



NATIONAL ASSEMBLY

SECOND SESSION

THIRTY-THIRD LEGISLATURE

Bill 140

**An Act to amend the Charter of
human rights and freedoms
concerning the commission and
establishing the Tribunal des droits
de la personne**

Introduction

**Introduced by
Mr Gil Rémillard
Minister of Justice**



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EXPLANATORY NOTES

The main purpose of this bill is to institute the Human Rights Tribunal and to that end, the bill contains various provisions concerning the establishment, operation and administration of the Human Rights Tribunal, including a provision stating that the Tribunal will be presided by a judge by a judge of the Court of Québec.

While preserving the right of citizens to resort to the courts, the bill confers on the Human Rights Tribunal competence to hear any application submitted by the Commission des droits de la personne regarding cases of alleged discrimination or exploitation. It also confers on the Tribunal jurisdiction in matters relating to affirmative action programs.

In addition, the bill amends the Charter of human rights and freedoms with respect to provisions relating to the handling of complaints addressed to the Commission des droits de la personne and, in that regard, the bill introduces new mechanisms of investigation and settlement of disputes which will include arbitration.

The bill permits the delegation of certain responsibilities of the Commission to a complaints committee composed of three members of the Commission and confers on the Commission the power to regulate its activities.

Finally, the bill contains concordance provisions and provisions intended to facilitate the implementation of the new mechanisms of enforcement of the Charter.

ACT AMENDED BY THIS BILL:

- Charter of human rights and freedoms (R.S.Q., chapter C-12).

Bill 140

An Act to amend the Charter of human rights and freedoms concerning the commission and establishing the Tribunal des droits de la personne

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Section 56 of the Charter of human rights and freedoms (R.S.Q., chapter C-12) is amended

(1) by replacing the words “the word “tribunal”” in the first line of subsection 1 by the words “in Chapter III of Part II and in Part IV, the word “tribunal” or “court””;

(2) by replacing the word “adopté” in the second line of subsection 3 of the French text by the word “pris”.

2. Section 58 of the said Charter is amended by adding, after the second paragraph, the following paragraph:

“The term of office, once determined, shall not be reduced.”

3. Section 59 of the said Charter is amended by replacing the words “and term of office” in the first line of the second paragraph by the words “, the additional salary, the fees and the allowances”.

4. Sections 60 to 65 and Chapter II of Part II of the said Charter are replaced by the following:

“60. The members of the commission shall remain in office until they are replaced, except in the case of resignation.

“61. The commission may establish a complaints committee composed of three of its members designated in writing by the commission and delegate certain responsibilities to it by regulation.

“62. The commission shall appoint the personnel it requires for the performance of its functions; their number shall be determined by the Government; they may be dismissed by order of the Government but only on the recommendation of the commission.

The commission may, in writing, give to a person other than a member of its personnel the mandate to either make an investigation or attempt to bring about a settlement between the parties under the terms of subparagraph 1 or 2 of the second paragraph of section 71, with the obligation to report to the commission within a specified time.

For the arbitration of a matter, the commission shall designate an arbitrator to act alone, chosen from a panel of arbitrators established by the Government after consultation with the commission, the Barreau du Québec, the Conseil consultatif du travail et de la main-d’oeuvre, the Conseil des affaires sociales et de de famille, the Conseil des Communautés culturelles et de l’Immigration, the Conseil du statut de la femme, the Conseil permanent de la jeunesse and the socioeconomic groups which appear to the Government to be the most representative of the various groups dedicated to the defence and promotion of human rights and freedoms. The arbitrator shall act in accordance with the rules set out in Book VII, except Chapter II of Title I, of the Code of Civil Procedure, adapted as required.

No person having taken part in the investigation may be given the mandate to attempt to bring about a settlement or act as an arbitrator except with the consent of the parties.

“63. The Government shall establish standards and scales applicable to the remuneration or allowances and other conditions of employment to be borne by the commission in respect of its personnel, its mandataries and the arbitrators it designates.

“64. Before entering office, the members and mandataries of the commission, the members of its personnel and the arbitrators designated by it shall make the oaths or solemn affirmations provided in Schedule I before the President of the National Assembly in the case of the members of the commission and before the president of the commission in all other cases.

“65. The president and the vice-president shall devote their time exclusively to the duties of their office.

“66. The president is responsible for the administration and management of the affairs of the commission within the scope of the regulations governing the administration of this Charter. He may, by delegation, exercise the powers of the commission under section 61,

the second and third paragraphs of section 62 and the first paragraph of section 77.

The president shall preside the sittings of the commission.

“67. The vice-president shall *ex officio*, and temporarily, replace the president if he is absent or unable to act or if the office of president is vacant. If the vice-president, while he is called upon to replace the president, is himself absent or unable to act, or if the office of vice-president is vacant, the Government shall designate another member of the commission to replace him temporarily and, if need be, shall fix the additional salary, fees or allowances of that other member.

“68. In no case may the commission, any member or mandatary of the commission, any member of its personnel or a complaints committee established by the commission be prosecuted for any omission or any act done in good faith in the performance of his or its duties.

Moreover, they are, for the purposes of an investigation, vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions (R.S.Q., chapter C-37), except the power to order imprisonment.

“69. The commission shall have its seat in the city of Québec or Montréal as the Government may determine by an order which shall come into force upon publication in the *Gazette officielle du Québec*; it shall also have an office in the other city.

The commission may establish offices anywhere in Québec.

It may hold its sittings anywhere in Québec.

“70. The commission may make by-laws for its internal management.

The by-laws are subject to the approval of the Government.

“CHAPTER II

“FUNCTIONS

“71. The commission shall promote and defend, by every appropriate measure, the principles enunciated in this Charter.

The responsibilities of the commission include, without being limited to, the following:

(1) to make a non-adversary investigation, on its own initiative or following receipt of a complaint, into any situation which appears to the commission to be either a case of discrimination within the meaning of sections 10 to 19 or a violation of the right of aged persons and handicapped persons to protection against exploitation enunciated in the first paragraph of section 48, in particular in matters of employment, in the education or health sectors or in connection with any other service ordinarily offered to the public;

(2) to favour a settlement between any person whose rights allegedly have been violated, or the person representing him, and the person to whom the violation is attributed;

(3) to develop and conduct a program of public information and education designed to promote an understanding and acceptance of the object and provisions of this Charter;

(4) to direct and encourage research and the publication of material relating to fundamental rights and freedoms;

(5) to point out any provision in the laws of Québec that may be contrary to this Charter and make the appropriate recommendations to the Government;

(6) to receive and examine suggestions, recommendations and requests concerning human rights and freedoms, possibly by inviting any interested person or group to present his or its views before the commission where it believes that the interest of the public or of a group so requires, with a view to making the appropriate recommendations to the Government;

(7) to cooperate with any organization dedicated to the promotion of human rights and freedoms in or outside Québec;

(8) to make an investigation into any act of reprisal or attempted reprisals and into any act or omission which appears to the commission to constitute an offence under this Charter, and report its findings to the Attorney General.

“72. The commission, its members, personnel and mandataries and any complaints committee established by the commission shall lend their assistance to any person, group or organization requesting it for the drafting of any document relevant to any proceeding under Chapter III of this Part or Parts III or IV or any proceeding prescribed in the regulations hereunder.

“73. Not later than 31 March each year, the commission shall submit to the President of the National Assembly a report on its

activities for the preceding calendar year, containing its recommendations.

The report shall be tabled in the National Assembly if it is in session or, if it is not, within 30 days after the opening of the next session. The report shall be published and distributed by the Québec Official Publisher on the terms determined by order of the Government.

“CHAPTER III

“COMPLAINTS

“74. Any person who believes he has been the victim of a violation of rights that is within the sphere of investigation of the commission may file a complaint with the commission. If several persons believe they have suffered a violation of their rights in similar circumstances, they may file a joint complaint.

Every complaint must be made in writing.

A complaint may be filed on behalf of a victim or group of victims by any organization dedicated to the defence of human rights and freedoms or to the welfare of a group of persons. The written consent of the victim or group of victims is required except in the case of exploitation of aged persons or handicapped persons contemplated by the first paragraph of section 48.

“75. The Public Protector shall transfer to the commission every complaint he receives that is within the sphere of investigation of the commission.

The complaint is deemed to be received by the commission on the day it is filed with the Public Protector.

“76. Prescription of any civil action respecting the facts alleged in a complaint or revealed by means of an investigation is suspended from the day the complaint is filed with the commission or the day an investigation is commenced by the commission on its own initiative until the earliest of

- (1) the day on which a settlement is reached between the parties ;
- (2) the day on which the complainant and the victim are notified that the commission is referring the matter to a tribunal ;

(3) the day on which the victim or the complainant personally institutes proceedings in regard to one of the remedies provided for in sections 49 and 80; and

(4) the day on which the victim and the complainant are notified that the commission refuses or is ceasing to act.

“77. The commission shall refuse or cease to act where

(1) the victim or the complainant so requests, subject to the commission’s ascertaining that such request is made freely and voluntarily;

(2) the victim or the complainant has, on the basis of the same facts, personally pursued one of the remedies provided for in sections 49 and 80.

The commission may refuse or cease to act where

(1) the complaint is based on acts or omissions the last of which occurred more than one year before the filing of the complaint;

(2) the complainant or the victim does not have a sufficient interest;

(3) the complaint is frivolous, vexatious or made in bad faith;

(4) the victim or the complainant has, on the basis of the same facts, personally pursued a remedy other than those provided for in sections 49 and 80.

The decision of the commission shall state in writing the reasons on which it is based and indicate any remedy which the commission may consider appropriate; it shall be notified to the complainant and the victim.

“78. The commission shall seek, in respect of every situation reported in the complaint or revealed in the course of the investigation, any evidence allowing it to decide whether it is expedient to favour the negotiation of a settlement between the parties, to propose the submission of the dispute to arbitration or to refer any subsisting dispute to a tribunal.

The commission may cease to act where it believes it would be futile to seek further evidence or where the evidence collected is insufficient. Its decision shall state in writing the reasons on which it is based and indicate any remedy which the commission may consider appropriate; it shall be notified to the complainant and the victim.

“79. Where a settlement is reached between the parties, it shall be evidenced in writing.

If no settlement is possible, the commission shall again propose arbitration to the parties; it may also propose to the parties any measure of redress, such as the admission of the violation of a right, the cessation of the act complained of, the performance of any act or the payment of compensation or exemplary damages, within such time as it fixes.

“80. Where the parties will not agree to negotiation of a settlement or arbitration or where the proposal of the commission has not been implemented to its satisfaction within the allotted time, the commission may apply to a tribunal to obtain, where consistent with the public interest, any appropriate measure against the person at fault or to demand, in favour of the victim, any measure of redress it considers appropriate.

“81. Where the commission has reason to believe that the life, health or safety of a person is threatened or that evidence or a possible solution to a case of discrimination or exploitation may be lost, it may apply to a tribunal for any emergency measure capable of putting an end to the threat or risk of loss.

“82. The commission may also apply to a tribunal for any appropriate measure against any person who attempts to take or takes reprisals against a person, group or organization having an interest in the handling of a case of discrimination or exploitation or having participated therein either as the victim, the complainant, a witness or otherwise.

The commission may, in particular, request the tribunal to order that, on such date as it deems fair and suitable in the circumstances, the injured person be given the position or the dwelling he would have obtained had the contravention not occurred.

“83. Where the commission applies to a tribunal, pursuant to sections 80 to 82, for measures for a person’s benefit, it must obtain the person’s written consent, except in the case of a person contemplated by the first paragraph of section 48.

“84. The victim may intervene at any stage of proceedings to which the commission is party pursuant to sections 80 to 82 and in which he has an interest. If the victim does intervene, the commission cannot bring an appeal without his consent.

Subject to the second paragraph of section 111, the victim may personally pursue the remedies provided for in sections 80 to 82 or

bring an appeal, even though he was not party to the proceedings in first instance.

In all such cases, the commission shall give the victim access to the record which concerns him.”

5. Section 86.2 of the said Charter, amended by section 21 of chapter 61 of the statutes of 1982, is again amended

(1) by replacing the words “the courts” in the second line of the first paragraph by the words “a tribunal”;

(2) by replacing the words “must, whenever required” in the first line of the second paragraph by the words “shall, on request”.

6. Section 86.3 of the said Charter is amended

(1) by replacing the figure and words “86.1, it may recommend” in the third line of the first paragraph by the figure and words “85, it may propose”;

(2) by replacing the word “recommendation” in the first line of the second paragraph by the word “proposal”;

(3) by replacing the words “the court” in the second line of the second paragraph by the words “a tribunal”;

(4) by replacing the figure “86.1” in the third line of the second paragraph by the figure “85”;

(5) by replacing the word “court” in the fourth and in the fifth lines of the second paragraph by the word “tribunal”.

7. Section 86.5 of the said Charter is amended

(1) by inserting the words “within the allotted time” after the word “implemented” in the second line;

(2) by replacing the word “recommended” in the fourth line by the word “proposed”;

(3) by replacing the words “the Court as in” in the fifth line by the words “a tribunal in accordance with”;

(4) by replacing the figure “86.3” in the fifth line by the figure “87”.

8. Section 86.6 of the said Charter is amended

(1) by replacing the figure “86.3” in the first line of the first paragraph by the figure “87”;

(2) by inserting the words “or having consented” after the word “required” in the first line of the second paragraph;

(3) by replacing the word “court” in the first line of the third paragraph by the words “tribunal to which the commission has applied pursuant to the second paragraph of section 87”.

9. Section 86.7 of the said Charter is amended by replacing the word and figures “86.2 to 86.6” in the first line of the second paragraph by the word and figures “86 to 90”.

10. Sections 86.1 to 86.7 of the said Charter become sections 85 to 91.

11. The said Charter is amended by inserting, immediately before Part IV, the following Part:

“PART IV

“CONFIDENTIALITY

“92. The commission may, on its own initiative or on request, ensure that the identity of any person, group or organization having an interest in the handling of a case of discrimination or exploitation or having participated therein as the victim, the complainant, a witness or otherwise, remains confidential, provided it is consistent with the public interest and the regulations under section 99.

Subject to the same conditions, the commission may ban or restrict the disclosure, publication or release of any information or document it specifies in relation to a case of discrimination or exploitation, in particular to preserve the confidentiality of the source of the information or document or to protect a person’s rights and freedoms.

However, any information or document furnished voluntarily to the commission which relates to the devising or implementation of or compliance with an affirmative action program is confidential and may be used only for the purposes for which it was furnished; it shall not be disclosed except with the consent of the person having furnished it.

This section applies notwithstanding sections 9, 59 and 83 of the Act respecting Access to documents held by public bodies and the Protection of personal information (R.S.Q., chapter A-2.1).

“93. No information or document contemplated by the third paragraph of section 92 may be revealed before a tribunal by or on behalf of the commission or, despite paragraph 8 of section 71, reported to the Attorney General, except with the consent of the person or organization having furnished the information or document to the commission and the consent of the parties to the dispute.

“94. Nothing said or written in the course of the negotiation of a settlement pursuant to section 78 may be revealed, even in a court of law, or, despite paragraph 8 of section 71, reported to the Attorney General, except with the consent of the parties to the negotiation and the parties to the dispute.

“95. Notwithstanding any provision to the contrary, no member or mandatary of the commission or member of its personnel may be compelled to give testimony before a tribunal as to information obtained in the performance of his duties or to produce a document containing any such information, except for the purpose of ascertaining whether it is confidential.

“96. No civil action may be taken by reason of the disclosure or release of any information or document emanating from the commission or the release, in good faith, of any extract therefrom or summary thereof.”

12. Part IV of the said Charter becomes Part V.

13. Section 86.8 of the said Charter becomes section 97.

14. Sections 86.9 and 86.10 of the said Charter are replaced by the following sections:

“98. The Government, after consultation with the commission, shall publish a draft of its regulations in the *Gazette officielle du Québec* with a notice indicating that the draft is to be tabled before the Standing Committee on Institutions after a specified period of time and that it may be adopted on the expiry of 45 days after the Committee reports to the National Assembly.

The Government may subsequently amend the draft of its regulations. It shall, if that is the case, publish the amended draft in the *Gazette officielle du Québec* with a notice indicating that the regulations will be adopted without amendment on the expiry of 45 days after the publication.

“99. The commission may, by regulation,

(1) delegate to a complaints committee established under section 61 such responsibilities as it indicates;

(2) prescribe additional rules, procedures or terms and conditions applicable to the mechanisms provided for in Chapters II and III of Part II and in Parts III and IV, including the form and content of the related reports;

(3) prescribe additional rules, procedures or terms and conditions whereby the commission may exercise its powers under section 92 in respect of such cases, classes of persons, information or documents as the commission may determine.

Every regulation hereunder is subject to the approval of the Government; the Government may amend any regulation before granting its approval.”

15. The said Charter is amended by inserting, immediately before Part V, the following Part:

“PART VI

“HUMAN RIGHTS TRIBUNAL

“CHAPTER I

“ESTABLISHMENT AND ORGANIZATION

100. The Human Rights Tribunal, referred to in this Part as the “Tribunal”, is hereby established.

101. The Tribunal is composed of not fewer than six members, including a president and a vice-president, appointed by the Government. The president shall be chosen from among the judges of the Court of Québec after consultation with the chief judge of that court; the part-time members, including the vice-president who shall be an advocate, shall be chosen from the panel of arbitrators provided for in the third paragraph of section 62.

The term of office of the president is five years and that of the other members is three years; their terms of office may be renewed or extended for a specified period.

The Government shall establish the standards and scales governing the remuneration and conditions of employment or, where applicable, the allowances of the members who are not judges.

“102. Before entering office, the members shall make the oaths or solemn affirmations provided in Schedule II; the president shall do so before the chief judge of the Court of Québec and the other members, before the president.

“103. In exceptional circumstances, the Government may, on the request of the president and after consultation with the chief judge of the Court of Québec, designate another judge of that court to sit as a member of the Tribunal either to hear and decide an application or for a determined period.

“104. To hear and decide an application, the Tribunal shall sit in a division composed of three members designated by the president, including a judge or advocate who shall preside the division.

However, a preliminary or incidental application or an application under section 81 or 82 shall be heard and decided by the president or by the judge or advocate to whom he refers the application; such an application shall be referred to a division of the Tribunal in the cases determined by the rules of procedure and practice or where the president so decides.

“105. The clerk and staff of the Court of Québec of the district in which an application is filed or in which the Tribunal or a division or member of the Tribunal sits shall provide it or him with the services they usually provide to the Court of Québec itself.

The bailiffs are *ex officio* bailiffs of the Tribunal and may make a return to the Tribunal, under their oath of office, of any service made by them.

“106. The president of the Tribunal shall devote his time exclusively to the duties of his office.

His duties include

(1) fostering a consensus among the members concerning the general orientation of the Tribunal;

(2) coordinating the work of the Tribunal and distributing it among the members; the members shall, in that regard, comply with his orders and directives and see to their proper implementation;

(3) prescribing a code of ethics and ensuring that it is observed. The code of ethics shall come into force 15 days after its publication in the *Gazette officielle du Québec* or at any later date indicated therein.

“107. The vice-president shall *ex officio* replace the president if he is absent or unable to act or if the office of president is vacant.

“108. A member of the Tribunal, even if no longer in office, shall render a decision on every application he has heard in its entirety. If no decision is rendered within 90 days, the application shall be referred to another member or heard anew, as the president may decide.

“109. Except on a question of jurisdiction, no recourse provided for in articles 33 and 834 to 850 of the Code of Civil Procedure may be exercised nor any injunction granted against the Tribunal, its president or any other member acting in its or his official capacity.

A judge of the Court of Appeal may, upon a motion, annul summarily any decision, order or injunction issued or granted contrary to the first paragraph.

“110. A majority of the members of the Tribunal may, at a meeting called by the president, adopt such rules of procedure and practice as they consider necessary for the performance of the functions of the Tribunal.

“CHAPTER II

“JURISDICTION AND POWERS

“111. The Tribunal is competent to hear and dispose of any application submitted under section 80, 81 or 82, in particular in matters of employment or housing or in connection with goods and services ordinarily offered to the public, and any application submitted under section 87, 89 or 90 in respect of an affirmative action program.

Only the commission may initially submit an application to the Tribunal to pursue any of the remedies provided for in any of the said sections. However, the remedy provided for in section 90 may also be pursued before the Tribunal by a person on whom the Tribunal has imposed an affirmative action program.

“112. The Tribunal and its divisions and members are, in the performance of their functions, vested with the powers and immunity of commissioners appointed under the Act respecting public inquiry commissions, except the power to impose imprisonment.

“113. In the absence of an applicable rule of procedure and practice, the Tribunal may, on the basis of the Code of Civil

Procedure, adapted as required, render such rulings and orders of procedure and practice as the performance of its functions may require.

Moreover, in the absence of a provision applicable to a particular case, the Tribunal may, in a matter submitted to it, prescribe with the same effect any act or formality which could have been prescribed in the rules of procedure and practice.

“CHAPTER III

“PROOF AND PROCEDURE

“**114.** Every application shall be submitted to the Tribunal in writing and served in accordance with the rules provided in the Code of Civil Procedure, unless it is made in the course of a hearing. Where the said Code provides that a mode of service requires authorization, it may be obtained from the Tribunal.

The application shall be filed at the office of the Court of Québec in the judicial district where the person on whom the conclusions of the application may be imposed or, in the case of the implementation of an affirmative action program, the person on whom the program has been or may be imposed has his domicile or, failing that, his residence or principal place of business.

“**115.** Within 15 days of the filing of an application other than an application referred to in the second paragraph of section 104, the plaintiff shall file a factum setting out his pretensions, which the Tribunal shall serve on every interested person. Within 30 days of the service, every interested person who wishes to do so may file a factum of his own, which the Tribunal shall serve on the plaintiff.

Failure to comply with this section on the part of the plaintiff may entail the dismissal of the application and, on the part of any other interested person, the denial of a hearing.

“**116.** The commission, the victim, the group of victims, the complainant before the commission, any person on whom an application is served and the person on whom the implementation of an affirmative action program has been or may be imposed are parties by operation of law and may intervene at any time before the execution of the decision.

Any other person, group or organization may, at any time before the execution of the decision, become a party if the Tribunal is satisfied that he or it has a sufficient interest to intervene; however, the person, group or organization must obtain leave from the Tribunal

each time it wishes to produce, examine and cross-examine witnesses, or examine any evidence in the record and comment or refute it.

“117. An application may be amended at any time before the decision on the conditions the Tribunal deems necessary to safeguard the rights of all parties. However, except with the consent of the parties, no amendment which would result in an entirely new application unrelated to the original shall be allowed.

“118. Any party may, before the hearing or at any time before the decision provided he shows that he has been diligent, request the recusation of any member of the Tribunal. The request shall be addressed to the president of the Tribunal who shall rule upon the request or refer it to a member of the Tribunal who is a judge or advocate, in particular where the request concerns him personally.

Any member of the Tribunal who is aware of a valid ground of recusation to which he is liable is bound to make and file in the record a written declaration thereof.

“119. The Tribunal shall sit in the judicial district at the office of which the application was filed.

However, the president of the Tribunal and the member presiding the division to which the application is referred may decide, on their own initiative or on the request of a party, that the application will be heard in another judicial district if the public interest or the interest of the parties so requires.

“120. On his own initiative or on request, the president of the Tribunal or the member designated by him to preside the hearing shall fix the date of the hearing.

The Tribunal shall give written notice of the hearing to every party and to his attorney, unless the party has waived his right thereto, not less than one clear day before the hearing in the case of an application under the second paragraph of section 104 and not less than three clear days before the hearing in all other cases. The notice shall set out

- (1) the purpose of the hearing;
- (2) the date, time and place of the hearing;
- (3) the right of every party to be assisted or represented by an advocate;

(4) the right of every party to waive a *viva voce* hearing and present his views in writing;

(5) the right of every party to request that the hearing be held *in camera* or that an order be issued banning or restricting the disclosure, publication or release of any information or document;

(6) the power of the Tribunal to hear the application and to render any decision or issue any order without further time or notice, despite the default or absence of any party or of his attorney.

“121. The Tribunal may, on its own initiative or on request, ban or restrict the disclosure, publication or release of any information or document it indicates to preserve the confidentiality of the source of the information or document or to protect a person’s rights and freedoms.

“122. The Tribunal may hear the application and render a decision or issue an order despite the absence of a party or of his attorney who, although duly notified of the hearing, fails to present himself on the day of the hearing at the appointed time and place, refuses to be heard or fails to present his views in writing as required.

The Tribunal is required to postpone the hearing, however, if the absent party or attorney has given the Tribunal a valid excuse for his absence.

“123. The Tribunal, though bound by the general principles of justice, may admit any evidence useful and relevant to the application submitted to it and allow any means of proof.

The Tribunal is not bound by the special rules of evidence applicable in civil matters, except to the extent determined in this Part.

“124. Depositions shall be recorded unless the parties agree expressly to dispense with recording.

“CHAPTER IV

“DECISION AND EXECUTION

“125. Every decision of the Tribunal must be rendered in writing, countersigned by all the members of the Tribunal who rendered it or the majority of them, and filed by one of the signatories at the office of the Court of Québec where the application was filed.

It shall contain, in addition to the purview, a statement of any ban or restriction on the disclosure, publication or release of any information or document it indicates and the reasons therefor.

Subject to any such ban or restriction, any person may, at his expense, obtain a copy of or extract from the decision.

“126. The Tribunal may, in a final decision, condemn one of the parties who appeared in the proceedings to the payment of the costs and disbursements or apportion them among them as it determines.

“127. The Tribunal may, without any formality, correct a decision it has rendered which contains an error in writing or in calculation or any other clerical error provided that the decision has not been executed or appealed from.

“128. The Tribunal may, on its own initiative or on the application of any interested person, revise or revoke any decision it has rendered provided that it has not been executed or appealed from

(1) where a new fact is discovered which, if it had been known in due time, might have justified a different decision;

(2) where an interested person was unable, for reasons deemed sufficient, to be heard;

(3) where a substantive or procedural defect is likely to invalidate the decision.

However, in the case described in subparagraph 3 of the first paragraph, a member of the Tribunal cannot revise or revoke a decision rendered on an application heard by him.

“129. The clerk of the Court of Québec of the district where the application was filed shall cause every final decision to be served on all parties who appeared in the proceedings and on all parties contemplated by the first paragraph of section 116, as soon as it is filed at the office of the Court.

However, where a decision is rendered in the presence of a party or his attorney, it is deemed to be served on them on being so rendered.

“130. A decision of the Tribunal condemning a party to pay a sum of money becomes executory as a judgment of the Court of Québec or the Superior Court, according to their respective jurisdictions, and has all the effects thereof from the date of its filing

at the office of the Court of Québec or of its homologation by the Superior Court.

Homologation of the decision is obtained by the filing by the clerk of the Court of Québec of the district where the decision of the Tribunal was filed of a certified copy of the decision at the office of the prothonotary of the Superior Court of the district where the condemned party has his domicile or, failing that, his residence or principal place of business.

A final decision of the Tribunal other than a decision described in the first paragraph is executory upon the expiry of the time for appeal, in accordance with the terms and conditions set out in the decision, unless the Tribunal orders provisional execution of the decision upon its service or at any specified later date.

Any other decision of the Tribunal is executory upon its service and notwithstanding appeal, unless the appeal tribunal orders otherwise.

“131. Every person who fails to comply with a decision of the Tribunal not homologated by the Superior Court which has been duly served on him is guilty of contempt of court and may be condemned, without prejudice to any suit for damages, with or without imprisonment for a period of not more than one year,

(1) to a fine not exceeding \$5 000 in the case of contravention of an order banning or restricting disclosure, publication or release issued under section 121;

(2) to a fine not exceeding \$50 000 in every other case.

“CHAPTER V

“APPEAL

“132. Any final decision of the Tribunal may be appealed from to the Court of Appeal with leave from one of the judges thereof.

“133. Subject to section 84, the rules relating to appeals set out in the Code of Civil Procedure, adapted as required, apply to any appeal under this Chapter.”

16. Part V of the said Charter becomes Part VII.

17. Section 87 of the said Charter is replaced by the following section:

“134. Every person is guilty of an offence

(1) who contravenes any of sections 10 to 19 or the first paragraph of section 48;

(2) who, being a member or mandatary of the commission or a member of its personnel, reveals, without being duly authorized to do so, anything of which he has gained knowledge in the performance of his duties;

(3) who attempts to obstruct or obstructs the commission, a complaints committee, a member or mandatary of the commission or a member of its personnel in the performance of its or his duties;

(4) who contravenes a ban or restriction on the disclosure, publication or release of any information or document contemplated by Part IV or by any regulation under section 99;

(5) who attempts to take or takes reprisals as described in section 82.”

18. Section 88 of the said Charter is amended by replacing the figure “87” in the first line by the figure “134”.

19. Section 89 of the said Charter is amended by replacing the word “Act” in the first line by the word “Charter”.

20. Sections 88 to 91 of the said Charter become sections 135 to 138.

21. Schedules A and B to the said Charter are replaced by the following schedules:

“SCHEDULE I

“OATHS OR DECLARATIONS OF OFFICE AND SECRECY

“(Section 64)

“I, (*name of person*), swear (*or solemnly declare*) that I will fulfil the duties of my office honestly, impartially and justly and that I will accept no sum of money or other consideration for what I may do in the performance of my duties other than what may be allowed me according to law.

Furthermore, I swear (*or solemnly declare*) that I will neither reveal nor disclose, without being duly authorized to do so, any

information or document I may gain knowledge of in the performance of my duties.

(In the case of an oath, add: "So help me God.")

"SCHEDULE II

"OATHS OR DECLARATIONS OF OFFICE AND SECRECY

"(Section 102)

"I, *(name of person)*, swear *(or solemnly declare)* that I will fulfil the duties of my office faithfully, impartially, honestly, free from any influence and to the best of my knowledge and abilities, and exercise all the powers thereof.

Furthermore, I swear *(or solemnly declare)* that I will neither reveal nor disclose, without being duly authorized to do so, any information or document I may gain knowledge of in the performance of my duties.

(In the case of an oath, add: "So help me God.")

22. The provisions of this Act come into force on the date or dates to be fixed by the Government.