div 5 = B$$

where

A is the total number of electoral districts that are prescribed in the *Electoral Boundaries and Representation Act*; and

B is the number of electoral districts in each senatorial district.

Circonscriptions sénatoriales

5(1) La Commission sur la délimitation des circonscriptions électorales et la représentation :

a) divise la province en cinq circonscriptions sénatoriales;

b) nomme ces circonscriptions;

c) délimite territorialement chaque circonscription sénatoriale conformément à la formule suivante :

$$A \div 5 = B$$

où

A correspond au nombre de circonscriptions électorales prévues par la *Loi sur la délimitation des circonscriptions électorales et la représentation*.

B correspond au nombre de circonscriptions électorales que compte chaque circonscription sénatoriale.

5(2) If the calculation in subsection (1) does not result in "B" being a whole number, then the geographic boundaries of the senatorial districts shall be established so that one or more senatorial districts are composed of one more or one fewer whole electoral districts

5(2) Si le nombre de circonscriptions sénatoriales obtenu suivant le calcul prévu au paragraphe (1) n'est pas un nombre entier, les limites territoriales sont ajustées de façon à ce qu'une ou plusieurs de ces circonscriptions comportent une circonscription électorale

than the other senatorial districts.

entière de plus ou de moins que les autres.

5(3) Senatorial districts shall contain only whole electoral districts that are contiguous.

5(3) Les circonscriptions sénatoriales peuvent seulement contenir des circonscriptions électorales entières qui sont contiguës.

5(4) The Electoral Boundaries and Representation Commission is not bound by section 12 of the *Electoral Boundaries and Representation Act* in carrying out its responsibilities under subsection (1).

5(4) La Commission sur la délimitation des circonscriptions électorales et la représentation n'est pas liée par l'article 12 de la *Loi sur la délimitation des circonscriptions électorales et la représentation* dans l'accomplissement de ses tâches prévues au paragraphe (1).

CANDIDACY

Eligibility

6(1) A person is eligible to be nominated as a candidate in a senatorial election if the person:

(a) is not a Member of the House of Commons or Senate;

(b) is not an election officer in the senatorial election or a judge;

(c) is not a candidate in a municipal or provincial election or by-election, if the senatorial election is held concurrently with the municipal or provincial election or by-election;

(d) is not a candidate in an election in relation to a District Education Council or Regional Health Authority Board, if the senatorial election is held concurrently with that election; and

(e) otherwise meets the qualifications set out in section 23 of the *Constitution Act, 1867* (Canada).

6(2) Despite paragraph (1)(e), and subject to subsection 15(5), a person who is under 30 years of age may be nominated as a candidate, as long as the person will be at least 30 years of age at any point during the period of time when the Senate nominees list on which their name appears following the election is anticipated to be valid.

CANDIDATURES

Éligibilité

6(1) Peut se porter candidat à une élection sénatoriale la personne qui satisfait aux conditions suivantes :

a) elle n'est pas membre de la Chambre des communes ou du Sénat;

b) elle n'est ni membre du personnel électoral à l'élection sénatoriale ni juge;

c) elle n'est pas candidate à une élection municipale, une élection provinciale ou une élection complémentaire, dans le cas où cette élection a lieu conjointement avec l'élection sénatoriale;

d) elle n'est pas candidate à une élection se rapportant à un conseil d'éducation de district ou à un conseil d'une régie régionale de la santé, dans le cas où cette élection a lieu conjointement avec l'élection sénatoriale;

e) elle possède par ailleurs les qualités requises énoncées à l'article 23 de la *Loi constitutionnelle de 1867* (Canada).

6(2) Malgré l'alinéa (1)e) et sous réserve du paragraphe 15(5), toute personne âgée de moins de 30 ans peut se porter candidate à une élection sénatoriale si elle atteindra 30 ans pendant la période de validité prévue pour la liste de candidats sénatoriaux sur laquelle son nom est inscrit à la suite d'une élection sénatoriale.

6(3) A person is eligible to be nominated as a candidate in only one senatorial district during a senatorial election.

6(3) Une personne peut se porter candidate dans une seule circonscription sénatoriale au cours d'une élection sénatoriale.

Filing nomination paper

7(1) Before a person who intends to run as a candidate files a nomination paper, the person must first register under section 18, or must register at the same time as he or she files a nomination paper.

Déclaration de candidature

7(1) Avant de déposer une déclaration de candidature ou au même moment, la personne qui entend se porter candidate s'inscrit avec Elections Nouveau-Brunswick conformément à l'article 18.

7(2) A person who intends to run as a candidate shall file a nomination paper, signed by that person, together with a deposit of \$1,000 with a municipal returning officer containing the following information:

- (a) his or her name, address, telephone number, e-mail address and occupation;
- (b) the address at which documents may be served on him or her in the Province;
- (c) the name of the senatorial district for which he or she is nominated as a candidate;
- (d) the names and signatures of at least 100 qualified electors who ordinarily reside in the senatorial district for which he or she is nominated as a candidate; and
- (e) the name, address and telephone number of an agent, if one is appointed under subsection 8(3).

7(2) La personne qui entend se porter candidate dépose auprès du directeur du scrutin municipal une déclaration de candidature, signée par elle-même et accompagnée d'un dépôt de 1 000 \$, sur laquelle sont indiqués :

- a) ses nom, adresse, numéro de téléphone, adresse électronique et profession;
- b) l'adresse à laquelle des documents peuvent lui être signifiés dans la province;
- c) le nom de la circonscription sénatoriale dans laquelle elle se porte candidate;
- d) les noms et signatures d'au moins cent personnes ayant droit de vote qui résident habituellement dans la circonscription sénatoriale où elle se porte candidate;
- e) les nom, adresse et numéro de téléphone de son agent, le cas échéant, nommé en vertu du paragraphe 8(3).

Agent and Chief Financial Officer

8(1) Before filing a nomination paper, a person who intends to run as a candidate shall appoint a Chief Financial Officer.

8(2) After appointing a Chief Financial Officer, a registrant or the Chief Financial Officer who is appointed by the registrant may accept contributions and make expenditures.

8(3) At any time before the ordinary polling day for a senatorial election, a person who intends to run as a candidate may appoint an agent to represent him or her.

Agent et directeur des finances

8(1) Avant de déposer une déclaration de candidature, la personne qui entend se porter candidate nomme un directeur des finances.

8(2) Après avoir nommé un directeur des finances, la personne inscrite ou son directeur des finances peut accepter des contributions ou engager des dépenses.

8(3) À tout moment avant le jour ordinaire du scrutin d'une élection sénatoriale, une personne qui entend se porter candidate peut nommer un agent pour la représenter.

HOLDING OF ELECTIONS

Agent of candidate

DÉROULEMENT D'UNE ÉLECTION

Agent d'un candidat

9(1) An agent may appoint scrutineers to act at the polling stations.

9(2) An agent shall not perform the duties of the Chief Financial Officer unless the agent is also the candidate's Chief Financial Officer.

9(3) A candidate may exercise the duties of an agent appointed by the candidate.

Affiliation of a candidate

10(1) If a candidate has been endorsed by a political party that is registered under the *Elections Act* and wishes to have the party name placed on the ballot beside his or her name or on an election document relating to him or her, the candidate shall file with the Municipal Electoral Officer, at the time the candidate files a nomination paper, a certificate signed by the leader of the party in the presence of two witnesses that declares that the candidate is affiliated with the party.

10(2) No registered political party may endorse more than two candidates in a senatorial district in the same senatorial election.

10(3) If a candidate does not file a certificate under subsection (1), the candidate shall:

(a) be described on the ballot and any election documents relating to him or her by the word "Independent"; and

(b) not advertise his or her association with a registered political party.

Ballots

11 Ballots used in senatorial elections shall contain an explanatory note stating the maximum number of candidates who are eligible to be voted for in a senatorial district without voiding the ballot, and the maximum number shall never exceed two.

Death of a candidate

12(1) If a candidate dies after filing his or her nomination paper and before the close of the polls on the ordinary polling day, the senatorial

9(1) Un agent peut nommer des personnes pour le représenter dans les bureaux de vote.

9(2) Un agent ne peut exercer les fonctions de directeur des finances que s'il est aussi directeur des finances du candidat.

9(3) Un candidat peut exercer les fonctions de l'agent qu'il nomme.

Affiliation politique d'un candidat

10(1) Tout candidat qui reçoit l'appui d'un parti politique enregistré en vertu de la *Loi électorale* et qui souhaite indiquer à côté de son nom le nom de ce parti sur le bulletin de vote ou sur un document électoral se rapportant à lui dépose auprès du directeur des élections municipales, en même temps que sa déclaration de candidature, un certificat, signé par le chef de ce parti en présence de deux témoins, attestant que le candidat est affilié à ce parti.

10(2) Un parti politique ne peut appuyer plus de deux candidats dans une circonscription sénatoriale à la même élection sénatoriale.

10(3) À défaut du certificat prévu au paragraphe (1), le candidat :

a) est décrit sur le bulletin de vote et sur tout document électoral se rapportant à lui par le mot « indépendant »;

b) ne peut annoncer son appartenance à un parti politique enregistré.

Bulletins de vote

11 Les bulletins de vote utilisés pour une élection sénatoriale comportent une note explicative indiquant le nombre maximal de candidats pour lesquels il est permis de voter dans une circonscription sénatoriale sans rendre nul le bulletin de vote, ce nombre n'étant jamais supérieur à deux.

Décès d'un candidat

12(1) Si un candidat décède après avoir déposé sa déclaration de candidature et avant la fermeture des bureaux de vote le jour ordinaire

election shall continue in the senatorial district of the deceased candidate, and the votes cast for that candidate are void.

du scrutin, l'élection sénatoriale se poursuit dans la circonscription sénatoriale du défunt, toutes les voix exprimées en sa faveur étant nulles.

12(2) If the death of a candidate referred to subsection (1) leaves one candidate for selection in a senatorial district, that candidate shall be deemed selected by acclamation on the ordinary polling day without holding the election.

12(2) S'il ne reste plus qu'un seul candidat à sélectionner à la suite du décès du candidat visé au paragraphe (1), ce candidat est réputé être sélectionné par acclamation le jour ordinaire du scrutin sans qu'il y ait lieu de tenir un scrutin.

12(3) If a candidate dies in circumstances mentioned in subsection (1), the Municipal Electoral Officer shall ensure that notices are posted in polling stations advising electors that votes cast for a deceased candidate are void.

12(3) Si un candidat décède dans les circonstances mentionnées au paragraphe (1), le directeur des élections municipales est tenu d'afficher des avis dans les bureaux de vote pour informer les électeurs que les voix exprimées en faveur du défunt sont nulles.

Adoption of provisions of the *Municipal Elections Act*

Adoption des dispositions de la *Loi sur les élections municipales*

13(1) Subject to subsections (2) to (14), the provisions of the *Municipal Elections Act* and the regulations under it, other than provisions that are inconsistent with this Act, are adopted for the purposes of this Act and apply with the necessary modifications to all aspects of the conduct of, determination and declaration of, access to voters lists in and recounts in senatorial elections and to any other matter in relation to a senatorial election under this Act.

13(1) Sous réserve des paragraphes (2) à (14), les dispositions de la *Loi sur les élections municipales* et des règlements pris sous son régime, à l'exception des dispositions incompatibles avec la présente loi, sont adoptées aux fins d'application de la présente loi et s'appliquent, avec les adaptations nécessaires, à tous les aspects du déroulement d'une élection sénatoriale, de la détermination et de la déclaration de son résultat, de l'accès aux listes électorales, du second dépouillement des votes et à toute autre question relative à une élection sénatoriale tenue en vertu de la présente loi.

13(2) Sections 3, 3.1 and 9, subsections 11(3.2) and 17(1), (2), (5) and (6), section 18, paragraph 20(1)(a.1), subsections 21(5) and 28(3), section 31.3, paragraphs 39.3(11)(b), section 46, subsection 48(2) and sections 56 and 57 of the *Municipal Elections Act* do not apply to the conduct of, determination and declaration of, access to voters lists in and recounts in senatorial elections and to any

13(2) Les articles 3, 3.1 et 9, les paragraphes 11(3.2), 17(1), (2), (5) et (6), l'article 18, l'alinéa 20(1)a.1, les paragraphes 21(5) et 28(3), l'article 31.3, l'alinéa 39.3(11)b, l'article 46, le paragraphe 48(2) et les articles 56 et 57 de la *Loi sur les élections municipales* ne s'appliquent pas au déroulement d'une élection sénatoriale, à la détermination et à la déclaration de son

other matter in relation to a senatorial election under this Act.

résultat, à l'accès aux listes électorales, au second dépouillement des votes et à toute autre question relative à une élection sénatoriale tenue en vertu de la présente loi.

13(3) Subsection 12.1(2) of the *Municipal Elections Act*, adopted under subsection (1), shall be read as follows:

13(3) Le paragraphe 12.1(2) de la *Loi sur les élections municipales*, adopté en vertu du paragraphe (1), est ainsi rédigé :

12.1(2) The Municipal Electoral Officer shall, on request by a candidate or his or her agent, provide the candidate or the agent of the candidate with one copy of the voters list.

12.1(2) Sur demande, le directeur des élections municipales fournit copie de la liste électorale à un candidat ou à son agent.

13(4) Subsection 12.1(3) of the *Municipal Elections Act*, adopted under subsection (1), shall be read as follows:

13(4) Le paragraphe 12.1(3) de la *Loi sur les élections municipales*, adopté en vertu du paragraphe (1), est ainsi rédigé :

12.1(3) A copy of the voters list shall not be provided to a candidate or his or her agent under subsection (2) after the close of the poll at polling day.

12.1(3) Une copie de la liste électorale ne peut être fournie à un candidat ou à son agent en vertu du paragraphe (2) après la fermeture des bureaux de vote le jour ordinaire du scrutin.

13(5) Subsection 12.1(5) of the *Municipal Elections Act*, adopted under subsection (1), shall be read as follows:

13(5) Le paragraphe 12.1(5) de la *Loi sur les élections municipales*, adopté en vertu du paragraphe (1), est ainsi rédigé :

12.1(5) A candidate or his or her agent who has been provided a copy of a voters list under this section shall not use or distribute the copy of the voters list except for purposes relating to the election.

12.1(5) Un candidat ou un agent à qui l'on a fourni une copie de la liste électorale en vertu du présent article ne peut utiliser ou distribuer la copie de la liste électorale sauf à des fins électorales.

13(6) Subsection 15(1) of the *Municipal Elections Act*, adopted under subsection (1), shall be read as follows:

13(6) Le paragraphe 15(1) de la *Loi sur les élections municipales*, adopté en vertu du paragraphe (1), est ainsi rédigé :

15 (1) Nominations close at two o'clock in the afternoon on the thirty-first day before polling day, or if that day is on a holiday, on the thirty-second day before polling day.

15 (1) Le moment de la clôture pour le dépôt des candidatures est quatorze heures le trente et unième jour qui précède le jour de l'élection ou, quand ce jour est férié, le trente-deuxième jour qui précède le jour de l'élection.

13(7) Subsection 15(2) of the *Municipal Elections Act*, adopted under subsection (1), shall be read as follows:

13(7) Le paragraphe 15(2) de la *Loi sur les élections municipales*, adopté en vertu du paragraphe (1), est ainsi rédigé :

15(2) The Municipal Electoral Officer shall give a Notice of Election containing
(a) the day fixed for the close of nominations,
(b) the date of advance polls for voting,

15(2) Le directeur des élections municipales donne un avis d'élection qui indique :
a) le jour fixé pour la clôture du dépôt des candidatures;

(c) the date on which the elections are to be held,
 (d) the names of the senatorial districts where a senatorial election will be held, and
 (e) the number of candidates to be selected in each senatorial district that will hold a senatorial election.

b) la date à laquelle aura lieu le scrutin par anticipation;
 c) la date à laquelle les élections sénatoriales auront lieu;
 d) les noms des circonscriptions sénatoriales où aura lieu une élection sénatoriale;
 e) le nombre de candidats à sélectionner dans chaque circonscription sénatoriale où aura lieu une élection sénatoriale.

13(8) Subsection 17(2.1) of the *Municipal Elections Act*, adopted under subsection (1), shall be read as follows:

17(2.1) The municipal returning officer, after receiving a nomination paper, shall give to the person filing the nomination paper written confirmation of receipt of the nomination paper.

13(8) Le paragraphe 17(2.1) de la *Loi sur les élections municipales*, adopté en vertu du paragraphe (1), est ainsi rédigé :

17(2.1) Dès qu'il reçoit une déclaration de candidature, le directeur du scrutin municipal remet à la personne qui a déposé la déclaration de candidature un accusé de réception.

13(9) Subsection 17(3) of the *Municipal Elections Act*, adopted under subsection (1), shall be read as follows:

17(3) A nomination is not void by reason that after the municipal returning officer is satisfied that at least 100 of the nominators were entitled to vote at the election, it is determined that less than 100 were entitled.

13(9) Le paragraphe 17(3) de la *Loi sur les élections municipales*, adopté en vertu du paragraphe (1), est ainsi rédigé :

17(3) Une candidature n'est pas frappée de nullité, s'il est établi, après que le directeur du scrutin municipal a constaté que cette candidature était signée par au moins cent personnes ayant droit de vote, qu'elle l'était par un nombre inférieur de personnes titulaires de ce droit.

13(10) Paragraph 23(5)(a) of the *Municipal Elections Act*, adopted under subsection (1), shall be read as follows:

(a) the failure of an agent or a candidate to appoint a scrutineer, or

13(10) L'alinéa 23(5)a) de la *Loi sur les élections municipales*, adopté en vertu du paragraphe (1), est ainsi rédigé :

a) du défaut d'un agent ou d'un candidat de nommer un représentant au scrutin, ou

13(11) Section 31.2 of the *Municipal Elections Act*, adopted under subsection (1), shall be read as follows:

31.2 Notwithstanding subsection 31(4), representatives of a *bona fide* news broadcaster or news publication may be permitted by the municipal returning officer to enter the polling station during the holding of the poll, for the sole purpose of photographing or otherwise

13(11) L'article 31.2 de la *Loi sur les élections municipales*, adopté en vertu du paragraphe (1), est ainsi rédigé :

31.2 Par dérogation au paragraphe 31(4), le directeur du scrutin municipal peut autoriser les représentants d'un véritable organe de diffusion ou de publication de nouvelles à pénétrer dans le bureau de vote pendant la tenue du scrutin dans le seul but de

visually recording the casting of the ballot of a candidate provided:

- (a) the candidate agrees to the presence of the representatives;
- (b) previous arrangements to the satisfaction of the municipal returning officer have been made;
- (c) no interviews shall be conducted in the polling station; and
- (d) the representatives immediately leave the polling station once the candidate's ballot has been cast.

photographier ou d'enregistrer visuellement d'une autre manière un candidat pendant qu'il vote, à condition

- a) que le candidat accepte leur présence;
- b) qu'aient été pris des arrangements préalables que le directeur du scrutin municipal juge satisfaisants;
- c) qu'aucune entrevue ne soit tenue dans le bureau de vote; et
- d) que les représentants quittent immédiatement le bureau de vote dès que le candidat a voté.

13(12) Subsection 41(5) of the *Municipal Elections Act*, adopted under subsection (1), shall be read as follows:

41(5) After receiving the copy of the declaration referred to in paragraph 2(b), the Municipal Electoral Officer shall without delay publish a copy of it in *The Royal Gazette*.

13(12) Le paragraphe 41(5) de la *Loi sur les élections municipales*, adopté en vertu du paragraphe (1), est ainsi rédigé :

41(5) Dès qu'il reçoit copie de la déclaration mentionnée à l'alinéa (2)b), le directeur des élections municipales, sans tarder, la fait publier dans la *Gazette royale*.

13(13) Subsection 41.1(1) of the *Municipal Elections Act*, adopted under subsection (1), shall be read as follows:

41.1 (1) If the report of the municipal returning officer discloses that there is a difference of not more than one for every 1,000 votes cast between the number of votes cast for a candidate who received the highest or second-highest number of votes in that senatorial district, and another candidate in the same senatorial district, or between the two candidates in a senatorial district who received the highest and second-highest number of votes, the disadvantaged candidate may, within ten days after the election, apply to the municipal returning officer for a recount of the votes.

13(13) Le paragraphe 41.1(1) de la *Loi sur les élections municipales*, adopté en vertu du paragraphe (1), est ainsi rédigé :

41.1 (1) Lorsque le rapport du directeur du scrutin municipal révèle qu'il y a une différence d'une voix ou moins pour chaque tranche de mille voix exprimées dans une circonscription sénatoriale entre le nombre de voix recueillies par le candidat qui a obtenu le plus de voix ou le deuxième candidat qui a obtenu le plus de voix dans cette circonscription et un autre candidat de cette circonscription ou entre le candidat qui a obtenu le plus grand nombre de voix dans une circonscription et celui qui a obtenus le deuxième plus grand nombre de voix, le candidat désavantagé peut, dans les dix jours suivant l'élection, demander au directeur du scrutin municipal un second dépouillement du scrutin.

13(14) Subsection 42(0.1) of the *Municipal Elections Act*, adopted under subsection (1), shall be read as follows:

42(0.1) A candidate who has participated in a

13(14) Le paragraphe 42(0.1) de la *Loi sur les élections municipales*, adopté en vertu du paragraphe (1), est ainsi rédigé :

42(0.1) Un candidat qui est touché par un

recount under section 41.1 may file a petition under subsection (1).

second dépouillement en vertu de l'article 41.1 peut déposer une requête en vertu du paragraphe (1).

Offences and penalties under the *Municipal Elections Act*

14(1) In this section, "adopted provision" means a provision of the *Municipal Elections Act* that is adopted under subsection 13(1), with the necessary modifications, or is adopted as modified under subsections 13(3) to (14), as the case may be.

Infractions et peines - *Loi sur les élections municipales*

14(1) Dans le présent article, « disposition adoptée » s'entend d'une disposition de la *Loi sur les élections municipales* qui est soit adoptée en vertu du paragraphe 13(1), avec les adaptations nécessaires, ou soit adoptée comme modifiée en vertu des paragraphes 13(3) à (14), le cas échéant.

14(2) A person who violates or fails to comply with an adopted provision that is listed in Column I of Schedule A of the *Municipal Elections Act* commits an offence.

14(2) Commet une infraction quiconque contrevient ou omet de se conformer à une disposition adoptée figurant dans la colonne I de l'annexe A de la *Loi sur les élections municipales*.

14(3) For the purposes of Part 2 of the *Provincial Offences Procedure Act*, each offence referred to in Column I of Schedule A of the *Municipal Elections Act* is punishable as an offence of the category listed in Column II of Schedule A.

14(3) Aux fins d'application de la partie 2 de la *Loi sur la procédure applicable aux infractions provinciales*, chaque infraction figurant dans la colonne I de l'annexe A de la *Loi sur les élections municipales* est punissable à titre d'infraction de la classe figurant en regard dans la colonne II de l'annexe A.

SENATE NOMINEES LIST

Senate nominees list

15(1) Following a senatorial election, the Municipal Electoral Officer shall prepare a Senate nominees list for each senatorial district where a senatorial election was held.

LISTE DE CANDIDATS SÉNATORIAUX

Liste de candidats sénatoriaux

15(1) À la suite d'une élection sénatoriale, le directeur des élections municipales prépare une liste de candidats sénatoriaux pour chaque circonscription sénatoriale dans laquelle une élection a eu lieu.

15(2) For the purposes of subsection (1), the name of the candidate who obtained the highest number of votes in a senatorial district shall be the first name on the Senate nominees list for that senatorial district, and the name of the candidate who obtained the second highest number of votes in that district shall be the second name on the list and so on until the name of each candidate from that senatorial district appears on the list.

15(2) Aux fins d'application du paragraphe (1), le candidat qui a obtenu le plus grand nombre de voix dans une circonscription sénatoriale est inscrit le premier sur la liste de candidats sénatoriaux de cette circonscription, puis celui qui en a obtenu le deuxième plus grand nombre est le second nom sur la liste et ainsi de suite jusqu'à ce que le nom de tous les candidats figurent sur la liste.

15(3) For the purpose of filling vacancies in the Senate, the Lieutenant-Governor in Council shall submit to the Queen's Privy Council for Canada the names of as many Senate nominees as are required to fill those vacancies, provided that the names are those of Senate nominees who received the highest number of votes in the last senatorial election in the senatorial district that corresponds to the senatorial district in which there is a vacancy.

15(4) Regardless of the senatorial district from which a Senate nominee was selected, if he or she is summoned to the Senate following an election under this Act, he or she shall represent the whole Province.

15(5) Despite subsection (3), the name of a Senate nominee shall not be submitted until the Senate nominee reaches 30 years of age.

15(6) A Senate nominees list in relation to a senatorial district remains valid until a Senate nominees list is established for the same district following the next senatorial election in that senatorial district.

15(7) If the election of a Senate nominee is declared void or if the Senate nominee dies or is unable to be summoned to the Senate for any other reason, the name of the Senate nominee with the next highest number of votes from the same senatorial district as that Senate nominee shall be submitted to the Queen's Privy Council for Canada.

Withdrawal from list

16(1) A Senate nominee may request to the Municipal Electoral Officer, who, without undue delay, shall advise the Lieutenant-Governor in Council that the Senate nominee's name

(a) not be submitted to the Queen's Privy

15(3) Afin de combler des vacances au Sénat, le lieutenant-gouverneur en conseil remet au Conseil privé de la Reine pour le Canada autant de noms que nécessaire pour combler ces vacances, les noms remis étant ceux des candidats sénatoriaux ayant reçu le plus grand nombre de voix lors de la dernière élection sénatoriale dans la circonscription sénatoriale qui correspond à celle où il y a une vacance.

15(4) Peu importe la circonscription sénatoriale pour laquelle le candidat sénatorial a été sélectionné, il représente la province s'il est nommé au Sénat à la suite d'une élection sénatoriale tenue en vertu de la présente loi.

15(5) Malgré le paragraphe (3), le nom d'une personne ne peut être remis avant qu'elle n'atteigne l'âge de 30 ans.

15(6) Une liste de candidats sénatoriaux d'une circonscription sénatoriale demeure valide jusqu'à ce qu'une liste de candidats sénatoriaux soit préparée pour cette circonscription à la suite de la prochaine élection sénatoriale tenue dans cette circonscription.

15(7) Si l'élection d'un candidat sénatorial est déclarée nulle ou si celui-ci décède ou devient inhabile à être nommé au Sénat pour toute autre raison, le nom du candidat qui a obtenu le nombre de voix immédiatement inférieur dans la même circonscription sénatoriale que ce candidat est celui qui est remis au Conseil privé de la Reine pour le Canada.

Retrait d'une liste

16(1) Un candidat sénatorial peut demander au directeur des élections municipales qui lui, en avise sans tarder le lieutenant-gouverneur en conseil, que son nom :

a) ne soit pas remis au Conseil privé de la Reine pour le Canada;

Council for Canada, or
(b) be withdrawn if it was submitted.

b) soit retiré, s'il a déjà été remis.

16(2) A request under subsection (1) shall be in writing and witnessed by at least two eligible voters who ordinarily reside in the senatorial district where the Senate nominee was selected.

16(2) La demande visée au paragraphe (1) est présentée par écrit et attestée par au moins deux personnes ayant droit de vote et résidant habituellement dans la circonscription sénatoriale où le candidat sénatorial a été sélectionné.

16(3) If a Senate nominee makes a request under subsection (1), that Senate nominee is deemed to have resigned as a Senate nominee.

16(3) La demande prévue au paragraphe (1) vaut démission du candidat sénatorial.

Duration of nomination

17 A person remains as a Senate nominee until whichever of the following occurs first:

- (a) the person is summoned to the Senate;
- (b) the person resigns in writing to the Municipal Electoral Officer;
- (c) a Senate nominees list is established for the senatorial district where the person was a Senate nominee following the next senatorial election in that senatorial district; or
- (d) the person is no longer eligible for nomination as a candidate under section 6.

Maintien de la candidature

17 Une personne conserve sa qualité de candidat sénatorial jusqu'à ce que se produise l'un des événements suivants :

- a) elle est nommée au Sénat;
- b) elle remet sa démission par écrit au directeur des élections municipales;
- c) une liste de candidats sénatoriaux est préparée à la suite de la prochaine élection sénatoriale pour la circonscription sénatoriale dans laquelle il est un candidat sénatorial;
- d) elle ne répond plus aux critères d'éligibilité prévus à l'article 6.

ELECTORAL CAMPAIGN FINANCING

FINANCEMENT D'UNE CAMPAGNE ÉLECTORALE

Election expenditures

Dépenses électorales

18(1) Before a person who intends to run as a candidate may accept contributions or make expenditures for a senatorial election, he or she shall register with Elections New Brunswick, up to the day fixed for the close of nominations, and appoint a Chief Financial Officer.

18(1) Avant qu'une personne qui entend se porter candidate puisse accepter des contributions ou engager des dépenses pour une élection sénatoriale, elle nomme un directeur des finances et s'inscrit auprès d'Élections Nouveau-Brunswick, jusqu'au jour fixé pour la clôture du dépôt des candidatures.

18(2) The person's registration shall contain the following information:

18(2) L'inscription d'une personne indique :

- (a) the registrant's name, address, telephone number, e-mail address and occupation
- (b) an address for the service of documents to the registrant;
- (c) the name of the senatorial district for

- a) ses nom, adresse, numéro de téléphone, adresse courriel et profession;
- b) l'adresse à laquelle des documents peuvent lui être signifiés dans la province;
- c) le nom de la circonscription sénatoriale dans laquelle elle se porte candidate;

which the registrant is registering;

(d) the name, address, telephone number, e-mail address and occupation of a chief Financial Officer; and

(e) the address for the service of documents to the Chief Financial Officer.

d) les nom, adresse et profession de son directeur des finances;

e) l'adresse du directeur des finances à laquelle des documents peuvent être signifiés.

18(3) A registrant remains registered with Elections New Brunswick until whichever of the following occurs first:

(a) he or she requests to be deregistered and the requirements of paragraph 22(1)(c) are met; or

(b) a Senate nominees list is established for the senatorial district where the registrant was a candidate in the senatorial election.

18(3) Une personne inscrite avec Élections Nouveau-Brunswick le demeure jusqu'à ce que se produise l'un des événements suivants :

a) elle demande que son inscription soit annulée et remplit les exigences énoncées à l'alinéa 22(1)c);

b) une liste de candidats sénatoriaux est préparée pour la circonscription sénatoriale où elle s'était portée candidate à l'élection sénatoriale.

Contributions and expenditures

19(1) Election expenditures in the aggregate of each candidate in a senatorial district shall be limited so as not to exceed an amount equivalent to one-quarter of the expense limit established for general elections in the *Political Process Financing Act*.

Contributions et dépenses

19(1) Les dépenses électorales de chaque candidat dans une circonscription sénatoriale sont limitées de façon à ne pas dépasser le quart du montant prévu par la *Loi sur le financement de l'activité politique* comme plafond des dépenses dans une élection générale.

19(2) The Supervisor shall publish the spending limit referred to in subsection (1) on the Elections New Brunswick website at least 90 days before the date of the senatorial election.

19(2) Le contrôleur publie sur le site Web d'Élections Nouveau-Brunswick le plafond des dépenses électorales mentionné au paragraphe (1) au moins quatre-vingt-dix jours avant la date de l'élection sénatoriale.

19(3) Contributions to registrants are not provincially tax deductible.

19(3) Les contributions versées aux personnes inscrites ne sont pas déductibles d'impôt.

19(4) The cumulative amount of expenditures that are made either before or after the commencement of a senatorial election shall not exceed the spending limit that is published under subsection (2).

19(4) Le montant cumulatif des dépenses faites, soit avant ou après le déclenchement d'une élection sénatoriale, est inférieur au plafond des dépenses publié en vertu du paragraphe (2).

19(5) No registered political party or registered district association, as they are defined in the *Elections Act*, or registered association or registered party, as they are defined in the

19(5) Est interdite toute contribution versée à un candidat par un parti politique enregistré, par une association de circonscription enregistrée selon la définition que donne de ces

Canada Elections Act (Canada), shall make a contribution to a candidate.

termes la *Loi électorale*, par une association enregistrée ou par un parti enregistré selon la définition que donne de ces termes la *Loi électorale du Canada* (Canada).

Adoption of provisions of the *Political Process Financing Act*

20(1) Subject to subsections (2) to (12), sections 37 to 49 and 62 to 64, sections 67 to 77.1 and sections 80 to 84.9 of the *Political Process Financing Act*, and the regulations under it, other than provisions that are inconsistent with this Act, are adopted for the purposes of this Act and apply with the necessary modifications to all aspects of contributions to senatorial elections, financial reporting requirements and third party advertising in relation to senatorial elections under this Act.

20(2) Subsection 39(1.1), sections 50 to 61, subsection 62(1), sections 65 and 66, subsection 67(3), section 68, subsection 69(3), sections 78 and 79, and subsections 84.15(2), (3) and (4) of the *Political Process Financing Act* do not apply to contributions to senatorial elections, financial reporting requirements or third party advertising in relation to senatorial elections under this Act.

20(3) Unless this Act or the context requires otherwise, references in provisions of the *Political Process Financing Act*, and the regulations under it, adopted under subsection (1):

(a) to “official representative” and “official agent” shall be read as “Chief Financial Officer”, and

(b) to “registered independent candidate” shall be read as “registrant”.

20(4) Subsection 37(2) of the *Political Process*

Adoption de la *Loi sur le financement de l'activité politique*

20(1) Sous réserve des paragraphes (2) à (12), les articles 37 à 49, 62 à 64, 67 à 77.1 et 80 à 84.9 de la *Loi sur le financement de l'activité politique* et les règlements pris sous son régime, à l'exception des dispositions qui sont incompatibles avec la présente loi, sont adoptés aux fins d'application de la présente loi et s'appliquent, avec les adaptations nécessaires, à tous les aspects des contributions versées relativement à une élection sénatoriale, aux exigences relatives à l'information financière et à la publicité émanant des tiers concernant une élection sénatoriale tenue en vertu de la présente loi.

20(2) Le paragraphe 39(1.1), les articles 50 à 61, le paragraphe 62(1), les articles 65 et 66, le paragraphe 67(3), l'article 68, le paragraphe 69(3), les articles 78 et 79 et les paragraphes 84.15(2), (3) et (4) de la *Loi sur le financement de l'activité politique* ne s'appliquent pas aux contributions versées relativement à une élection sénatoriale, aux exigences relatives à l'information financière et à la publicité émanant des tiers concernant une élection sénatoriale tenue en vertu de la présente loi.

20(3) Sauf si la présente loi ou le contexte exige une interprétation différente, les renvois aux dispositions de la *Loi sur le financement de l'activité politique* ou des règlements pris sous son régime, adoptés en vertu du paragraphe (1) :

a) à « représentant officiel » s'entendent de « directeur des finances »;

b) à « candidat indépendant enregistré » s'entendent de « candidat ».

20(4) Le paragraphe 37(2) de la *Loi sur le*

Financing Act, adopted under subsection (1), shall be read as follows: *financement de l'activité politique*, adopté en vertu du paragraphe (1), est ainsi rédigé :

37(2) Contributions may be made only to a registrant or the Chief Financial Officer who is appointed by the registrant. **37(2)** Les contributions ne peuvent être versées qu'à une personne inscrite ou à son directeur des finances.

20(5) Subsection 39(1) of the *Political Process Financing Act*, adopted under subsection (1), shall be read as follows: **20(5)** Le paragraphe 39(1) de la *Loi sur le financement de l'activité politique*, adopté en vertu du paragraphe (1), est ainsi rédigé :

39(1) An individual, corporation or trade union, during a calendar year, may make contributions up to \$6,000 to each registrant. **39(1)** Un particulier, une corporation ou un syndicat peut, au cours d'une année civile, verser des contributions à toute personne inscrite jusqu'à concurrence de 6 000 \$ par personne inscrite.

20(6) Subsection 39(4) of the *Political Process Financing Act*, adopted under subsection (1), shall be read as follows: **20(6)** Le paragraphe 39(4) de la *Loi sur le financement de l'activité politique*, adopté en vertu du paragraphe (1), est ainsi rédigé :

39(4) No registrant and no person acting on his or her behalf, shall knowingly accept a contribution made in contravention of this Act. **39(4)** Il est interdit aux personnes inscrites et à toute personne agissant en son nom d'accepter sciemment une contribution versée en contravention à la présente loi.

20(7) Subsection 63(4) of the *Political Process Financing Act*, adopted under subsection (1), shall be read as follows: **20(7)** Le paragraphe 63(4) de la *Loi sur le financement de l'activité politique*, adopté en vertu du paragraphe (1), est ainsi rédigé :

63(4) At the expiration of six years from the submitting of receipts, invoices and other vouchers, such receipts, invoices and vouchers may be returned to the registrant who submitted them, or to a person that he or she designates. **63(4)** Six ans après leur remise, les reçus, factures et autres pièces justificatives peuvent être retournés à la personne inscrite qui les a remis ou à la personne qu'il désigne.

20(8) Section 64 of the *Political Process Financing Act*, adopted under subsection (1), shall be read as follows: **20(8)** L'article 64 de la *Loi sur le financement de l'activité politique*, adopté en vertu du paragraphe (1), est ainsi rédigé :

64 The Supervisor may require that an accountant appointed by the Supervisor audit the financial return of a registrant. **64** Le contrôleur peut exiger qu'un comptable qu'il nomme vérifie le rapport financier d'une personne inscrite.

20(9) Subsection 81(1) of the *Political Process Financing Act*, adopted under subsection (1), shall be read as follows: **20(9)** Le paragraphe 81(1) de la *Loi sur le financement de l'activité politique*, adopté en vertu du paragraphe (1), est ainsi rédigé :

81(1) The Chief Financial Officer of each candidate in a senatorial election, within 90 days following the date fixed by the *Elections* **81(1)** Dans les quatre-vingt-dix jours qui suivent la date fixée par la *Loi électorale* pour le rapport du bref d'élection, le directeur des

Act for the return of the writ of election, shall submit to the Supervisor a sworn statement of the election expenses of that candidate and all claims for election expenses of the candidate contested by the Chief Financial Officer, in the form prescribed by the Supervisor, together with any invoices, receipts and other vouchers that may be required by the Supervisor.

20(10) The definition “campaign period” in section 84.1 of the *Political Process Financing Act*, adopted under subsection (1), shall be read as follows:

“campaign period” means the period beginning with the giving of a Notice of Election for a senatorial election and ending on the ordinary polling day. (*campagne électorale*)

20(11) Subsection 84.15(1) of the *Political Process Financing Act*, adopted under subsection (1), shall be read as follows:

84.15(1) For election advertising transmitted during the campaign period for a senatorial election, a third party shall not incur election expenses that in total exceed the product of the following:

- (a) the amount to be calculated under subsection 77(2), and adjusted under subsection 77.1(1); and
- (b) 0.065.

20(12) Subsection 84.35(2) of the *Political Process Financing Act*, adopted under subsection (1), shall be read as follows:

84.35(2) The following persons are not eligible to be the Chief Financial Officer of a third party:

- (a) a candidate;
- (b) an official agent;
- (c) a chief agent;
- (d) an electoral district agent;
- (e) an official representative or a deputy official representative;
- (f) a member of the executive of a political party that is registered under a provincial or federal act, or a registered district association;

finances de chaque candidat à une élection sénatoriale doit présenter au contrôleur une déclaration sous serment des dépenses électorales de son candidat et de toutes les réclamations qu’il conteste portant sur ces dépenses, suivant la formule prescrite par le contrôleur, avec les factures, reçus et autres pièces justificatives que celui-ci peut exiger.

20(10) La définition « campagne électorale » à l’article 84.1 de la *Loi sur le financement de l’activité politique*, adopté en vertu du paragraphe (1), est ainsi rédigé :

« campagne électorale » La période commençant par l’avis d’élection et se terminant le jour ordinaire du scrutin. (*campaign period*)

20(11) Le paragraphe 84.15(1) de la *Loi sur le financement de l’activité politique*, adopté en vertu du paragraphe (1), est ainsi rédigé :

84.15(1) S’agissant des publicités électorales transmises pendant la campagne électorale d’une élection sénatoriale, il est interdit au tiers d’exposer des dépenses de publicités électorales supérieures en tout au produit de la multiplication des facteurs suivants :

- a) la somme calculée conformément au 77(2) et ajustée conformément à l’article 77.1;
- b) 0,065.

20(12) Le paragraphe 84.35(2) de la *Loi sur le financement de l’activité politique*, adopté en vertu du paragraphe (1), est ainsi rédigé :

84.35(2) Ne sont pas admissibles à la charge de directeur des finances d’un tiers :

- a) un candidat;
- b) un agent officiel;
- c) un agent principal;
- d) un agent de circonscription;
- e) un représentant officiel ou un représentant officiel adjoint;
- f) un membre de l’exécutif d’un parti politique enregistré en vertu d’une loi provinciale ou fédérale ou d’une association de circonscription enregistrée;

- (g) a Chief Financial Officer of a candidate;
- (h) an agent of a candidate; or
- (i) an election officer.

- g) le directeur des finances d'un candidat;
- h) l'agent d'un candidat;
- i) un membre du personnel électoral.

Offences and penalties under the *Political Process Financing Act*

21(1) In this section, "adopted provision" means a provision of the *Political Process Financing Act* that is adopted under subsection 20(1), with the necessary modifications, or is adopted as modified under subsections 20(3) to (11), as the case may be.

21(2) A person who violates or fails to comply with an adopted provision that is listed in Column I of Schedule B of the *Political Process Financing Act* commits an offence.

21(3) For the purposes of Part 2 of the *Provincial Offences Procedure Act*, each offence referred to in Column I of Schedule B of the *Political Process Financing Act* is punishable as an offence of the category listed in Column II of Schedule B.

Chief Financial Officer of candidate

22(1) The Chief Financial Officer that a registrant appoints shall:

- (a) accept contributions and make expenditures on behalf of the registered candidate;
- (b) in accordance with this Act and with guidelines issued by the Supervisor, prepare a financial return and file it with the Supervisor:
 - (i) within 90 days after the anniversary date of the registration of the registrant for each year that the registrant is registered;
 - (ii) despite subparagraph (i), if the anniversary date of the registration is within 90 days before a senatorial election, the financial return for that year may be submitted within 90 days

Infractions et peines - *Loi sur le financement de l'activité politique*

21(1) Dans le présent article, « disposition adoptée » s'entend d'une disposition de la *Loi sur le financement de l'activité politique* qui est soit adoptée en vertu du paragraphe 20(1), avec les adaptations nécessaires, ou soit adoptée comme modifiée en vertu des paragraphes 20(3) à (11), le cas échéant.

21(2) Commet une infraction quiconque contrevient ou omet de se conformer à une disposition adoptée figurant dans la colonne I de l'annexe B de la *Loi sur le financement de l'activité politique*.

21(3) Aux fins d'application de la partie 2 de la *Loi sur la procédure applicable aux infractions provinciales*, chaque infraction figurant dans la colonne I de l'annexe B de la *Loi sur le financement de l'activité politique* est punissable à titre d'infraction de la classe figurant en regard dans la colonne II de l'annexe B.

Directeur des finances d'une personne inscrite

22(1) Le directeur des finances qu'une personne inscrite nomme :

- a) accepte les contributions et expose des dépenses pour le compte de la personne inscrite;
- b) prépare un rapport financier conformément à la présente loi et aux directives édictées par le contrôleur, puis le dépose auprès de celui-ci :
 - (i) dans les quatre-vingt-dix jours suivant la date anniversaire de l'inscription de la personne inscrite pour chaque année durant laquelle elle est inscrite;
 - (ii) malgré le sous-alinéa (i), si la date anniversaire de l'inscription d'une personne

following the election; and

(iii) within 90 days after a senatorial election if a financial return was not already submitted under subparagraph (ii);

(c) if the candidate deregisters,

(i) subject to subparagraph (ii), return all surplus funds held by the Chief Financial Officer pro rated to the contributors who made monetary contributions to the candidate;

(ii) make the aggregate of prorated amounts that are less than \$5 that are to be returned to contributors payable to the Minister of Finance and remit it without undue delay to the Chief Electoral Officer; and

(iii) file a financial return with the Supervisor for each calendar year until all funds are returned or remitted.

inscrite tombe dans les quatre-vingt-dix jours qui précèdent l'élection sénatoriale, le rapport financier pour cette année peut être déposé dans les quatre-vingt-dix jours suivant l'élection;

(iii) dans les quatre-vingt-dix jours suivant l'élection sénatoriale si un rapport financier n'a pas déjà été déposé en vertu du sous-alinéa (ii);

c) si le candidat retire son inscription :

(i) sous réserve du sous-alinéa (ii), retourne les fonds excédentaires que le directeur des finances détient, répartis proportionnellement entre ceux qui lui ont versé des contributions monétaires,

(ii) faire parvenir la totalité de ce qui devrait être retourné aux contributeurs et qui représente moins de 5 \$ pour chacun au contrôleur et ce, avec diligence, pour remise au ministre des Finances,

(iii) dépose un rapport financier auprès du contrôleur pour chaque année civile jusqu'à ce que tous les fonds excédentaires soient retournés ou remis.

22(2) A financial return shall contain:

(a) a record of all expenditures incurred by the registrant during each reporting period that the registrant is registered; and

(b) a cumulative amount of expenditures that includes expenditures made by the registrant in each reporting period that he or she was registered.

22(2) Le rapport financier :

a) renferme un relevé de toutes les dépenses engagées par la personne inscrite pour chaque période de rapport durant laquelle elle était inscrite;

b) indique un montant cumulatif des dépenses qui inclut les dépenses engagées par la personne inscrite pour chaque période de rapport durant laquelle elle était inscrite.

GENERAL PROVISIONS

Administration

23 The Municipal Electoral Officer is responsible for the administration of this Act.

Regulations

24 The Lieutenant-Governor in Council may make regulations generally for the better administration of this Act.

TRANSITIONAL PROVISIONS

Senators allocated to senatorial districts

DISPOSITIONS GÉNÉRALES

Application de la Loi

23 Le directeur des élections municipales est chargé de l'application de la présente loi.

Règlements

24 Le lieutenant-gouverneur en conseil peut, par règlement, viser de façon générale, à une meilleure application de la présente loi.

DISPOSITIONS TRANSITOIRES

Sénateurs assignés aux circonscriptions

sénatoriales

25(1) *Subject to subsection (2), the senatorial district of a Senator who is serving when this Act comes into force is the senatorial district that the Electoral Boundaries and Representation Commission determines to correspond with the provincial geographic designation of the Senator.*

25(1) *Sous réserve du paragraphe (2), la circonscription sénatoriale d'un sénateur en poste au moment de l'entrée en vigueur de la présente loi est celle qui correspond à sa division sénatoriale selon la Commission sur la délimitation des circonscriptions électorales et la représentation.*

25(2) *If no designation has been specified for a Senator, or if the designation does not correspond with only one senatorial district, the senatorial district of the Senator is the senatorial district where he or she resides in the Province.*

25(2) *Si aucune division sénatoriale n'a été spécifiée pour un sénateur ou si la division sénatoriale de ce sénateur ne correspond pas à une seule circonscription sénatoriale, la circonscription sénatoriale de ce sénateur est celle qui correspond à l'endroit où il réside dans la province.*

25(3) *For the purpose of subsection (2), the place where a Senator resides in the Province shall be determined according to section 14 of the Municipal Elections Act.*

25(3) *Aux fins d'application du paragraphe (2), l'endroit où un sénateur réside dans la province est fixé conformément à l'article 14 de la Loi sur les élections municipales.*

25(4) *If it is unclear where a Senator resides in the Province under subsection (2) or (3), the senatorial district of the Senator shall be deemed to be the place where the real property of that Senator, referred to in subsection 23(3) of the Constitution Act, 1867 (Canada), is located.*

25(4) *Si l'on ne peut préciser le lieu de résidence du sénateur dans la province en vertu du paragraphe (2) ou (3), sa circonscription sénatoriale est réputée se trouver à l'endroit où se trouve ses biens réels selon ce que prévoit le paragraphe 23(3) de la Loi constitutionnelle de 1867 (Canada).*

25(5) *For the purpose of subsection (4), if the real property of a Senator is located in two or more senatorial districts, the location of the largest parcel of real property shall determine the designation of that Senator.*

25(5) *Aux fins d'application du paragraphe (4), si les biens réels du sénateur se trouvent dans plus de deux circonscriptions sénatoriales, l'endroit où se trouve la plus grande parcelle de terrain déterminera la désignation de sa circonscription.*

The Constitution Act, 1867

Preamble [...]

Whereas the Provinces of Canada, Nova Scotia, and New Brunswick have expressed their Desire to be federally united into One Dominion under the Crown of the United Kingdom of Great Britain and Ireland, with a Constitution similar in Principle to that of the United Kingdom:

[...]

17 There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

23 The Qualifications of a Senator shall be as follows:

- (1) He shall be of the full age of Thirty Years:
- (2) He shall be either a natural-born Subject of the Queen, or a Subject of the Queen naturalized by an Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom of Great Britain and Ireland, or of the Legislature of One of the Provinces of Upper Canada, Lower Canada, Canada, Nova Scotia, or New Brunswick, before the Union, or of the Parliament of Canada after the Union:
- (3) He shall be legally or equitably seised as of Freehold for his own Use and Benefit of Lands or Tenements held in Free and Common Socage, or seised or possessed for his own Use and Benefit of Lands or Tenements held in Franc-alieu or in Roture, within the Province for which he is appointed, of the Value of Four thousand Dollars, over and above all Rents, Dues, Debts, Charges, Mortgages, and Incumbrances due or payable out of or

Loi constitutionnelle, 1867

Préambule [...]

Considérant que les provinces du Canada, de la Nouvelle-Écosse et du Nouveau-Brunswick ont exprimé le désir de contracter une Union Fédérale pour ne former qu'une seule et même Puissance (*Dominion*) sous la couronne du Royaume-Uni de la Grande-Bretagne et d'Irlande, avec une constitution reposant sur les mêmes principes que celle du Royaume-Uni:

[...]

17 Il y aura, pour le Canada, un parlement qui sera composé de la Reine, d'une chambre haute appelée le Sénat, et de la Chambre des Communes.

23 Les qualifications d'un sénateur seront comme suit :

- (1) Il devra être âgé de trente ans révolus;
- (2) Il devra être sujet-né de la Reine, ou sujet de la Reine naturalisé par loi du parlement de la Grande-Bretagne, ou du parlement du Royaume-Uni de la Grande-Bretagne et d'Irlande, ou de la législature de l'une des provinces du Haut-Canada, du Bas-Canada, du Canada, de la Nouvelle-Écosse, ou du Nouveau-Brunswick, avant l'union, ou du parlement du Canada, après l'union;
- (3) Il devra posséder, pour son propre usage et bénéfice, comme propriétaire en droit ou en équité, des terres ou tenements tenus en franc et commun socage, — ou être en bonne saisine ou possession, pour son propre usage et bénéfice, de terres ou tenements tenus en franc-alieu ou en roture dans la province pour laquelle il est nommé, de la valeur de quatre mille piastres en sus de toutes rentes, dettes, charges, hypothèques et redevances qui

charged on or affecting the same:

- (4) His Real and Personal Property shall be together worth Four thousand Dollars over and above his Debts and Liabilities:
- (5) He shall be resident in the Province for which he is appointed:
- (6) In the Case of Quebec he shall have his Real Property Qualification in the Electoral Division for which he is appointed, or shall be resident in that Division.

peuvent être attachées, dues et payables sur ces immeubles ou auxquelles ils peuvent être affectés;

- (4) Ses propriétés mobilières et immobilières devront valoir, somme toute, quatre mille piastres, en sus de toutes ses dettes et obligations;
- (5) Il devra être domicilié dans la province pour laquelle il est nommé;
- (6) En ce qui concerne la province de Québec, il devra être domicilié ou posséder sa qualification foncière dans le collège électoral dont la représentation lui est assignée.

29(1) Subject to subsection (2), a Senator shall, subject to the provisions of this Act, hold his place in the Senate for life.

29(1) Sous réserve du paragraphe (2), un sénateur occupe sa place au Sénat sa vie durant, sauf les dispositions de la présente loi.

29(2) A Senator who is summoned to the Senate after the coming into force of this subsection shall, subject to this Act, hold his place in the Senate until he attains the age of seventy-five years.

29(2) Un sénateur qui est nommé au Sénat après l'entrée en vigueur du présent paragraphe occupe sa place au Sénat, sous réserve de la présente loi, jusqu'à ce qu'il atteigne l'âge de soixante-quinze ans.

The Constitution Act, 1982

38(1) An amendment to the Constitution of Canada may be made by proclamation issued by the Governor General under the Great Seal of Canada where so authorized by

- (a) resolutions of the Senate and House of Commons; and
- (b) resolutions of the legislative assemblies of at least two-thirds of the provinces that have, in the aggregate, according to the then latest general census, at least fifty per cent of the population of all the provinces.

41 An amendment to the Constitution of Canada in relation to the following matters may be made by proclamation issued by the Governor General under the Great Seal of Canada only where authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province:

- (a) the office of the Queen, the Governor General and the Lieutenant Governor of a province;
- (b) the right of a province to a number of members in the House of Commons not less than the number of Senators by which the province is entitled to be represented at the time this Part comes into force;
- (c) subject to section 43, the use of the English or the French language;
- (d) the composition of the Supreme Court of Canada; and
- (e) an amendment to this Part.

42(1) An amendment to the Constitution of Canada in relation to the following matters may be made only in accordance with subsection

Loi constitutionnelle, 1982

38(1) La Constitution du Canada peut être modifiée par proclamation du gouverneur général sous le grand sceau du Canada, autorisée à la fois :

- (a) par des résolutions du Sénat et de la Chambre des communes;
- (b) par des résolutions des assemblées législatives d'au moins deux tiers des provinces dont la population confondue représente, selon le recensement général le plus récent à l'époque, au moins cinquante pour cent de la population de toutes les provinces.

41 Toute modification de la Constitution du Canada portant sur les questions suivantes se fait par proclamation du gouverneur général sous le grand sceau du Canada, autorisée par des résolutions du Sénat, de la Chambre des communes et de l'assemblée législative de chaque province :

- a) la charge de Reine, celle de gouverneur général et celle de lieutenant-gouverneur;
- b) le droit d'une province d'avoir à la Chambre des communes un nombre de députés au moins égal à celui des sénateurs par lesquels elle est habilitée à être représentée lors de l'entrée en vigueur de la présente partie;
- c) sous réserve de l'article 43, l'usage du français ou de l'anglais;
- d) la composition de la Cour suprême du Canada;
- e) la modification de la présente partie.

42(1) Toute modification de la Constitution du Canada portant sur les questions suivantes se fait conformément au paragraphe 38(1) :

38(1):

- (a) the principle of proportionate representation of the provinces in the House of Commons prescribed by the Constitution of Canada;
- (b) the powers of the Senate and the method of selecting Senators;
- (c) the number of members by which a province is entitled to be represented in the Senate and the residence qualifications of Senators;
- (d) subject to paragraph 41(d), the Supreme Court of Canada;
- (e) the extension of existing provinces into the territories; and
- (f) notwithstanding any other law or practice, the establishment of new provinces.

- (a) le principe de la représentation proportionnelle des provinces à la Chambre des communes prévu par la Constitution du Canada;
- (b) les pouvoirs du Sénat et le mode de sélection des sénateurs;
- (c) le nombre des sénateurs par lesquels une province est habilitée à être représentée et les conditions de résidence qu'ils doivent remplir;
- (d) sous réserve de l'alinéa 41d), la Cour suprême du Canada;
- (e) le rattachement aux provinces existantes de tout ou partie des territoires;
- (f) par dérogation à toute autre loi ou usage, la création de provinces.

43 An amendment to the Constitution of Canada in relation to any provision that applies to one or more, but not all, provinces, including

- (a) any alteration to boundaries between provinces, and
- (b) any amendment to any provision that relates to the use of the English or the French language within a province,

may be made by proclamation issued by the Governor General under the Great Seal of Canada only where so authorized by resolutions of the Senate and House of Commons and of the legislative assembly of each province to which the amendment applies.

43 Les dispositions de la Constitution du Canada applicables à certaines provinces seulement ne peuvent être modifiées que par proclamation du gouverneur général sous le grand sceau du Canada, autorisée par des résolutions du Sénat, de la Chambre des communes et de l'assemblée législative de chaque province concernée. Le présent article s'applique notamment :

- a) aux changements du tracé des frontières interprovinciales;
- b) aux modifications des dispositions relatives à l'usage du français ou de l'anglais dans une province.

44 Subject to sections 41 and 42, Parliament may exclusively make laws amending the Constitution of Canada in relation to the executive government of Canada or the Senate and House of Commons.

44 Sous réserve des articles 41 et 42, le Parlement a compétence exclusive pour modifier les dispositions de la Constitution du Canada relatives au pouvoir exécutif fédéral, au Sénat ou à la Chambre des communes.

52(3) Amendments to the Constitution of Canada shall be made only in accordance with the authority contained in the Constitution of

52(3) La Constitution du Canada ne peut être modifiée que conformément aux pouvoirs conférés par elle.

Canada.

Canadian Charter of Rights and Freedoms

Charte canadienne des droits et libertés

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.

3 Tout citoyen canadien a le droit de vote et est éligible aux élections législatives fédérales ou provinciales.