

THIRD SESSION

THIRTY-SECOND LEGISLATURE

# NATIONAL ASSEMBLY OF QUÉBEC

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## Bill 67

**An Act to amend the Summary Convictions Act,  
the Code of Civil Procedure and other legislation**

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First reading .....

Second reading .....

Third reading .....

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M. MARC-ANDRÉ BÉDARD

Minister of Justice

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## EXPLANATORY NOTES

*The main object of this bill is to make fine collecting under Québec statutes more humane and make the courts more available. Its other object is to amend several Acts to improve the administration of justice. It is therefore divided into four divisions.*

*The first amends the Summary Convictions Act, mainly as it concerns the execution of judgments in provincial penal matters.*

*Henceforth, when imposing a fine, a justice of the peace will not be able to make an order to recover the fine, and the debtor will automatically have at least 30 days to pay.*

*The execution of the judgment will instead be left to an officer of the court, who may give an extension of time or accept deferred payments, and, if necessary, he will be the person to take appropriate measures to collect the fine.*

*A debtor unable to pay despite seizure of his wages or property will be able to rid himself by doing compensatory work indicated to him, and debtor's prison will exist for him only as a last resort and on the authorization of a justice of the peace. The compensatory work or imprisonment will be proportioned to the amount owed, following a table appended to the Act.*

*There are other amendments to the Summary Convictions Act, mainly regarding the regulation making power of the Government.*

*The second division of the bill amends the Code of Civil Procedure. The chief amendments regard the increase of the maximum of small claims from \$500 to \$800, the increase of small claims court costs, the increase of the level for automatic right of appeal to the Appeal Court from \$6 000 to \$10 000, appeal procedure, and the rules governing appeal from interlocutory judgments and judgments authorizing a writ of evocation.*

*The third division of the bill amends several Acts.*

*In particular, the Civil Code will receive technical and concordance amendments, regarding commercial, farm and forest pledges. Also, a court will from now on have authority, in contract*

*disputes, to award interest at the legal rate and an indemnity, which until now have been restricted to offences and quasi-offences.*

*Other amendments under this division include authorization to make agreements for reciprocal enforcement of maintenance orders, the establishment of a committee on discipline for bailiffs, and the granting of privileges to judges appointed by the Québec government that Superior Court judges have long enjoyed.*

*The final division deals with cadastres in the registration division of Abitibi, and transitional provisions.*

#### ACTS AMENDED BY THIS BILL

- Civil Code;
- Cities and Towns Act, R.S.Q., chapter C-19;
- Code of Civil Procedure, R.S.Q., chapter C-25;
- Municipal Courts Act, R.S.Q., chapter C-72;
- An Act respecting reciprocal enforcement of maintenance orders, R.S.Q., chapter E-19;
- Act respecting fabriques, R.S.Q., chapter F-1;
- Civil Service Act, R.S.Q., chapter F-3.1;
- Bailiffs Act, R.S.Q., chapter H-4;
- Act respecting offences relating to alcoholic beverages, R.S.Q., chapter I-8.1;
- Act respecting the Ministère de la Justice, R.S.Q., chapter M-19;
- Summary Convictions Act, R.S.Q., chapter P-15;
- Magistrate's Privileges Act, R.S.Q., chapter P-24;
- Act respecting probation and houses of detention, R.S.Q., chapter P-26;
- Act respecting the Régie du logement, R.S.Q., chapter R-8.1;
- Courts of Justice Act, R.S.Q., chapter T-16.



## Bill 67

An Act to amend the Summary Convictions Act,  
the Code of Civil Procedure and other legislation

HER MAJESTY, with the advice and consent of the National Assembly of Québec, enacts as follows:

### DIVISION 1: SUMMARY CONVICTIONS ACT

**1.** Section 5 of the Summary Convictions Act (R.S.Q., chapter P-15) is amended by replacing subsection 2 by the following subsection:

“(2) One justice of the peace may also do the necessary acts after a case has been heard and determined.”

**2.** Section 27 of the said Act is amended by replacing the words “incident to the service and execution of the said summons and warrant and of his detention”, at the end of subsection 2, by the words “determined by regulation”.

**3.** Section 28 of the said Act is amended by replacing subsection 2 by the following subsection:

“(2) If such person is confined in a house of detention or sheltered in a security unit contemplated in paragraph *h* of section 1 of the Youth Protection Act (R.S.Q., chapter P-34.1), the justice of the peace may issue a warrant ordering the sheriff or the director general of the reception centre, as the case may be, to bring such person to enforce his appearance before him or before any other justice of the peace, at the time and at the place indicated, to give evidence.”

**4.** Section 45 of the said Act is amended by replacing the word “dépens”, in the second line of subsection 3 of the French text, by the word “frais”.

**5.** Section 50 of the said Act is repealed.

**6.** Section 51 is replaced by the following section:

**“51.** In every case of a summary conviction, or of an order made by a justice of the peace, the latter may order that the defendant pay to the collector contemplated in section 57 the costs determined by regulation; those costs are recoverable in the same manner as the fine.

The collector shall remit part of the costs to the prosecutor who has borne expenses related to the prosecution to the extent prescribed by regulation.

If the justice of the peace dismisses the complaint or information, he may order the prosecutor to pay the defendant the costs determined by regulation. The order is executory, on application of the party entitled to the costs, as in the case of a judgment rendered in a civil matter by the Superior Court or the Provincial Court, according to the amount involved, in compliance with the provisions of the Code of Civil Procedure relating to the execution of judgments.”

**7.** Sections 52 to 54 of the said Act are repealed.

**8.** Sections 55 and 56 of the said Act are replaced by the following sections:

**“55.** If in his judgment the justice of the peace orders the payment of a sum of money, he shall fix a time for payment of not less than thirty days from the date of the decision, unless the defendant waives it. He shall not at that time make any order for recovery of the sum.

This section applies, subject to sections 56 and 56.1, notwithstanding any inconsistent provision of a general law or special Act.

**“56.** If the justice of the peace has reasonable cause to believe the defendant will abscond, he may order that, failing immediate payment, the defendant be imprisoned for such time as he may fix in accordance with section 63.10.

Sections 63.11 and 63.12 apply, where such is the case.

**“56.1** A municipal court which has not been designated in an order contemplated in section 64 and which adjudges against the

defendant payment of a fine may, at that time, order that, failing payment forthwith or within such time as it may fix, the property of the defendant be seized or that he be imprisoned.

Notwithstanding any inconsistent provision of a general law or special Act, the term of imprisonment is established under section 63.10.”

**9.** Sections 57 to 64 of the said Act are replaced by the following:

*“§ 1.—General provisions*

**“57.** In this division,

(a) “fine” comprises every sum of money that a person may be sentenced or required to pay, including costs;

(b) “justice of the peace” means the justice of the peace who pronounced judgment or any other justice of the peace of the same jurisdiction;

(c) “collector” means the person designated as such by the Minister of Justice.

**“58.** The collector sends forthwith to the defendant notice of the judgment and, as the case may be, a demand to pay the fine within the time indicated.

**“59.** The collector may come to an agreement with the defendant and grant him, on request, an extension of time, if an examination of his financial situation leads him to believe that the defendant can afford to pay the fine but that an extension of time is justified under the circumstances. The collector may also come to an agreement with the defendant to receive deferred payments of such amounts, at such intervals and for such time as they agree in writing.

**“60.** At the expiry of the time limit granted by the justice of the peace or of the agreement provided for in section 59, or where the defendant does not comply with the terms of such an agreement, the collector, if he deems it expedient, may proceed with the seizure.

**“61.** A judgment is executed as a judgment rendered in a civil matter, and the rules relating to the civil execution of judgments apply, except those provided for in Book VIII of the Code of Civil Procedure (R.S.Q., chapter C-25), subject to the following exceptions:

(a) the collector of the court of the place where judgment was made is charged with the execution thereof and acts as seizing creditor;

(b) the service of a writ of seizure by garnishment may be made by registered or certified mail;

(c) notwithstanding article 589 and the first paragraph of article 662 of the Code of Civil Procedure, where the collector acts as seizing creditor, no advances to cover the costs of custody or the disbursements rendered necessary by the execution may be required from the seizing officer.

Subject to section 64.1, the seizure proceedings emanate from the Provincial Court and from the Superior Court according to the amounts involved.

**“62.** However, the collector must, before proceeding with a seizure of property, ask, verbally and *ex parte*, a justice of the peace to authorize the seizure. The justice to whom the request is made must then

(a) authorize the collector to proceed forthwith with the seizure; or,

(b) under exceptional circumstances, where he considers that it is in the best interest of justice, authorize the collector to proceed with the seizure but only if the defendant refuses or fails to do compensatory work.

**“63.** If, apart from the case provided for in paragraph *b* of section 62, the collector ascertains or believes that seizure does not or will not permit recovery of the fine, he may, according to the availability of the compensatory work programs, offer the defendant the option to pay the fine by means of such work in accordance with Schedule A.

**“63.1** The collector shall determine the nature of the compensatory work that the defendant may agree to carry out.

The agreement is recorded in writing.

**“63.2** The defendant who agrees to execute compensatory work may thus pay more than one fine due at the time of the agreement.

**“63.3** In no case may the defendant agree to carry out more than 500 compensatory work units of a duration of three hours' work each.

The carrying out of compensatory work corresponding to the maximum provided for in the first paragraph enables the defendant



to pay all the fines due at the time of the agreement, whatever their amounts.

**“63.4** The compensatory work contemplated in an agreement must be completed within twelve months thereof, unless the fine is more than \$10 000, in which case it must be completed within two years of the agreement.

The collector shall send a report to a justice of the peace on the execution of the work once it is completed. On the signing of the report by the justice of the peace, the defendant is released from the payment of the amount of the fine.

**“63.5** The Labour Code (R.S.Q., chapter C-27), the Act respecting collective agreement decrees (R.S.Q., chapter D-2), the Act respecting labour standards (R.S.Q., chapter N-1.1), the Civil Service Act (R.S.Q., chapter F-3.1), the Act respecting labour relations in the construction industry (R.S.Q., chapter R-20), the Act respecting building contractors vocational qualifications (R.S.Q., chapter Q-1) and the Act respecting manpower vocational training and qualification (R.S.Q., chapter F-5) do not apply to a person who executes compensating work under this division.

**“63.6** The Workmen’s Compensation Act (R.S.Q., chapter A-3) applies to a person who executes compensatory work.

For the carrying out of the said Act,

(a) that person is deemed to be a remunerated worker within the meaning of the said Act;

(b) the compensation to which that person is entitled is computed on the basis of his regular average weekly earnings if he is then employed or, if not, on his estimated average weekly income, the latter being established by the Commission de la santé et de la sécurité du travail, taking into account the income the person would have earned at the time of the accident if, at the time of such accident, he had been carrying on the employment he was carrying on before doing the compensatory work; however, if the Commission cannot so establish the average weekly earnings, it shall determine such average according to the method it considers best suited to the circumstances;

(c) the Government is deemed to be the employer of the person;

(d) the contribution of the employer is established according to the standards applied under the said Act by the Commission de la santé et de la sécurité du travail.

**“63.7** Notwithstanding section 6 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1), only sections 12

to 48 and paragraph 11 of section 51 of the said Act apply to a person who executes compensatory work.

For the carrying out of the said Act,

(a) the Government is deemed to be the employer of that person;

(b) the contribution of the employer is established according to the standards applied under the said Act by the Commission de la santé et de la sécurité du travail.

**“63.8** Where compensatory work is not available or the defendant refuses or fails to do such work, the collector, if the fine has not been paid, may present a verbal and *ex parte* application to a justice of the peace in order that imprisonment be then prescribed.

**“63.9** The justice of the peace orders imprisonment where he considers that the measures provided for in this division to recover the fine do not permit full recovery of the fine due.

**“63.10** Notwithstanding any inconsistent provision of a general law or special Act, the justice of the peace fixes, for each conviction, in accordance with Schedule A the term of imprisonment for failure to pay the fine then due.

However, in no case may the total term of imprisonment for the same offence exceed two years less one day.

**“63.11** Each sentence of imprisonment for failure to pay the fine, where there is more than one, must be served consecutively.

**“63.12** Where under an Act a defendant is sentenced both to imprisonment and to the payment of a fine, a justice of the peace must, where the measures provided for the recovery of the fine have failed and imprisonment for failure to pay the fine is imposed, order that imprisonment begin at the expiry of the term of imprisonment imposed as punishment for the offence.

**“63.13** The justice of the peace who orders imprisonment of a defendant shall issue a warrant in accordance with Form 22 or 22.1, as the case may be.

**“63.14** A warrant of commitment issued while a defendant is already imprisoned in a house of detention or a penitentiary must be given forthwith to the director of the house of detention where the defendant is detained.

The justice of the peace who issues the warrant may order that imprisonment for the new conviction be served consecutively to any other period of imprisonment. However, the justice must order that

imprisonment for failure to pay the fine be served consecutively if it is proved to him that imprisonment currently being served has itself been imposed for failure to pay a fine.

**“63.15** The person who, in executing the warrant of commitment issued under this Act or any other Act, arrests the person mentioned or described in the warrant, must convey him to the house of detention indicated therein and deliver him, together with the warrant to the director of the house of detention. The latter then gives the person thus delivering the prisoner into his custody, a receipt setting forth the state and condition of the prisoner when so delivered.

The receipt is drawn up as in Form 25.

**“63.16** The person responsible for the execution of a warrant of commitment or a writ of seizure who receives the amount mentioned therein and the costs of execution, must suspend forthwith the execution thereof and give the amount to the collector.

The director of the house of detention who receives, after a person's imprisonment, the amount mentioned in the warrant of commitment and the costs of execution of the warrant must discharge the person if he is not kept for any other matter, and give forthwith the sum received to the collector.

**“63.17** Where a defendant has agreed to do compensating work and wishes to pay part of the fine, the period of the compensatory work must be reduced by the number of days corresponding to the amount paid.

However, where the fine is greater than the amount corresponding to 500 compensatory work units, the duration of the work may be reduced only where the portion of the fine exceeding that amount has been paid.

**“63.18** The defendant who wishes to pay the fine after the beginning of the compensatory work may do so by giving the amount of the fine to the collector of the place where the agreement was entered into, after deducting the amount of money corresponding to the work done.

**“63.19** Where a person is or must be imprisoned for failure to pay a fine and part of the fine is paid, the term of imprisonment must be reduced by the number of days corresponding to the amount paid.

However, where the fine for the same offence is more than the amount corresponding to two years less one day, the term of imprisonment may be reduced only where the portion of the fine exceeding that amount has been paid.

*“§ 2.—Provisions applicable  
to municipal courts*

**“64.** The Government designates by order the municipal courts to which, notwithstanding any inconsistent provision of a general law or special Act, subdivision 1 must apply.

Such an order comes into force on the day of its publication or on any later date fixed therein; it then applies to cases pending in first instance.

**“64.1** Where judgment is pronounced by a judge of a municipal court, the seizure proceedings emanate from the latter and the court has jurisdiction to hear and decide on every matter relating to the carrying out thereof.

**“64.2** The director of the house of detention or the person in charge of the compensatory work programs may, notwithstanding a warrant of commitment issued by a judge of a municipal court contemplated in section 56.1, offer the defendant, according to the availability of the compensatory work programs, to pay the fine then due by means of such work, in accordance with Schedule A.

Where the defendant agrees thereto, sections 63.1 to 63.7, 63.17 and 63.18 apply, and the person who offered the work then acts as collector for the purposes of those sections.”

**10.** The said Act is amended by inserting, after section 74, the following section:

“DIVISION XIV

“SPECIAL PROCEDURE

**“74.1** Where a person in charge of the carrying out of the Act has reasonable cause to believe that an offender who is guilty of an offence against any Act will abscond, he may require security.

The security is in the amount corresponding to the amount of the minimum fine and to that of the costs determined by regulation. If the Act contravened does not include any minimum fine, the amount of security is \$50 or the amount established by regulation.

**“74.2** On receipt of the security, the person in charge of the carrying out of the Act gives him a summary notice.

The summary notice indicates, in particular,

- (a) the surname, given name and address of the offender;
- (b) the nature, date, time and place of the offence;

- (c) the amount of the minimum fine, if any;
- (d) the amount of security given by the offender; and
- (e) all other information necessary for the carrying out of a particular Act.

The notice orders the offender to appear before the competent court at the time and place indicated therein.

**“74.3** The summary notice is a summons duly authorized and served, returnable on the date fixed therein.

**“74.4** A copy of the summary notice and the amount of security must be sent to the clerk of the court of the place of the offence within forty-eight hours from the issue of the notice.

**“74.5** If the offender refuses or is unable to give security, the person in charge of the carrying out of the Act may arrest him without a warrant, and he must forthwith take him before a justice of the peace.

**“74.6** Where security has been given under section 74.1 and a conviction is pronounced or an order is made, the payment of the fine and costs is taken out of the security; the excess thereof is, as the case may be, remitted to the defendant. Where the complaint or information is dismissed, security is reimbursed to the defendant.”

**11.** Section 83 of the said Act is amended

(1) by replacing subsection 2 by the following subsection:

“(2) The conviction or order is returned before the court from which the appeal was made for execution in accordance with Part I.”;

(2) by striking out subsection 3.

**12.** Section 84 of the said Act is amended

(1) by replacing the words “such costs and charges as are thought reasonable and just by the court, to be paid by the party or parties giving such notice”, at the end of subsection 1, by the words “to pay the costs of the appeal.”;

(2) by striking out subsection 2.

**13.** Section 85 of the said Act is repealed.

**14.** Section 86 of the said Act is amended by replacing subsection 4 by the following subsection:

“(4) In any case where a conviction or an order must be enforced after appeal, the clerk of the Crown must return the conviction or order before the court from which the appeal was made with all the papers that had been sent to the court appealed to, excepting any notice of intention to appeal and recognizance.”

**15.** Section 88 of the said Act is replaced by the following section:

**“38.** If the costs imposed on the offender are not paid within the time prescribed, and if the offender has not been bound by any recognizance conditioned to pay such costs, the clerk of the Crown sends the court order to the court of the place where the judgment was rendered in order that they be recovered in accordance with Division IX of Part I.

If the costs imposed on the prosecutor are not paid within the time prescribed, and if the prosecutor has not been bound by any recognizance conditioned to pay such costs, the court order is executory, on application of the person entitled to the costs, as a judgment of the Superior Court rendered in a civil matter, in accordance with the provisions of the Code of Civil Procedure relating to the execution of judgments.”

**16.** Section 89 of the said Act is amended by replacing the words “the justice of the peace shall proceed on the conviction or order”, in the fifth and sixth lines, by the words “the conviction or order shall be carried out”.

**17.** Section 98 of the said Act is replaced by the following section:

**“98.** The decision on statement of the case is returned before the court from which the appeal was made for execution in accordance with Part I.”

**18.** The said Act is amended by adding, after section 107, the following section:

**“107.1** Notwithstanding any inconsistent provision of a general law or special Act, the first paragraph of section 55, section 56 and section 56.1, in the case of an appeal from the decision of a judge of a municipal court contemplated in this section apply *mutatis mutandis* to the decision of the court appealed to.”

**19.** Section 128 of the said Act is replaced by the following section:

**“128.** The judgment of the Court of Appeal is returned before the court of first instance for execution in accordance with Part I.”

**20.** The said Act is amended by adding after section 129 the following section:

**“129.1** Section 107.1 applies to this Part.

## “PART IV

### “REGULATIONS

**“130.** The Government may, by regulation,

(a) determine the costs to which a party may be adjudged in first instance or in appeal;

(b) determine the costs which may be remitted to the prosecutor in accordance with the second paragraph of section 51;

(c) determine the costs which may be awarded to witnesses and the tariff of fees of every person in charge of the carrying out of this Act with respect to proceedings;

(d) fix, for the purposes of the security contemplated in section 74.1, the amount of the costs to be added to the amount of the minimum fine or, for each offence against an Act respecting which no minimum fine is provided, the amount of the security itself;

(e) fix the manner in which the defendant may meet the conditions of the security contemplated in section 74.1.

A regulation passed under this section comes into force on the date of its publication in the *Gazette officielle du Québec* or on any later date fixed therein.”

**21.** The said Act is amended by inserting, after section 130, the following schedule:

“SCHEDULE A

*Determination of the equivalence between the amount of the sums due, the term of imprisonment and the period of the compensatory work.*

“1. The term of imprisonment for every offence and the period of the compensatory work for every sum due at the time of the agreement are computed according to the following table:

For the portion of the sums due between:	One day of imprisonment is equivalent to:	One compensatory work unit is equivalent to:
\$1 and \$5 000 :	\$ 25	\$ 30
\$5 001 and \$10 000 :	\$ 50	\$ 60
\$10 001 and \$15 000 :	\$ 75	\$ 90
\$15 001 and \$20 000 :	\$100	\$120
\$20 001 and \$25 000 :	\$125	\$150
\$25 001 and \$30 000 :	\$150	\$180
\$30 001 and \$35 000 :	\$175	\$210
\$35 001 and \$40 000 :	\$200	\$240
\$40 001 and \$45 000 :	\$225	\$270
\$45 001 and \$50 000 :	\$250	\$300
\$50 001 and over :	\$400	\$480

“2. Where the number of days for a portion is a fraction, it is rounded off to the next integer.

“3. In computing the term of imprisonment, three days are added to the total obtained under sections 1 and 2.”

**22.** The schedule to the said Act entitled “Forms applicable to proceedings under the Summary Convictions Act” becomes Schedule B.

**23.** Form 9 of Schedule B of the said Act is amended by replacing the last four lines of the first paragraph by the following lines:

*“fine of . . . . . dollars, (or if a fine alone is imposed, then the clause of imprisonment is to be omitted).”*

**24.** Forms 16 to 21 of Schedule B of the said Act are repealed.

**25.** Form 22 of Schedule B of the said Act is amended by replacing, at the beginning, the numbers and word “22. — (Section 57)” by the numbers and word “22. — (Section 63.13)”.



**26.** Schedule B to the said Act is amended by inserting, after form 22, the following form:

“22.1 — (Section 63.13)

*“Warrant of commitment for failure to pay a fine*

“Canada,  
Province of Québec,  
District of .....

To all or any of the constables and other peace officers in the district of ....., and to the director of the house of detention of the said district at .....

Whereas A.B. from ....., was on .....convicted before J.S., justice of the peace for the district of ....., for (*indicate the offence as in the conviction*) and A.B. was adjudged, by reason of the offence, to pay (*etc. . . as in the conviction*) and to pay also the sum of .....for costs.

Whereas, since that time, the measures taken to recover the fine have not allowed to fully recover it and the balance due amounts to .....

This is therefore to command you to take the said A.B. to the house of detention at ....., and there to deliver him to the director thereof together with this precept. And I do hereby command you, the director, to receive A.B. into your custody in the house of detention, and there to imprison him for the term of .....(*if the sentence must be consecutive, it must be indicated accordingly*) unless the fine were sooner paid; and for so doing, this shall be your sufficient warrant.

Given under my hand, this .....day of ....., in the year one thousand nine hundred and ....., at .....in the district aforesaid.

(Signature)

Justice of the Peace  
for the district of .....

**27.** Forms 23 and 24 of Schedule B to the said Act are repealed.

**28.** Form 25 of Schedule B to the said Act is replaced by the following form:

“25. — (Section 63.15)

*Director's receipt when a prisoner is delivered into his custody*

I hereby certify that I have received from W.T., constable of the district of . . . . ., the body of A.B., together with a warrant under the hand of J.S., Esquire, justice of the peace for the district of . . . . ., and that A.B. was (*describe here the prisoner's state and condition*) at the time he was delivered into my custody.

(Date) . . . . .

(Signature)

Director of the house  
of detention of the  
district of . . . . .”

**29.** Forms 29 and 30 of Schedule B to the said Act are repealed.

DIVISION 2: CODE OF CIVIL PROCEDURE

**30.** Article 26 of the Code of Civil Procedure (R.S.Q., chapter C-25), amended by section 3 of chapter (*insert here the chapter number of Bill 18*) of the statutes of 1982, is again amended by replacing the word “six” in paragraph 1 by the word “ten”.

**31.** Article 29 of the said Code, amended by section 5 of chapter (*insert here the chapter number of Bill 18*) of the statutes of 1982, is replaced by the following article:

“**29.** An appeal also lies, in accordance with article 511, from an interlocutory judgment of the Superior Court, the Provincial Court or, in a matter of adoption, the Youth Court:

- (1) when it in part decides the issues;
- (2) when it orders the doing of anything which cannot be remedied by the final judgment; or
- (3) when it unnecessarily delays the trial of the suit.

However, an interlocutory judgment rendered during the trial cannot be appealed immediately and it cannot be put in question except on appeal from the final judgment, unless it disallows an objection to evidence based upon article 308 of this Code or on section 9 of the Charter of human rights and freedoms, or unless it allows an objection to evidence.

Any judgment is deemed to be interlocutory which is rendered during the suit before the final judgment.”

**32.** Article 120 of the said Code is amended by replacing the second paragraph by the following paragraph:

“If the officer making the service has travelled not over thirty kilometres round trip, the costs are taxed according to the distance actually travelled. However, if the distance exceeds thirty kilometres, the costs of service are not taxed at a greater amount than if the service had been made by the nearest sheriff or bailiff.”

**33.** Article 480 of the said Code is amended by replacing the second paragraph by the following paragraphs:

“The taxation may be revised by the judge within thirty days, upon motion served on the opposite party. The judgment thus rendered is final and subject to appeal in accordance with the rules provided in article 26.

However, saving the debtor’s contingent right to recover, the motion for revision or the appeal from the judgment on that motion does not suspend execution unless the amount of the factum as taxed or as revised exceeds \$10 000, in which case the execution is suspended in respect of the excess.”

**34.** Article 494 of the said Code is amended by replacing the first paragraph by the following paragraph:

“**494.** An application for leave to appeal in the cases contemplated in paragraph 4 of article 26, in article 511 and in the first paragraph of article 850 must be presented within thirty days of the date of judgment, by motion accompanied by a copy of the judgment and of the documents of the contestation, if they are not reproduced in the judgment.”

**35.** Article 497 of the said Code is amended by replacing the second paragraph by the following paragraph:

“However, a judge of the Court of Appeal may, upon motion, when the appeal appears improper or dilatory, or for some other special reason, order the appellant to furnish, within the delay he sets, security in a specified amount to guarantee in whole or in part the payment of the costs of appeal and the amount of the condemnation, if the judgment is upheld.”

**36.** Article 499 of the said Code is replaced by the following article:

“**499.** Within ten days following receipt at the Appeal Office of the inscription, the respondent must file therewith a written appearance.

Before such appearance, the proceedings intended for the respondent may be served upon the attorney who represented the respondent in the court of first instance, failing a provision of law which requires service on the party himself.”

**37.** Article 501 of the said Code is amended

(1) by adding, at the end of the first paragraph, the following paragraph:

“(5) its improper or dilatory nature; if it does not dismiss the appeal, the Court may subject it to such conditions as it may determine.”;

(2) by replacing the second paragraph by the following paragraph:

“The irregularity of the appeal for any of the grounds provided in subparagraphs 2, 3, 4 and 5 of the first paragraph is not covered by the mere failure to invoke it within the delay fixed; but if an appeal is dismissed on a motion made beyond such delay, the costs shall be the same as if it had been made within the delay, unless the court otherwise decides.”

**38.** Article 503 of the said Code is replaced by the following article:

**“503.** Within seventy-five days of the filing of the inscription or of the judgment rendered on a demand made under article 501, the appellant must file seven copies of his factum in the office of the court and serve two copies of it on the respondent.”

**39.** Articles 503.1 to 503.3 of the said Code are repealed.

**40.** Article 504 of the said Code is amended by striking out the second paragraph.

**41.** The said Code is amended by inserting, after article 504, the following article:

**“504.1** Within sixty days of the filing in the office of the court of his factum by the appellant, the respondent must file seven copies of his factum and serve two copies thereof on the appellant.”

**42.** Article 505 of the said Code is replaced by the following article:

**“505.** If the appellant does not file his factum within the delay fixed, a judge of the Court of Appeal may, on motion, dismiss the appeal or make the appropriate orders; if it is the respondent who is in default, the court may refuse to hear him.”

**43.** Article 507 of the said Code is replaced by the following article:

**“507.** The parties set out in their factum the subject at issue, their pretensions and conclusions. Each party must attach to his factum a copy of the documents and extracts from the evidence that are necessary to determine the questions at issue.

The appellant must also attach to his factum copy of the proceedings of the joined issue, the judgment appealed from and, where that is the case, the notes filed by the judge or, if they were given orally, the transcription or the translation of the reasons of the judgment.

The factums must be prepared in the manner provided by the rules of practice.”

**44.** Article 507.2 of the said Code is amended by replacing the words “not less than thirty days” in the first paragraph by the words “not less than sixty days”.

**45.** Article 509 of the said Code is replaced by the following article:

**“509.** In appeal, recourse may, in particular, be had to intervention, continuance of suit, change of attorney, recusation, disavowal and discontinuance, in the same circumstances as in first instance.

Incidental proceedings are raised by motion and the procedure is the same as in first instance, failing rules of practice to the contrary.

However, a motion to cease representing a party, the change of attorney, the disavowal and the discontinuance are within the competence of a judge. He may also hear a request for recusation in any case referred to him.

The court or as the case may be, the judge may, in connection with an incidental proceeding, permit the production of documents, receive affidavits, hear witnesses and even return the case to the court of first instance so that additional proof relating to the case may be made.”

**46.** Article 511 of the said Code is replaced by the following article:

**“511.** An appeal lies from an interlocutory judgment only on leave granted by a judge of the Court of Appeal if he is of opinion that the case is one that is contemplated in article 29; the judge must

then decide whether to continue or suspend proceedings in first instance.

However, an appeal from an interlocutory judgment dismissing an objection to evidence based on article 308 of this Code or on section 9 of the Charter of human rights and freedoms is not subject to a leave. Furthermore, the appeal does not suspend the proceedings but the judge of first instance cannot render final judgment or hear the evidence contemplated by the objection until appeal from the interlocutory judgment is decided.

Appeal from an interlocutory judgment is subject to the rules applicable to a final judgment, however, the appellant must file his *factum* with the office of the court and serve it on the respondent within fifteen days of filing the inscription for appeal and the respondent is not required to file a *factum*.

Unless otherwise decided by the chief justice, the appeal is heard by preference, at the first sitting which follows the filing of the *factum*."

**47.** Article 554 of the said Code is amended by replacing the third paragraph by the following paragraph:

"If the officer making the service has travelled not over thirty kilometres round trip, the costs are taxed according to the distance actually travelled. However, if the distance exceeds thirty kilometres, the costs of service are not taxed at a greater amount than if the service had been made by the nearest sheriff or bailiff."

**48.** Article 589 of the said Code is amended by adding, at the end, the following paragraph:

"However, where a collector of support payments acts as seizing creditor, pursuant to article 659.3, no advance of money may be demanded from the seizing officer."

**49.** Article 738 of the said Code is replaced by the following article:

**"738.** The defendant may, within five days of service of the writ, demand that the seizure be quashed because of the insufficiency or the falsity of the allegations of the affidavit on the strength of which the writ was issued.

If a proof is necessary, it must take place as soon as possible.

The burden is on the seizing party to prove the allegations of his affidavit."

**50.** Article 850 of the said Code is amended by replacing the first paragraph by the following paragraph:

**“850.** The judgment refusing authorization to exercise a recourse provided in this chapter and the decision granting it are subject to appeal but, in the latter case with leave from a judge of the Court of Appeal. Appeals under this article are governed by article 491 and following, so far as applicable.”

**51.** Article 859 of the said Code is amended by replacing paragraphs 2 and 3 by the following paragraphs:

“(2) the prothonotary must transfer the record within two days of the filing of the inscription;

“(3) except for the appellant the parties who wish to be heard must appear. The parties may file their factums five days from receipt of the inscription by the office of the Court of Appeal;”.

**52.** Article 953 of the said Code is amended by replacing paragraph *a* by the following paragraph:

“(a) a claim not exceeding eight hundred dollars;”.

**53.** Article 957.1 of the said Code is amended

(1) by replacing the first paragraph by the following paragraph:

**“957.1** No person may, to avail himself of this book, divide, directly or indirectly, a claim exceeding eight hundred dollars into so many claims not exceeding eight hundred dollars.”;

(2) by replacing subparagraph *a* of the third paragraph by the following subparagraph:

“(a) which has been voluntarily reduced by the creditor to an amount not exceeding eight hundred dollars;”.

**54.** Article 983 of the said Code is amended by replacing the first paragraph by the following paragraph:

**“983.** A debtor sued in accordance with the other books of this Code for an amount not exceeding eight hundred dollars by a creditor who is not permitted to avail himself of this book may, if he intends to contest the action, avail himself of paragraph *e* of article 962 or, if he has not availed himself of article 652, propose terms and conditions of payment, request in writing to the clerk of the court from which the writ was issued that the case be continued in accordance with this book.”

**55.** Article 989 of the said Code is amended

(1) by replacing the first paragraph by the following paragraph:

**“989.** To cover costs, the creditor of a small claim must deposit ten dollars with the clerk when the claim is two hundred and fifty dollars or less and twenty dollars when the claim is more than two hundred and fifty dollars.”;

(2) by adding, at the end, the following paragraph:

“A person who establishes that he is a recipient of social aid under the Social Aid Act (R.S.Q., chapter A-16) is not required to make the deposit.”

**56.** Article 992 of the said Code is amended by replacing the first paragraph by the following paragraph:

**“992.** In any action the amount of which does not exceed eight hundred dollars and which is not instituted in accordance with this book, the defendant who has been condemned by default to appear or to plead when he would have been permitted to avail himself of article 983 must reimburse the costs of the plaintiff.”

**57.** Article 993 of the said Code, amended by section 13 of chapter 21 of the statutes of 1980, is again amended by replacing paragraph 4 by the following paragraph:

“(4) The judgment debtor pays, as costs of execution, the bailiff costs and the sum of ten dollars if the amount of the judgment is two hundred and fifty dollars or less or the sum of twenty dollars if the amount of the judgment is more than two hundred and fifty dollars. The excess amount of the costs of execution is paid by the Minister of Justice.

If the bailiff costs are not paid by the debtor, the Minister of Justice assumes them but he is then subrogated in the rights of the bailiff against the debtor.”

## DIVISION 3: OTHER LEGISLATION

### Civil Code

**58.** The Civil Code is amended by inserting, after article 1078, the following article:

**“1078.1** The amount awarded by judgment for the inexecution of an obligation bears interest at the legal rate, or, where such is the case, at the rate lawfully agreed between the parties, from the date of the institution of the action.

An indemnity may be added to the amount awarded, computed as interest on that amount at a rate equal to the excess of the interest rate fixed under section 28 of the Act respecting the Ministère



du revenu (R.S.Q., chapter M-31) over the legal interest rate, or over the agreed rate, as the case may be.”

**59.** Article 1233 of the said Code, amended by section 2 of chapter 86 of the statutes of 1971, section 8 of chapter 74 of the statutes of 1973, section 87 of chapter 83 of the statutes of 1975 and by section 45 of chapter 73 of the statutes of 1977, is again amended by replacing paragraph 2 by the following paragraph:

“2. In all matters in which the principal sum of money or value in question does not exceed eight hundred dollars;”.

**60.** Article 1235 of the said Code, amended by section 5 of chapter 68 of the statutes of 1972, section 88 of chapter 83 of the statutes of 1975 and section 46 of chapter 73 of the statutes of 1977, is again amended by replacing the words “five hundred” in the first paragraph by the words “eight hundred”.

**61.** Article 1236 of the said Code, amended by section 6 of chapter 68 of the statutes of 1972 and replaced by section 89 of chapter 83 of the statutes of 1975 and section 47 of chapter 73 of the statutes of 1977, is again replaced by the following article:

“**1236.** In any action for the recovery of a sum which does not exceed eight hundred dollars, proof by testimony cannot be received if such sum be a balance or make part of a debt under a contract which cannot be proved by testimony.

The creditor may nevertheless prove by testimony a promise made by the debtor to pay such balance, when it does not exceed eight hundred dollars.”

**62.** Article 1237 of the said Code, amended by section 7 of chapter 68 of the statutes of 1972 and replaced by section 90 of chapter 83 of the statutes of 1975 and section 48 of chapter 73 of the statutes of 1977, is again replaced by the following article:

“**1237.** If in the same action several sums be demanded which united form a sum exceeding eight hundred dollars, proof by testimony may be received if the debts have arisen from different causes or have been contracted at different times and each was originally for a sum less than eight hundred dollars.”

**63.** Article 1979b of the said Code, enacted by section 1 of chapter 69 of the statutes of 1940, replaced by section 2 of chapter 7 of the statutes of 1959-1960 and by section 2 of chapter 95 of the statutes of 1960-1961, amended by section 1 of chapter 57 of the statutes of 1962 and replaced by section 3 of chapter 79 of the statutes of 1974, is amended

(1) by replacing the first paragraph by the following paragraph:

**“1979b.** The pledge must be evidenced by a notarial deed *en minute* or *en brevet* or by private deed describing the property pledged and the immoveable where they are located.”;

(2) by replacing the fourth paragraph by the following paragraph:

“Mention of the registration must be made in the register of farm and forest pledges and cancellation thereof is effected in accordance with article 2151.”

**64.** Article 1979c of the said Code, enacted by section 1 of chapter 69 of the statutes of 1940 and amended by section 4 of chapter 79 of the statutes of 1974, is again amended by replacing subparagraph 2 of the first paragraph by the following subparagraph:

“2. Sell such property at auction at the date, time and place fixed in a notice sent to the borrower’s last known address and, where such is the case, to the last known address of the person who pledged his property, and then published at least three days before that date according to the rules provided in article 139 of the Code of Civil Procedure.”

**65.** Article 1979e of the said Code, enacted by section 2 of chapter 57 of the statutes of 1962, is replaced by the following article:

**“1979e.** A person carrying on a commercial business may pledge, while retaining possession thereof, machinery and equipment pertaining to his business.

Such pledge shall not guarantee any loan except a loan for not over ten years, nor any credit margin except a credit margin for not over five years granted to that person.

He shall then have, towards the creditor, the obligations of a borrower of the effects pledged, but shall not be entitled to the cost of preservation and care.”

**66.** Article 1979f of the said Code, enacted by section 2 of chapter 57 of the statutes of 1962, is amended by replacing the first paragraph by the following paragraph:

**“1979f.** Such pledge must be evidenced by notarial deed *en minute* or *en brevet*, or by private deed.”

**67.** Article 1979*g* of the said Code, enacted by section 2 of chapter 57 of the statutes of 1962, is amended by replacing the fourth paragraph by the following paragraph:

“Mention of the registration and of its renewal must be made in the register of commercial pledges and cancellation thereof is effected in accordance with article 2151.”

**68.** Article 1979*i* of the said Code, enacted by section 2 of chapter 57 of the statutes of 1962, is amended by replacing paragraph 2 by the following paragraph:

«2. sell the same at auction at the date, time and place fixed in a notice sent to the last known address of the borrower and then published at least three days before that date in accordance with the rules provided in article 139 of the Code of Civil Procedure.”

**69.** Article 2131 of the said Code, amended by section 2 of chapter 46 of the statutes of 1943, by section 28 of chapter 72 of the statutes of 1947, by section 16 of chapter 45 of the statutes of 1948 and by section 10 of chapter 11 of the statutes of 1980, is again amended by adding, at the end, the following paragraph:

“However, registration before (*insert here the date of the coming into force of this paragraph*) of a deed of farm, forest or commercial pledge made under article 1979*a* or article 1979*e* and signed before two witnesses is valid even if the deed was not sworn by one of the two witnesses.”

**70.** Article 2161 of the said Code, amended by section 1 of chapter 39 of the statutes of 1902, by section 1 of chapter 48 of the statutes of 1912, by section 1 of chapter 76 of the statutes of 1918, by section 1 of chapter 91 of the statutes of 1922, by section 8 of chapter 46 of the statutes of 1943, by section 33 of chapter 45 of the statutes of 1948, by section 20 of chapter 11 of the statutes of 1980 and by section 3 of chapter 14 of the statutes of 1981, is again amended

(1) by replacing paragraph 1 by the following paragraph:

“1. An alphabetical index or repertory of the names of all persons mentioned in the acts or documents registered but not entered in the index of immoveables, in the register of farm and forest pledges or in the register of commercial pledges, as acquiring or conveying any right affected by such registration, with a reference to the number of the act or document; in the registry offices where a computerized system is used, the names of the persons mentioned in the acts or documents registered and entered in the index of immoveables, in the register of farm and forest pledges or in the register of commercial pledges shall also be entered in the index or repertory.”;

(2) by adding, after paragraph 3, the following paragraphs:

“4. A register of farm and forest pledges, in alphabetical order of the names of the persons having pledged their property, with a reference to the registration number and date of each deed and the designation of the immoveable subject to the deed;

“5. A register of commercial pledges, in alphabetical order of the names of the persons having pledged their property, with a reference to the registration number and date of each deed and the designation of the place contemplated in article 1979f.”

**71.** Article 2161c of the said Code, enacted by article 5843 of the Revised Statutes of 1888 and amended by section 23 of chapter 11 of the statutes of 1980 and by section 5 of chapter 14 of the statutes of 1981, is again amended by inserting, after the first paragraph, the following paragraphs:

“The notice of address or of elected domicile of an artificial person is registered in accordance with the first paragraph the first time the person files a notice after (*insert here the date of the coming into force of this paragraph*) in a registration division. Thereafter, in any deed or document evidencing a hypothec or a privilege in its favour encumbering an immoveable situated in that division, it shall give notice of its address or of its elected domicile by referring, immediately after its name, to the registration number of the notice.

Where an artificial person changes address or elected domicile, it shall so notify the registrar of each registration division in which immoveables encumbered with a hypothec or a privileged debt in its favour are situated, and notice so given has the same effect for each such immoveable as a notice pursuant to article 2161b; the registrar is not required to make a note of the notice in the index of immoveables.”

**72.** Article 2161e of the said Code, enacted by article 5843 of the Revised Statutes of 1888 and amended by section 2 of chapter 30 of the statutes of 1905, by section 1 of chapter 94 of the statutes of 1935, by section 7 of chapter 66 of the statutes of 1945, by section 24 of chapter 11 of the statutes of 1980 and by section 6 of chapter 14 of the statutes of 1980, is again amended by replacing the word “second” in the fifth paragraph by the word “third”.

## Cities and Towns Act

**73.** Sections 654 to 661 of the Cities and Towns Act (R.S.Q., chapter C-19) are replaced by the following section:

**“654.** In conformity with Division II of the Municipal Courts Act (R.S.Q., chapter C-72), any municipal court may have jurisdiction over the territory of a municipality other than that where it has been established.”

### **Municipal Courts Act**

**74.** Section 2 of the Municipal Courts Act (R.S.Q., chapter C-72) is amended by adding, after the word “by-law” at the end, the words “or within a radius of 20 kilometres from the latter”.

**75.** Section 7 of the said Act, amended by section 39 of chapter 2 of the statutes of 1982, is again amended by adding, after the word “established” in the sixth line of the first paragraph of subsection 2, the words “or within a radius of 20 kilometres from the latter”.

**76.** Section 7.1 of the said Act, enacted by section 40 of chapter 2 of the statutes of 1982, is amended by adding, at the end, the following words: “or contributing to the tenor of a by-law mentioned in section 2.”

### **Act respecting reciprocal enforcement of maintenance orders**

**77.** Section 1 of the Act respecting reciprocal enforcement of maintenance orders (R.S.Q., chapter E-19) is amended by replacing the words “another province of Canada” in the first line by the words “state, province or territory designated under section 10”.

**78.** The said Act is amended by inserting, after section 1, the following section:

**“1.1** Where a judgment indicates an amount in a foreign currency, the prothonotary shall convert the amount to Canadian currency at the rate of exchange in force on the date of the judgment.”

**79.** Section 4 of the said Act is amended by striking out the words “rendered in another province of Canada”, in the second line.

**80.** Section 7 of the said Act is amended by striking out the words “rendered in another province” in the second and third lines.

**81.** Section 8 of the said Act is amended

(1) by replacing the words “another Province of Canada” in the last line of the first paragraph by the words “a state, province or a territory designated under section 10”;

(2) by replacing the words “minister charged with the administration of justice in the Province”, in the first and second lines of the second paragraph, by the words “competent person in the state, province or territory”.

**32.** Section 9 of the said Act is amended by replacing the words “minister charged with the administration of justice in the Province”, in the fifth and sixth lines of the second paragraph, by the words “competent person in the state, province or territory”.

**33.** Section 10 of the said Act is replaced by the following section:

“**10.** The Government may by order designate any state, province or territory which it considers to have legislation substantially similar to the provisions of this Act that authorizes the execution of judgments ordering payment of maintenance rendered in Québec.

The order must further give the date of the coming into force of this Act for each state, province or territory it designates; the order shall be published in the *Gazette officielle du Québec*.”

### Act respecting fabriques

**34.** Section 1 of the Act respecting fabriques (R.S.Q., chapter F-1), amended by section 24 of chapter 14 of the statutes of 1981, is again amended

(1) by replacing paragraph *b* by the following paragraph:

“(b) “pastor”: the cleric entrusted with the administration of a parish in accordance with the canon law of the Roman Catholic Church;”;

(2) by replacing paragraph *d* by the following paragraph:

“(d) “ministering cleric”: the cleric appointed to administer a chapelry;”;

(3) by inserting after the words “consisting of” in the second line of paragraph *g* the words: “the chairman,”;

(4) by replacing the words “the pastor or the cleric” in the second and third lines of paragraph *j* by the words “a cleric”;

(5) by adding at the end the following paragraph:

“(m) “chairman”: the person specifically appointed by the bishop to call and preside over, in a parish or chapelry, the fabrique meeting or the meeting of the parishioners or, failing such an appointment, the pastor or ministering cleric.”

**85.** Section 4 of the said Act is amended by inserting after the words “ministering clerics” in the first line of paragraph *e* the words “, the chairmen”.

**86.** Section 14 of the said Act is amended by inserting after the words “offices of” in the second line the words “chairman,”.

**87.** Section 17 of the said Act, amended by section 25 of chapter 14 of the statutes of 1981, is again amended by replacing paragraph *h* by the following paragraph:

“(h) the name of the cleric who holds the office of Roman Catholic bishop of the diocese, pastor of a parish or ministering cleric of a chapelry and the name of the chairman.”

**88.** Section 38 of the said Act, replaced by section 28 of chapter 14 of the statutes of 1981, is amended by adding the word “full” before the word “consecutive” in the second line of the second paragraph.

**89.** Section 43 of the said Act is replaced by the following section:

“**43.** A *fabrique* meeting may be called by the bishop of the diocese, the chairman, or two churchwardens.

Written notice of a *fabrique* meeting shall be given by the bishop, the chairman or the secretary of the *fabrique* at least three clear days before that fixed for the meeting; such notice shall state the place, day, time and purpose of the meeting.”

**90.** Section 45 of the said Act is amended

(1) by replacing the words “pastor or ministering cleric” in the first and second lines of the first paragraph by the words “chairman”;

(2) by replacing the fourth paragraph by the following paragraph:

“If the chairman is absent or unable to act or refuses to do so, the bishop or his delegate may preside over the *fabrique* meeting; he is then deemed a member of the *fabrique* and enjoys the same right to vote as the chairman.”

**91.** Section 50 of the said Act is replaced by the following section:

“**50.** Meetings of parishioners shall be called by the chairman, the pastor or the ministering cleric.”

**92.** Section 52 of the said Act is replaced by the following section:

**“52.** Meetings of parishioners shall be presided over by the chairman. However, if the chairman is absent or unable to act or refuses to do so, the bishop or his delegate may preside over the meeting. The chairman of the meeting is not entitled to vote thereat.”

### **Civil Service Act**

**93.** Section 50 of the Civil Service Act (R.S.Q., chapter F-3.1), replaced by section 3 of chapter 3 of the statutes of 1981, is amended by adding, at the end of subparagraph *c*, the following: “an appeal lies from every decision of the Office in this matter to an appeals committee established pursuant to section 10 or to an arbitration tribunal established pursuant to a collective agreement, and any decision then rendered is binding on the Office;”.

### **Bailiffs Act**

**94.** Section 1 of the Bailiffs Act (R.S.Q., chapter H-4) is amended by adding the words “or the officer he designates” at the end of paragraph *f*.

**95.** Section 9 of the said Act is replaced by the following section:

**“9.** The Minister shall revoke the permit of any bailiff who

(1) refuses or omits to pay the annual duties contemplated in section 8;

(2) does not give the security prescribed; or

(3) no longer fulfils one of the conditions required by section 4, except paragraph *g*.”

**96.** Section 10 of the said Act is repealed.

**97.** Section 11 of the said Act is amended by striking out the words “suspends or” in the third line.

**98.** Section 12 of the said Act is amended by striking out the words “suspension or” in the second line.

**99.** The said Act is amended by inserting after section 12 the following:



## "DIVISION II.1

## "COMMITTEE ON DISCIPLINE

**"12.1** The Government shall establish a committee on discipline consisting of three members, including a chairman, chosen from among the members of the Barreau du Québec, a bailiff and a person who is neither an advocate nor a bailiff.

The Minister of Justice shall designate a secretary from among the personnel of the civil service.

The Government shall fix the fees and allowances of the members of the committee who are not civil servants.

**"12.2** The members of the committee are appointed for a term of office not exceeding five years. Notwithstanding the expiry of their terms, the members shall remain in office until they are reappointed or replaced.

If a member of the committee is unable to act, through absence, illness or conflict of interest, the Government shall appoint a person having the same qualifications, to replace him.

**"12.3** The committee shall meet as often as necessary, upon being called by the chairman. The meetings must be held in the territory of the Communauté urbaine de Montréal or the Communauté urbaine de Québec.

**"12.4** In no case may members of the committee be prosecuted by reason of official acts done in good faith in the performance of their duties.

**"12.5** The committee shall receive and examine every complaint against a bailiff found guilty of an infringement of this Act or the regulations, accusing him of having refused, failed or neglected to comply with the prescriptions of this Act or the regulations after having been required to do so by a written document of the Minister.

The committee shall also examine any complaint questioning the honesty or competence of a bailiff or accusing him of having done acts contrary to the dignity of his office as determined by regulation.

**"12.6** A complaint may be made by any person; it must be made in writing, sent to the secretary of the committee and give an account of the acts charged.

The committee shall make a summary examination of the complaint, and if it finds it unfounded, or of a minor nature or minor

importance, it shall advise the complainant and the bailiff that it will not proceed with the examination and indicate its reasons.

**“12.7** After calling the bailiff, the committee shall proceed to examine the complaint. It shall hear the bailiff and, if necessary, his attorney, his witnesses and any other interested person.

It may also call any qualified witness.

Any witness called who does not appear before the committee or refuses to testify is guilty of an offence against this Act.

**“12.8** Any party may ask that a member of the committee be recused for any of the grounds given in articles 234, except paragraph 7, and 235 of the Code of Civil Procedure (R.S.Q., chapter C-25).

Moreover any member of the committee who is aware of a ground of recusation to which he is liable is bound to make a declaration of it.

**“12.9** If, after examining the complaint, the committee considers it founded, it may impose a penalty consisting of a reprimand, a suspension or a revocation of permit.

The decision of the committee shall be taken by the majority of its members; it must state the reasons on which it is based and be signed.

**“12.10** The committee shall inform the parties of its decision, by registered or certified mail, and forward a copy of its decision to suspend or revoke a permit to the prothonotary of the district where the bailiff is domiciled.

A copy of every decision must also be sent to the Minister.

The prothonotary must post up the decision in the Court House and inform in writing the committee and the Minister, of the date of such posting up.

## “DIVISION II.2

### “APPEAL”.

**100.** Section 13 of the said Act is amended by inserting after the word “decision” in the third line the words “or that of the committee on discipline”.

**101.** Section 14 of the said Act is amended

(1) by adding at the end of the first sentence the following words: “or the committee on discipline, if necessary”;

(2) by replacing at the end the words “contemplated in section 11” by the words “of the decision of the Minister or of the committee on discipline”.

**102.** Section 15 of the said Act is amended

(1) by striking out the word “Minister’s” in the first line;

(2) by inserting the word “Minister” in the first line of the second paragraph after the words “or, if necessary, the committee on discipline”.

**103.** Section 25 of the said Act is amended by replacing paragraph *k* by the following paragraph:

“(k) establish, after consulting with the advisory committee, the tariff of bailiff’s fees and a tariff of bailiffs’ travelling expenses;”.

### **Act respecting offences relating to alcoholic beverages**

**104.** The Act respecting offences relating to alcoholic beverages (R.S.Q., chapter I-8.1) is amended by inserting, after section 91, the following section:

“**91.1** No owner, lessee or occupant of premises where the public is admitted may allow the drinking of alcoholic beverages therein unless he holds a permit for such premises and they are beverages he has bought under the permit he holds.

This section does not apply to an establishment defined as a “restaurant” within the meaning of the Hotels Act (R.S.Q., chapter H-3).”

### **Act respecting the Ministère de la Justice**

**105.** The English text of section 7 of the Act respecting the Ministère de la justice (R.S.Q., chapter M-19) is amended by replacing the words “a deputy” in the first line of the third paragraph by the words “an assistant deputy”.

### **Magistrate’s Privileges Act**

**106.** Section 1 of the Magistrate’s Privileges Act (R.S.Q., chapter P-24) is amended by adding, at the end, the following paragraph:

“Moreover, the members of a court contemplated in section 260 of the Courts of Justice Act (R.S.Q., chapter T-16) shall enjoy the same immunity as judges of the Superior Court.”

**107.** Section 2 of the said Act is replaced by the following section:

**“2.** No costs shall be adjudicated against any member of a court contemplated in section 260 of the Courts of Justice Act in proceedings for quashing or reviewing a decision unless there is contestation on his part.”

### **Act respecting probation and houses of detention**

**108.** Section 19.6 of the Act respecting probation and houses of detention (R.S.Q., chapter P-26) is replaced by the following sections:

**“19.6** The Workmen’s Compensation Act (R.S.Q., chapter A-3) applies to a person detained in a house of detention who carries out work under a program of remunerated activities and to a person who executes a probation order involving community work.

For the carrying out of the said Act,

(1) such persons are deemed to be remunerated workers within the meaning of the said Act;

(2) the compensation to which the person carrying out community work is entitled is computed on the basis of his regular average weekly earnings if the person is employed or, if not on his estimated weekly earnings established by the Commission de la santé et de la sécurité du travail, in accordance with paragraph 4;

(3) the compensation to which a detained person is entitled is computed on the basis of his estimated average weekly earnings which is established by the Commission de la santé et de la sécurité du travail, in accordance with paragraph 4;

(4) for the purposes of paragraphs 2 and 3, the commission takes into account the income the person would have earned at the time of the accident if, at the time of such accident, he had been carrying on the employment he was carrying on before doing community work or before his imprisonment; however, if the Commission cannot so establish the average weekly earnings it shall determine it according to the method it considers best suited to the circumstances;

(5) sections 19.2, 19.3 and 19.4 apply to the compensation due to a detained person;

(6) the Government is deemed to be the employer of that person;

(7) the contribution of the employer is established according to the standards applied under the said Act by the Commission de la santé et de la sécurité du travail.

**“19.6.1** Notwithstanding section 6 of the Act respecting occupational health and safety (R.S.Q., chapter S-2.1), only sections 12 to 48 and paragraph 11 of section 51 of the said Act apply to a person detained in a house of detention who carries out work under a program of remunerated activities, or to a person who executes a probation order involving community work.

For the carrying out of this Act,

(1) the Government is presumed to be the employer of that person;

(2) the contribution of the employer is established according to the standards applied under the said Act by the Commission de la santé et de la sécurité du travail.”

**109.** Section 19.7 of the said Act is amended by inserting after the words and figure “(chapter R-20)” in the fourth and fifth lines, the following: “; the Act respecting building contractors vocational qualifications (R.S.Q., chapter Q-1.)”.

### **Act respecting the Régie du logement**

**110.** Section 83 of the Act respecting the Régie du logement (R.S.Q., chapter R-8.1) is amended by striking out the words “served on the adverse party and”.

### **Courts of Justice Act**

**111.** Section 82 of the Courts of Justice Act (R.S.Q., chapter T-16) is amended by adding, at the end, the following paragraph:

“A judge of the sessions may also, with the written consent of the Chief Judge, engage in teaching activities against remuneration.”

**112.** Section 126.1 of the said Act is amended by replacing the number “three” in the fourth line by the number “four”.

**113.** The said Act is amended by inserting, after section 230, the following section:

**“230.1** The Government may, if a judge contemplated in section 230 recovers, reappoint him a judge of the court where he exercised his judiciary functions without it being required to observe the selection procedure provided for in a regulation made under section

81.2 and even if all the offices of the court where he is thus appointed are then filled.

Termination of permanent disability is established, after inquiry by the Conseil de la Magistrature, at the request of the Minister of Justice.

#### DIVISION 4: MISCELLANEOUS AND FINAL PROVISIONS

**114.** The plans and books of reference for lots 5 to 101 of range B, 669, 758 to 779, 783 to 788, 919, 920, 938 to 1139 and for block 119 of the cadastre of the township of Bourlamaque and the plan and book of reference of the cadastre of the township of Senneterre are valid from the date of their filing in the registry office of the registration division of Abitibi, even if no proclamation or order has been issued under article 2169 of the Civil Code.

**115.** The plans and books of reference for lots 756, 757, 780 to 782, 789 to 918 of the cadastre of the township of Bourlamaque, prepared under article 2175 of the Civil Code, are valid from the date of their filing in the registry office of the registration division of Abitibi as if they had been prepared in conformity with section 2 of chapter 261 of the Revised Statutes of 1925 or section 2 of chapter 320 of the Revised Statutes of 1941.

**116.** The plans and books of reference for the resubdivisions 1 to 4 of the subdivision 105 of lot 34, subdivisions 850 to 914 and 930 to 1013 of lot 34, subdivisions 2 and 3 of lot 35 and subdivisions 1 and 2 of lot 743 of the cadastre of the township of Bourlamaque prepared under section 130 of chapter 34 of the statutes of 1965, section 2 of chapter 320 of the Revised Statutes of 1941 or article 2174*a* of the Civil Code are valid from the date of their filing at the registry office of the registration division of Abitibi as if they had been prepared in conformity with article 2175 of the Civil Code.

**117.** The registration, before the coming into force of this section, of documents affecting the lots mentioned in sections 114 to 116 is valid, even if the plans and books of reference for the said lots were not official; the same applies to the cadastral amendments made before that date on those lots under articles 2174, 2174*a* and 2175 of the Civil Code or the Cadastre Act (R.S.Q., chapter C-1).

The registration, before the coming into force of this section, of any document referring to the cadastre of the township of Bourlamaque is valid, even if the document makes any reference at variance with the official reference, namely "Ville de Bourlamaque", "town of Bourlamaque" and "township of Bourlamaque, town of Bourlamaque". The document is deemed to have the official reference of the cadastre of the "township of Bourlamaque".

Articles 2172, 2172*a* and 2173 of the Civil Code do not apply to those registrations.

**118.** The registrar of the registration division of Abitibi shall, if necessary, after the coming into force of this section, amend the index of immoveables for the cadastre of the township of Bourlamaque so that the index may bear the official reference to that cadastre.

**119.** The regulations made under the Summary Convictions Act, in force at the time of the coming into force of sections 1 to 27 of this Act, continue to be in force until they are replaced or repealed by a regulation made under section 130 of the Summary Convictions Act.

**120.** Division 1 of this Act applies to pending cases in first instance at the time of its coming into force.

A defendant who undertakes to carry out compensatory work following a judgment rendered after the coming into force of Division 1 may also, by that commitment, discharge fines due at the coming into force of Division 1, notwithstanding the terms of any judgment or of any mandate.

**121.** Sections 30, 31 and 50 apply to pending cases on the date of their coming into force, excluding the judgments already rendered on such date, for which the period for appeal has not expired.

**122.** Section 58 does not apply to an action begun before its coming into force.

**123.** The Minister of Justice may refer to the committee on discipline established under section 12.1 of the Baliffs Act any complaint he has received before the committee was established and on which no decision has been rendered.

The committee may also receive and examine any other complaint respecting facts that have occurred before its establishment.

**124.** This Act has effect notwithstanding sections 2 and 7 to 15 of the Constitution Act, 1982 (*insert here the reference to the chapter number of the Canada Act in the compilation of the Acts of the Parliament of the United Kingdom for 1982*).

**125.** Division 1 will come into force on the date fixed by proclamation of the Government.

Sections 30, 31, 33 to 46, 49 to 57 and 59 to 62 will come into force on 1 September 1982.

Sections 58, 63 to 68, 70 and 71 will come into force on the dates fixed by proclamation of the Government.

**126.** Subject to section 125, this Act will come into force thirty days after its sanction.