



SUPREME COURT OF CANADA

CITATION: Quebec (Attorney
General) v. Lalande, 2026 SCC 13

**APPEAL HEARD AND JUDGMENT
RENDERED:** April 22, 2026
REASONS FOR JUDGMENT: May 1,
2026
DOCKET: 42152

BETWEEN:

**Attorney General of Quebec
Appellant**

and

**Xavier-Antoine Lalande,
Conseil des préfets et des élus de la région des Laurentides,
David Armstrong,
Rémi Barbeau-Cardoza,
Municipalité régionale de comté de Brome-Missisquoi,
Table des MRC du Centre-du-Québec,
Ville de Sherbrooke and
Jean-François Blanchet, in his capacity as
Chief Electoral Officer of Quebec and Chair of the
Commission de la représentation électorale
Respondents**

- and -

**Attorney General of Ontario,
Attorney General of Saskatchewan,
Attorney General of Alberta,
Table des préfets des MRC de la Gaspésie,
Daniel Côté,
Canadian Civil Liberties Association,**

**British Columbia Civil Liberties Association,
Fair Voting British Columbia and
Springtide Collective for Democracy Society**
Interveners

OFFICIAL ENGLISH TRANSLATION

CORAM: Wagner C.J. and Karakatsanis, Côté, Rowe, Martin, Kasirer, Jamal,
O'Bonsawin and Moreau JJ.

REASONS FOR Kasirer J. (Wagner C.J. and Karakatsanis, Martin, Jamal,
JUDGMENT: O'Bonsawin and Moreau JJ. concurring)
(paras. 1 to 10)

JOINT DISSENTING Côté and Rowe JJ.
REASONS:
(paras. 11 to 42)

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Attorney General of Quebec

Appellant

v.

**Xavier-Antoine Lalande,
Conseil des préfets et des élus de la région des Laurentides,
David Armstrong, Rémi Barbeau-Cardoza,
Municipalité régionale de comté de Brome-Missisquoi,
Table des MRC du Centre-du-Québec, Ville de Sherbrooke and
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Indexed as: Quebec (Attorney General) v. Lalande

2026 SCC 13

File No.: 42152.

Hearing and judgment: April 22, 2026.

Reasons delivered: May 1, 2026.

Present: Wagner C.J. and Karakatsanis, Côté, Rowe, Martin, Kasirer, Jamal, O'Bonsawin and Moreau JJ.

ON APPEAL FROM THE COURT OF APPEAL FOR QUEBEC

Constitutional law — Charter of Rights — Right to vote — Provincial elections — Electoral divisions — Right of electors to effective representation — Province enacting law interrupting independent process for delimiting electoral divisions — Constitutionality of law challenged — First instance judge holding that law is justified infringement of electors' right to vote — Court of Appeal finding that infringement not justified — Whether infringement of electors' right to vote is justified — Canadian Charter of Rights and Freedoms, ss. 1, 3 — Act to interrupt the electoral division delimitation process, S.Q. 2024, c. 14.

The Superior Court held that Quebec's *Act to interrupt the electoral division delimitation process* ("ATP") infringes the right guaranteed by s. 3 of the *Charter* because it interrupts the independent process of electoral boundary reform undertaken by the Commission de la représentation électorale ("Commission") at a time when numerous electors' right to vote is already diluted. The Superior Court found, however, that this infringement was justified under s. 1 of the *Charter*. The Court of Appeal set aside the judgment in first instance and declared the *ATI* unconstitutional and of no force or effect, since in its view the Attorney General of

Quebec (“AGQ”) had not discharged his burden of demonstrating that the infringement of s. 3 was justified in a free and democratic society. The AGQ’s appeal to the Court relates solely to the justification for this infringement under s. 1.

Held (Côté and Rowe JJ. dissenting): The appeal should be dismissed.

Per Wagner C.J. and Karakatsanis, Martin, **Kasirer**, Jamal, O’Bonsawin and Moreau JJ.: The AGQ has not shown any reviewable error by the Court of Appeal. Since the *ATI* is not minimally impairing within the meaning of *Oakes*, it is of no force or effect under s. 52 of the *Constitution Act, 1982*.

The Court of Appeal did not unduly narrow the pressing and substantial objective of preventing the elimination of an electoral division in Gaspésie rightly accepted by the Superior Court. The broader objectives pleaded by the AGQ, relating to the protection of regions undergoing devitalization and the need to give the legislature time to reflect, are not described with the degree of precision needed for an *Oakes* analysis. They refer rather to the issue of the inevitable disappearance of electoral divisions in a remote region, which the legislature has been aware of for several decades. Moreover, the pressing and substantial objective urged by the AGQ — the protection of regions undergoing devitalization — does not meet the further rational connection requirement. The AGQ has not established in what way the complete interruption of the independent process of revising the delimitation of all electoral divisions in Quebec contributes to this objective.

At the minimal impairment stage, the state is accorded a measure of deference and, depending on the circumstances, the unanimity of a legislative assembly may help to demonstrate that electoral reform was enacted in good faith rather than for purely partisan purposes. However, the mere fact that the *ATI* was passed unanimously by the National Assembly is not here a determinative consideration that shields the *ATI* from constitutional scrutiny and relieves the AGQ of his burden under s. 1 of the *Charter*. The legislature had at least one alternative option, less impairing within the meaning of *Oakes*, that would have enabled the pressing and substantial objective to be achieved while minimizing the dilution of the right to vote of half a million electors and the legislative interruption of the independent process undertaken by the Commission: it was possible, among other things, for the legislature to enact a law temporarily protecting the electoral divisions in Gaspésie while leaving the Commission to complete its work for the rest of Quebec.

Per Côté and Rowe JJ. (dissenting): The appeal should be allowed, the Court of Appeal's decision set aside and the constitutionality of the *ATI* upheld. Assuming that the *ATI* infringes the right guaranteed by s. 3 of the *Charter*, such an infringement is justified under s. 1.

Section 3 of the *Charter* does not guarantee absolute parity of voting power, but rather the effective representation of electors. This requires relative parity in each elector's voting power, which takes into account a set of factors. Quebec's *Election Act* provides that the number of electors in an electoral division must not

deviate by more than 25 percent from the quotient obtained by dividing the total number of electors by the number of electoral divisions in the province, but this threshold is not a constitutional standard such that exceeding it will automatically lead to a finding that the right to effective representation is infringed. An independent process is not a constitutional requirement either.

It is clear from a proper description of the legislative objectives that the *ATI* falls within a range of reasonable solutions, in a free and democratic society, to a complex and polycentric problem of electoral representation. The Quebec legislature's objectives in interrupting the electoral map revision process were to preserve the electoral representation of regions with a declining population while giving itself the time needed to develop, on a cross-partisan basis, a longer-term solution that would serve to ensure the effective representation of all electors. These are pressing and substantial concerns that are legitimate in a free and democratic society, and the *ATI* is rationally connected to these pressing and substantial objectives. In addition, interrupting the electoral map revision process and provisionally maintaining the status quo for a single additional electoral cycle is a minimal impairment of the right to effective representation of electors in electoral divisions with an exceptional positive deviation. No other measure capable of achieving the legislature's pressing and substantial objectives could have been implemented in a timely manner.

The *ATI* reflects a reasonable disagreement between the National Assembly and the Commission regarding the best way to give effect to the right to

effective representation of all electors in Quebec in the current demographic context. The balancing exercise reflects a weighing of the various components of effective representation, and the salutary effects of the *ATI* outweigh its deleterious effects. The map proposed by the Commission would have reduced the number of electoral divisions in the Gaspé Peninsula from three to two. In combination with the structural issues specific to devitalized electoral divisions, such a configuration would have been a significant impediment to the effective representation of electors. Furthermore, without the enactment of the *ATI*, the Bas-Saint-Laurent and Gaspésie regions, which have declining populations, would, alone, have lost three electoral divisions since 2011. Conversely, exceeding the positive threshold of 25 percent does not necessarily have a deleterious effect, especially when the deviation remains under 30 percent, as is the case in six of the seven electoral divisions in question, and these deleterious effects are limited in time, because the *ATI* provides for the revision of the electoral map following the 2026 general election.

Cases Cited

By Kasirer J.

Applied: *R. v. Oakes*, [1986] 1 S.C.R. 103; **referred to:** *R. v. K.R.J.*, 2016 SCC 31, [2016] 1 S.C.R. 906; *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37, [2009] 2 S.C.R. 567; *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1995] 3 S.C.R. 199.

By Côté and Rowe JJ. (dissenting)

Reference re Prov. Electoral Boundaries (Sask.), [1991] 2 S.C.R. 158;
Dixon v. British Columbia (Attorney General) (1986), 7 B.C.L.R. (2d) 174; *Reference re the Final Report of the Electoral Boundaries Commission, Re*, 2017 NSCA 10, 411 D.L.R. (4th) 271; *R. v. Oakes*, [1986] 1 S.C.R. 103; *Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37, [2009] 2 S.C.R. 567; *Ontario (Attorney General) v. Working Families Coalition (Canada) Inc.*, 2025 SCC 5; *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1995] 3 S.C.R. 199; *Frank v. Canada (Attorney General)*, 2019 SCC 1, [2019] 1 S.C.R. 3.

Statutes and Regulations Cited

Act respecting the National Assembly, CQLR, c. A-23.1, s. 6.

Act to interrupt the electoral division delimitation process, S.Q. 2024, c. 14.

Canadian Charter of Rights and Freedoms, ss. 1, 3.

Constituency Boundaries Act, 1993, S.S. 1993, c. C-27.1, s. 23.

Constitution Act, 1867, s. 51.

Constitution Act, 1982, ss. 45, 52.

Election Act, CQLR, c. E-3.3, ss. 15, 16, 17, 129.

Electoral Boundaries Act, R.S.N.L. 1990, c. E-4.

Electoral Boundaries Act, R.S.P.E.I. 1988, c. E-2.1, s. 18.1.

Electoral Boundaries Commission Act, R.S.A. 2000, c. E-3, s. 11.

Electoral Boundaries Commission Act, R.S.B.C. 1996, c. 107, s. 14.

House of Assembly Act, R.S.N.S. 1989 (1992 Supp.), c. 1, s. 5.

Representation Act, 2015, S.O. 2015, c. 31, Sch. 1.

Authors Cited

Quebec. Assemblée nationale. *Journal des débats*, vol. 47, No. 124, 1st Sess., 43rd Leg., May 2, 2024, p. 5761.

Quebec. Assemblée nationale. *Procès-verbal*, No. 68, 1st Sess., 43rd Leg., October 17, 2023, pp. 1065-66.

Quebec. Assemblée nationale. *Procès-verbal*, No. 112, 1st Sess., 43rd Leg., March 28, 2024, p. 1732.

APPEAL from a judgment of the Quebec Court of Appeal (Schrager, Ruel and Cotnam JJ.A.), [2025 QCCA 1558](#), [2025] AZ-52174393, [2025] J.Q. n° 10635 (Lexis), 2025 CarswellQue 12993 (WL), setting aside a decision of Pless J., 2025 QCCS 2078, [2025] AZ-52133610, [2025] J.Q. n° 4256 (Lexis), 2025 CarswellQue 14855 (WL). Appeal dismissed, Côté and Rowe JJ. dissenting.

Amélie Bellerose, Gabriel S. Gervais, François Hénault and Jean-Vincent Lacroix, for the appellant.

Daniel Goupil and Axel Fournier, for the respondents Xavier-Antoine Lalande, Conseil des préfets et des élus de la région des Laurentides, David Armstrong, Rémi Barbeau-Cardoza, Municipalité régionale de comté de Brome-Missisquoi, Table des MRC du Centre-du-Québec and Ville de Sherbrooke.

Olivier Cournoyer Boutin and *Henrick Lavoie*, for the respondent Jean-François Blanchet, in his capacity as Chief Electoral Officer of Quebec and Chair of the Commission de la représentation électorale.

Josh Hunter and *Tess Moffat*, for the intervener Attorney General of Ontario.

Thomson Irvine, K.C., for the intervener Attorney General of Saskatchewan.

Stéphane Sérafin, for the intervener Attorney General of Alberta.

Benjamin Bolduc, for the interveners Table des préfets des MRC de la Gaspésie and Daniel Côté.

Julien Boudreault and *Amély Lewis*, for the intervener Canadian Civil Liberties Association.

Brian Studniberg, *Ewa Krajewska* and *Taylor Wormington*, for the intervener British Columbia Civil Liberties Association.

Nicolas M. Rouleau, for the interveners Fair Voting British Columbia and Springtide Collective for Democracy Society.

English version of the reasons for judgment of Wagner C.J. and Karakatsanis, Martin, Kasirer, Jamal, O'Bonsawin and Moreau JJ. delivered by

KASIRER J. —

[1] This appeal concerns the constitutionality of the *Act to interrupt the electoral division delimitation process*, S.Q. 2024, c. 14 (“*ATI*”). At first instance, the Superior Court held that the *ATI* infringes the right guaranteed by s. 3 of the *Canadian Charter of Rights and Freedoms* because it interrupts the independent process of electoral boundary reform at a time when numerous electors’ right to vote is already diluted (2025 QCCS 2078). The Superior Court found, however, that this infringement is justified under s. 1, applying the requirements set forth in *R. v. Oakes*, [1986] 1 S.C.R. 103. The Court of Appeal set aside the judgment in first instance and declared the *ATI* unconstitutional and of no force or effect, since in its view the Attorney General of Quebec had not discharged his burden of demonstrating that the infringement of s. 3 of the *Charter* is justified in a free and democratic society (2025 QCCA 1558). At the hearing, a majority of the Court dismissed the appeal, with reasons to follow. These are the reasons in support of this conclusion.

[2] The determination made by the first instance judge concerning the infringement of s. 3 of the *Charter* has not been appealed to this Court. The appeal of the Attorney General of Quebec relates solely to the justification for this infringement under s. 1 of the *Charter*. Since the appellant has not shown any reviewable error by the Court of Appeal, I would dismiss the appeal.

[3] Contrary to what the appellant argues, the Court of Appeal did not unduly narrow the pressing and substantial objective accepted by the first instance judge and did not depart from the factual findings derived from the evidence relating to what the appellant describes as a [TRANSLATION] “persistent phenomenon of devitalization of certain remote regions” (outline of argument, at para. 3.2b)). The Superior Court rightly accepted the immediate and precise objective of preserving the electoral division in Gaspésie that was bound to disappear before finding a rational connection between this pressing and substantial objective and the *ATI* (para. 123). The Court of Appeal, noting that the pressing and substantial objective requirement was not in issue before it, relied upon this same objective of preventing the elimination of an electoral division in Gaspésie (paras. 29, 50 and 63).

[4] The broader objectives pleaded by the appellant before this Court, relating to the protection of regions undergoing devitalization and the need to give the legislature time to reflect, are not described with the degree of precision needed for an *Oakes* analysis (see *R. v. K.R.J.*, 2016 SCC 31, [2016] 1 S.C.R. 906, at para. 63, cited by Sup. Ct., at para. 117). They refer rather to [TRANSLATION] “the issue of the inevitable disappearance of electoral divisions in a remote region”, which, as the Court of Appeal noted, the legislature has been aware of for several decades (para. 67).

[5] Moreover, the pressing and substantial objective urged by the appellant would not meet the further rational connection requirement. The appellant has not established in what way the complete interruption of the independent process of

revising the delimitation of all electoral divisions in Quebec, and by extension the preservation of a division in Montréal, contributes to the general objective of protecting regions undergoing devitalization. It was only by accepting the more precise pressing and substantial objective of preserving the electoral division in Gaspésie that the Superior Court and the Court of Appeal were able to find a rational connection. In doing so, they made no reviewable error.

[6] At the minimal impairment stage of the *Oakes* test, the appellant argues that the alternative solution identified by the Court of Appeal would not render it possible to achieve the legislature's objectives in a real and substantial manner. According to the appellant, the solution adopted in the *ATI* is minimally impairing, notably by reason of the fact that the law was passed unanimously by the National Assembly.

[7] I reject that argument. It is true that the state is accorded a measure of deference at the minimal impairment stage (*Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37, [2009] 2 S.C.R. 567, at para. 53). In addition, I recognize that, depending on the circumstances, the unanimity of a legislative assembly may help to demonstrate that electoral reform was enacted in good faith rather than for purely partisan purposes. However, the mere fact that the *ATI* was passed unanimously by the National Assembly is not here a determinative consideration that shields the *ATI* from constitutional scrutiny and relieves the appellant of his burden, under s. 1 of the *Charter*, of demonstrating that the law has been "carefully tailored so that rights are

impaired no more than necessary” (*RJR-MacDonald Inc. v. Canada (Attorney General)*), [1995] 3 S.C.R. 199, at para. 160, cited by C.A., at para. 78).

[8] The Court of Appeal made no reviewable error in finding that the solution adopted in the *ATI* does not minimally impair the right enunciated in s. 3 of the *Charter*. I share its view, set out at paras. 79 to 81 of its reasons, that the legislature had at least one alternative option, less impairing within the meaning of *Oakes*, that would have enabled the pressing and substantial objective to be achieved while minimizing the dilution of the right to vote of half a million electors and the legislative interruption of the independent process undertaken by the Commission de la représentation électorale. As the Court of Appeal explained, it was possible, among other things, for the legislature to enact a law temporarily protecting the electoral divisions in Gaspésie while leaving the Commission to complete its work for the rest of Quebec (para. 81).

[9] Since the *ATI* is not, as the Court of Appeal found, minimally impairing within the meaning of *Oakes*, it is unnecessary to deal with the appellant’s other arguments concerning the proportionality requirement. I would therefore uphold the Court of Appeal’s conclusion declaring the *ATI* of no force or effect under s. 52 of the *Constitution Act, 1982*. I take note of the fact that the appellant is not asking the Court to suspend the operation of this decision.

[10] For these reasons, I would dismiss the appeal, with costs to the respondents Xavier-Antoine Lalande, Conseil des préfets et des élus de la région des Laurentides,

David Armstrong, Rémi Barbeau-Cardoza, Municipalité régionale de comté de Brome-Missisquoi, Table des MRC du Centre-du-Québec and Ville de Sherbrooke.

English version of the reasons delivered by

CÔTÉ AND ROWE JJ. —

I. Introduction

[11] We disagree with the conclusion of the Quebec Court of Appeal and the majority of this Court in the present case. Assuming that the *Act to interrupt the electoral division delimitation process*, S.Q. 2024, c. 14 (“*ATI*”), infringes the right guaranteed by s. 3 of the *Canadian Charter of Rights and Freedoms* — but without ruling on this point — we are of the view that such an infringement is justified under s. 1 of the *Charter*.

[12] First of all, the Court of Appeal erred in substituting its own description of the objective sought by the legislature for the objectives stated by the Attorney General of Quebec and accepted by the first instance judge. This error taints the rest of the Court of Appeal’s justification analysis under s. 1. It is clear from a proper description of the legislative objectives that the *ATI* falls within a range of reasonable solutions, in a free and democratic society, to a complex and polycentric problem of electoral representation. Next, the Court of Appeal underestimated the salutary effects of the *ATI* and overestimated its deleterious effects, which distorted its balancing exercise.

Ultimately, the *ATI* reflects a reasonable disagreement between the National Assembly and the Commission de la représentation électorale (“CRÉ”) regarding the best way to give effect to the right to effective representation of all electors in Quebec in the current demographic context.

[13] Accordingly, we would allow the appeal, set aside the Court of Appeal’s decision and uphold the constitutionality of the *ATI*.

II. Analysis

[14] The first instance judge’s finding of infringement is based on a *combination* of two factors, namely a dilution of the voting weight of electors in seven electoral divisions with an exceptional positive deviation of more than 25 percent from the provincial average, and the [TRANSLATION] “political” interruption of the process of electoral division delimitation by the CRÉ (2025 QCCS 2078, at para. 66). Because of these two factors, the Court of Appeal considered the infringement in this case to be [TRANSLATION] “serious” (2025 QCCA 1558, at para. 84). Before this Court, the Attorney General of Quebec has not challenged the finding that the *ATI* infringes the right to effective representation guaranteed by s. 3 of the *Charter* and, for this reason, we are assuming that such an infringement is established — but without confirming the correctness of that finding. That being said, we disagree with the Court of Appeal that the infringement to be justified is “serious”, because neither this 25 percent threshold nor an independent process is a constitutional requirement, as we explain below.

A. *Effective Representation*

[15] In *Reference re Prov. Electoral Boundaries (Sask.)*, [1991] 2 S.C.R. 158, this Court explained that s. 3 of the *Charter* does not guarantee absolute parity of voting power, but rather the effective representation of electors (pp. 188-89). There is no question that effective representation has quantitative and qualitative dimensions. It requires *relative* parity in each elector's voting power, which takes into account a set of factors, "like geography, community history, community interests and minority representation" (p. 184). In this context, the *Election Act*, CQLR, c. E-3.3, provides that the number of electors in an electoral division must not deviate by more than 25 percent from the quotient obtained by dividing the total number of electors by the number of electoral divisions in the province (s. 16), unless such a variance can be justified by the demographic, geographic and sociological factors set out in s. 15 of the *Election Act* (s. 17).

[16] In this case, the first instance judge correctly stated that this 25 percent threshold provided for by the *Election Act* is not a constitutional standard such that exceeding it will automatically lead to a finding that the right to effective representation is infringed. Indeed, in *Reference re Electoral Boundaries*, this Court upheld the validity of a law that tolerated variances of up to 50 percent from the provincial average of voters per riding (pp. 193 and 197).

[17] Moreover, some of the qualitative considerations relating to effective representation that were not taken into account by the first instance judge and the Court

of Appeal could have justified these exceptional positive deviations in favour of electoral divisions with exceptional negative deviations. We note McLachlin J.'s relevant comments to the effect that "it is more difficult to represent rural ridings than urban", since "rural ridings [are] harder to serve because of difficulty in transport and communications [and] rural voters make greater demands on their elected representatives, whether because of the absence of alternative resources to be found in urban centres or for other reasons" (*Reference re Electoral Boundaries*, at p. 195).

B. *Independent Process*

[18] The second factor on which the first instance judge based his finding that s. 3 of the *Charter* is infringed, and with which the Court of Appeal agreed (at para. 84), is the "political" interruption of the process of electoral division delimitation by the CRÉ. In criticizing the National Assembly for the fact that [TRANSLATION] "the map does not result from an independent process" and that the legislature's intervention "is not based on criteria that are objectively neutral as to the result" (para. 107), the first instance judge was in fact taking the view that an independent process is required by the *Charter*.

[19] In our opinion, while the Quebec legislature made the choice to delegate decision-making authority for establishing the provincial electoral map to the CRÉ, making provision for electoral representation ultimately falls within the legislative jurisdiction of the Parliament of Quebec under s. 45 of the *Constitution Act, 1982*. Moreover, even when the provincial legislature has delegated this function, its

involvement in adjusting boundaries does not make the process unfair or arbitrary (*Reference re Electoral Boundaries*, at p. 194).

[20] It is important to remember, as McLachlin J. explained, that “the courts ought not to interfere with the legislature’s electoral map under s. 3 of the Charter unless it appears that reasonable persons applying the appropriate principles . . . could not have set the electoral boundaries as they exist” (*Reference re Electoral Boundaries*, at p. 189, quoting *Dixon v. British Columbia (Attorney General)* (1986), 7 B.C.L.R. (2d) 174 (S.C.), at p. 419). In this analysis, it should be borne in mind that the exercise of electoral boundary delimitation involves balancing conflicting policy considerations, a task more suited to the legislature than the courts (*Reference re Electoral Boundaries*, at p. 189; *Reference re the Final Report of the Electoral Boundaries Commission, Re*, 2017 NSCA 10, 411 D.L.R. (4th) 271, at para. 70).

[21] Therefore, the Court of Appeal could not characterize the infringement as serious based on its processual aspect. Furthermore, the fact that the *ATI* was passed unanimously by the National Assembly reflects a democratic consensus that dispels any doubt about the existence of purely partisan motives. This is decidedly not a case of gerrymandering.

C. *The Court of Appeal Erred in Its Description of the Legislature’s Pressing and Substantial Objective*

[22] The Attorney General of Quebec reiterates before this Court that the legislature's objectives in enacting the *ATI* were, first, to preserve votes in regions with a declining population and, second, to give elected representatives and Quebec society time to engage in broad, non-partisan reflection in order to rethink how to ensure the effective representation of all electors. The prospect of an additional electoral division in Gaspésie being eliminated simply underscored the urgency of the problem

[23] The first instance judge found that these objectives [TRANSLATION] “align with the democratic values of our society and are pressing and substantial objectives” (para. 120). The respondents did not appeal this finding by the first instance judge to the Court of Appeal. In fact, the Court of Appeal noted, at para. 50 of its reasons, that [TRANSLATION] “[t]he ‘pressing and substantial’ objective of the test set out in *Oakes* is not in issue in this appeal”. Nevertheless, the Court of Appeal based its analysis on a description of the *ATI*'s objective that was different, and much narrower, than the one given by the first instance judge, namely [TRANSLATION] “preventing the elimination of an electoral division in Gaspésie” (para. 63).

[24] With respect, the Court of Appeal erred in law when it thereby substituted, without argument from the parties and without identifying a reviewable error, its own characterization of the objective sought by the Quebec legislature. Its unduly narrow description of the law's objective taints the rest of its analysis of the proportionality requirement. Indeed, this was what led it to conclude that a legislative exception for the electoral divisions in Gaspésie would have been a less impairing solution for achieving

this narrow objective than the maintenance of current boundaries for all electoral divisions.

[25] Moreover, the *ATI*'s legislative objectives relied upon by the Attorney General of Quebec are supported by the evidence. The debates surrounding the enactment of the *ATI* show that elected representatives had the objective of temporarily maintaining the status quo with a view to [TRANSLATION] “tak[ing] a moment to pause” in order to “review the criteria for revision of the electoral map” (National Assembly, *Journal des débats*, vol. 47, No. 124, 1st Sess., 43rd Leg., May 2, 2024, at p. 5761). The goal was ultimately to [TRANSLATION] “permit the CRÉ to establish an electoral map that ensures fair and equitable representation for all electors in Quebec” (A.R., vol. XIII, at p. 3238) on the basis of the criteria for effective representation and not [TRANSLATION] “simply a numerical and demographic” criterion (*Journal des débats*, at p. 5761). This intention is reflected in the two unanimous motions passed by the National Assembly prior to the drafting of the bill (*Procès-verbal*, No. 112, 1st Sess., 43rd Leg., March 28, 2024, at p. 1732). The National Assembly justified its approach by [TRANSLATION] “not[ing] that any loss of political weight by our Quebec regions endangers the democratic health of our nation” (*Procès-verbal*, No. 68, 1st Sess., 43rd Leg., October 17, 2023, at pp. 1065-66).

[26] Thus, [TRANSLATION] “while the disappearance of an additional electoral division in Gaspésie was the ultimate catalyst for the enactment of the *ATI*” (A.F., at para. 91), this law represents more broadly a response by the Quebec legislature to the

gradual inability of the process provided for by the *Election Act* to reconcile demographic parity with the realities of remote or sparsely populated regions.

[27] We conclude, like the first instance judge, that the Quebec legislature's objectives in interrupting the electoral map revision process were to preserve the electoral representation of regions with a declining population while giving itself the time needed to develop, on a cross-partisan basis, a longer-term solution that would serve to ensure the effective representation of all electors. We are of the view that these are pressing and substantial concerns that are legitimate in a free and democratic society (*R. v. Oakes*, [1986] 1 S.C.R. 103, at pp. 138-39).

D. *The ATI Is Rationally Connected to These Pressing and Substantial Objectives*

[28] The existence of a rational connection between the *ATI* and these objectives is not challenged by the parties. Our colleague Kasirer J. nevertheless suggests that there is no rational connection between the interruption of the electoral map revision process and the objectives stated by the Attorney General of Quebec (para. 5). We disagree.

[29] Provisionally maintaining the existing electoral map preserves the electoral representation of regions with a declining population in which the electoral divisions were in danger of disappearing, and at the same time avoids shifting the problem to other regions that are in a similar situation. It is clear from the parliamentary debates that the *ATI* was the first phase of a two-part process aimed at reviewing the parameters

for electoral map revision provided for in the *Election Act*. Temporarily maintaining the status quo facilitates this cross-partisan process by the legislature.

E. *Provisionally Maintaining the Existing Electoral Map Is a Minimal Impairment of the Right to Effective Representation*

[30] Interrupting the electoral map revision process and provisionally maintaining the status quo for a single additional electoral cycle is a minimal impairment of the right to effective representation of electors in electoral divisions with an exceptional positive deviation.

[31] Legislative interruption of the electoral map revision process was the only legal means for the National Assembly to reject the recommendations made in the CRÉ's preliminary report, which, in the National Assembly's opinion, endangered the effective representation of regions. Indeed, unlike the process put in place in other Canadian jurisdictions, Quebec's *Election Act* does not require final approval of the new electoral map by the National Assembly (see, e.g., *Electoral Boundaries Commission Act*, R.S.B.C. 1996, c. 107, s. 14; *Electoral Boundaries Commission Act*, R.S.A. 2000, c. E-3, s. 11; *The Constituency Boundaries Act*, 1993, S.S. 1993, c. C-27.1, s. 23; *House of Assembly Act*, R.S.N.S. 1989 (1992 Supp.), c. 1, s. 5; *Electoral Boundaries Act*, R.S.P.E.I. 1988, c. E-2.1, s. 18.1; *Representation Act*, 2015, S.O. 2015, c. 31, Sch. 1; *Electoral Boundaries Act*, R.S.N.L. 1990, c. E-4).

[32] No other measure capable of achieving the legislature’s pressing and substantial objectives could have been implemented in a timely manner. The next Quebec general election is expected no later than October 5, 2026 (*Act respecting the National Assembly*, CQLR, c. A-23.1, s. 6; *Election Act*, s. 129). The CRÉ tabled its preliminary report in the National Assembly on September 19, 2023, and the report was studied by a parliamentary committee from February 13 to 15, 2024. The *ATI* was enacted on May 2, 2024. Given this timeline, the legislature did not reasonably have the time required to adopt, on a cross-partisan basis and after appropriate consultations, a revamped version of the electoral division delimitation criteria on the basis of which the CRÉ could have undertaken a new revision of the electoral map in time for the next election. Nor did the legislature have the institutional capacity to carry out itself, within this short time frame, the complex task of revising the electoral map according to its own balancing of the criteria for effective representation (Sup. Ct., at para. 130).

[33] In this context, interrupting the revision process and provisionally maintaining the existing electoral map is a solution that falls within a “range of reasonable options” for achieving the legislature’s objective (*Alberta v. Hutterian Brethren of Wilson Colony*, 2009 SCC 37, [2009] 2 S.C.R. 567, at para. 62). Indeed, when it comes to electoral representation, [TRANSLATION] “[t]here are dozens, even hundreds of plausible solutions, each with its own advantages and disadvantages” (Sup. Ct., at para. 130). Giving effect to the right to effective representation of all electors necessarily involves balancing various factors and reconciling competing interests. Each conceivable alternative will have an impact on the electoral map, such that it is

impossible to identify a single “correct solution” or minimally impairing measure. It is therefore perfectly justifiable for the legislature to have sought to take the time needed to properly conduct such an exercise. The Court of Appeal erred in faulting the legislature for having opted for this cautious approach.

[34] However, “if the law falls within a range of reasonable options, the court will not insist on the smallest infringement conceivable” (*Ontario (Attorney General) v. Working Families Coalition (Canada) Inc.*, 2025 SCC 5, at para. 63). This is especially so given that it is not the Court’s role to determine the conditions of electoral redistribution in Quebec or to prescribe a specific solution to a complex problem of democratic representation involving the reconciliation of competing interests (*ibid.*; *RJR-MacDonald Inc. v. Canada (Attorney General)*, [1995] 3 S.C.R. 199, at para. 160, per McLachlin J.; *Hutterian Brethren*, at para. 53; *Frank v. Canada (Attorney General)*, 2019 SCC 1, [2019] 1 S.C.R. 3, at para. 44). To hold otherwise would be to leave the choice of preferred measure to the courts rather than the legislature. But as the Court of Appeal correctly pointed out — though without heeding this warning itself — [TRANSLATION] “the Court’s role is not to substitute itself for the legislature, which is responsible for conducting the final balancing to safeguard every person’s effective right to vote” (para. 81).

[35] Finally, while it is not crucial to know whether another measure might or might not have been unanimously accepted in the National Assembly, the government can hardly be criticized for trying to adhere to the parliamentary practice whereby

amendments to the legislative framework for electoral representation are passed unanimously. On the contrary, this practice should be commended. Indeed, as our colleague notes, “the unanimity of a legislative assembly may help to demonstrate that electoral reform was enacted in good faith rather than for purely partisan purposes” (para. 7).

F. *The Court of Appeal Erred in Finding That the Deleterious Effects Arising From the ATI Outweigh Its Salutory Effects*

[36] At the balancing stage, the Court of Appeal found that the deleterious effects arising from the *ATI* outweigh its salutary effects because the latter [TRANSLATION] “benefit 65,000 electors only in two electoral divisions at the cost of diluting the vote of nearly half a million electors” (para. 84). With respect, by conducting a strictly mathematical analysis, the Court of Appeal underestimated the salutary effects of the *ATI* while overestimating its deleterious effects.

[37] To begin with, the Court of Appeal greatly underestimated the salutary effects of keeping the existing electoral map in effect. The map proposed by the CRÉ would have reduced the number of electoral divisions in the Gaspé Peninsula from three to two. Each of these two electoral divisions would then have had just over 50,000 electors, spread across an area of approximately 15,000 km² and grouping together nearly 40 or so local municipalities (A.R., vol. III, at pp. 376 et seq.; A.R., vol. XV, at p. 3829; I.F., Table des préfets des MRC de la Gaspésie, at paras. 60-61). In combination with the structural issues specific to devitalized electoral divisions —

including difficulty in transport and communications as well as the absence of alternative resources comparable to those of urban centres (*Reference re Electoral Boundaries*, at pp. 194-95) — such a configuration would have been a significant impediment to the effective representation of electors. Furthermore, without the enactment of the *ATI*, the Bas-Saint-Laurent and Gaspésie regions, which have declining populations, would, alone, have lost three electoral divisions since 2011 (A.R., vol. VI, at p. 1061).

[38] Conversely, the Court of Appeal should not have assumed that the vote of electors in an electoral division is diluted once the positive threshold of 25 percent is exceeded. Exceeding the 25 percent threshold does not necessarily have a deleterious effect, especially when the deviation remains under 30 percent, as is the case in six of the seven electoral divisions in question. Otherwise, according to this logic, the Quebec legislature should have intervened before the election because the data in a report by the CRÉ suggest that at least four of these seven electoral divisions already had an exceptional positive deviation at the time of the provincial election in October 2022 (A.R., vol. V, at p. 534).

[39] In addition, the Court of Appeal should have considered the fact that these seven electoral divisions, located in peri-urban regions and of medium size — approximately 3,642 km² and an average of 18 municipalities — do not present major obstacles to the performance of the representation and ombudsman role of a member of the National Assembly (A.R., vol. III, at p. 365; Sup. Ct., at para. 57; *Reference re*

Electoral Boundaries, at p. 183). Thus, the deleterious effects on electors in these electoral divisions maintained by the *ATI* are less significant than the Court of Appeal stated.

[40] Lastly, it should be added that these deleterious effects are limited in time, because the *ATI* provides for the revision of the electoral map following the 2026 general election. Thus, the electoral map established less than 10 years ago by the CRÉ is maintained for only a single additional electoral cycle. Moreover, the Constitution does not require a revision of the electoral map with every second election. By comparison, s. 51 of the *Constitution Act, 1867* provides that the federal electoral map must be readjusted following each decennial census, which implies that more than two elections may sometimes be held on the basis of the same map. The Constitution therefore recognizes that the deleterious effects resulting from the use of the same electoral map three times in a row are acceptable.

[41] In the end, the balancing exercise reflects a weighing of the various components of effective representation. In this regard, we are of the view that the salutary effects of the *ATI* outweigh its deleterious effects.

III. Conclusion

[42] For these reasons, we would have allowed the appeal, set aside the Court of Appeal's decision and upheld the constitutionality of the *ATI*.

Appeal dismissed with costs, CÔTÉ and ROWE JJ. dissenting.

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