

THIRD SESSION

THIRTY-SECOND LEGISLATURE

# NATIONAL ASSEMBLY OF QUÉBEC

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## Bill 221

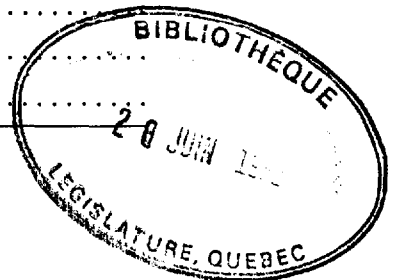
(PRIVATE)

**An Act respecting certain rights of action in matters  
of medical or hospital responsibility**

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First reading .....  
Second reading .....  
Third reading .....

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Mr. REED SCOWEN

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**Bill 221**  
**(PRIVATE)**

An Act respecting certain rights of action in matters  
of medical or hospital responsibility

WHEREAS Paul-Henri Gaudreau and Alfred Henry Warf allege that they suffered prejudice by reason of a medical act performed before 1 January 1972;

Whereas they allege that they became aware of the prejudice before 1 January 1972;

Whereas the Supreme Court of Canada, in a decision, rendered on 12 June 1974 in the case of *Hôpital Notre-Dame v. Patry*, held that, in all cases of bodily injury, including bodily injury resulting from malpractice in a contract of medical or hospital care, the right of action is prescribed by one year;

Whereas, by reason of that decision, Paul-Henri Gaudreau and Alfred Henry Warf decided not to sue the persons they considered to be responsible for the prejudice they had suffered;

Whereas the Act to amend certain prescriptions (1974, chapter 80) increased the prescription period applicable in matters of medical or hospital responsibility to three years, and whereas the said Act contained other provisions applicable to any cause of action having originated more than one year before its coming into force;

Whereas Paul-Henri Gaudreau and Alfred Henry Warf were unable to avail themselves of the said Act to institute proceedings;

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

**1.** Paul-Henri Gaudreau may institute an action in damages against any person that he alleges to be responsible for prejudice

that he alleges to be due to a medical act performed between 16 September and 4 October 1969.

**2.** Alfred Henry Warf may institute an action in damages against any person that he alleges to be responsible for prejudice that he alleges to be due to a medical act performed between 2 September 1970 and 13 February 1971.

**3.** Article 2260*a* and paragraph 2 of article 2262 of the Civil Code do not apply to a right of action exercised under section 1 or 2.

Such a right of action must be exercised within sixty days of the coming into force of this Act.

**4.** Prescription under article 2495 of the Civil Code begins to run on the date on which the right of action authorized by this Act is exercised.

**5.** This Act comes into force on the day of its sanction.