

NATIONAL ASSEMBLY

SECOND SESSION

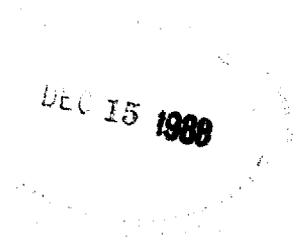
THIRTY-THIRD LEGISLATURE

Draft Bill

**An Act to add the reformed law of
evidence and of prescription and the
reformed private international law to
the Civil Code of Québec**

Introduction

**Introduced by
Mr Herbert Marx
Minister of Justice**



**Québec Official Publisher
1988**

EXPLANATORY NOTES

The object of this bill is to reform the law of evidence and prescription, as well as the private international law, and to introduce three new books on those subjects into the Civil Code of Québec, thereby completing it. These books complement Book Two, on the family, already adopted and in force, Books One, Three and Four, on persons, successions and property, which have also been adopted, and Books Five, Six and Nine, on obligations, preference and hypothecs and the publication of rights, which have been presented as draft bills.

BOOK SEVEN : EVIDENCE

The object of Book Seven is to reform the law of evidence. This book comprises three titles.

Title One, dealing with the general rules of evidence, has two chapters. Chapter I deals with the object and burden of proof, while Chapter II lays down the rules on judicial notice.

Title Two deals with the means of proof. It is divided into five chapters, dealing each in turn with one of the five means of proof. Chapter I, concerning proof by writings, is divided into seven sections, dealing with copies of statutes, authentic acts, semi-authentic acts, private writings, unsigned writings attesting to juridical acts, computerized records, and reproduction of writings, respectively. Chapter II is devoted to testimony. It defines testimony and its probative force and introduces rules on hearsay evidence. Chapters III and IV, on presumption and admission, respectively, define and distinguish between the different kinds of presumptions and admissions and determine their probative force. Chapter V introduces a new means of proof, the production of material things, into the Civil Code of Québec.

Title Three, regarding the admissibility of evidence and proof, contains two chapters. The first, dealing with evidence, lays down the

general principle of admissibility, and the exceptions, particularly the exception of evidence obtained unlawfully. The second sets forth the rules on the admissibility of means of proof.

BOOK EIGHT: PRESCRIPTION

The object of Book Eight is to reform the law of prescription. This book comprises three titles.

Title One sets down the rules on prescription. Its four chapters deal with the general rules applicable to acquisitive prescription and extinctive prescription, renunciation of prescription, interruption of prescription and suspension of prescription, respectively.

Title Two is devoted to acquisitive prescription. The first of its two chapters specifies the conditions under which acquisitive prescription operates while the second chapter determines the periods required for such prescription.

Title Three sets forth the special rules relating to extinctive prescription.

BOOK TEN: PRIVATE INTERNATIONAL LAW

The object of Book Ten is the reform of the private international law. This book contains four titles.

Title One brings together all the general provisions relating to the basic principles of this branch of civil law.

Title Two establishes the rules governing conflict of laws, indicating which legal system has jurisdiction to solve cases involving extraneous elements. This title is divided into four chapters, corresponding to the primary divisions of civil law, namely, the status of persons, the status of property, the status of obligations and the status of procedure. Each chapter is divided into two sections, the first containing general provisions, and the second, special provisions, except the chapter on the status of procedure, which has only one article.

Title Three deals with the international jurisdiction of Québec courts. It comprises two chapters, one containing general provisions and the other, special provisions relating to matters of an extrapatrimonial or patrimonial nature, and to real actions.

Title Four lays down the rules applicable to the recognition and enforcement of foreign decisions and those regarding the jurisdiction of foreign courts. Each of these subjects is dealt with in a separate chapter. Chapter I deals only with the recognition and enforcement of foreign decisions, while the second is divided into five sections, dealing with the general principle, personal actions of an extrapatrimonial nature, personal actions of a patrimonial nature, actions relating to matrimonial regimes and actions relating to successions, respectively.

Draft Bill

An Act to add the reformed law of evidence and of prescription and the reformed private international law to the Civil Code of Québec

THE PARLIAMENT OF QUÉBEC ENACTS AS FOLLOWS:

1. Book Seven and Book Eight are added to the Civil Code of Québec, established by Chapter 39 of the statutes of 1980, and read as follows:

“BOOK SEVEN

EVIDENCE

TITLE ONE

GENERAL RULES OF EVIDENCE

CHAPTER I

GENERAL PROVISIONS

2981. A person wishing to assert a right must prove the facts on which his claim is based.

A person who sets up the non-existence, nullity, modification or extinction of a right invoked must prove the facts on which he bases his contestation.

2982. Evidence is sufficient if it renders the existence of a fact more probable than its non-existence, unless the law requires more convincing proof.

2983. Good faith is always presumed, unless the law expressly requires that it be proved.

CHAPTER II

JUDICIAL NOTICE

2984. No proof is required of a matter that must be judicially noticed.

2985. Judicial notice shall be taken of the law in force in Québec.

However, statutory instruments in force in Québec but not published in the *Gazette officielle du Québec*, international treaties applicable to Québec and customary international law must be pleaded.

2986. Judicial notice shall be taken of any fact that is so generally known that it cannot reasonably be questioned, and also of any fact that is capable of accurate and ready determination by resort to reliable sources.

2987. Judicial notice shall be taken of the law of other provinces or territories of Canada, provided it has been pleaded. The court may nevertheless require that proof be made of such law; failing such proof, it shall apply the law in force in Québec.

2988. Judicial notice may be taken of the law of a foreign state, provided it has been pleaded. The court may require that proof be made of such law.

Where such law has not been pleaded or its content cannot be established, the court shall apply the law in force in Québec.

2989. The court may, in any matter, take judicial notice of the facts in dispute in the presence of the parties or where the parties have been duly called. It may make any verifications it considers necessary and go to the scene, if need be.

TITLE TWO

PROOF

2990. Proof of a fact or juridical act may be made in writing, by testimony, by presumption, by admission or by the production of

material things, according to the rules set forth in this Book and in the manner provided in the Code of Civil Procedure or in any other Act.

CHAPTER I

WRITINGS

SECTION I

COPIES OF STATUTES

2991. Copies of statutes which have been or are in force in Canada, attested by a competent public officer or printed by a duly authorized printer, make proof of the existence and content of such statutes, and neither the signature or seal appended to such a copy nor the quality of the officer or printer need be proved.

SECTION II

AUTHENTIC ACTS

2992. An authentic act is one that has been received or attested by a competent public officer according to the laws of Québec or of Canada, with the formalities required by law.

Every act whose material appearance satisfies such requirements is presumed to be authentic.

2993. The following documents in particular are authentic if they conform to the requirements of law:

- (1) official documents of the Parliament of Canada or of Québec;
- (2) official documents issued by the government of Canada or of Québec, such as letters patent, orders and proclamations;
- (3) records of the courts of justice having jurisdiction in Québec;
- (4) records of municipalities and of other legal persons of public right established by an Act of Québec;
- (5) public records required by law to be kept by public officers;
- (6) notarial acts.

2994. A copy of the original of an authentic act or, where the original is lost, a copy of an authentic copy of the act is authentic if it is attested by the public officer having legal custody of it.

2995. Where the original of a registered document, even a document under private signature, is lost or in the possession of the adverse party or of a third person without collusion on the part of the person invoking it, the copy of the document is also authentic if it is attested by the public officer having legal custody of it or by the Keeper of the Archives nationales du Québec.

2996. An extract which textually reproduces part of an authentic act is itself authentic if it is duly certified by the person having lawful custody of the act, provided the extract bears its date of issue and indicates the date, nature and place of execution of the original act and, where such is the case, the names of the parties and of the public officer who drew it up.

2997. The recital in an authentic act of the facts which the public officer had the task of observing or recording makes proof against all persons.

2998. To be authentic, a notarial act must be signed by all the parties; it then makes proof against all persons of the juridical act which it sets forth and of those declarations of the parties which directly relate to the act.

The consent of parties who are unable to sign must be given before a witness who shall sign. Minors, persons of full age who are unable to give consent, persons who have an interest in the act, and the spouse of the officiating notary cannot be witnesses.

2999. An authentic copy of a document makes proof against all persons of its conformity with the original and replaces it.

An authentic extract makes proof of its conformity with the part of the document which it reproduces.

3000. Improbation is necessary only to contradict the recital of those facts in the authentic act which the public officer had the task of observing.

Improbation is not required to rectify errors of writing or inadvertent errors or to contest the quality of the public officer or witnesses, the signature of the public officer or, in the case of acts of civil status, the signature of the witnesses.

SECTION III

SEMI-AUTHENTIC ACTS

3001. An act purporting to be issued by a competent foreign public officer makes proof of its content against all persons and neither the quality nor the signature of the officer need be proved.

Similarly, a copy of a document in the legal custody of the foreign public officer makes proof of its conformity to the original against all persons, and replaces the original if it purports to be issued by the officer.

3002. A power of attorney under private signature made outside Québec before a competent public officer who verifies the identity of the mandator, receives his signature and certifies the power of attorney also makes proof against all persons.

3003. Acts, copies and powers of attorney mentioned in this section may be deposited with a notary, who can then issue copies of them.

Such a copy makes proof of its conformity with the deposited document and replaces it.

3004. Where an act or copy issued by a foreign public officer or a power of attorney certified by a foreign public officer has been denied, the person invoking it has the burden of proving that it is authentic.

SECTION IV

PRIVATE WRITINGS

3005. A private writing is a writing setting forth a juridical act and bearing the signature of the parties to the act; it is not subject to any other formality.

3006. A signature is the affixing by a person of his name or the distinctive mark which he regularly uses to signify his intention.

3007. A person who invokes a private writing must establish the veracity of the signature affixed to it.

Where a writing is set up against the person purporting to have signed it or his heirs, it is deemed to be admitted unless it is denied.

3008. A private writing makes proof, in respect of the persons against whom it is proved, of the juridical act which it sets forth and of the statements of the parties directly relating to the act.

3009. A private writing does not make proof of its date against third persons but that date may be established against them in any manner.

However, writings relating to acts carried out in the course of the activities of an enterprise are presumed to have been made on the date they bear.

SECTION V

OTHER WRITINGS

3010. An unsigned writing regularly used in the course of the activities of an enterprise to evidence a juridical act makes proof of its content.

A domestic paper stating that payment has been received or mentioning that it supplies the lack of a title in favour of the person for whose benefit it sets forth an obligation makes proof against the person who wrote it.

3011. A writing that is neither authentic nor semi-authentic which relates a fact may be used to establish that fact.

The writing cannot have probative force unless its authenticity has been established by separate proof.

3012. A release, although unsigned and undated, inscribed by a creditor on the title of his debt or on a copy thereof which has always remained in his possession makes proof against him.

The release is not admissible in proof of payment, however, if it has the effect of withdrawing the debt from the rules governing prescription.

3013. A person who invokes an unsigned writing must prove that it originates from the person whom he claims to be its author.

3014. Writings contemplated in this section may be contested on any grounds, and their probative force is left to the appraisal of the court.

SECTION VI

COMPUTERIZED RECORDS

3015. Where the data respecting a juridical act are computerized, the document reproducing them makes proof of the content of the act if it is intelligible and if its reliability is sufficiently guaranteed.

To assess the quality of the document, the court must take into account the circumstances under which the data were processed and the document was reproduced.

3016. The reliability of the computerization of a juridical act is presumed to offer sufficient guarantees where it is carried out systematically and without gaps and the computerized data are protected against all possibility of alteration.

3017. The probative force of a document which reproduces a computerized juridical act is left to the appraisal of the court. The document may be contested on any grounds.

SECTION VII

REPRODUCTION OF WRITINGS

3018. A writing in the possession of the state or of a person of public right or private right may, after the expiry of three years from the date of the writing, be reproduced and subsequently destroyed, unless it belongs to a third person and must be delivered to him.

3019. In order for a reproduction to make the same proof of the content of a writing as the original, it must accurately reproduce the original, be an indelible picture of it and allow the order in which it was made to be determined.

The reproduction and subsequent destruction of the original must be carried out before at least two persons specially authorized by the Keeper of the Archives nationales du Québec for that purpose or, as the case may be, by the legal person.

3020. The persons designated to witness the reproduction and subsequent destruction of a writing shall, immediately after these operations, attest that they have been carried out and certify the accuracy of the reproduction by a declaration indicating the nature of the writing and the place and date of the reproduction.

3021. Proof of a writing which has been reproduced and subsequently destroyed is made by the filing of the reproduction and of the declaration attesting to these operations.

An extract or copy of the declaration may be received in evidence with the same force as the original if it is certified true by the Keeper of the Archives nationales du Québec or by a representative of the legal person.

CHAPTER II

TESTIMONY

3022. Testimony is a statement whereby a person asserts facts of which he has personal knowledge or whereby an expert gives his opinion.

To make proof, testimony must be given by deposition in a judicial proceeding unless otherwise agreed by the parties or provided by law.

3023. A statement made by a person who does not testify in a judicial proceeding or by a witness prior to a judicial proceeding is hearsay evidence; such a statement is considered to be testimony only where it meets the requirements of this chapter or of an Act.

3024. A statement made by a person who does not appear as a witness, concerning facts to which he could legally testify, may be offered as testimony provided an application is made to that effect and notice is given to the adverse party.

The court must, however, ascertain that it is impossible for the declarant to appear as a witness, or that it is unreasonable to require him to do so, and that the reliability of the statement is sufficiently guaranteed by the circumstances in which it is made.

The reliability of documents drawn up in the course of activities of an enterprise and of documents entered in a register kept as required by law is presumed to be sufficiently guaranteed.

3025. Previous statements by a person who appears as a witness, concerning facts to which he can legally testify, are admissible as testimony if their reliability is sufficiently guaranteed.

The reliability of such statements is sufficiently guaranteed where, in particular, they were made spontaneously at the time the facts occurred.

3026. Proof by testimony may be adduced by a single witness.

3027. The probative force of testimony is left to the appraisal of the court.

CHAPTER III

PRESUMPTION

3028. A presumption is an inference made by the law or the court from a known fact to an unknown fact.

3029. A legal presumption is one that is specially attached by law to certain facts; it exempts the person in whose favour it exists from making any other proof.

A presumption concerning presumed facts is simple and may be rebutted by proof to the contrary; a presumption concerning deemed facts is absolute and irrebuttable.

3030. The authority of a final judgment (*res judicata*) is an absolute presumption; it applies only to the object of the judgment when the demand is based on the same cause and is between the same parties acting in the same qualities and the thing applied for is the same.

However, a judgment deciding a class action has the authority of a final judgment (*res judicata*) in respect of the parties and the members of the group who have not been excluded therefrom.

3031. Presumptions which are not established by law are left to the discretion of the court.

Other than presumptions established by law, the court shall take only serious, precise and concordant presumptions into consideration.

CHAPTER IV

ADMISSION

3032. An admission is the acknowledgment of a fact which may produce legal consequences against the person who makes it.

3033. An admission may be express or implied.

An admission cannot, however, be inferred from mere silence, except in the cases provided by law.

3034. An admission made by a party to a dispute or by an authorized mandatary makes proof against him if it is made in the proceeding in which it is invoked. It cannot be revoked, unless it is proved to have been made through an error of fact.

The probative force of any other admission is left to the appraisal of the court.

3035. An admission cannot be divided except where it contains facts which are foreign to the issue, or where the part of the admission objected to is improbable or invalidated by indications of bad faith or by contrary evidence, or where the facts contained in the admission are unrelated with each other.

CHAPTER V

PRODUCTION OF MATERIAL THINGS

3036. The production of material things is a means of proof which allows the judge to make his own findings. Such a material thing may consist of an object, other than a writing, as well as the sense impression of an object, fact or place.

3037. The production of material things cannot have probative force until their authenticity has been established by separate proof.

3038. The court may draw any inference it considers reasonable from the production of a material thing.

TITLE THREE

ADMISSIBILITY OF EVIDENCE AND PROOF

CHAPTER I

EVIDENCE

3039. All evidence of any fact relevant to a dispute is admissible.

3040. The court shall reject any evidence obtained under such circumstances that fundamental rights and freedoms are breached and

that its use would tend to bring the administration of justice into disrepute.

The latter fact shall not be taken into account in the case of a violation of the right of professional privilege.

3041. The court may declare any evidence inadmissible which appears trifling and unimportant in relation to the main issue if it tends to confuse the issue or to be gravely prejudicial to the adverse party.

CHAPTER II

PROOF

SECTION I

GENERAL PROVISION

3042. The court cannot of its own motion invoke grounds of inadmissibility under this chapter which a party who is present or has been duly called has failed to invoke.

SECTION II

WRITINGS

3043. A juridical act set forth in a writing or the content of a writing must be proved by the production of the original or a copy which legally replaces it.

However, where a party is, in good faith, unable to produce the original of a writing or a copy which legally replaces it, proof may be made by any other means.

3044. The parties to a juridical act set forth in a writing cannot contradict or vary the terms of the writing by testimony unless there is a commencement of proof.

A commencement of proof may arise where an admission or writing of the adverse party, his testimony or the production of material things allows it to be presumed or gives an indication that the writing contains inaccuracies.

3045. Proof by testimony is admissible to interpret or complete a writing or to impugn the validity of the juridical act which the writing sets forth.

3046. Where a party has been unable, for a valid reason, to produce written proof of an obligation contracted by him or in his favour, the obligation may be proved by other means.

SECTION III

TESTIMONY

3047. The parties to a juridical act cannot make proof of it by testimony where the value in dispute exceeds \$1 000.

However, failing better proof and regardless of the value in dispute, proof may be made by testimony of any juridical act carried out in the course of the activities of an enterprise or of any other juridical act if there is a commencement of proof.

3048. Hearsay evidence is admissible with the consent of the parties; the same rule applies to hearsay evidence considered by law to be testimony.

3049. Hearsay evidence offered as testimony must be proved by producing the writing if the statement was made in that form.

3050. A statement recorded in writing by a person other than the declarant may be proved by producing the document if the declarant has acknowledged that the writing faithfully reproduces his statement.

The same rule applies where the writing was drawn up at the request of the declarant or by a person acting in the performance of his duties, if there is reason to presume, having regard to the circumstances, that the writing accurately reproduces the statement.

3051. A statement recorded on magnetic tape or by any other reliable recording technique may be proved by such means, provided its authenticity is separately proved.

3052. An unwritten and unrecorded statement cannot be proved except by the testimony of the declarant or of the persons having had personal knowledge of it.

SECTION IV

PRESUMPTION AND ADMISSION

3053. No proof is admitted to rebut a legal presumption, whether simple or absolute, where, on the ground of such presumption, the law annuls certain acts or disallows an action, unless the law has reserved the right to make proof to the contrary.

However, the presumption, if not of public order, may be rebutted by an admission made during the proceeding in which the presumption is invoked.

3054. An admission made outside the proceeding in which it is invoked is proved by the means admissible as proof of the fact which is its object.

BOOK EIGHT

PRESCRIPTION

TITLE ONE

RULES GOVERNING PRESCRIPTION

CHAPTER I

GENERAL PROVISIONS

3055. Prescription is a means of acquiring a real right or of being released from an obligation by the lapse of time and according to the conditions fixed by law.

3056. Things which, by reason of their nature or their appropriation to purposes of public interest, are not transferrable or susceptible of appropriation cannot be prescribed.

That which is extra-patrimonial or not in commerce is also imprescriptible.

3057. Prescription takes effect in favour of or against all persons, including the state, subject to express provision of law.

3058. The court cannot, of its own motion, supply the plea of prescription.

The court must, however, supply such plea of its own motion where the right of action is forfeited by law. Such forfeiture is never presumed; it must be expressly stated.

3059. The period of time required for prescription is reckoned by full days. The day on which prescription begins to run is not counted in computing such period.

Prescription is only acquired where the last day of the period has elapsed without being used. Where the last day falls on a non-juridical day, prescription is only acquired on the next following juridical day.

3060. The taking up of possession fixes the beginning of the period of acquisitive prescription.

The day on which the right of action arises fixes the beginning of the period of extinctive prescription.

3061. Prescription may be pleaded at any stage of judicial proceedings, even in appeal, unless the party who has not pleaded prescription ought, in light of the circumstances, to be presumed to have renounced it.

3062. A ground of defence that may be raised to defeat an action can still be invoked, even if the time for using it by way of direct action has expired, provided such ground could have constituted a valid defence to an action at the time when it could have served as the basis of a direct action.

Maintenance of this ground does not revive a direct action that is prescribed.

CHAPTER II

RENUNCIATION OF PRESCRIPTION

3063. Prescription cannot be renounced in advance.

A person may, however, renounce prescription which has been acquired or any benefit of time elapsed by which prescription has begun.

3064. No prescriptive period other than that provided by law may be agreed upon.

3065. Renunciation of prescription is either express or tacit; tacit renunciation results from an act which implies the abandonment of an acquired right.

In the case of immovables, however, renunciation must be express, and the writing evidencing it must be entered in the land register.

3066. A person who cannot alienate cannot renounce any prescription that is acquired.

3067. Any person who has an interest in the acquisition of prescription may set it up, even if the debtor or the possessor renounces it.

CHAPTER III

INTERRUPTION OF PRESCRIPTION

3068. Prescription may be interrupted naturally or civilly.

3069. Acquisitive prescription is interrupted naturally where the possessor is deprived of the enjoyment of the property for more than one year.

3070. Extinctive prescription is interrupted naturally where the holder of a dismemberment of the right of ownership, having failed to avail himself of it, performs an act indicating his intention to exercise that right.

3071. The deposit of a judicial demand before the expiry of the prescriptive period constitutes a civil interruption, provided the demand is served on the person to be prevented from prescribing not later than sixty days following the expiry of the prescriptive period.

Seizures, cross demands, interventions and oppositions are considered to be judicial demands.

3072. Any application to allow a creditor to share in the distribution of money provided for by law also interrupts prescription.

3073. Interruption is deemed never to have occurred if the application is dismissed or the suit discontinued or perempted.

3074. Where the application of a party is dismissed without a decision having been made on the merits of the action, the plaintiff

has an additional period of thirty days from service of the judgment in which to claim his right.

The same applies in arbitration; the thirty-day period then runs from the time the award is made, from the end of the arbitrators' mandate, or from the service of the judgment annulling the award.

3075. An interruption resulting from a judicial demand continues until the final judgment or, as the case may be, until the transaction agreed between the parties.

The interruption has effect with regard to all the parties in respect of any right arising from the same source.

3076. An interruption which results from the bringing of a class action benefits all the members of the group who have not requested their exclusion from the group; it also benefits those members who have not been excluded from the action by the description of the group contained in the judgment granting the motion for the action, an interlocutory judgment or the final judgment of the court.

3077. Acknowledgement of a right and renunciation of acquired prescription or of the benefit of a period which has elapsed interrupts prescription civilly.

3078. A judicial demand or any other act of interruption against the principal debtor or against a surety interrupts prescription with regard to both.

3079. Interruption with regard to one of the creditors or debtors of a solidary or indivisible obligation has effect with regard to the others.

3080. Interruption with regard to one of the joint creditors or debtors of a divisible obligation has no effect with regard to the others.

3081. Interruption with regard to one of the co-heirs of a solidary creditor or debtor of a divisible obligation has effect, with regard to the other solidary creditors or debtors, only as regards the portion of that heir.

3082. Following renunciation or interruption, prescription begins to run again for the same period.

CHAPTER IV

SUSPENSION OF PRESCRIPTION

3083. Prescription does not run against persons if it is impossible in fact for them to act by themselves or to be represented by others.

3084. Prescription does not run against a child yet unborn.

Nor does it run against a minor or a person of full age under protection with respect to claims he may have against his legal representative or with respect to remedies he may have against the person entrusted with his custody for injury to the integrity of his person.

3085. Spouses cannot prescribe against each other during cohabitation.

3086. Prescription does not run against an heir with respect to his claims against the succession.

3087. A motion for leave to bring a class action suspends prescription in favour of every member of the group for whose benefit it is made and, as the case may be, in favour of every member of the group described in the judgment granting the motion.

Prescription runs again only when the judgment is no longer susceptible of appeal.

3088. Suspension of prescription of solidary and indivisible claims is subject to the rules governing interruption of prescription of such claims.

TITLE TWO

ACQUISITIVE PRESCRIPTION

CHAPTER I

CONDITIONS OF ACQUISITIVE PRESCRIPTION

3089. Acquisitive prescription is a means of acquiring a real right or of confirming a right of ownership, through the effect of possession.

3090. Acquisitive prescription requires possession in accordance with the conditions laid down in Book Four, Property.

3091. A successor by particular title may join to his possession that of his predecessors in order to complete prescription.

A successor by universal title or by general title continues the possession of his predecessor.

3092. Detention cannot serve as the basis for prescription, even if it extends beyond the term agreed upon.

3093. A precarious title may be interverted either by a title proceeding from a third person, or by an act performed by the holder, which is incompatible with precarious holding.

Interversion renders the possession available for prescription from the time the owner learns of the new title or of the act of the holder.

3094. Third persons may prescribe against the holder of a right of ownership during its dismemberment or when it is held precariously.

3095. The institute and his successors by universal title or by general title cannot prescribe against the substitute before the opening of the substitution.

CHAPTER II

PERIODS OF ACQUISITIVE PRESCRIPTION

3096. A person who, without right, is entered in the land register as the owner of a registered immovable becomes the owner of it on the lapse of ten years from the date of registration of the document giving rise to the entry where, during the same period, he has possessed the immovable as owner.

3097. A person who, as owner, has for ten years possessed an immovable that is not registered in the land register may acquire the ownership of it only upon a judicial demand.

The possessor may, under the same conditions, exercise the same right in respect of a registered immovable where the owner of the

immovable is not identified in the land register; the same rule applies where the owner is dead or an absentee at the beginning of the ten-year period.

3098. In matters respecting immovables, the prescriptive period is five years from the date of registration of the document, where the possessor acquired the immovable in good faith and by translatory title published under the registration number of the immovable and where the title of ownership of his predecessor is also published under that number.

3099. A title which is absolutely null cannot serve as the basis for prescription by five years.

3100. In matters respecting corporeal movables, possession creates a presumption of title.

The owner of a corporeal movable has three years from the date of dispossession in which to revendicate the movable, unless the possessor has acquired it under judicial authority.

3101. To prescribe, a subsequent acquirer need merely have been in good faith at the time of the acquisition, even where his effective possession began only later.

The same applies where there is jinder of possession, with respect to each previous acquirer.

TITLE THREE

EXTINCTIVE PRESCRIPTION

3102. Extinctive prescription is a means of extinguishing a right which has not been used or of pleading the non-admissibility of an action.

3103. All actions respecting the status of a person for which no prescriptive period is otherwise established are prescribed by ten years.

3104. Actions to enforce real rights are prescribed by ten years.

However, an action to obtain possession of an immovable must be brought within one year from dispossession.

3105. A judgment constitutes a title which is prescribed by ten years, even where the right which it sanctions is prescribed by a different period.

3106. An action to enforce a personal right or movable real right is prescribed by three years, if the prescriptive period is not otherwise established. The period runs from the day the damage occurs or, if the damage appears progressively, from the day it appears for the first time, but in this case the right of action lapses with the expiry of ten years from the act which caused the damage.

3107. A judicial demand which is not declared to be perempted constitutes a title which is prescribed by three years, even if the object of the demand is prescribed by a different period.

3108. The application by a surviving spouse for the fixing of the allowance due as compensation for contributions to the enrichment of the patrimony of a deceased spouse is prescribed by one year from the death of the spouse.

3109. An action for defamation is prescribed by one year from the day on which the defamed person learned of the defamation.

3110. In an action in nullity of contract for vitiated consent, the prescriptive period runs from the day of the lesion or, in the case of error or fraud, from the day it is discovered and, in the case of violence or fear, from the day it ceases.

3111. Notwithstanding any stipulation to the contrary, where an action is founded on the obligation to repair the corporal damage caused to another, the obligation either to give prior notice of the bringing of the action or to institute proceedings within a period not exceeding three years cannot hinder a prescriptive period provided for by this Book.

3112. In the case of a contract of successive performance, prescription runs in respect of payments due, even though the parties continue to perform one or another of their obligations under the contract.

3113. In an action to reduce an obligation which is performed successively, the prescriptive period runs from the day performance of the obligation becomes exigible, whether the obligation arises from a contract, the law or a judgment.”

2. Book Ten is added to the Civil Code of Québec after article 3438 at the end of Book Nine, Publication of Rights, and reads as follows:

“BOOK TEN

PRIVATE INTERNATIONAL LAW

TITLE ONE

GENERAL PROVISIONS

3439. The rules contained in this Book apply subject to binding international treaties, and to those rules of law in force in Québec whose scope is expressly determined by law, as well as to those which are applicable by reason of their particular object.

3440. For the purposes of this Book, where a State comprises several territorial units under different legal systems, each territorial unit is regarded as a State.

Where a State has several legal systems applicable to different categories of persons or several territorial units having different legislative jurisdictions, any reference to the law of that State is a reference to the legal system designated by the rules in force in that State; in the absence of such rules, any such reference is a reference to the legal system most closely connected with the situation.

3441. Characterization is made according to the legal system of the court seized of the case; however, characterization of property as movable or immovable is made according to the law of the place where the property is actually situated.

Where a legal institution is unknown to the court or known to it under a different designation or with a different content, foreign law may be taken into account.

3442. Where legitimate and manifestly preponderant interests from the standpoint of Québec law so require, a mandatory provision of the law of another State with which the situation is closely connected may be taken into account.

In deciding whether to do so, consideration must be given to the purpose of the provision and the consequences of its application from the standpoint of Québec law.

3443. Where the law of a foreign State is applicable under the rules contained in this Book, only the rules of internal law of that State, and not its rules of conflict of laws, are applicable.

3444. The provisions of the law of a foreign State do not apply if their application would be inconsistent with public order.

3445. Exceptionally, the law designated by this Book is not applicable if, in the light of all attendant circumstances, it is clear that the situation is only remotely connected with that law and is much more closely connected with the law of another State. This provision does not apply where the law is designated in a legal instrument.

TITLE TWO

CONFLICT OF LAWS

CHAPTER I

PERSONAL STATUS

SECTION I

GENERAL PROVISIONS

3446. The status and capacity of natural persons are governed by the law of their domicile.

3447. In cases of emergency or serious inconvenience, the law of the court seized of the case may be applied provisionally to ensure the protection of a person or of his property.

SECTION II

SPECIAL PROVISIONS

§ 1.—*Incapacity*

3448. Protective supervision of persons of full age and tutorship to minors are governed by the law of the domicile of the persons subject thereto.

3449. A party to a juridical act who is incapable under the law of the State of his domicile cannot invoke his incapacity if he was capable under Québec law when the act was performed, unless the other party was or should have been aware of the incapacity.

§ 2.—*Legal persons*

3450. A legal person not constituted under the law of Québec is governed with respect to its status and capacity by the law of the place where it was formed, subject with respect to its activities to the law of Québec.

Partnerships, companies, corporations, groups and organized patrimonies are presumed to be legal persons for the purposes of this Book.

3451. A legal person who is a party to a juridical act in Québec cannot invoke restrictions upon the power of representation of the persons acting for it if the restrictions did not exist under Québec law when the act was performed, unless the other party was or should have been aware of the restrictions.

§ 3.—*Marriage*

3452. Marriage is governed with respect to its intrinsic validity by the law applicable to the status of each of the intended spouses; with respect to the formalities of its celebration, it is governed by the law of the place of solemnization.

A marriage is also valid if it is solemnized abroad in accordance with the law of the State of the domicile or nationality of one of the spouses.

3453. Those effects of marriage which are binding on all spouses regardless of their matrimonial regime are subject to the law of their domicile.

Where the spouses are domiciled in different States, the applicable law is the law of their common habitual residence or, failing that, the law of their last common habitual residence or, failing that, the law of the place of solemnization of the marriage.

§ 4.—*Separation from bed and board*

3454. Separation from bed and board is governed by the law of the domicile of the spouses.

Where the spouses are domiciled in different States, the applicable law is the law of their common habitual residence or, failing that, the law of their last common habitual residence or, failing that, the law of the court seized of the case.

The effects of separation from bed and board, except those governed by express provisions, are subject to the law governing the separation.

§ 5.—*Filiation by blood or through adoption*

3455. Filiation is established in accordance with the law of the domicile or nationality of the child at birth or the law of the domicile or nationality of either of his parents, whichever is more beneficial to the child.

The effects of filiation are governed by the law of the domicile of the child at the time when they are at issue.

3456. In the case of the adoption of a child domiciled outside Québec, the rules respecting consent to the adoption and the eligibility of the child for adoption are those provided by the law of his domicile.

The effects of adoption, except those governed by express provisions, are subject to the law of the domicile of the adopter.

3457. Custody of the child is governed by the law of his domicile.

§ 6.—*Obligation of support*

3458. The obligation of support is governed by the law of the domicile of the creditor. However, where the creditor cannot obtain support from the debtor under that law, the applicable law is that of the domicile of the debtor.

3459. In matters of support between collateral relations and between persons connected by affinity, the defendant may plead that, under the law of his domicile, there is no obligation to provide support to the plaintiff.

3460. The obligation of support between spouses separated from bed and board or whose marriage has been declared null is governed by the law applicable to the separation from bed and board or to the declaration of nullity.

CHAPTER II

STATUS OF PROPERTY

SECTION I

GENERAL PROVISIONS

3461. Immovable real rights are governed by the law of the place where the property is situated.

3462. Movable real rights are governed by the law of the place where the movable property is situated at the time of the creation, acquisition or extinction of the rights.

The content and publication of movable real rights are also governed by the law of the place where the movable property is situated.

SECTION II

SPECIAL PROVISIONS

§ 1.—*Successions*

3463. Succession to movable property is governed by the law of the last domicile of the deceased; succession to immovable property is governed by the law of the place where the property is situated.

However, a person may designate, as the law applicable to his succession,

(1) the law of the State of his nationality at the time of his death;

(2) the law of the State of his domicile at the time of his death;

(3) the law of the place where an immovable owned by him is situated, but only with regard to that immovable.

§ 2.—*Movable hypothecs*

3464. A hypothec on movable property not situated in Québec may be granted and published in Québec.

3465. A hypothec without delivery which is not published according to the law of the State where the property is situated when the hypothec is granted may be published in Québec.

In the same circumstances, a hypothec with delivery may be published in Québec if the property is brought into Québec within thirty days after the publication.

3466. A hypothec published according to the law of the State where the property was situated when the hypothec was granted is deemed published in Québec, provided it is actually published in Québec either before the day publication ceases according to the law of the place where the property was situated when the hypothec was granted, before the expiry of sixty days from the time the property is brought into Québec or before the expiry of fifteen days from the time the creditor becomes aware that the property has been brought into Québec, whichever occurs first.

However, until the hypothec is actually published in Québec, the rule contained in the first paragraph cannot be set up against a buyer in good faith who has acquired the property in Québec or against a hypothecary creditor in good faith who has obtained another hypothec on the same property in Québec.

3467. The granting and publication of a hypothec affecting incorporeal movable property are governed by the law of the domicile of the grantor at the time of the granting of the hypothec.

However, the rule contained in the first paragraph does not apply to an incorporeal movable property whose situation is fixed in Québec by law or to one affected by a hypothec published, in accordance with Québec law, by the possession of the property or title exercised by the creditor.

3468. The granting and publication of a hypothec on corporeal movable property habitually used in more than one State and consisting of equipment used by its owner or leased to another person are also governed by the law of the domicile of the grantor at the time of the granting of the hypothec.

3469. A hypothec which, when it is granted, is published in accordance with the law of the State where the grantor is then domiciled is, if the grantor changes his domicile, deemed published in Québec, provided it is actually published in Québec either before the day publication ceases at the place of the former domicile, before the expiry of sixty days from the date of the change of domicile or

before the expiry of fifteen days from the time the creditor receives notice of the change of domicile, whichever occurs first.

However, until the hypothec is actually published in Québec, the rule contained in the first paragraph cannot be set up against a buyer in good faith who has acquired the property in Québec or against a hypothecary creditor in good faith who has obtained another hypothec on the same property in Québec.

3470. A hypothec governed by the law of the domicile of the grantor must be published in Québec if that law makes no provision for publication of the hypothec by registration.

§ 3.—*Trusts*

3471. Where no law is expressly designated by, or may be inferred with certainty from, the terms of the instrument creating a trust, the applicable law is that with which the trust is most closely connected.

In ascertaining the law with which the trust is most closely connected, reference shall be made in particular to the place of administration of the trust, the place where the trust property is situated, the residence or principal establishment of the trustee, the objects of the trust and the places where they are to be fulfilled.

3472. Any severable aspect of a trust, particularly its administration, may be governed by a different law.

The law governing the trust determines whether the question to be resolved is one of validity or administration; it also determines whether that law or the law governing a severable aspect of the trust may be replaced and, if so, the conditions of replacement.

3473. Recognition in Québec of a trust created in a foreign State implies that the trust property is separate from the personal patrimony of the trustee and that he may act as an administrator of the property of others charged with full administration.

CHAPTER III

STATUS OF OBLIGATIONS

SECTION I

GENERAL PROVISIONS

§ 1.—*Form of juridical acts*

3474. The form of a juridical act is governed by the law of the place where it is made.

A juridical act is nevertheless valid if it is made in the form prescribed by the law applicable to the content of the act, by the law of the place where the property which is the object of the act is situated when it is made or by the law of the domicile of one of the parties when the act is made.

A testamentary disposition may be made in the form required by the law of the domicile or nationality of the testator either at the time of the disposition or at the time of his death.

3475. An act may be made before a diplomatic or consular agent or by a delegate-general or delegate of Québec abroad acting within his powers under the law by which he is appointed and according to the forms prescribed by that law, subject to the recognition of those powers by the law of the place where he carries on his duties.

3476. An act may also be made outside Québec before a Québec notary if it pertains to a real right the object of which is situated in Québec or if either of the parties is domiciled in Québec.

§ 2.—*Content of juridical acts*

3477. A juridical act containing a foreign element is governed by the law expressly designated in the instrument or the designation of which may be inferred with certainty from the terms of the act.

A system of law may be expressly designated as applicable to the whole or a part only of a juridical act.

3478. If the designated law renders the juridical act invalid, the designation is considered to be without effect and the law which would have been designated in the absence of that designation is applicable.

3479. If no law is designated in the act, the courts shall apply the law of the State with which the act is most closely connected, in view of its nature and the attendant circumstances.

3480. A juridical act is deemed to be most closely connected with the law of the State where the party who is to perform the prestation which is characteristic of the act has his habitual residence or, if the act is made in the course of business of an enterprise, his establishment.

SECTION II

SPECIAL PROVISIONS

§ 1.—*Sale*

3481. If no law is designated by the parties, the sale of corporeal movable property is governed by the law of the State where the buyer has his habitual residence or his establishment at the time of formation of the contract, if

(1) the order is received from the buyer at an establishment of the seller situated in that State;

(2) the contract provides expressly that delivery must be made in that State;

(3) the contract is formed on terms determined mainly by the buyer, in response to a call for tenders.

If no law is designated by the parties, the sale of immovable property is governed by the law of the State where it is situated.

3482. A sale at auction or on a stock exchange is governed by the law of the State where the auction takes place or the exchange is situated.

§ 2.—*Mandate and administration of the property of others*

3483. The existence and scope of the powers of a mandatary or an administrator of the property of others in his relations with a third person and the conditions under which his personal liability or that of the mandator or the beneficiary of the administration may be incurred are governed by the law of the State where the mandatary or administrator acted, if he, or the mandator, the beneficiary or the

third person has his domicile or habitual residence in that State or, failing that, by the law with which the case is most closely connected.

§ 3.—*Consumer contract*

3484. Notwithstanding any agreement to the contrary, a consumer contract is governed by the law of the State where the consumer has his habitual residence at the time of formation of the contract if the contract was formed in that State. The same rule applies where the formation of the contract was preceded by a special offer or advertisement in that State and the consumer took all the necessary steps for the formation of the contract in that State or where the order was received from the consumer in that State; the same rule also applies where the consumer was induced by the other party to travel to a foreign State for the purpose of forming the contract.

§ 4.—*Contract of employment*

3485. Notwithstanding any agreement to the contrary, a contract of employment is governed by the law of the State where the worker habitually carries on his work, even if he is on temporary assignment in another State.

If the employee does not habitually carry on his work in any one State, the contract is governed by the law of the State where his employer has his domicile or principal establishment, unless otherwise agreed by the parties.

§ 5.—*Contract of insurance*

3486. A contract of insurance is governed by the law of the State where the insured has his habitual residence at the time of formation of the contract, if the client applies for the insurance in that State or the insurer signs or issues the policy in that State.

Group insurance is governed by the law of the State where the participant has his habitual residence at the time he becomes a participant.

§ 6.—*Assignment of claim*

3487. The assignability of a claim and relations between the assignee and the assigned debtor are governed by the law governing relations between the assigned debtor and the assignor.

§ 7.—*Arbitration*

3488. Arbitration proceedings held in Québec are governed by the law of Québec unless the law of another State has been designated by the parties.

An arbitration agreement is valid, as to its content, if it meets the requirements of the law designated by the parties, the law applicable to the principal contract or the law of Québec.

§ 8.—*Matrimonial regime*

3489. The law applicable to a conventional matrimonial regime is determined according to the general rules respecting the content of juridical acts.

3490. The matrimonial regime of spouses having married without making matrimonial agreements is governed by the law of their domicile at the time of the solemnization of their marriage.

If the spouses are at that time domiciled in different States, the applicable law is that of their first habitual common residence or, failing that, the law of the place of solemnization of the marriage.

3491. The validity of any agreed change to a matrimonial regime is governed by the law of the domicile of the spouses at the time of the change.

If the spouses are at that time domiciled in different States, the applicable law is that of their habitual common residence or, failing that, the law governing their matrimonial regime.

§ 9.—*Liability*

3492. Extracontractual obligations based on management of the business of others, reception of a thing not due or unjustified enrichment are governed by the law of the place of occurrence of the act from which they derive.

3493. Liability for damage caused to another is governed by the law of the State of the domicile or habitual residence of the person who committed the damaging act and the injured person where they both are domiciled or have their habitual residence in the same State or, failing that, by the law of the State where the damaging act occurred. However, if the damage occurred in another State, the law

of that State is applicable if the person who caused the damage could have foreseen that it would occur in that State.

Where an obligation arises from nonperformance of a contractual obligation, claims based on the nonperformance are governed by the law applicable to the contract.

3494. The liability of the manufacturer of a movable is governed, at the option of the injured person,

(1) by the law of the State where the manufacturer has his establishment or, failing that, his habitual residence, or

(2) by the law of the State where the movable was acquired, unless the manufacturer proves that the product was put on the market in that State without his consent.

§ 10.—*Evidence*

3495. Evidence is governed by the law applicable to the merits of the dispute, subject to any rules of the court seized of the case which are more favourable to the establishment of evidence.

§ 11.—*Prescription*

3496. Prescription is governed by the law of the court seized of the case.

CHAPTER IV

STATUS OF PROCEDURE

3497. Procedure is governed by the law of the court seized of the case.

TITLE THREE

INTERNATIONAL JURISDICTION OF QUÉBEC COURTS

CHAPTER I

GENERAL PROVISIONS

3498. In the absence of any special provision, the Québec courts have jurisdiction when the defendant is domiciled in Québec.

The administrative authorities of Québec also have jurisdiction when the interested party is domiciled in Québec.

3499. Even though a Québec court has jurisdiction to hear a dispute, it may exceptionally decline jurisdiction if it considers that the court of another State is in a better position to adjudicate.

3500. Even though a Québec court has no jurisdiction to hear a dispute under this Book, it may hear it if it has a sufficient connection with Québec.

3501. On the application of a party, a Québec court shall stay its ruling on an action brought before it if another action, between the same parties, based on the same facts and having the same object is pending before a foreign court, provided that the latter action is not frivolous or dilatory and can result in a decision which can be recognized in Québec, or if such a decision has already been rendered by a foreign court.

3502. A Québec court may order provisional or conservatory measures even if it has no jurisdiction over the merits of the dispute. It may also order such measures as it considers necessary for the protection of a person or of his property, and terminate them.

3503. Where a Québec court has jurisdiction to rule on the principal demand, it also has jurisdiction to rule on an incidental demand if the two questions are related. The same rule applies to a cross demand if it results from the same contract or fact as the principal demand or from a common source.

CHAPTER II

SPECIAL PROVISIONS

SECTION I

PERSONAL ACTIONS OF AN EXTRAPATRIMONIAL NATURE

§ 1.—*General provision*

3504. A Québec court has jurisdiction to hear personal actions of an extrapatrimonial nature when the person concerned is domiciled in Québec.

§ 2.—*Special provisions*

3505. A Québec court has jurisdiction to rule on the custody of a child domiciled in Québec.

3506. A Québec court has jurisdiction to decide cases of support when one of the parties has his domicile or habitual residence in Québec.

3507. A Québec court has jurisdiction in matters relating to nullity of marriage and the effects of marriage imposed on all spouses, whatever their matrimonial regime, when one of the spouses has his domicile or habitual residence in Québec or when the marriage was solemnized in Québec.

3508. A Québec court has jurisdiction to rule on separation from bed and board when one of the spouses has had his domicile or habitual residence in Québec for one year at the time of the introduction of the action.

3509. A Québec court has jurisdiction to rule on an application for review of a foreign judgment which can be recognized in Québec, respecting support, if one of the parties has his domicile or habitual residence in Québec.

3510. A Québec court has jurisdiction in matters of filiation if the child or one of his parents is domiciled in Québec.

It has jurisdiction in matters of adoption if the child or plaintiff is domiciled in Québec.

SECTION II

PERSONAL ACTIONS OF A PATRIMONIAL NATURE

§ 1.—*General provision*

3511. In personal actions of a patrimonial nature, a Québec court has jurisdiction where

(1) the defendant has his domicile or, if not, his habitual residence in Québec or, in the case of a legal person, has an establishment or branch in Québec, for disputes relating to the activities of the defendant in Québec;

(2) a fault was committed in Québec, damage was suffered in Québec or one of the obligations arising from a contract was to be performed in Québec;

(3) the parties have by agreement submitted to the Québec court all existing or future disputes between themselves arising out of a specified legal relationship;

(4) the defendant submits to the jurisdiction of the Québec court.

Notwithstanding the foregoing, the Québec court has no jurisdiction where the parties, by agreement, have chosen to submit all existing or future disputes between themselves relating to a specified legal relationship to a foreign court or to an arbitrator, unless the defendant submits to the jurisdiction of the Québec court.

§ 2.—*Special provisions*

3512. A Québec court has jurisdiction to hear an action involving a consumer contract if the consumer has his domicile or habitual residence in Québec; the waiver of such jurisdiction by the consumer cannot be set up against him.

3513. A Québec court has jurisdiction to hear an action based on an insurance contract where the holder, the insured or the beneficiary of the contract is domiciled in Québec at the time of the demand, the contract is related to an insurable interest situated in Québec or the loss took place in Québec.

SECTION III

REAL ACTIONS

§ 1.—*General provision*

3514. A Québec court has jurisdiction over a real action if the property in dispute is situated in Québec; it also has jurisdiction where the action concerns movable property and the defendant is domiciled in Québec.

§ 2.—*Special provisions*

3515. A Québec court has jurisdiction in matters of succession if the succession opened in Québec, the defendant is domiciled in Québec or the deceased had elected that Québec law should govern his succession.

It also has jurisdiction if the property of the deceased is situated in Québec and a ruling is required as to the devolution or transmission of the property.

3516. A Québec court has jurisdiction in matters of matrimonial regime where

(1) the regime is dissolved by the death of one of the spouses and the court has jurisdiction in respect of the succession of that spouse;

(2) the object of the proceedings relates only to property situated in Québec.

In other cases, a Québec court has jurisdiction if one of the spouses has had his domicile or habitual residence in Québec for not less than one year before the proceedings are instituted.

TITLE FOUR

RECOGNITION AND ENFORCEMENT OF FOREIGN DECISIONS AND JURISDICTION OF FOREIGN COURTS

CHAPTER I

RECOGNITION AND ENFORCEMENT OF FOREIGN DECISIONS

3517. A Québec court shall recognize and, where applicable, declare enforceable a judicial or administrative decision rendered outside Québec unless the defendant proves that

(1) the authority of the State where the decision was rendered had no jurisdiction under the provisions of this Title;

(2) the decision is subject to ordinary review or is not final or enforceable at the place where it was rendered;

(3) the decision was rendered in contravention of the fundamental principles of procedure, particularly in that the defendant had no opportunity to present his case; or

(4) a dispute between the same parties, based on the same facts and having the same object has given rise to a decision rendered in Québec, whether it has become *res judicata* or not, or is pending before a Québec court, in first instance, or has been decided in a third State and the decision meets the necessary conditions for recognition in Québec.

3518. A decision rendered by default cannot be recognized or declared enforceable unless the plaintiff proves that the procedure initiating the proceedings was duly transmitted to or served on the defaulting party in accordance with the law of the place where the decision was rendered.

However, the judge may refuse recognition or enforcement if the defaulting party proves that, owing to the circumstances, he was unable to learn of the procedure initiating the proceedings or was not given sufficient time to offer his defence.

3519. Recognition or enforcement cannot be refused on the sole ground that the court of origin applied a law different from the law that would be applicable under the rules contained in this Book.

3520. A Québec court shall confine itself to verifying whether the decision in respect of which recognition or enforcement is sought meets the requirements prescribed in this Title, without entering into any examination of the merits of the decision.

However, recognition or enforcement of a foreign decision shall be refused where its outcome is contrary to public order or to a rule of Québec law which is applicable by reason of its particular object, or where the decision imperils or significantly affects the proper functioning of the State or is manifestly unreasonable.

3521. Recognition or enforcement may be granted partially if the decision deals with several claims that can be dissociated.

3522. A decision rendered outside Québec ordering periodic payment of support or maintenance may be recognized and declared enforceable in respect of both payments due and payments to become due.

3523. Where a foreign decision orders a debtor to pay a sum of money expressed in foreign currency, a Québec court shall convert the sum into Canadian currency at the rate of exchange prevailing at the time the decision became enforceable at the place where it was rendered.

3524. The determination of interest payable under a foreign decision is governed by the law of the court that rendered the decision.

CHAPTER II

JURISDICTION OF FOREIGN COURTS

SECTION I

GENERAL PROVISIONS

3525. In the absence of any special provision, the jurisdiction of a foreign court is established in accordance with the rules on jurisdiction applicable to Québec courts under Title Three of this Book, adapted as required.

3526. On the application of the defendant, the jurisdiction of a foreign court shall not be recognized by Québec courts in the following cases:

(1) where, by reason of the subject matter or an agreement between the parties, Québec law grants exclusive jurisdiction to its courts to hear the action which gave rise to the foreign decision;

(2) where, by reason of the subject matter or an agreement between the parties, Québec law recognizes the exclusive jurisdiction of another foreign court;

(3) where Québec law recognizes an agreement by which exclusive jurisdiction has been conferred upon an arbitrator.

SECTION II

PERSONAL ACTIONS OF AN EXTRAPATRIMONIAL NATURE

3527. The jurisdiction of a foreign court is recognized in matters of filiation where the child is domiciled in the State in which the decision was rendered if he is a national of that State or if one of his parents is domiciled therein or is a national thereof.

3528. The jurisdiction of a foreign court is not recognized in actions relating to nullity of marriage or to the effects of marriage imposed on all spouses, whatever their matrimonial regime, unless one of the spouses has his domicile or habitual residence in the State where the decision was rendered.

3529. The jurisdiction of a foreign court is recognized in actions relating to divorce if one of the spouses had had his domicile or habitual

residence in the State where the decision was rendered for at least one year before the proceedings were instituted, or if the spouses are nationals of that State or, again, if the decision has been recognized in that State.

SECTION III

PERSONAL ACTIONS OF A PATRIMONIAL NATURE

3530. In personal actions of a patrimonial nature, the jurisdiction of a foreign court shall not be recognized unless

(1) the defendant was domiciled in the State where the decision was rendered;

(2) the parties, by agreement, submit to the jurisdiction of the court that rendered the decision;

(3) the defendant has pleaded on the merits without contesting the jurisdiction of the foreign court or without expressing any reservation; however, that jurisdiction shall not be recognized if the defendant has pleaded on the merits to object to a seizure or to obtain a release of seizure;

(4) the whole cause of action arose in a place under the jurisdiction of the foreign court;

(5) in the case of a cross demand, the court that rendered the decision has jurisdiction to rule on the principal demand and the two demands are related.

SECTION IV

ACTIONS RELATING TO MATRIMONIAL REGIMES

3531. The jurisdiction of a foreign court is not recognized in actions relating to matrimonial regimes, whether or not they are accessory to divorce or separation from bed and board, unless

(1) the defendant was domiciled in the State where the decision was rendered;

(2) the parties, by agreement, submit to the jurisdiction of the court that rendered the decision;

(3) the defendant submits unreservedly to the jurisdiction of the foreign court;

(4) the spouses had their last common habitual residence in the State where the decision was rendered.

So far as the decision concerns an immovable, however, the jurisdiction of the foreign court shall be recognized if the decision was rendered or is recognized in the State where the immovable is situated.

SECTION V

ACTIONS RELATING TO SUCCESSIONS

3532. The jurisdiction of a foreign court is not recognized in actions relating to successions unless

(1) the deceased was domiciled in the State where the decision was rendered;

(2) the deceased was a national of the State where the decision was rendered and he had submitted his succession to the law of that State.

So far as the decision concerns an immovable, however, the jurisdiction of the foreign court shall be recognized if the decision was rendered or is recognized in the State where the immovable is situated.”

3. This Act will come into force when and as prescribed in the Act respecting the application of the Civil Code of Québec.

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