CHAPTER 39

An Act to establish a new Civil Code and to reform family law

[*Assented to 19 December 1980*]

Preamble. WHEREAS the Legislature decided in 1955 to entrust the general revision of the Civil Code of Lower Canada to a jurist;

Whereas the Legislature decided in 1960 that the jurist's report would serve as a basis on which a final draft of a new Civil Code would be prepared;

Whereas the jurist's report was tabled in the National Assembly on 20 June 1978;

Whereas it is advisable to establish a new Civil Code, but the wide range of the proposed reforms and related studies make it necessary to spread the enactment of its various parts over a period of time;

Whereas it is expedient moreover to proceed first of all with the reform of family law;

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

Civil Code of Québec, Book Two. **1.** A Civil Code of Québec is hereby established, Book Two of which reads as follows:

"BOOK TWO

"THE FAMILY

"TITLE ONE

"MARRIAGE

"CHAPTER I

"CONDITIONS REQUIRED FOR CONTRACTING MARRIAGE

"**400.** Marriage requires the free and enlightened consent of the intended spouses.

"**401.** Consent to marriage is the agreement expressed by a man and a woman to take each other as husband and wife.

"**402.** No person may contract marriage before he is eighteen years of age.

"**403.** The court may, on serious ground, grant a dispensation where an intended spouse is not less than sixteen years of age.

The person having parental authority and, as the case may be, the tutor and any person who has custody of the minor must be summoned to give their opinions.

The minor may apply alone for a dispensation from the age requirement.

"**404.** No new marriage may be contracted before the annulment or dissolution of the previous marriage.

"**405.** No person may contract marriage with any of his ascendants or descendants, nor with his brother or sister or any of their children in the first degree.

Nor may persons related by affinity in the direct line contract marriage.

"**406.** In cases of adoption, the court may, according to circumstances, permit a marriage in the collateral line.

"CHAPTER II

"OPPOSITION TO MARRIAGE

"**407.** Any interested person may oppose the solemnization of a marriage between persons incapable of contracting it.

"**408.** A minor may oppose a marriage alone. He may also act alone as defendant.

"**409.** An opponent may be liable for damages if he has abused his right of opposition.

"CHAPTER III

"THE SOLEMNIZATION OF MARRIAGE

"**410.** Marriage must be contracted openly, in the presence of two witnesses, before a competent officiant.

"**411.** Every minister of religion authorized by law to solemnize marriage or to keep registers of civil status and, in the judicial district for which he is appointed, the prothonotary, and every deputy whom he designates, is competent to solemnize marriage.

"**412.** No minister of religion may be compelled to solemnize a marriage to which there is any impediment according to his religion and to the discipline of the religious society to which he belongs.

"**413.** Before the solemnization of a marriage, publication must be effected by means of a notice posted up, for twenty days before the date fixed for the marriage, at the place where the marriage is to be solemnized.

At the time of the publication or of the application for a dispensation, the spouses must be informed of the advisability of a premarital medical examination.

"**414.** The publication sets forth the surname, given names, occupation and domicile of each of the intended spouses, and the date and place of birth of each. The correctness of these particulars is confirmed by a witness of full age.

"**415.** The officiant may, for a valid reason, grant a dispensation from publication.

"**416.** If a marriage is not solemnized within three months from the twentieth day after publication, the publication must be renewed.

"**417.** Before proceeding with a marriage, the officiant assures himself as to the identity and marital status of the intended spouses.

He also assures himself that all the formalities have been completed and that the dispensations, if any, have been granted.

"**418.** In the presence of the witnesses, the officiant reads articles 441 to 445 to the intended spouses.

He requests and receives, from each intended spouse personally, a declaration of their wish to take each other as husband and wife. He then declares them united in marriage.

"**419.** The officiant immediately enters the act of marriage in the registers of civil status.

If the officiant is not authorized to keep the registers, he draws up an act of marriage and sends it, within thirty days of the solemnization, to the prothonotary of the district in which the marriage has been solemnized, with a declaration attesting the truth thereof.

"**420.** The prothonotary or the deputy prothonotary solemnizes the marriage according to the rules prescribed by order of the Minister of Justice and, on behalf of the Minister of Finance, collects any duty fixed by order from the intended spouses.

"CHAPTER IV

"PROOF OF MARRIAGE

"**421.** Marriage is proved by an act of marriage, except in cases where the law authorizes another mode of proof.

"**422.** Possession of the status of spouses compensates for a defect of form in the act of marriage.

"CHAPTER V

"NULLITY OF MARRIAGE

"SECTION I

"CAUSES OF NULLITY

"**423.** A marriage contracted by a married person, by a person less than sixteen years of age or in spite of an impediment due to relationship may be declared null at any time upon the application of any interested person.

"**424.** A marriage contracted by a person who has gone through the formalities of marriage without the intention of assuming the obligations of marriage may be declared null upon the application of any interested person.

No marriage in which there has been cohabitation for one year may be attacked.

"**425.** A marriage contracted by a person incapable of discernment may be declared null upon the application of his curator or of either spouse.

"**426.** No marriage contracted by a person who has not given free consent or who has been misled by an error may be declared null except upon the application of that person.

Error is a cause of nullity only when it bears on an essential characteristic of the spouse, through the fraud of that spouse or of a third person with the knowledge of that spouse, or on the identity of the spouse.

"**427.** No marriage in which there has been cohabitation of the spouses for one year from the recovery of discernment or from the time the spouse acquired complete freedom or became aware of his error may be attacked.

"**428.** A marriage contracted by a person who is impotent at the time of the marriage may be declared null upon the application of either spouse.

No marriage in which there has been cohabitation for one year may be attacked.

"**429.** A marriage contracted without judicial dispensation by a person between sixteen and eighteen years of age may be declared null upon the application of that person or of the persons

who must be summoned to give their opinions when a dispensation regarding age is applied for.

No marriage in which one year has elapsed since the condition regarding age was fulfilled may be attacked.

"**430.** A marriage which has not been contracted openly before a competent officiant in the presence of two witnesses may be declared null upon the application of any interested person, although the court may decide according to the circumstances.

"SECTION II

"EFFECTS OF NULLITY

"**431.** The nullity of a marriage, for whatever reason, does not deprive the children of the advantages secured to them by law or by the marriage contract.

The rights and duties of fathers and mothers towards their children are unaffected by nullity.

"**432.** A marriage, although declared null, produces civil effects with regard to the spouses if they were in good faith.

In particular, the liquidation of the matrimonial regime that is then presumed to have existed is proceeded with, unless the spouses agree on each taking back his property.

"**433.** If the spouses were in bad faith, each takes back his property.

"**434.** If only one spouse was in good faith, he may either take back his property or apply for the liquidation of the matrimonial regime that is then presumed to have existed.

"**435.** Subject to article 437, a spouse in good faith is entitled to the gifts made to him in consideration of his marriage.

However, the court may, when declaring a marriage null, declare the gifts lapsed or reduce them, or order the payment of the gifts *inter vivos* deferred for the period of time fixed by it, taking the circumstances of the parties into account.

"**436.** The nullity of the marriage renders null the gifts *inter vivos* made in consideration of the marriage to a spouse in bad faith.

"**437.** The nullity of the marriage renders null the gifts *mortis causa* made between spouses in consideration of marriage.

"**438.** A spouse is presumed to have contracted marriage in good faith unless, when declaring the marriage null, the court declares him to be in bad faith.

"**439.** The court decides, as in divorce proceedings, as to the provisional measures pending suit, the custody, maintenance and education of the children and, in declaring nullity, the right of a spouse in good faith to support, and as to one spouse's contribution to the enrichment of the patrimony of the other.

"CHAPTER VI

"EFFECTS OF MARRIAGE

"**440.** In no case may spouses derogate from the provisions of this chapter, whatever their matrimonial regime.

"SECTION I

"RIGHTS AND DUTIES OF SPOUSES

"**441.** The spouses have identical rights and obligations in marriage.

They owe each other respect, fidelity, succour and assistance.

They must live together.

"**442.** In marriage, each spouse retains his surname and given names, and exercises his civil rights under this surname and these given names.

"**443.** The spouses together take in hand the moral and material direction of the family, exercise parental authority and assume the tasks resulting therefrom.

"**444.** The spouses choose the family residence together.

"**445.** The spouses contribute towards the expenses of the marriage in proportion to their respective means.

Each spouse may make his contribution by his activity within the home.

"**446.** A spouse who enters into a contract for the current needs of the family also commits his spouse for the whole, if they are not separated as to bed and board.

However, the non-contracting spouse is not responsible for the debt if he had previously informed the other contracting party of his unwillingness to be committed.

"**447.** Either spouse may give the other a mandate to represent him in acts relating to the moral and material direction of the family.

This mandate is presumed if one spouse is unable to manifest his intention for any reason or if he is unable to do so within the proper time.

"**448.** If the spouses disagree as to the exercise of their rights and the performance of their duties, they or either of them may apply to the court, which will decide in the interest of the family after fostering the conciliation of the parties.

"SECTION II

"THE FAMILY RESIDENCE

"**449.** Neither spouse may, without the consent of the other, pledge, alienate or remove from the principal family residence the household furniture used by the family.

"**450.** If a spouse has not consented to an act concerning any household furniture used in the principal family residence, he may apply to have the act annulled, unless he has ratified it.

However, no act by onerous title may be annulled if the other contracting party was in good faith.

"**451.** Neither spouse, if the lessee of the principal family residence, may, without the written consent of the other, sublet it, transfer it or terminate the lease where the lessor has been notified, by either of them, that the dwelling is used as the principal residence.

If the other spouse has not consented to the act, he may apply to have it annulled, unless he has ratified it.

"**452.** Neither spouse, if the owner of an immoveable with fewer than five dwellings that is used in whole or in part as the principal family residence, may, without the consent of the other, alienate the immoveable, charge it with a real right or lease that part of it reserved for the use of the family.

Unless he has ratified the act, the spouse who has not consented may apply to have it annulled if a declaration of residence has been previously registered against the immoveable.

"**453.** Neither spouse, if the owner of an immoveable with five dwellings or more that is used in whole or in part as the principal family residence may, without the consent of the other, alienate the immoveable or lease that part of it reserved for the use of the family.

Where a declaration of residence has been previously registered against the immoveable, the spouse who has not consented to the deed of alienation may require the acquirer to lease to him the premises already occupied for residential purposes on the conditions governing the lease of a dwelling; under the same condition, the spouse who has not consented to the act of lease may apply to have it annulled, unless he has ratified it.

"**454.** The usufructuary, the emphyteutic lessee and the user are subject to the rules of articles 452 and 453.

"**455.** The declaration of residence is made by both spouses or by either of them.

Where the declaration is made by the spouse of the owner of the residence, he must notify the latter immediately.

"**456.** Either spouse may be authorized by the court to enter alone into any act for which the consent of the other would be required, provided such consent is unobtainable for any reason, or its refusal is not justified by the interest of the family.

The authorization is special and for a definite time; it may be amended or revoked.

"**457.** In the event of separation as to bed and board, divorce or annulment of marriage, the court may, upon the application of either spouse, award to the spouse of the lessee the lease of the principal family residence.

The award binds the lessor upon being served on him and relieves the original lessee of the rights and obligations arising out of the lease from that time forward.

"**458.** In the event of separation as to bed and board, or the dissolution or annulment of a marriage, the court may award, to either spouse or to the surviving spouse, the ownership or use of household furniture of the other that is used in the principal family residence.

"**459.** In the event of the dissolution or annulment of marriage, the court may award to either spouse or to the surviving spouse, as compensation for his contribution to the enrichment of the patrimony of the other, a right of ownership or habitation of the immoveable that was used as the principal family residence and over which the other spouse has a right of ownership.

In the event of separation as to bed and board, only a right of habitation may be awarded.

"**460.** The award of the right of use, habitation or ownership is effected, failing agreement between the parties, on the conditions determined by the court and, in particular, on condition of payment of any balance, immediately or by instalments.

When the balance is payable by instalments, the court fixes the terms and conditions of guarantee and payment.

"**461.** Judicial award of a right of ownership is subject to the provisions relating to sale.

"**462.** A judgment awarding a right of use, habitation or ownership is equivalent to title and has the effects thereof.

"CHAPTER VII

"MATRIMONIAL REGIMES

"SECTION I

"GENERAL PROVISIONS

" § 1.—*Choice of matrimonial regime*

"**463.** Any kind of stipulation may be made in a marriage contract, subject to the imperative provisions of law, public order and good morals.

"**464.** Spouses who, before the solemnization of their marriage, have not fixed their matrimonial regime in a marriage contract, are subject to the regime of partnership of acquests.

"**465.** A matrimonial regime, whether legal or conventional, takes effect on the day when the marriage is solemnized.

A change made to the matrimonial regime during the marriage takes effect on the day of the act attesting the change.

In no case may the parties stipulate that their matrimonial regime or any change to it will take effect on another date.

"**466.** A minor authorized to marry may, before the marriage is solemnized, make all such matrimonial agreements as the marriage contract admits of, provided he is authorized to that effect by the court.

The person having parental authority or, as the case may be, the tutor must be summoned to give his opinion.

The minor may apply for the authorization alone.

"**467.** Agreements not authorized by the court may be attacked only by the minor or by the persons who had to be summoned to give their opinions; no such agreement may be attacked if one year has elapsed since the marriage was solemnized.

"**468.** No prodigal or person of weak intellect may make matrimonial agreements without the assistance of his judicial adviser or curator, the latter having to be authorized for this purpose by the court upon the advice of the family council.

No agreement made in violation of this article may be impugned except by the prodigal or the person of weak intellect, or his curator or judicial adviser, as the case may be, nor except in the year immediately following the solemnization of the marriage or the day of the act changing the matrimonial agreements.

"**469.** Intended spouses may change their matrimonial agreements before the solemnization of the marriage, in the presence and with the consent of all those who were parties to the marriage contract, provided the changes themselves are made by marriage contract.

"**470.** During marriage, spouses may change their matrimonial regime and any stipulation in their marriage contract, provided the change itself is made by marriage contract.

Gifts made in marriage contracts, including gifts *mortis causa*, may be changed even if they are stipulated as irrevocable, provided the consent of all interested persons is obtained.

If a creditor sustains prejudice by a change to a marriage contract, he may, within one year of becoming aware of the change, have it declared unenforceable in his regard.

"**471.** Children to be born are represented by the spouses for the modification or cancellation before or during the marriage of gifts made to them by the marriage contract.

"**472.** Marriage contracts must be established by a notarial deed *en minute*, on pain of absolute nullity.

"**473.** The notary executing a marriage contract changing a previous contract must immediately, by registered or certified mail, notify the depositary of the original marriage contract and the depositary of any contract changing the matrimonial regime. The depositary must enter the change on the original and on any copy he may make of it, indicating the date of the contract, the name of the notary and the number of his minutes.

"**474.** A notice of every marriage contract must be given by the executing notary to the person entrusted with keeping the central register of matrimonial regimes.

" § 2.—*Exercise of the rights and powers arising out of the matrimonial regime*

"**475.** Either spouse may give the other a mandate to represent him in the exercise of the rights and powers granted to him by the matrimonial regime.

"**476.** The court may confer upon either spouse the mandate to administer the property of the other or the property that the other administers under the matrimonial regime, when the latter is unable to manifest his intention or is unable to do so within the proper time.

The court fixes the modalities and conditions of exercise of the powers conferred.

"**477.** The court may declare the judicial mandate withdrawn once it is established that it is no longer necessary.

The mandate ceases *pleno jure* upon the other spouse's being provided with a curator.

"**478.** Either spouse, having administered the property of the other, accounts even for the fruits consumed before he was given formal notice to render an account.

"**479.** If one spouse exceeds the powers granted to him by the matrimonial regime, the other may apply for the nullity of the act, unless he has ratified it.

As regards moveable property, however, each spouse is deemed, in respect of third parties in good faith, to have power to enter alone into acts by onerous title for which the consent of the other spouse would be necessary.

"SECTION II

"PARTNERSHIP OF ACQUESTS

" § 1.—*Composition of the partnership of acquests*

"**480.** The property that each spouse possesses when the regime comes into effect or that he subsequently acquires constitutes acquests or private property according to the rules that follow.

"**481.** The acquests of each spouse include all property not declared to be private property by law, and, in particular,

1. the proceeds of his work during the regime;

2. the fruits and income due or collected from all his private property or acquests during the regime.

"**482.** The private property of each spouse consists of

1. property owned or possessed by him when the regime comes into effect;

2. property that accrues to him during the regime by succession, legacy or gift, and the fruits and income derived from that property if the testator or donor has so provided;

3. property acquired by him to replace private property and any insurance indemnity relating thereto;

4. the rights or advantages that accrue to him as a contingent owner or as a beneficiary under a contract or plan for a retirement pension or other annuity, or for insurance of persons;

5. his clothing, personal linen and papers, wedding ring, decorations and diplomas;

6. the instruments required for his occupation, saving compensation where applicable.

"**483.** Property acquired with private property and acquests is also private property, subject to compensation, if the value of the private property used is greater than half the total cost of acquisition of the property. Otherwise, it is an acquest subject to compensation.

The same rule applies to life insurance, retirement pensions and other annuities that a spouse may redeem in advance. The total cost is the aggregate of the premiums or sums paid, except in term insurance, where it is the amount of the latest premium.

"**484.** Where, during the regime, a spouse acquires another share in property of which he was already privately an undivided

co-owner, this acquired share is also his private property, saving compensation where applicable.

However, if the value of the acquests used to acquire the share is equal to or greater than one-half of the total value of the property of which the spouse has become the owner, this property becomes an acquest, subject to compensation.

"**485.** The right of a spouse to support, to a disability allowance or to any other benefit of the same nature remains his private property; however, all pecuniary benefits derived from these are acquests, if they fall due or are collected during the regime or are payable at his death to his heirs and legal representatives.

The same rule applies to retirement pensions and other annuities that the holder is unable to redeem in advance.

No compensation is due by reason of any amount or premium paid with the acquests or the private property to acquire the pensions or other benefits.

"**486.** The right to damages and the compensation received for injury to the person are also the private property of the spouse.

The same rule applies to the right and the compensation arising from an insurance contract or any other indemnification scheme, but no compensation is payable in respect of the premiums or amounts paid with the acquests.

"**487.** Property acquired as an accessory of or an annex to private property, and any construction erected on an immoveable which is private property, remains private, saving compensation, if need be.

However, if the accessory or annex was acquired, or the construction erected, from acquests, and if its value is equal to or greater than that of the private property, the whole becomes an acquest subject to compensation.

"**488.** Shares acquired by the effect of a declaration of dividends on shares that are the private property of either spouse remain his private property, saving compensation.

Shares acquired by the effect of the exercise of a subscription right, a pre-emptive right or any other similar right conferred on either spouse by shares that are his private property likewise remain his private property, saving compensation, if need be.

Redemption premiums and prepaid premiums on securities that are the private property of either spouse remain his private property without compensation.

"**489.** Income derived from the operation of a business that is the private property of either spouse remains his private property, subject to compensation, if it is reinvested in the business.

"**490.** Intellectual and industrial property rights are private property, but all proceeds and income arising from them and collected or fallen due during the regime are acquests.

"**491.** All property is presumed to constitute an acquest, both between the spouses and with respect to third persons, unless it is established that it is private property.

"**492.** Any property that a spouse is unable to prove to be his exclusive private property or acquest is presumed to be held by both spouses in undivided ownership, one-half by each.

"§ 2.—*Administration of property and liability for debts*

"**493.** Each spouse has the administration, enjoyment and free disposal of his private property and acquests.

"**494.** Neither spouse may, however, without the consent of the other, dispose of his acquests *inter vivos* by gratuitous title, with the exception of modest sums and customary presents.

However, he may be authorized by the court to enter into the act alone, if he is unable to obtain consent for any reason whatever or if refusal is not justified in the interest of the family.

"**495.** Article 494 does not limit the right of either spouse to designate a third person as a beneficiary or contingent owner of an insurance of persons, a retirement pension or any other annuity.

No compensation is due by reason of the sums or premiums paid with the acquests if the designation is in favour of the other spouse or of the children of either spouse.

"**496.** Each spouse is liable on both his private property and his acquests for all debts incurred by him before or during the marriage.

While the regime lasts, neither spouse is liable for the debts incurred by the other, subject to articles 446 and 447.

"§ 3.—*Dissolution and liquidation of the regime*

"**497.** The regime of partnership of acquests is dissolved by

1. the death of one of the spouses;

2. a conventional change of regime during the marriage;

3. a judgment that pronounces divorce, separation as to bed and board, or separation as to property;

4. the absence of one of the spouses in the cases provided for by law;

5. the nullity of the marriage in the cases provided for in articles 432 and 434.

The effects of the dissolution are produced immediately, except in the cases of paragraphs 3 and 5, where they are retroactive, between the spouses, to the day of the application.

"**498.** In any case of dissolution provided for in article 497, the court may, nevertheless, upon the application of either spouse or of his legal representative, decide that, in the mutual relations of the spouses, the effects of the dissolution are retroactive to the date when they ceased to live together.

"**499.** Each spouse retains his private property after the regime is dissolved.

He may accept or renounce the partition of his spouse's acquests, notwithstanding any agreement to the contrary.

"**500.** Acceptance may be either express or tacit.

No spouse who has interfered in the management of the acquests of the other spouse after the regime is dissolved may renounce partition.

Conservatory acts or acts of simple administration do not constitute interference.

"**501.** Renunciation must be made by notarial deed *en minute* or by judicial declaration recorded by the court. It must be registered in the registry office of the registration division where the common domicile of the spouses is situated, or, if there is no common domicile, where the domicile of the renouncing spouse is situated.

A spouse who has not registered his renunciation within one year following the date of the dissolution is deemed to have accepted.

"**502.** If either spouse renounces partition, the share of the other's acquests to which he would have been entitled remains vested in the other.

However, the creditors of the spouse who renounces partition to the prejudice of their rights may attack the renunciation and accept the share of the acquests of their debtor's spouse in his place and stead.

In that case, the renunciation is annulled only in favour of the creditors and only to the extent of the amount of their claims; it is not annulled in favour of the renouncing spouse.

"**503.** A spouse who has abstracted or concealed acquests is declared to have accepted, notwithstanding any renunciation.

He forfeits his share of the acquests abstracted or concealed, unless his spouse renounces them. Moreover, he forfeits the benefit of emolument.

"**504.** Acceptance and renunciation are irrevocable.

"**505.** When the regime is dissolved by death, the heirs of the deceased spouse may accept or renounce the partition of the surviving spouse's acquests, and the provisions on the dissolution and liquidation of the regime apply to them, except article 515.

If one of the heirs accepts partition and the others renounce it, the heir who accepts may take only the portion of the acquests that he would have had if all had accepted.

"**506.** When a spouse dies while still entitled to renounce partition, his heirs have a further period of one year from the date of the death in which to register their renunciation.

"**507.** When the partition of a spouse's acquests is accepted, the property of his patrimony must first be divided into two masses, one comprising the private property and the other the acquests.

"**508.** A statement is then prepared of the compensation owed by the mass of private property to the mass of the spouse's acquests, and *vice versa*.

The compensation is equal to the enrichment enjoyed by one mass to the detriment of the other.

"**509.** The enrichment is valued as on the day the regime dissolves.

However, when the property acquired or improved was alienated during the regime, the enrichment is valued as on the day of the alienation.

"**510.** No compensation is due by reason of expenses incurred solely for the maintenance, preservation or insurance of the property.

"**511.** Unpaid debts incurred for the benefit of the private property give rise to compensation as if they had already been paid with the acquests.

"**512.** Payment with the acquests of any fine imposed by law gives rise to compensation.

"**513.** If the statement shows a balance in favour of the mass of acquests, the spouse who holds the patrimony makes a return to the mass for partition, either by taking less, or in value, or with his private property.

If the statement shows a balance in favour of the mass of private property, the spouse removes assets from his acquests up to the amount owed.

"**514.** Once the settlement of compensation has been completed, the mass of acquests is evenly divided between the spouses, according to the rules provided for partitions among co-heirs, unless the spouse who holds the patrimony prefers to reimburse his spouse by paying all or part of what is due.

"**515.** If the dissolution of the regime results from the death or absence of the spouse who holds the patrimony, his spouse may require, on condition of payment of any balance, immediately or by instalments, that his share include the family residence and the household furniture and any other family property forming part of the mass for partition.

If there is no agreement on the payment of the balance, the court fixes the terms and conditions of guarantee and payment.

"**516.** If the parties do not agree on the evaluation of the property, it is valued by experts designated by the parties or, failing them, the court.

"**517.** Dissolution of the regime cannot prejudice the recourse, before the partition, of former creditors against all of their debtor's patrimony.

After the partition, the former creditors may sue the spouse who is their debtor, and also the other spouse, for payment of their claims, but, in the case of the other, only to the extent of the benefit derived by him. Each spouse, however, has recourse against the other for one-half of the sums that he has thus been called upon to pay.

"SECTION III

"SEPARATION AS TO PROPERTY

"§ 1.—*Conventional separation as to property*

"**518.** The regime of conventional separation as to property is established by a simple declaration to this effect in the marriage contract.

"**519.** Under the regime of separation as to property, each spouse has the administration, enjoyment and free disposal of all his property.

"**520.** Property over which neither spouse is able to establish his exclusive right of ownership is presumed to be held by both in undivided ownership, one-half by each.

"§ 2.—*Judicial separation as to property*

"**521.** Either spouse may obtain separation as to property when the application of the rules of the matrimonial regime appears to be contrary to his interests or to those of the family.

"**522.** Separation as to property judicially obtained entails dissolution of the matrimonial regime and puts the spouses in the situation of those who are conventionally separate as to property.

Between spouses, the effects of the separation are retroactive to the day of the application unless the court makes them retroactive to an earlier date in application of article 498.

"**523.** No creditor of the spouses may apply for separation as to property, but such a creditor may intervene in the action.

The creditor may also institute proceedings against separation as to property that has been pronounced or executed in fraud of his rights.

"**524.** Dissolution of the matrimonial regime effected by separation as to property does not give rise to the rights of survivorship, unless the contrary has been stipulated in the marriage contract.

"CHAPTER VIII

"SEPARATION AS TO BED AND BOARD

"SECTION I

"GROUNDS AND PROCEDURE OF SEPARATION AS TO BED AND BOARD

"**525.** Separation as to bed and board is granted when the will to live together is seriously damaged.

"**526.** The will to live together is deemed to be seriously damaged, in particular, in the cases set forth in articles 540 to 542 or where proof is produced by the spouses or either of them of an accumulation of facts that make further living together intolerable.

"**527.** If the spouses submit to the approval of the court a draft agreement settling the consequences of their separation as to bed and board, they may apply for separation without disclosing the ground.

The court then grants the separation if, after hearing the spouses and verifying that they truly consent, it considers that the draft sufficiently preserves the interests of each of them and of the children.

"**528.** It comes within the role of the court to counsel and to foster the conciliation of the spouses and to see to the interests of the child at all stages of proceedings for separation as to bed and board.

The other rules pertaining to divorce proceedings also apply to the application for separation as to bed and board.

"SECTION II

"EFFECTS OF SEPARATION AS TO BED AND BOARD

"**529.** Separation as to bed and board releases the spouses from the obligation to live together; it does not break the bond of marriage.

"**530.** Separation as to bed and board carries with it separation as to property, where applicable.

Between spouses, the effects of separation as to property are produced from the day of the application for separation as to bed and board, unless the court makes them retroactive to an earlier date in application of article 498.

"**531.** Separation as to bed and board does not immediately give rise to rights of survivorship, unless stipulated to the contrary in the marriage contract.

"**532.** Separation as to bed and board does not entail the lapse of gifts made to the spouses in consideration of marriage.

However, the court, when granting a separation, may declare the gifts lapsed or reduce them, or order the payment of gifts *inter vivos* deferred for such time as it may fix, taking the circumstances of the parties into account.

"**533.** The court decides, as in matters of divorce, as to the contribution of one spouse to the enrichment of the patrimony of the other.

In such a case, the compensatory allowance may be paid, wholly or in part, by the award of a right of ownership, use or habitation in accordance with articles 458 to 462.

"**534.** The court, when granting a separation as to bed and board or subsequently, may order either spouse to pay support to the other.

"**535.** Separation as to bed and board produces towards the children the same effects as divorce.

"SECTION III

"END OF SEPARATION AS TO BED AND BOARD

"**536.** Separation as to bed and board is terminated upon the spouses' voluntarily resuming living together.

Separation as to property remains unless the spouses elect another matrimonial regime by marriage contract.

"CHAPTER IX

"DISSOLUTION OF MARRIAGE

"**537.** Marriage is dissolved by the death of either spouse or by divorce.

"TITLE TWO

"DIVORCE

"CHAPTER I

"GROUNDS FOR DIVORCE

"**538.** Divorce is granted when the will to maintain the bond of marriage is irretrievably damaged.

"**539.** Spouses married for at least one year who submit to the court, for approval, a draft agreement settling the consequences of their divorce may apply for a divorce without disclosing the ground.

The court then grants the divorce if, after hearing the spouses and verifying that they truly consent, it considers that the interests of each spouse and child are sufficiently protected.

"**540.** The will to maintain the marriage bond is deemed to be irretrievably damaged where the spouses have lived apart for at least two years immediately before the application.

However, in no case where spouses are living apart because one spouse has decided to cease living with the other or is absent or imprisoned may the spouse to whom their living apart is imputable invoke the presumption under the first paragraph until they have lived apart for three years.

The spouses may nevertheless invoke the presumption arising from article 541 any time before the expiry of the time limits set down in this article.

"**541.** The will to maintain the marriage bond is deemed to be irretrievably damaged also where one spouse has seriously failed to execute an obligation resulting from the marriage, but in no such case may a spouse invoke this presumption on the basis of his own failure.

"**542.** Non-consummation of the marriage after not less than one year of cohabitation, by reason of illness or disability, also creates a presumption that the will to maintain the marriage bond has been irretrievably damaged.

"CHAPTER II

"DIVORCE PROCEEDINGS

"SECTION I

"GENERAL PROVISION

"**543.** It comes within the role of the court to counsel and to foster the conciliation of the spouses, and to see to the interests of the child, at all stages of divorce proceedings.

"SECTION II

"APPLICATION AND PROOF

"**544.** An application for divorce may be presented by both spouses or either of them.

"**545.** Proof of irretrievable damage to the will to maintain the bond of marriage may result from the admission of one party but the court may require additional evidence.

"SECTION III

"PROVISIONAL MEASURES

"**546.** An application for divorce releases the spouses from the obligation to live together.

"**547.** The court may order either spouse to leave the family residence during the proceedings.

It may also authorize either spouse to retain temporarily certain household furniture that until that time had been in common use.

"**548.** The court may decide as to the custody and education of the children.

It fixes the contribution payable by each spouse to the maintenance of the children during the proceedings.

"**549.** The court may order either spouse to pay interim support to the other, and a provisional sum to cover the costs of the proceedings.

"**550.** Provisional measures may be reviewed whenever any new fact so justifies.

"SECTION IV

"ADJOURNMENTS AND RECONCILIATION

"**551.** The court may adjourn the hearing of the application for divorce if it considers that adjournment can foster the reconciliation of the spouses or avoid serious prejudice to either spouse or to any of their children.

"**552.** The court may also adjourn the hearing if it considers that the spouses may settle the consequences of their divorce amicably, in particular as to custody of the children and support, and that they may make agreements in that respect which the court may take into account.

"**553.** Reconciliation between the spouses occurring after the application is presented terminates the proceedings.

Nevertheless, either spouse may present a new application for any ground arising after the reconciliation; in that case, he may avail himself of the previous grounds in support of his application.

"**554.** Resumption of cohabitation for less than ninety days is not in itself ground for presuming reconciliation.

"CHAPTER III

"EFFECTS OF DIVORCE

"SECTION I

"EFFECTS OF DIVORCE ON SPOUSES

"**555.** Divorce breaks the bond of marriage.

"§ 1.—*Settlement of the financial interests of the spouses*

"**556.** Divorce carries with it the dissolution of the matrimonial regime.

The effects of the dissolution of the regime are produced between the spouses from the day the application is presented, unless the court makes them retroactive to an earlier date in application of article 498.

"**557.** Divorce entails the lapse of gifts *mortis causa* made between spouses in consideration of marriage.

"**558.** Divorce does not entail the lapse of other gifts *mortis causa* or gifts *inter vivos* made to spouses in consideration of marriage.

However, the court, when granting a divorce, may declare gifts under this article lapsed or reduce them, or order the payment of the gifts *inter vivos* deferred for such time as it may fix.

"**559.** The court, in granting a divorce, may order either spouse to pay to the other, as consideration for the latter's contribution, in goods or services, to the enrichment of the patrimony of the former, an allowance payable immediately or by instalments, taking into account, in particular, the advantages of the matrimonial regime and marriage contract.

The compensatory allowance may be paid, wholly or in part, by the granting of a right of ownership, use or habitation in accordance with articles 458 to 462.

" § 2.—*Effects of divorce as to support*

"**560.** Divorce extinguishes the right which the spouses had to claim support unless, on a motion, the court, in granting a divorce, orders one of the spouses to pay support to the other or reserves the right to claim support.

"**561.** The court may reserve the right to claim support only if, on granting the divorce, it is unable to rule equitably as to such right, either because one spouse is prevented by exceptional circumstances from availing himself of his right, or because it has been established that the existing state of the needs and means of the spouses is likely to change in the near future.

In no case may the right to claim support be reserved for a period of over two years.

"**562.** If the court grants support to a spouse, it is payable as a pension.

The court may replace or complete the alimentary pension by a fixed sum payable immediately or by instalments over a period of not more than three years.

"**563.** The order awarding support may be reviewed by the court whenever new facts so justify.

However, no order awarding a fixed sum may be reviewed even in the case of unforeseen change in the means or needs of the parties.

"**564.** Except in the case of fraud, the right of a spouse to claim support is extinguished *pleno jure* at the expiry of the period during which the right has been reserved if it has not been exercised.

"**565.** Where the court has awarded support or reserved the right to claim support, it may at all times after divorce declare the right to support extinguished.

"**566.** In any decision relating to the effects of divorce in respect of the spouses, the court takes their circumstances into account; it considers, in particular, their needs and means, the agreements made between them, their age and state of health, their family obligations, their chances of finding employment, the existing and the foreseeable condition of their estate, assessing both their capital and their income, and, as the case may be, the time needed by the creditor of support to acquire sufficient autonomy.

"**567.** Subject to the preceding articles, the provisions of the title, THE OBLIGATION OF SUPPORT, apply to support granted under this section.

"SECTION II

"EFFECTS OF DIVORCE ON CHILDREN

"**568.** Divorce does not deprive the children of the advantages secured to them by law or by the marriage contract.

The rights and duties of fathers and mothers towards their children are unaffected by divorce, subject to the following provisions.

"**569.** The court, in granting the divorce or subsequently, decides as to the custody, maintenance and education of the children, in their interest and in the respect of their rights, taking into account the agreements made between the spouses, where such is the case.

"**570.** Whether custody is entrusted to one of the spouses or to a third person, the father and mother retain the right of watching over the maintenance and education of the children, and are obliged to contribute thereto in proportion to their means.

"**571.** Decisions concerning the children may be reviewed at any time by the court, whenever circumstances so justify.

"TITLE THREE

"FILIATION

"CHAPTER I

"FILIATION BY BLOOD

"SECTION I

"PROOF OF FILIATION

"§ 1.—*Title and possession of status*

"**572.** Paternal and maternal filiation are proved by the act of birth, regardless of the circumstances of the child's birth.

In the absence of an act of birth, uninterrupted possession of status is sufficient.

"**573.** Uninterrupted possession of status is established by an adequate combination of facts which indicate the relationship of filiation between the child and the persons from whom he is said to have issued.

"§ 2.—*Presumption of paternity*

"**574.** If a child is born during a marriage, or within three hundred days after the dissolution or annulment of the marriage, the husband of the child's mother is presumed to be the father.

"**575.** The presumption of the husband's paternity is rebutted if the child is born more than three hundred days after the judgment ordering separation as to bed and board, unless the spouses have voluntarily resumed living together before the birth.

"**576.** If a child is born within three hundred days after the dissolution or annulment of a marriage but after his mother has remarried, her husband at the time of the birth is presumed to be the father of the child.

"§ 3.—*Voluntary acknowledgement*

"**577.** If maternity or paternity cannot be determined by applying the preceding articles, the filiation of a child may also be established by voluntary acknowledgement.

"**578.** Maternity is acknowledged by a declaration made by a woman that she is the mother of the child.

Paternity is acknowledged by a declaration made by a man that he is the father of the child.

"**579.** Mere acknowledgement of maternity or of paternity binds only the person who made it.

"**580.** An established filiation which has not been successfully contested in court is not disprovable by a mere acknowledgement of maternity or of paternity.

"SECTION II

"ACTIONS RELATING TO FILIATION

"§ 1.—*Disavowal and contestation of paternity*

"**581.** The presumed father may disavow the child before the court.

An action for disavowal must be instituted within one year from the day when the presumed father becomes aware of the birth.

"**582.** The mother may contest the paternity of the presumed father within one year after the child is born.

"**583.** The action for disavowal or contestation of paternity is directed against the child, and against the mother or the presumed father, as the case may be.

A minor child is represented by his tutor or a tutor *ad hoc* appointed by the court to which the action is brought.

"**584.** If the presumed father or the mother dies before the expiry of the period for disavowal or for contestation of paternity, the right of action is not extinguished.

The heirs must exercise this right, however, within one year after the death.

"**585.** Any mode of proof tending to establish that the husband is not the father of the child is admissible.

"**586.** When a child has been conceived through artificial insemination, either by the father or, with the consent of the spouses, by a third person, no action for disavowal or contestation of paternity is admissible.

"§ 2.—*Claim and contestation of status*

"**587.** No person may claim a filiation contrary to that assigned to him by his act of birth and the possession of status consistent with that act.

Subject to articles 581 and 582, no person may contest the status of a person whose possession of status is consistent with his act of birth.

"**588.** Any interested person including the father or the mother may, at any time and by any means, contest the filiation of a person whose possession of status is not consistent with his act of birth.

However, no person may contest the filiation of a person because that person was conceived through artificial insemination.

"**589.** A child whose filiation is not established by an act and by possession of status consistent therewith may claim his filiation before the court. Similarly, the father or the mother may claim paternity or maternity of a child whose filiation in their regard is not established by an act and by possession of status consistent therewith.

Proof of filiation may be made by any mode of proof and, in particular, by testimony. However, testimony is not admissible unless there is a commencement of proof in writing, or unless the presumptions or indications resulting from already clearly established facts are sufficiently strong to permit its admission.

"**590.** Commencement of proof in writing results from the title deeds of the family, the registers and papers of the household, and all other public or private writings proceeding from a party engaged in the contestation or who would have had an interest therein had he been alive.

"**591.** If the child already has another filiation established by an act of birth, by the possession of status, or by the effect of a presumption of paternity, an action to claim status cannot be brought unless joined to an action contesting the status thus established.

"**592.** Every mode of proof is admissible to contest an action concerning filiation.

"**593.** Except where subject to shorter legal prescription, actions concerning filiation are prescribed by thirty years from the day the child is deprived of the claimed status or begins to enjoy the contested status.

If a child has died without having claimed his status but while he was still within the proper time to do so, his heirs may take action within three years of his death.

"SECTION III

"EFFECTS OF FILIATION

"**594.** All children whose filiation is established have the same rights and obligations, regardless of their circumstances of birth.

"CHAPTER II

"ADOPTION

"SECTION I

"CONDITIONS FOR ADOPTION

"§ 1.—*General provisions*

"**595.** No adoption may take place except in the interest of the child and on the conditions prescribed by law.

"**596.** No minor child may be adopted unless his father and mother or his tutor have consented to the adoption or unless he has been judicially declared eligible for adoption.

"**597.** No person of full age may be adopted except by the persons who had adopted him *de facto* when he was a minor.

The court, however, may dispense with this requirement in the interest of the person to be adopted.

"**598.** Any person of full age may, alone or jointly with another person, adopt a child.

"**599.** An adopter must be at least eighteen years older than the person adopted, unless the person adopted is the child of the spouse of the adopter.

The court may, however, dispense with this requirement in the interest of the person to be adopted.

"**600.** Consent provided for in this chapter must be in writing before two witnesses.

The same holds true of the withdrawal of consent.

"§ 2.—*Consent of the adopted person*

"**601.** No child ten years of age may be adopted without his consent, unless it is impossible for him to express his will.

However, when a child less than fourteen years of age refuses to give his consent, the court may defer its judgment for the period of time it indicates, or grant adoption notwithstanding the refusal.

"**602.** Refusal by a child fourteen years of age is a bar to adoption.

"§ 3.—*Consent of parents or tutor*

"**603.** When adoption takes place with the consent of the parents, they must both consent to the adoption if the filiation of the child is established with regard to both of them.

If the filiation of the child is established with regard to only one parent, the consent of that parent is sufficient.

"**604.** If either parent is deceased, or if it is impossible for him to express his will, or if he is deprived of parental authority, the consent of the other parent is sufficient.

"**605.** If both parents are deceased, or if it is impossible for them to express their will, or if they are deprived of parental authority, the consent of the tutor, if the child has a tutor, must be obtained for the adoption of the child.

"**606.** A parent of minor age may himself, without authorization, give his consent to the adoption of his child.

"**607.** Consent to adoption may be general or special; if special, it may be given only in respect of an ascendant of the child, a relative in the collateral line to the third degree or the spouse of that ascendant or relative.

"**608.** Consent to adoption entails, until the order of placement, delegation *pleno jure* of parental authority to the person to whom the child is given.

"**609.** A person who has given his consent to adoption may withdraw it within thirty days from the date when he gave consent.

The child must then be returned without formality or delay to the person who has withdrawn his consent.

"**610.** If a person has not withdrawn his consent within thirty days, he may, at any time before the order of placement, apply to the court to have the child returned.

"§ 4.—*Declaration of eligibility for adoption*

"**611.** The following may be judicially declared eligible for adoption:

1. a child over three months old, if neither his paternal filiation nor his maternal filiation has been established;

2. a child whose care, maintenance or education has not in fact been taken in hand by his mother, father or tutor for at least six months;

3. a child whose father and mother have been deprived of parental authority, if he has no tutor;

4. a child who has neither father nor mother, if he has no tutor.

"**612.** No motion for a declaration of eligibility for adoption may be made except by an ascendant of the child, a relative in the collateral line to the third degree, the spouse of such an ascendant or relative, the child himself if fourteen years of age, or a director of youth protection.

"**613.** No child may be declared eligible for adoption unless it is unlikely that his father, mother or tutor will resume custody of him and take in hand his care, maintenance or education. This unlikelihood is presumed.

"**614.** The court, when declaring a child eligible for adoption, designates the person who is to exercise parental authority in his regard.

"SECTION II

"ORDER OF PLACEMENT AND ADOPTION JUDGMENT

"**615.** No placement of a minor may take place except on a court order nor may the adoption of a child be granted unless he has lived with the adopter for at least six months since the court order.

The period may be reduced by up to three months, however, particularly in consideration of the time for which the minor may have lived with the adopter before the order.

"**616.** No order of placement may be granted before the lapse of thirty days after the giving of consent to adoption.

"**617.** Before granting an order of placement, the court satisfies itself that the conditions for adoption have been complied with, particularly, that the prescribed consents have been validly given.

"**618.** The order of placement confers parental authority on the adopter.

The order is a bar to the return of the child to his parents or to his tutor and to the establishment of filial relationship between the child and his parents by blood.

"**619.** If placement for adoption terminates, or if the court refuses to grant the adoption, the effects of the order of placement cease.

"**620.** The order of placement may be revoked on a motion by the child himself if he is fourteen years of age or by any interested person, if the application for adoption is not presented within a reasonable time after the expiration of the period provided in article 615.

"**621.** In the cases provided for in articles 619 and 620, the court, even *ex officio*, designates the person who is to exercise parental authority over the child.

"**622.** The court grants adoption on the application of the adopters unless a report indicates that the child has not adapted to his adopting family. In this case or whenever the interest of the child demands it, the court may require any additional proof it considers necessary.

"**623.** If either of the adopters dies after the order of placement, the court may grant adoption even with regard to the deceased adopter.

"**624.** The court assigns to the adopted person the given names and the surname chosen by the adopter unless, at the request of the adopter or of the adopted person, it allows him to keep his original surname or given names.

"**625.** The clerk of the court granting the adoption forwards an attestation of adoption to the depositaries of the registers of civil status having the custody of the original act of birth to have the prescribed particulars inscribed in the margin. Such an act bears the entry "adoption" and no extract from it may be issued.

The clerk also forwards a certificate of the judgment to the depositaries of the registers of civil status of the place indicated in the judgment so that they may draw up the new act of birth of the adopted person and enter it in the register.

"SECTION III

"EFFECTS OF ADOPTION

"**626.** Adoption granted in favour of adopters one of whom has died after the application for adoption was presented produces its effects from the date of the application.

"**627.** Adoption confers on the adopted person a filiation which replaces his original filiation.

The adopted person ceases to belong to his original family, subject to any impediments to marriage.

"**628.** Adoption creates the same rights and obligations as filiation by blood.

"**629.** When adoption is granted, the effects of the preceding filiation cease; the tutor, if any, loses his rights and is discharged from his duties regarding the adopted person, save the obligation to render account.

"**630.** Notwithstanding article 629, the adoption of a child by the spouse of his mother or father does not dissolve the bond of filiation between the child and that parent.

"SECTION IV

"CONFIDENTIALITY OF ADOPTION FILES

"**631.** The judicial and administrative files respecting the adoption of a child are confidential and no information contained in them may be revealed except according to law.

However, the court may allow an adoption file to be examined for the purposes of study, teaching, research or a public inquiry, provided that the anonymity of the child, of the parents and of the adopter is preserved.

"**632.** An adopted person of full age is entitled to obtain the information enabling him to find his parents if they have previously consented thereto.

The same holds true of the parents of an adopted child if the child, once of full age, has previously consented thereto.

Consent must not be solicited.

"TITLE FOUR

"THE OBLIGATION OF SUPPORT

"**633.** Spouses, and relatives in the direct line, owe each other support.

"**634.** Proceedings for the support of a minor child may be instituted by the holder of parental authority, his tutor, or any person who has custody of him, according to the circumstances.

The court may order the support payable to the person who has custody of the child.

"**635.** In awarding support, account is taken of the needs and means of the parties, their circumstances and, as the case may be, the time needed by the creditor of support to acquire sufficient autonomy.

"**636.** The court may award provisional support for the duration of the proceedings to the person entitled to it.

"**637.** Support is payable as a pension; the court may, by way of exception, replace or complete the alimentary pension by a fixed sum payable immediately or by instalments.

"**638.** The court orders, on the motion of the creditor or, in the absence of such a motion, *ex officio*, that support payable as a pension be adjusted in accordance with the annual Pension Index established pursuant to section 119 of the Act respecting the Québec Pension Plan (chapter R-9), unless the circumstances of the parties justify the fixing of another index.

"**639.** The court, if it considers it necessary, may order the debtor to furnish security beyond the judicial hypothec, for payment of the support.

"**640.** If the debtor offers to take the person entitled to support into his home, he may, if circumstances allow, be dispensed from paying all or part of the support.

"**641.** The creditor may exercise his recourse against one of the debtors of support or against several of them simultaneously.

The court fixes the amount of support to be paid by each of the debtors prosecuted or impleaded.

"**642.** The judgment awarding support, whether or not it is adjusted, may be reviewed whenever circumstances so justify.

"**643.** Support may be claimed for needs existing before the application.

However, support for pre-existing needs may then be granted, for not over twelve months, only if it was in fact impossible for the creditor to act sooner or only from the day the debtor was given formal notice.

"**644.** The debtor from whom arrears are claimed may plead a change after judgment in his condition or in that of his creditor and be released from payment of the whole or a part of them.

However, in no case where the arrears claimed have been due for over six months may the debtor be released from payment of them unless he shows that he was unable to exercise his right to obtain a review of the judgment fixing the alimentary pension.

"TITLE FIVE

"PARENTAL AUTHORITY

"**645.** Every child, regardless of age, owes respect to his father and mother.

"**646.** A child remains subject to the authority of his father and mother until his majority or emancipation.

"**647.** The father and mother have the rights and duties of custody, supervision and education of their children.

They must maintain their children.

"**648.** The father and mother exercise parental authority together.

If either parent dies, is deprived of parental authority or is unable to express his will, the other parent exercises parental authority.

"**649.** The person having parental authority may delegate the custody, supervision or education of the child.

"**650.** No unemancipated minor may leave the family home without the consent of the person having parental authority.

"**651.** The person having parental authority has a right to correct the child with moderation and within reason.

"**652.** Where the father or the mother performs alone any act of authority concerning their child, he or she is, with regard to third persons in good faith, deemed to be acting with the consent of the other parent.

"**653.** In the case of difficulties relating to the exercise of parental authority, the person having parental authority may refer the matter to the court, which will decide in the interest of the child after fostering the conciliation of the parties.

"**654.** The court may, for serious cause and in the interest of the child, on the motion of any interested person, declare the father, the mother or either of them, or a third person on whom parental authority may have been conferred, to be totally or partially deprived of such authority.

"**655.** The court may, in declaring deprivation, designate the person who is to exercise parental authority, or decide to obtain the advice of the family council before designating the person or, if required in the interest of the child, appointing a tutor.

"**656.** Deprivation extends to all minor children born at the time of the judgment, unless the court decides otherwise.

"**657.** Deprivation may entail for the child, if exceptional circumstances justify it, exemption from the obligation to provide support.

"**658.** A father or mother who has been deprived of rights may have the withdrawn rights restored, provided he or she alleges new circumstances, subject to the provisions governing adoption.

"**659.** In no case may the father or mother, without serious cause, place obstacles to personal relations between the child and his grandparents.

Failing agreement between the parties, the modalities of the relations are settled by the court."

C.C., a. 7.1, added.

2. The Civil Code of Lower Canada is amended by adding, after article 7, the following article:

"**7.1** A marriage solemnized out of Québec between two persons either or both of whom are subject to its laws is valid if

solemnized according to the formalities of the place where it is performed, provided the parties did not go there with the intention of evading the law."

C.C., Title First A, aa. 30, 31, added.

3. The said code is amended by adding, after Title First of Book First, the following:

"TITLE FIRST A

"PROVISIONS RESPECTING CHILDREN

"**30.** In every decision concerning a child, the child's interest and the respect of his rights must be the determining factors.

Consideration may be given in particular to the child's age, sex, religion, language, character and family surroundings, and the other circumstances in which he lives.

"**31.** The court may, every time it takes cognizance of an application affecting the interest of a child, give the child an opportunity to be heard."

C.C., a. 42, am.

4. Article 42 of the said code, as it reads in article 5777 of the Revised Statutes, 1888, amended by section 1 of chapter 82 of the statutes of 1968 and by section 1 of chapter 29 of the statutes of 1979, is again amended by replacing the third paragraph by the following paragraph:

"Every prothonotary shall keep such registers for the marriages solemnized by him, by his deputy, or by an officiant who is not authorized to keep registers."

C.C., a. 54, am.

5. Article 54 of the said code, amended by section 1 of chapter 68 of the statutes of 1940, is again amended by replacing the words "and the names given to it" by the words "and the surname and name given to it".

C.C., a. 55.1, added.

6. The said code is amended by adding, after article 55, the following article:

"**55.1** The particulars entered on the original act of birth of an adopted child and the facts set forth in his new act of birth are regulated by order of the Minister of Justice."

C.C. aa. 56, 56*a*, replaced, aa. 56.1-56.4, added.

7. Articles 56 and 56*a* of the said code are replaced by the following articles:

"**56.** Every person has a surname and at least one given name assigned to him in the act of birth.

He exercises his civil rights under his surname and under one or more of his given names.

"**56.1** A child is assigned, at the option of his father and mother, one or more given names, and the surname of one parent or a surname consisting of not more than two parts, taken from the surnames of his father and mother.

"**56.2** A child, if neither his paternal filiation nor his maternal filiation is established, bears the given name and surname assigned to him by the officer entrusted with registering the birth.

"**56.3** The court may authorize a change of the given name and surname that were assigned to the child in the act of birth in the case of change of filiation, deprivation of parental authority or the condemnation of one parent to an infamous punishment.

The court may also authorize such a change when exceptional circumstances justify it and the father and mother consent to it.

"**56.4** The motion for a change of name and correction of the registers of civil status is presented to the court by the father, the mother, the tutor to the minor child or, if the child is fourteen years of age, by the child himself."

C.C., aa. 57-63, repealed.

8. Articles 57 to 63 of the said code are repealed.

C.C., a. 65, am.

9. Article 65 of the said code, amended by section 1 of chapter 101 of the statutes of 1930-1931 and by section 10 of chapter 82 of the statutes of 1968, is again amended by replacing paragraphs 4 and 5 by the following paragraphs:

"4. Whether they were married after publication by means of a notice or with a dispensation from publication.

"5. If either spouse has obtained a dispensation regarding age, the date of the judgment and the number of the court record."

C.C., a. 73, am.

10. Article 73 of the said code, enacted by section 1 of chapter 79 of the statutes of 1969 and amended by section 1 of chapter 61 of the statutes of 1970, is again amended by replacing the words "subject to the application of article 1265" at the end of the last paragraph by the following words: "unless the consorts choose a different matrimonial regime by marriage contract".

C.C., a. 78, repealed.

11. Article 78 of the said code is repealed.

C.C., a. 83, replaced.

12. Article 83 of the said code is replaced by the following article:

"**83.** An unemancipated minor is domiciled with his father and mother or his tutor.

A minor whose custody has been the subject of a judicial decision is domiciled with the person who has custody of him.

When no judicial decision has been rendered with respect to custody and the minor's father and mother have no common domicile, the minor is domiciled with the parent with whom he habitually resides.

The domicile of a person of the age of majority interdicted for insanity is with his curator."

C.C., a. 111, repealed.

13. Article 111 of the said code is repealed.

C.C., aa. 113-245*j*, repealed.

14. Articles 113 to 245*j* of the said code are repealed to the extent indicated in the proclamations made under section 80.

C.C., a. 276, am.

15. Article 276 of the said code is amended by striking out the second sentence.

C.C., a. 277, am.

16. Article 277 of the said code is amended by striking out the word "legitimate".

C.C., a. 282, am.

17. Article 282 of the said code, amended by section 9 of chapter 101 of the statutes of 1930-1931, section 4 of chapter 66 of the statutes of 1964 and by section 10 of chapter 77 of the statutes of 1969, is again amended by replacing paragraph 1 by the following paragraph:

"1. A minor, unless he or she is the father or mother of the child."

C.C., a. 314, replaced.

18. Article 314 of the said code is replaced by the following:

"SECTION I

"EMANCIPATION BY MARRIAGE

"**314.** Every minor is, *pleno jure*, emancipated by marriage.

Emancipation by marriage enables a minor to perform validly any civil act as if he were of the age of majority."

C.C., heading added.

19. The said code is amended by inserting, between articles 314 and 315, the following heading:

"SECTION II

"JUDICIAL EMANCIPATION".

C.C., a. 317, replaced.

20. Article 317 of the said code is replaced by the following article:

"**317.** When emancipation is granted judicially, a curator must be appointed to the emancipated minor."

C.C., a. 336*o*, repealed.

21. Article 336*o* of the said code is repealed.

C.C., a. 337*a*, am.

22. Article 337*a* of the said code, enacted by section 11 of chapter 101 of the statutes of 1930-1931, is amended by striking out the following words: "; but no wife may be curatrix to her husband, an emancipated minor not interdicted".

C.C., a. 338, am.

23. Article 338 of the said code is amended by replacing the word "Emancipated" in paragraph 1 by the words "Judicially emancipated".

C.C., a. 342, replaced.

24. Article 342 of the said code, amended by section 12 of chapter 101 of the statutes of 1930-1931, is replaced by the following article:

"**342.** A spouse, unless there are valid reasons to the contrary, must be appointed curator to his interdicted spouse."

C.C., a. 488, am.

25. Article 488 of the said code is amended by adding, at the end of the first paragraph, the following words: "or by judgment".

C.C., aa. 603-605, replaced.

26. Articles 603 to 605 of the said code are replaced by the following article:

"**603.** When several persons entitled to inherit from each other die and it is impossible to determine which survived the other, they are deemed to have died simultaneously.

The succession of each of the persons deemed to have died simultaneously devolves to those heirs who would have been entitled to receive it in their place."

C.C., a. 613, am.

27. Article 613 of the said code is amended by replacing the words "their father" by the words "the latter".

C.C., a. 624, am.

28. Article 624 of the said code is amended by replacing the first paragraph by the following paragraph:

"**624.** Representation takes place where the person represented is predeceased, co-deceased or declared absent."

C.C., a. 625, am. **29.** Article 625 of the said code, replaced by section 5 of chapter 74 of the statutes of 1915, is amended by striking out the second paragraph.

C.C., a. 633, am. **30.** Article 633 of the said code is amended by replacing the words "same marriage" and "different marriages" by the words "same union" and "different unions".

C.C., a. 658, am. **31.** Article 658 of the said code is amended by striking out, at the end of the article, the words ", unless it is by contract of marriage".

C.C., a. 709, am. **32.** Article 709 of the said code, replaced by section 4 of chapter 71 of the statutes of 1923-1924, is amended

(1) by replacing the words "minors, even emancipated" by the words "minors, even judicially emancipated"; and

(2) by replacing the words "coproprietors of full age" by the words "co-owners of full age or minors emancipated by marriage".

C.C., a. 735.1, added. **33.** The said code is amended by adding, after article 735, the following article:

"**735.1** The heirs or legatees discharge, in the same manner as for all other debts and liabilities of the succession, the allowance awarded to the surviving spouse as compensation for his contribution, in goods or services, to the enrichment of the patrimony of the deceased spouse.

The allowance is fixed taking into account, particularly, the advantages allowed to the surviving spouse by the matrimonial regime, the marriage contract and the succession; the allowance is payable immediately or by instalments.

The compensatory allowance may be paid, wholly or in part, by the awarding of a right of ownership, use or habitation, in accordance with articles 458 to 462 of the Civil Code of Québec."

C.C., a. 763, am. **34.** Article 763 of the said code, amended by section 8 of chapter 66 of the statutes of 1964 and by section 15 of chapter 77 of the statutes of 1969, is again amended by replacing the word "Emancipated" in the second paragraph, by the words "Judicially emancipated".

C.C., a. 768, repealed. **35.** Article 768 of the said code is repealed.

C.C., a. 833, am.

36. Article 833 of the said code, replaced by section 9 of chapter 85 of the statutes of 1971, is amended by replacing the words "Minors, whether emancipated or not," by the words "Minors, even judicially emancipated,".

C.C., a. 844, am.

37. Article 844 of the said code, replaced by section 14 of chapter 101 of the statutes of 1930-1931 and amended by section 10 of chapter 84 of the statutes of 1971, is again amended by replacing the second paragraph by the following paragraphs:

"The witnesses must be named and described in the will.

Any person of full age may be a witness except both spouses together or the spouse or employees of the notary drawing up the will."

C.C., a. 907, am.

38. Article 907 of the said code is amended

(1) by replacing the word "Minors" in the first paragraph by the words "Unemancipated minors"; and

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

"Judicially emancipated minors may do so, provided the executorship be of small importance in proportion to their means."

C.C., a. 981, am.

39. Article 981 of the said code is amended by striking out the words ", and the husband in the case of a married woman," in the second paragraph.

C.C., a. 996, am.

40. Article 996 of the said code is amended by replacing the word "wife" by the word "spouse".

C.C., a. 1002, replaced.

41. Article 1002 of the said code is replaced by the following article:

"**1002.** Simple lesion is cause of nullity in favour of an unemancipated minor against every kind of act when not aided or represented by his tutor, and when so aided or represented, against every kind of act other than acts of administration, and in favour of a judicially emancipated minor, against any contract which exceeds the limits of his legal capacity, unless otherwise provided by law."

C.C., a. 1056, am.

42. Article 1056 of the said code, amended by section 1 of chapter 98 of the statutes of 1930 and by section 11 of chapter 62 of the statutes of 1970, is again amended by striking out the second paragraph.

C.C., a. 1061, am.

43. Article 1061 of the said code is amended by striking out, at the end of the second paragraph, the words "; except by marriage contract".

C.C., a. 1208, am.

44. Article 1208 of the said code, replaced by section 1 of chapter 39 of the statutes of 1893, amended by section 2 of chapter 38 of the statutes of 1906, section 2 of chapter 70 of the statutes of 1923-1924, section 12 of chapter 84 of the statutes of 1971 and by section 4 of chapter 68 of the statutes of 1972, is again amended by replacing the third paragraph by the following paragraph:

"Any person of full age and sound mind may be a witness if he is not interested in the act and is not the spouse of the notary receiving the instrument."

C.C., aa. 1257-1425*i*, 1436-1450, repealed.

45. Articles 1257 to 1425*i* and articles 1436 to 1450 of Title Fourth of Book Three of the said code are repealed.

C.C., aa. 1707, am.

46. Article 1707 of the said code is amended by replacing the word "Emancipated" by the words "Judicially emancipated".

C.C., a. 1708, repealed.

47. Article 1708 of the said code is repealed.

C.C., a. 2002, am.

48. Article 2002 of the said code is amended by striking out the second paragraph.

C.C., a. 2036, am.

49. Article 2036 of the said code, replaced by section 1 of chapter 41 of the statutes of 1906 and amended by section 1 of chapter 72 of the statutes of 1922 (2nd session), is again amended by replacing the third paragraph by the following paragraph:

"In the case of a judgment awarding support, the court, on a petition from the debtor, may designate the immoveable upon which the judicial hypothec may be exercised or allow the petitioner to substitute for that hypothec sufficient security to guarantee the payment of support; it may also order, at the cost of the petitioner, the cancellation of the registered judicial hypothec."

C.C., a. 2086, am.

50. Article 2086 of the said code is amended by striking out the following words: ", married women,".

C.C., a. 2087, am.

51. Article 2087 of the said code is amended by striking out the following words: "or married women, themselves,".

C.C., a. 2117, am.

52. Article 2117 of the said code, amended by section 16 of chapter 72 of the statutes of 1947 and by section 10 of chapter 45 of the statutes of 1948, is again amended by striking out, at the end, the following words: ", under the pains hereinabove declared against married men in article 2113".

C.C., a. 2129*b*, am.

53. Article 2129*b* of the said code, enacted by section 27 of chapter 72 of the statutes of 1947 and replaced by section 15 of chapter 45 of the statutes of 1948, is amended by striking out, in the second sentence, the following words: "married women".

C.C., heading, am.

54. The said code is amended by adding at the end of the heading of Chapter Fifth of Title Eighteenth of Book Third, the following: "AND OF DECLARATION OF RESIDENCE".

C.C., a. 2148.1, added.

55. The said code is amended by adding, after article 2148, the following article:

"**2148.1** Registration of a declaration of family residence is cancelled, on the application of any interested person, only in the following cases, subject to article 2150:

1. the spouses consent to it;

2. one of the spouses has died;

3. the spouses are separated as to bed and board or are divorced;

4. the marriage has been annulled;

5. the immoveable has been alienated with the consent of the spouses with the authorization of the court.

In the cases provided for in subparagraphs 2 to 5, the application must be accompanied with a death certificate or a copy of the judgment, as the case may be."

C.C., a. 2150, am.

56. Article 2150 of the said code is amended by adding the following paragraph:

"The cancelling of the declaration of family residence must also be ordered when the immoveable against which it had been registered has ceased to be used for that purpose."

C.C., a. 2261.1, added.

57. The said code is amended by adding, after article 2261, the following article:

"**2261.1** An action for the annulment of an act done by one spouse without the consent of the other is prescribed by two years from the time of knowledge of the act, if consent was required. However, in no case may the action be instituted more than two years after they have ceased to live together or, in the case of acts done in the exercise of rights and powers arising out of the matrimonial regime, more than two years after the regime is dissolved."

C.C., aa. 2540, 2541, 2544, 2545, 2546, 2550, 2551, am. in French.

58. The French text of articles 2540, 2541, 2544, 2545, 2546, 2550 and 2551 of the said code is amended by replacing the expression "propriétaire subrogé" wherever it appears, whether in the singular or in the plural, by the expression "propriétaire subsidiaire", in the singular or in the plural according to the context.

C.C., a. 2555, replaced.

59. Article 2555 of the said code, enacted by section 2 of chapter 70 of the statutes of 1974, is replaced by the following article:

"**2555.** Separation as to bed and board does not affect the rights of the spouse whether he is the beneficiary or the contingent owner. However, the court, when granting a separation, may declare the rights revocable or lapsed.

Divorce and annulment of marriage cause any designation of the spouse as beneficiary or as contingent owner to lapse."

R.S.Q., c. A-7, repealed.

60. The Adoption Act (R.S.Q., c. A-7) is repealed.

R.S.Q., c. C-12, s. 39, replaced.

61. Section 39 of the Charter of human rights and freedoms (R.S.Q., c. C-12) is replaced by the following section:

Protection.

"**39.** Every child has a right to the protection, security and attention that his parents or the persons acting in their stead are capable of providing."

R.S.Q., c. I-16, s. 61, am.

62. Section 61 of the Interpretation Act (R.S.Q., c. I-16) is amended by adding, in paragraph 11, between the words "mean" and "the Civil Code of Lower Canada", the following words: ", according to the context, the Civil Code of Québec or".

Minors between 16 and 18.

63. Minors between the ages of 16 and 18 on the day of the coming into force of articles 402 and 403 of the Civil Code of Québec may marry without judicial authorization if formalities prior to the solemnizing of the marriage have already been accomplished, provided that the consents required under former articles 119 to 121 of the Civil Code of Lower Canada are obtained.

Annulment.

64. Subject to proceedings in progress, no marriages contracted prior to the coming into force of article 405 of the Civil Code of Québec may be annulled on the basis of former articles 125 and 126 of the Civil Code of Lower Canada.

Validity.

The annulment of marriages contracted prior to the coming into force of articles 423 to 439 of the Civil Code of Québec may be applied for in the cases and on the conditions provided in those articles. However, the validity of marriages contracted in conformity with the former article 115 of the Civil Code of Lower

Canada is not subject to question on the sole ground that the spouses were or either of them was less than 16 years of age.

Provisions applicable.

An action to seek the nullity of a marriage instituted before the coming into force of articles 423 to 439 of the Civil Code of Québec is heard and decided in accordance with the former legislative provisions. However, articles 431 to 439 of the Civil Code of Québec apply to such actions.

Applicability.

65. Chapter 6 of Title One of Book Two of the Civil Code of Québec governs all spouses without consideration of the date on which the marriage was solemnized or the marriage covenants were made.

Legal community.

66. Spouses married before 1 July 1970 under the regime of legal community are subject to the provisions governing the community of moveables and acquests set forth in former articles 1272 to 1425*i* of the Civil Code of Lower Canada, as amended by the Act respecting matrimonial regimes (1969, c. 77) and subsequent acts.

Legal or conventional community.

Spouses married under a regime of community, legal or conventional, before the coming into force of section 45 of this act, continue to be subject to the articles mentioned above and to the stipulations of their contract, subject to the imperative provisions of this act.

Applicability.

The transitional provisions set forth in former article 1450 of the Civil Code of Lower Canada remain in force.

Amicable agreements.

67. Subject to amicable agreements already made and court decisions having acquired the status of *res judicata*, article 503 of the Civil Code of Québec applies to all partnerships of acquests unliquidated on the date of the coming into force of that article.

Separation as to bed and board.

68. Separations as to bed and board and divorces granted prior to the coming into force of articles 525 to 571 of the Civil Code of Québec continue to be subject, with regard to their effects, to former articles 206 to 217 of the Civil Code of Lower Canada.

Actions for separation.

69. Actions for separation as to bed and board brought before the coming into force of articles 525 to 536 of the Civil Code of Québec are continued and decided in conformity with former articles 186 to 206 of the Civil Code of Lower Canada and articles 813 to 820 of the Code of Civil Procedure.

Applicability.

Articles 529 to 536 of the Civil Code of Québec which govern the effects of separation as to bed and board and the manner in which it ceases are applicable to these actions immediately.

Divorce.

70. Petitions for divorce presented before the coming into force of articles 538 to 571 of the Civil Code of Québec are continued and decided in conformity with the Divorce Act (R.S.C., 1970, c. D-8) and with former articles 200 to 205 of the Civil Code of Lower Canada.

Applicability.

The provisions of articles 555 to 571 of the Civil Code of Québec which govern the effects of divorce are applicable to such a petition immediately.

Prior cause for action.

71. Applications for separation as to bed and board or for divorce presented after the coming into force of articles 525 to 571 of the Civil Code of Québec may be based on facts that occurred prior to their coming into force.

Applicability.

72. Articles 572 to 594 of the Civil Code of Québec apply to children born before the coming into force of those articles.

Cases pending.

They apply in the cases pending on the day of their coming into force.

Prior acts.

Acts done prior to that date produce the effects attached to them by these articles.

Hereditary rights.

Hereditary rights resulting from article 594 of the Civil Code of Québec are not exercisable, however, with regard to successions opened before the coming into force of that article except, in the case of a substitution not yet opened, for the benefit of the substitutes.

Adoption.

73. Applications for adoption presented prior to the coming into force of articles 595 to 632 of the Civil Code of Québec are continued and decided in conformity with the provisions of the former Adoption Act (R.S.Q., c. A-7).

Placement.

If placement in view of adoption is made before the coming into force of those articles, the adopters are entitled to refer the matter to the court on the basis of the provisions of the former act. The application is then heard and decided in conformity with the provisions of that act.

Provisions applicable.

In both cases, however, articles 623 and 626 of the Civil Code of Québec apply.

Support.

74. Any application for support based on former articles 167 and 168 of the Civil Code of Lower Canada presented before the coming into force of articles 633 to 644 of the Civil Code of Québec is decided in conformity with those articles.

Award.

Court decisions awarding support to a person that are based on former articles 167 and 168 of the Civil Code of Lower Canada

continue to produce their effects after the coming into force of articles 633 to 644 of the Civil Code of Québec without prejudice to the right that the debtor of support may have to apply for reduction or suppression of support, if new circumstances so justify.

Parental authority.

75. Article 658 of the Civil Code of Québec applies even if the judgment declaring the deprivation of parental authority was rendered prior to the coming into force of that article.

Successions.

76. Subject to amicable agreements already made and judgments having acquired the status of *res judicata*, the new articles 603 and 735.1 of the Civil Code of Lower Canada apply to successions not yet liquidated on the date of the coming into force of those articles.

Renunciation.

However, an heir who has already accepted a succession may nevertheless renounce it within one year from the coming into force of article 603 or 735.1 of the Civil Code of Lower Canada, if those articles apply to the succession that he has accepted.

Gifts.

77. No restriction contained in former article 768 of the Civil Code of Lower Canada with regard to certain categories of gifts may be invoked, from the coming into force of section 35 of this act, to obtain the annulment or reduction of gifts executed previously. Such gifts are, however, considered lapsed if they were not made before the death of the donor.

Name.

78. The father and mother of a minor child may, within two years after the date of the coming into force of article 56.1 of the Civil Code of Lower Canada, send to the Minister of Justice an application to assign to their minor child a surname consisting of not more than two parts, taken from the surnames of his father and mother.

Application.

The application is made in conformity with the Act respecting the change of name and of other particulars of civil status (R.S.Q., c. C-10). However, applicants are dispensed from giving the notices provided for in sections 5 and 9 of the said act.

Surname of spouse.

79. Spouses married before the coming into force of this act may, if they wish, continue to use the surname of their spouse.

Coming into force.

80. This act will come into force on the dates to be fixed by government proclamations later than 1 April 1981. However, no proclamation may be made that would put into force a provision of this act, in a matter falling under the legislative jurisdiction of the Parliament of Canada pursuant to the British North America Act of 1867, before amendments to that act are made to confer on the Legislature of Québec legislative jurisdiction in that matter.