

THIRD SESSION
THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 40

**An Act to amend the Courts of Justice Act and
the Code of Civil Procedure and to establish
the Conseil de la magistrature**

First reading
Second reading
Third reading

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Ministre de la justice

L'ÉDITEUR OFFICIEL DU QUÉBEC

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EXPLANATORY NOTES

This bill mainly amends the Courts of Justice Act (Revised Statutes, 1964, chapter 20).

It modifies the territory under the concurrent jurisdiction of the judges of the district of Bedford and the district of Saint-Hyacinthe.

It creates the offices of senior associate chief judges and, for the district of Montreal, the offices of associate chief judges, at the Provincial Court as well as at the Court of the Sessions of the Peace and the Youth Court, and consequently increases by one the number of judges of such courts; it also enables the designation of six coordinating judges in each of those courts and it defines the duties of these judges.

It also provides that the chief judges, the senior associate chief judges, the associate chief judges and the coordinating judges are appointed for a term of five years, which may not be renewed more than once.

It also enables the adopting of a regulation for the object of establishing a procedure of selection of judges.

It authorizes the Government to fix, by regulation, judges' salaries and schemes of fringe benefits other than the pension.

It also establishes a new contributory retirement plan for judges, applicable to judges appointed from the tabling of the bill and to judges appointed before that date who apply for it, subject to certain terms and conditions.

It establishes the Conseil de la magistrature, composed of judges, advocates and representatives of the public, whose functions will be in particular to adopt a code of ethics and to examine complaints lodged against a judge. To that effect, the council will be able to create an ad hoc inquiry committee and the report of inquiry may conclude with a reprimand, or with a recommendation to the Ministre de la justice that he file a motion with

the Court of Appeal for the dismissal of the judge. The bill also provides, in addition to the cases that will be determined by the code of ethics, precise rules that may give rise to complaints.

Finally, the bill accords to the Youth Court the status of a court of mixed jurisdiction and provides other minor amendments.

Sec. 1. The effect of the proposed amendment is to grant concurrent jurisdiction to the courts sitting in the districts of Bedford and Saint-Hyacinthe in the territory of the township municipalities of Sainte-Cécile de Milton and Saint-Valérien de Milton.

Sec. 2. The effect of the proposed amendment to section 71 of the Courts of Justice Act is to indicate the composition of the court in that section and to increase the number of judges from sixty-seven to sixty-eight.

Sec. 3. The amendment is for concordance; the rules established in the paragraph struck out are dealt with in sections 2, 4 and 6 of the bill.

Bill 40

An Act to amend the Courts of Justice Act and the Code of Civil Procedure and to establish the Conseil de la magistrature

HER MAJESTY, with the advice and consent of the Assemblée nationale du Québec, enact as follows:

R.S., c. 20,
s. 59e,
replaced.

1. Section 59e of the Courts of Justice Act (Revised Statutes, 1964, chapter 20), enacted by section 7 chapter 17 of the statutes of 1977, is replaced by the following section:

Concurrent
jurisdiction.

“59e. The courts, the judges of such courts and the justices of the peace sitting in the judicial district of Bedford have, within their respective jurisdictions, concurrent jurisdiction with those of the judicial district of Saint-Hyacinthe, in civil, criminal and penal matters, over the territory of the municipalities of the town of Saint-Césaire, the village of Ange-Gardien, the parishes of Saint-Ange-Gardien, Saint-Césaire, Saint-Paul d’Abbotsford and the townships of Sainte-Cécile de Milton and Saint-Valérien de Milton.”

R.S., c. 20,
s. 71,
replaced.

2. Section 71 of the said act is replaced by the following section:

Court
of the
Sessions
of the
Peace.
Composi-
tion.

“71. The Court of the Sessions of the Peace is a court of record and its judges have jurisdiction throughout the Province.

The Court is composed of not more than sixty-eight judges including a chief judge, a senior associate chief judge and an associate chief judge.”

R.S., c. 20,
s. 72, am.

3. Section 72 of the said act, amended by section 8 of chapter 17 of the statutes of 1965 (1st session), section 3 of chapter 15 of the statutes of 1968, section 4 of chapter 19 of the statutes of 1969, section 3 of chapter 14 of the statutes of 1971, section 7 of chapter 11 of the statutes of 1972, section 6 of chapter 39 and section 12

Sec. 4. This section replaces section 72a of the Courts of Justice Act by four sections:

(a) section 72a creates an office of chief judge and of associate chief judge at the Court of the Sessions of the Peace and it indicates that the terms of office are five years, renewable only once;

(b) section 72b creates the office of coordinating judge;

(c) section 72c enables the adoption by regulation of criteria for the selection of judges, and

(d) section 72d repeats the rule contained in existing section 72a.

of chapter 13 of the statutes of 1973, section 25 of chapter 11 of the statutes of 1974, section 10 of chapter 10 of the statutes of 1975, section 4 of chapter 8 of the statutes of 1976 and by section 8 of chapter 17 of the statutes of 1977 is again amended by striking out the last nine paragraphs.

Id., s. 72a,
replaced;
ss. 72b-72d,
added.

4. Section 72a of the said act, enacted by section 13 of chapter 13 of the statutes of 1973 and amended by section 1 of chapter 14 of the statutes of 1973, is replaced by the following sections:

Chief judge.

"72a. The Lieutenant-Governor in Council may appoint a chief judge of the Court of the Sessions of the Peace, with residence at Québec or Montreal, as he may determine.

Senior
associate
chief
judge.

He may also appoint a senior associate chief judge of the Court, with residence at Montreal, if the chief judge resides at Québec, or at Québec, if the chief judge resides at Montreal, and an associate chief judge with residence at Montreal.

Term of
office.

The chief judge, the senior associate chief judge and the associate chief judge are appointed for a period of five years; their term of office shall not be renewed more than once.

Coordi-
nating
judges.

"72b. The Lieutenant-Governor in Council may appoint not more than three coordinating judges for each of the divisions of Montreal and Québec.

Term of
office.

The coordinating judges are appointed for a period of five years; their term of office shall not be renewed more than once.

Regula-
tions of the
Lt.-Gov.
in C.

"72c. For the application of section 72, the Lieutenant-Governor in Council may, by regulation, establish a procedure for the selection of the persons apt for appointment as judges of the sessions; for that purpose, he may in particular,

(a) determine the manner in which a person may become a candidate for the office of judge;

(b) authorize the Ministre de la justice to establish a selection committee to assess the competence of candidates for the office of judge and to provide him with an opinion on them;

(c) fix the composition and mode of appointment of the members of a committee;

(d) fix the indemnities and allowances that the members of a committee may receive;

(e) determine the criteria of selection that a committee is to consider;

Sec. 5. The effect of the replacement proposed by this section is to enable the Government to fix the salary of the judges by regulation, and, to fix, in the same manner, the additional remuneration attached to the office of senior associate chief judge, associate chief judge or coordinating judge.

Sec. 6. The effect of the replacement proposed by this section is to introduce into the Courts of Justice Act twelve new sections (75 to 75k) dealing with the administrative organization of the court and the definition of the functions of the chief judge, the senior associate chief judge, the associate chief judge and the coordinating judges. These sections develop certain rules that were contained in section 72.

(f) determine the information that a committee may require from a candidate and the consultations it may make.

Coming
into force.

Any regulation made under this section comes into force on the date of its publication in the *Gazette officielle du Québec* or on a later date fixed therein.

Judicial
functions
exercised
by a retired
judge.

"72d. At the request of the chief judge, the Lieutenant-Governor in Council may, if he believes justice will be served, authorize, for the time he determines, a retired judge of the sessions to exercise the judicial functions that the chief judge assigns to him. That judge then receives the salary of a judge of the sessions, from which an amount equal to that of his pension is deducted."

R.S., c. 20,
s. 74,
replaced.

5. Section 74 of the said act, amended by section 9 of chapter 17 of the statutes of 1965 (1st session), section 5 of chapter 18 of the statutes of 1966/1967, section 6 of chapter 19 of the statutes of 1969 and by sections 2 and 3 of chapter 14 of the statutes of 1973, is replaced by the following section:

Salary
and
additional
remunera-
tion.

"74. The Lieutenant-Governor in Council fixes, by regulation, the salary of the judges of the sessions, and the additional remuneration attached to the office of chief judge, senior associate chief judge, associate chief judge or coordinating judge. The salary and amounts of additional remuneration so fixed shall not be reduced.

Payment.

These salaries and additional remunerations are paid out of the consolidated revenue fund.

Coming
into force.

Any regulation made under this section comes into force on the date of its publication in the *Gazette officielle du Québec* or on an earlier or later date fixed therein."

R.S., c. 20,
s. 75,
replaced;
ss. 75a-75k,
added.

6. Section 75 of the said act, amended by section 3 of chapter 18 of the statutes of 1969, is replaced by the following sections:

Function of
the chief
judge.

"75. The chief judge has charge of the general policy of the Court in judicial matters.

Idem.

His function is also to ensure that the judges of the sessions exercise their functions satisfactorily and that they comply with the code of ethics.

Idem for
senior
associate
chief judge.

"75a. The senior associate chief judge, under the authority of the chief judge, exercises the latter's powers.

Adminis-
trative
jurisdiction
of chief
judge or
senior
associate
chief judge.

"75b. The administrative jurisdiction of the chief judge or of the senior associate chief judge, if he resides at Montreal, extends to the judicial districts enumerated in section 23 that form the

division of Montreal, or, if he resides at Québec, to the districts enumerated in section 24 that form the division of Québec.

Functions
of the
judges
of the
sessions.

"75c. In the division where he resides, the chief judge or the senior associate chief judge coordinates, apportions and supervises the work of the judges, and they must comply with his orders and directives in that regard.

Functions
of the
associate
chief judge.

"75d. The associate chief judge assists the chief judge or the senior associate chief judge residing at Montreal, in the performance of his duties; he exercises the powers of the chief judge or of the senior associate chief judge to the extent determined by the chief judge or the senior associate chief judge.

Authority
of senior
associate
chief judge
and
associate
chief judge.

"75e. The authority of the senior associate chief judge and associate chief judge is that of the chief judge; their orders must be executed in the same manner as those of the chief judge and their official signatures give force and effect to any document within the competence of the chief judge.

Jurisdiction
of coordi-
nating
judge.

"75f. A coordinating judge exercises his functions in the district where he resides and in the districts indicated in his deed of appointment.

Functions.

He coordinates and apportions, in those districts, the work of the judges, he sees to the allotment of cases and the fixation of sittings of the court and he advises the chief judge or the senior associate chief judge on the matters interesting the districts in which he works.

Absence,
etc., of
chief judge,
etc.

"75g. In the case where the chief judge or, as the case may be, the senior associate chief judge residing at Montreal, is temporarily absent or unable to act, the associate chief judge may perform the duties of the chief judge or, as the case may be, of the senior associate chief judge, until he resumes his functions or is replaced.

Chief judge,
etc.,
temporarily
replaced by
Lt-Gov.
in C.

"75h. Subject to section 75g, in the case where the chief judge, the senior associate chief judge or the associate chief judge is temporarily absent or unable to act or if the office of one of these is vacant, the Lieutenant-Governor in Council may designate another judge to exercise the functions of the chief judge, the senior associate chief judge or, as the case may be, the associate chief judge until that judge resumes his functions or is replaced.

Additional
remune-
ration.

During that period, the judge so designated receives the additional remuneration attached to the office he holds temporarily.

Sec. 7. The object of the proposed replacement is to indicate the persons before whom oaths of office are taken.

Sec. 8. The proposed replacement provides for the mode of consultation of judges, allows the adoption of special rules of practice for the districts of Montreal and Québec and provides for the publication and posting up of the adopted rules.

Absence,
etc., of
coordi-
nating
judge.

"75i. In the case where a coordinating judge is absent or unable to act, the chief judge and senior associate chief judge may, with the prior approval of the Ministre de la justice, designate another judge to exercise his functions temporarily.

Additional
remune-
ration.

During that period, the judge so designated receives the additional remuneration attached to the office of coordinating judge.

Functions
continued.

"75j. A chief judge, a senior chief judge, an associate chief judge or a coordinating chief judge remains in office notwithstanding the expiry of his term until he is reappointed or replaced.

Office of
judge of
the
sessions.

He remains a judge of the sessions when he ceases to hold the office he has filled.

Salary and
additional
remune-
ration.

"75k. A judge of the sessions who has held the office of chief judge, senior associate chief judge, associate chief judge or coordinating judge for at least five years is entitled to receive, until his salary as a judge of the sessions is equal to the amount of salary and additional remuneration he was receiving when he ceased to hold that office, the difference between that latter amount and his salary."

R.S., c.20,
s. 78,
replaced.

7. Section 78 of the said act is replaced by the following section:

Oath.

"78. Every judge of the sessions, before entering into office, shall take the following oath of office before the chief judge, the senior associate chief judge or the associate chief judge of the sessions:

"I, (*name and surname*), swear that I will faithfully, impartially and honestly, to the best of my knowledge and ability, fulfil all the duties and exercise all the powers of judge of the sessions."

R.S., c. 20,
s. 89,
replaced;
s. 89a,
added.
Rules of
practice.

8. Section 89 of the said act is replaced by the following sections:

"89. The majority of the judges of the sessions, either at a meeting convened for the purpose by the chief judge, or by way of a consultation, held and certified by him, by mail, may make, for one or more judicial districts, the rules of practice to determine the procedure to be followed in causes before them and for the keeping of good order and decorum, and for the efficient working of the court.

Rules
replaced,
etc.

The majority of the judges of the sessions appointed either for the district of Montreal or for the district of Québec may nevertheless replace, amend or complete those rules by special rules applicable in their respective districts only.

Sec. 9. *The effect of the proposed replacement is to submit the judges of the sessions to the same rules as those that prevail for judges of the Provincial Court respecting the report of their activities.*

Sec. 10. *The proposed amendment is for concordance.*

Sec. 11. *The proposed amendment is for concordance with the establishment of the Conseil de la magistrature.*

Sec. 12. *The effect of the proposed amendment is:*

(a) by section 100b, to index the pensions paid under sections 91 to 100a of the Courts of Justice Act, to the judges retired before the date of the tabling of this bill or to their widows;

(b) by section 100c, to enable the Government to establish by regulation a fringe benefits scheme for judges.

Approval and coming into force. **"89a.** The rules of practice are submitted to the approval of the Lieutenant Governor in Council and come into force ten days after publication in the *Gazette officielle du Québec*.

Copy into registers. Immediately after such publication they must be copied into the registers kept for the purpose by the clerks, and notice thereof must be posted in the office of the court in each of the districts where they apply."

R.S., c. 20, s. 90, replaced. **9.** Section 90 of the said act is replaced by the following section:

Provisions applicable. **"90.** Sections 124 and 134 to 136 apply, *mutatis mutandis*, to the judges of the sessions."

R.S., c. 20, s. 94, am. **10.** Section 94 of the said act, amended by section 13 of chapter 17 of the statutes of 1965 (1st session) and by section 29 of chapter 11 of the statutes of 1974, is again amended by striking out the second paragraph.

Id., s. 94a, added. **11.** The said act is amended by inserting after section 94 the following section:

Disability established by the Conseil de la magistrature. **"94a.** The disability contemplated in sections 92 and 94 is established, after an inquiry, by the Conseil de la magistrature at the request of the Ministre de la justice.

R.S., c. 20, ss. 100a-100c, added. **12.** The said act is amended by inserting after section 100, the following sections and subdivision:

"chief judge". **"100a.** For the application of sections 91 to 100, the expression "chief judge" includes a senior associate chief judge or an associate chief judge.

Provision applicable. **"100b.** Section 249 applies to a pension paid under sections 91 to 100a to the judge qualified for retirement before (*insert here the date following that of the tabling of this bill*) or to his widow.

" § 3.—Other fringe benefits

Fringe benefits. **"100c.** The Lieutenant-Governor in Council may, by regulation, establish fringe benefits other than the pension by which the judges of the sessions may benefit and fix their contribution.

Coming into force. Any regulation made under this section comes into force on the date of its publication in the *Gazette officielle du Québec* or on a later date fixed therein."

Sec. 13. *The effect of the proposed amendment is to classify the Youth Court with the courts of mixed jurisdiction rather than with the courts of criminal jurisdiction.*

Sec. 14. *The proposed amendment increases the number of judges of the Youth Court from forty-two to forty-three.*

Sec. 15. *The effect of the proposed replacement is to enable the senior associate chief judge or the associate chief judge to appoint a deputy judge, with the prior approval of the Ministre de la justice.*

Sec. 16. *The effect of the proposed amendment is to create the office of senior associate chief judge of the Court. The other paragraphs that are struck out dealt with the administration of the court which is provided for in section 17 of this bill.*

R.S., c. 20,
Div. IV and
heading
replaced. **13.** The said act is amended by replacing the expression
“Division IV” and the heading preceding section 101 by the fol-
lowing:

“PART III

“COURTS OF MIXED JURISDICTION

“DIVISION I

“YOUTH COURT”.

R.S., c. 20,
s. 102, am. **14.** Section 102 of the said act, amended by section 9 of
chapter 18 of the statutes of 1966/1967, section 12 of chapter 19
of the statutes of 1969, section 5 of chapter 10 of the statutes of
1970, section 4 of chapter 14 of the statutes of 1971, section 5 of
chapter 8 of the statutes of 1976 and by section 139 of chapter 20
of the statutes of 1977, is again amended by replacing the third
paragraph by the following paragraph:

Number of
judges. “The number of these judges, including the chief judge, the
senior associate chief judge and the associate chief judge, shall not
exceed forty-three.”

R.S., c. 20,
s. 103,
replaced. **15.** Section 103 of the said act, amended by section 18 of
chapter 17 of the statutes of 1965 (1st session), is replaced by the
following section:

Deputy. **“103.** In the case where a judge of the Youth Court is
temporarily absent or unable to act, the chief judge, the senior
associate chief judge or the associate chief judge, with the prior
approval of the Ministre de la justice, may designate a deputy for
him.

Jurisdiction
and salary. Such deputy shall exercise the jurisdiction of the judge whom
he replaces, during the absence of the latter. He shall receive the
remuneration fixed by the Ministre de la justice.”

R.S., c. 20,
s. 104, am. **16.** Section 104 of the said act, amended by section 30 of
chapter 11 of the statutes of 1974, is again amended by replacing the
last five paragraphs by the following paragraphs:

Senior
associate
chief judge. “He may also appoint a senior associate chief judge of the
Youth Court with residence at Montreal, if the chief judge resides
at Québec, or at Québec, if the chief judge resides at Montreal,
and an associate chief judge with residence at Montreal.

Term of
office. The chief judge, senior associate chief judge and associate
chief judge are appointed for a period of five years; their term of
office shall not be renewed more than once.”

Sec. 17. *The effect of the proposed replacement is to apply to the judges of the court the same rules as those provided for the judges of the Court of the Sessions of the Peace, in respect of coordinating judges (72b), selection (72c), retired judges (72d), the exclusiveness of the judicial duties (73), salaries (74), the administrative organization of the court (75 to 76), rules of practice (89 and 89a), retirement plans and fringe benefits schemes (91 to 97, 100 to 100c), indemnities (124), and the districts in which the judges sit and the report of their activities (134 to 136).*

Sec. 18. *The effect of the proposed amendment is to give to the judges of the Youth Court the powers of one or two justices of the peace, to enable them in applying the Youth Protection Act to exercise complete jurisdiction in matters of offences against provincial laws committed by minors.*

Sec. 19. *The proposed replacement is for concordance.*

Sec. 20. *The proposed amendment is for concordance.*

Sec. 21. *The repeal is for concordance.*

R.S., c. 20,
s. 105,
replaced.

17. Section 105 of the said act, amended by section 19 of chapter 17 of the statutes of 1965 (1st session), section 10 of chapter 18 of the statutes of 1966/1967, section 5 of chapter 15 of the statutes of 1968, section 4 of chapter 18 and section 13 of chapter 19 of the statutes of 1969 and sections 4 and 5 of chapter 14 of the statutes of 1973, is replaced by the following section:

Provisions
applicable.

“105. Sections 72*b*, 72*d*, 73, 75 to 76, 89, 89*a*, 91 to 97, 100 to 100*c*, 124 and 134 to 136 apply, *mutatis mutandis*, to the judges of the Youth Court.

Regula-
tions
applicable.

Furthermore, any regulation made under section 72*c* or 74 applies to those judges in the same manner as it applies to the judges of the sessions.”

R.S., c. 20,
s. 107*a*,
added.

18. The said act is amended by inserting after section 107 the following section:

Ex officio a
justice of
the peace.

“107*a*. A judge of the Youth Court is *ex officio* a justice of the peace for every district for which the court is established; he has the rights and powers of one or two justices of the peace, as the case may be, even though he does not possess the real estate qualification required by law of other justices of the peace.”

R.S., c. 20,
s. 108,
replaced.

19. Section 108 of the said act, amended by section 20 of chapter 17 of the statutes of 1965 (1st session) and replaced by section 141 of chapter 20 of the statutes of 1977, is again replaced by the following section:

Oath.

“108. A judge of the Youth Court shall, before entering upon his functions, take the following oath of office before the chief judge the senior associate chief judge or the associate chief judge of such Court:

“I, (*name and surname*), swear that I will faithfully, impartially and honestly, to the best of my knowledge and ability, fulfil all the duties and exercise all the powers of a judge of the Youth Court.”

R.S., c. 20,
s. 108*a*, am.

20. Section 108*a* of the said act, enacted by section 141 of chapter 20 of the statutes of 1977, is amended by replacing the first paragraph by the following:

Judge
designated
to decide
the
directing
of a minor.

“108*a*. The Ministre de la justice may, after consultation with the chief judge or the senior associate chief judge, designate a judge of the Youth Court to decide on the directing of a minor in accordance with section 60 of the Youth Protection Act.”

R.S., c. 20,
s. 116,
repealed.

21. Section 116 of the said act, amended by section 21 of chapter 17 of the statutes of 1965 (1st session), is repealed.

Sec. 22. *The proposed amendment is for concordance.*

Sec. 23. *The proposed amendment increases the number of judges of the Provincial Court from one hundred and forty-nine to one hundred and fifty because of the creation of the office of senior associate chief judge.*

Sec. 24. *The proposed amendment is to create the office of senior associate chief judge of the court. The other paragraphs that are struck out dealt with the administration of the court, which is provided for in section 27.*

Sec. 25. *The effect of the proposed replacement is to indicate the persons before whom oaths of office are taken.*

R.S., c. 20,
heading
replaced.

22. The said act is amended by replacing what follows section 116c, enacted by section 145 of chapter 20 of the statutes of 1977, and precedes section 117, by the following:

“DIVISION II

“PROVINCIAL COURT

“§ 1.—*Judges of the Provincial Court,
their powers and officers*”.

R.S., c. 20,
s. 117, am.

23. Section 117 of the said act, replaced by section 22 of chapter 17 of the statutes of 1965 (1st session), amended by section 7 of chapter 7 of the statutes of 1966, replaced by section 11 of chapter 18 of the statutes of 1966/1967, amended by section 6 of chapter 15 of the statutes of 1968, section 14 of chapter 19 of the statutes of 1969 and by section 6 of chapter 10 of the statutes of 1970, replaced by section 5 of chapter 14 of the statutes of 1971, amended by section 9 of chapter 11 of the statutes of 1972, section 14 of chapter 13 and section 7 of chapter 39 of the statutes of 1973, section 31 of chapter 11 of the statutes of 1974, section 11 of chapter 10 and section 41 of chapter 45 of the statutes of 1975 and by section 6 of chapter 8 of the statutes of 1976, is again amended by replacing the first paragraph by the following paragraph.

Judges
of the
Provincial
Court.

“117. The Provincial Court shall consist of one hundred and fifty judges appointed by the Lieutenant-Governor in Council, by commission under the Great Seal, namely: a chief judge, a senior associate chief judge, an associate chief judge and one hundred and forty-seven puisne judges.”

R.S., c. 20,
s. 118, am.

24. Section 118 of the said act, amended by section 32 of chapter 11 of the statutes of 1974, is again amended by replacing the last eight paragraphs by the following paragraphs:

Senior
associate
chief judge.

“He may also appoint a senior associate chief judge of the Provincial Court with residence at Montreal if the chief judge resides at Québec, or at Québec, if the chief judge resides at Montreal, and an associate chief judge with residence at Montreal.

Term of
office.

The chief judge, the senior associate chief judge and the associate chief judge are appointed for a period of five years; their term of office shall not be renewed more than once.”

R.S., c. 20,
s. 121,
replaced.

25. Section 121 of the said act is replaced by the following section:

Sec. 26. *The proposed repeal is for concordance.*

Sec. 27. *The effect of the proposed replacement is to make the same rules applicable to the judges of the Provincial Court as those that apply to the judges of the sessions or of the Youth Court, in respect of coordinating judges, selection, the exclusiveness of duties, salaries, the administrative organization of the court, retirement and fringe benefits schemes. It also establishes various concordances in respect of judges of the Labour Court and the Transport Tribunal.*

Sec. 28. *The effect of the proposed amendment is to enable the judges of the Provincial Court having penal jurisdiction to adopt rules of practice or to apply those adopted by the judges of the sessions.*

Oath.

"121. Before entering into office, every judge of the Provincial Court shall take the following oath of office before the chief judge, the senior associate chief judge or the associate chief judge of that court:

"I, (*name and surname*), swear that I will faithfully, impartially and honestly, to the best of my knowledge and ability, fulfil all the duties and exercise all the powers of a judge of the Provincial Court."

R.S., c. 20,
s. 123,
repealed.

26. Section 123 of the said act, amended by section 23 of chapter 17 of the statutes of 1965 (1st session), section 12 of chapter 18 of the statutes of 1966/1967, section 15 of chapter 19 of the statutes of 1969 and by sections 6 and 7 of chapter 14 of the statutes of 1973, is repealed.

R.S., c. 20,
s. 125, am.

27. Section 125 of the said act, amended by section 25 of chapter 17 of the statutes of 1965 (1st session), section 7 of chapter 15 of the statutes of 1968, section 5 of chapter 18 and section 17 of chapter 19 of the statutes of 1969, section 3 of chapter 5 and by section 184 of chapter 55 of the statutes of 1972, is again amended by replacing the first three paragraphs by the following paragraphs:

Provisions
applicable.

"125. Sections 72*b*, 72*d*, 73, 75 to 76, 91 to 97 and 100 to 100*c* apply, *mutatis mutandis*, to the judges of the Provincial Court. Furthermore, any regulation made under section 72*c* or 74 applies to those judges in the same manner as it applies to the judges of the sessions.

Members
of Labour
Court or
Transport
Tribunal.

A judge of the Provincial Court may exercise, in addition to the functions contemplated in section 73, the functions of a member of the Transport Tribunal or Labour Court. He is then deemed to be on leave of absence without salary, but the remuneration payable to him while he exercises such functions is equal to the salary which he would be receiving under this act, for the same period, if he were not so on leave; in addition, the chairman of the Transport Tribunal and the chief judge or associate chief judge of the Labour Court are entitled to the same status, to the same additional remuneration and, if such is the case, to the same pension they would receive if they were chief judge and senior associate chief judge of the Provincial Court, respectively. The pension of the judges of this court and tribunal is governed by this act and their salary, additional remuneration and pension are paid out of the consolidated revenue fund."

R.S., c. 20,
ss. 127*a*,
127*b*,
added.

28. The said act is amended by inserting after section 127, the following sections:

Sec. 29. *The proposed replacement is for concordance and adds certain indications to the reports of the activities of judges.*

Rules of
practice.

"127a. The majority of the judges of the Provincial Court appointed for the districts where the judges of that court have jurisdiction in penal matters may, either at a meeting convened for the purpose by the chief judge or by way of a consultation held and certified by him by mail, elect to apply in those districts the rules of practice made in accordance with the first paragraph of section 89 or make, themselves, the rules of practice necessary to determine the procedure to be followed in causes before them and for the keeping of good order and decorum, and for the efficient working of the court.

Approval
and coming
into force.

"127b. The rules of practice made by the judges of the Provincial Court under section 127a are submitted to the approval of the Lieutenant-Governor in Council and come into force ten days after publication in the *Gazette officielle du Québec*.

Copy into
registers.

Immediately after such publication they must be copied into the registers kept for that purpose by the clerks, and notice thereof must be posted in the office of the court in each of the districts where they apply."

R.S., c. 20,
ss. 134-136,
replaced.

29. Sections 134 to 136 of the said act are replaced by the following sections:

Other
district.

"134. The chief judge or the senior associate chief judge of the Provincial Court may, for the time he indicates, instruct a judge of the court to sit in a district other than that for which he was appointed.

Report by
the chief
judge, etc.

"135. The chief judge or the senior associate chief judge must report to the Ministre de la justice, at the end of each month, the instructions given under section 134.

Report of
judge of the
Provincial
Court.

"136. Every judge of the Provincial Court must, at the end of each month, transmit to the chief judge or the senior associate chief judge responsible for him, a report stating:

(a) the number of days when he held sittings and, for each day, the time devoted thereto;

(b) the number of cases heard by him during the month;

(c) the names of the parties;

(d) the place and the date of each hearing;

(e) the number of cases taken under advisement and the time devoted to each advisement;

(f) the date of each judgment;

(g) the nature of each judgment; and

Sec. 30. *The proposed amendment is for concordance.*

Sec. 31. *The proposed amendment is for concordance.*

Sec. 32. *The proposed amendment is for concordance.*

Sec. 33. *The effect of this section is to add two new parts to the Courts of Justice Act, namely: Part VI, on the retirement and pension of judges, and Part VII, on the Conseil de la magistrature, refresher programmes for judges and judicial ethics.*

(h) any other information required by the chief judge or the senior associate chief judge.

Copy to
Ministre de
la justice.

The chief judge or the senior associate chief judge shall transmit a copy of this report to the Ministre de la justice.

Form.

The Ministre de la justice may prescribe the form to be used to prepare this report."

R.S., c. 20,
s. 140, am.

30. Section 140 of the said act, replaced by section 28 of chapter 17 of the statutes of 1965 (1st session), is amended by replacing the second paragraph by the following paragraph:

Dates and
periods of
time for
sittings.

"The chief judge or the senior associate chief judge, each in the division over which he presides, fixes such dates and periods of time for the sittings of the court as he deems expedient for the dispatch of the business of the court."

R.S., c. 20,
Div. II,
replaced.

31. The said act is amended by replacing the expression "Division II" in the heading preceding section 168 by the expression "Division III".

Id., s. 198b,
added.

32. The said act is amended by inserting after section 198a, the following section:

Salary of
justice of
the peace.

"198b. The Lieutenant-Governor in Council fixes the salary of a justice of the peace to whom section 198a applies."

R.S., c. 20,
ss. 233-290,
added.

33. The said act is amended by adding after section 232 the following:

"PART VI

"RETIREMENT AND PENSION OF JUDGES

Application.

"233. This part applies to a judge of the Court of the Sessions of the Peace, of the Youth Court or of the Provincial Court appointed since (*insert here the date of the tabling of this bill*).

Idem.

It also applies to the judge of one of such courts appointed before that date if he has made the election provided for in section 37 of the Act to amend the Courts of justice Act and the Code of Civil Procedure and to establish the Conseil de la magistrature (1978, chapter *insert here the chapter number of Bill 40*).

Administra-
tion of
retirement
plan, etc.

"234. The retirement plan and pension plan established by this part is administered by the Commission administrative du régime de retraite established by the Government and Public Employees Retirement Plan (1973, chapter 12).

Retirement
age.

"235. A judge who reaches seventy years of age ceases to hold office and is retired with a pension.

Amount of
pension.

"236. The pension granted to the judge who reaches seventy years of age after having held office for twenty-five years or the pension granted to a judge who resigns after having held office for twenty-five years is equal to seventy per cent of the average salary of his five best remunerated years in office.

Pension to
judge in
office less
than 25
years.

"237. The pension granted to a judge who reaches seventy years of age after holding office for less than twenty-five years is equal, per year of office, to 2.8% of the average income of his five best remunerated years in office or, if he has held office for less than five years, of the salary of each of those years.

Permanent
disability.

"238. The judge afflicted with a permanent disability which, in the opinion of the Lieutenant-Governor in Council, prevents him from effectively performing the duties of his office, ceases to hold office and is retired with a pension.

Amount of
pension.

The pension granted to that judge is equal, per year of office, to 2.8% of the average income of his five best remunerated years in office, or, if he has held office for less than five years, of the salary of each of those years, but that pension shall in no case exceed seventy per cent of his salary.

Disability
established
by the
Conseil de
la magis-
trature.

The permanent disability is established, after inquiry, by the Conseil de la magistrature, at the request of the Ministre de la justice.

Retirement
of a judge
after 20
years in
office.

"239. In the interest of the administration of justice, the Lieutenant-Governor in Council may retire a judge with a pension if that judge applies therefor and has held office for twenty years or more.

Computa-
tion.

In that case, the pension is computed on the average salary of his five best remunerated years in office and is equal to

(a) 62.5% of the average salary, if the judge has held office for at least twenty years;

(b) 64% of the average salary, if the judge has held office for at least twenty-one years;

(c) 65.5% of the average salary, if the judge has held office for at least twenty-two years;

(d) 67% of the average salary, if the judge has held office for at least twenty-three years;

(e) 68.5% of the average salary, if the judge has held office for at least twenty-four years.

Contributions re-im-bursed or deferred annuity.

"240. The judge who, at the time when he ceases to hold office, is not entitled to receive a pension under sections 236 to 239, is entitled to the reimbursement of his contributions with the interest accrued at the rate fixed by regulation of the Lieutenant-Governor in Council, or to a deferred annuity established in the manner provided in the second paragraph of section 238 payable to him at seventy years of age.

Notice of election.

The judge must notify the Commission administrative du régime de retraite in writing of the right he elects to exercise within ninety days after he ceases to hold office, or, failing to do so, he is deemed to have applied for the reimbursement of his contributions.

Judge authorized to exercise judicial functions after 70 years of age.

"241. The Lieutenant-Governor in Council may, for the period he fixes, authorize a judge to continue to hold office after seventy years of age, if he considers that the maintenance of the judge in his office may serve the interests of justice; in that case, retirement with a pension takes place at the expiry of the period or upon the resignation of the judge.

Pension to the spouse of a retired judge.

"242. From the death of a retired judge, his spouse is entitled to a pension equal to one-half of the pension that was granted to the judge.

Amount of pension.

From the death of a judge in office, his spouse is entitled to a pension equal to one-half of the pension that the judge would have received had he been entitled to a pension at the time of his death.

Amount of pension to the child of a judge.

"243. From the death of a judge in office or of a retired judge, the child of the judge is entitled to a pension equal to one-fifth of the pension granted to the spouse under section 242.

Idem.

If the deceased judge leaves no spouse or if the spouse dies thereafter, the child is entitled to a pension equal to two-fifths of the pension of a spouse.

Maximum amount of pensions to children.

"244. The total amount of the pensions granted to children under section 244 shall not, in the case of the first paragraph of that section, exceed four-fifths of the pension granted to the spouse and, in the case of the second paragraph, eight-fifths of that pension.

"spouse".

"245. For the application of this part, the word "spouse" means, if there is no legitimate spouse, the unmarried or divorced person who proves to the satisfaction of the Commission administrative du régime de retraite, that for three years immediately preceding the death of the judge, that person lived with the judge and the judge represented that person as that judge's spouse.

Maximum
age for
the pension
of the child
of a judge.

For the application of this part, only the dependent child of the judge, if he is a minor, until his majority or the child of full age until twenty-five years of age for the period during which he attends an educational establishment on a full-time basis or if he has a permanent disability, for the period of that disability, is entitled to a pension.

Life
pension,
etc.

"246. The pension granted under this part is for life, and is unassignable and unseizable. In addition, it is paid, at least monthly, out of the consolidated revenue fund.

Payment
of the
contri-
butions.

"247. A judge pays to the consolidated revenue fund, in the form of a deduction, a contribution equal to seven and one-half per cent of his income.

Presump-
tion.

For the application of the Taxation Act (1972, chapter 23), the contributions made under the first paragraph are deemed to be made under a registered retirement plan.

Additional
remunera-
tion ex-
cluded.

"248. For the application of this part, the pension is computed on the basis of the salary fixed in accordance with section 74 and the additional remuneration paid to a chief judge, senior associate chief judge, associate chief judge or coordinating judge or any other remuneration paid to a judge on leave without pay or to a judge contemplated in the fourth and fifth paragraphs of section 73, is not taken into account.

Indexation
of annual
pension.

"249. The amount of an annual pension paid under this part is adjusted each year by indexation in the manner provided in section 130 of the Québec Pension Plan (1965, 1st session, chapter 24) for the adjustment of the benefits payable under the said act, so that the amount payable for a month in any year following the first is equal to the product obtained by multiplying the amount that would have been otherwise payable for that month by the ratio that the Pension Index for that following year bears to the Pension Index for the year preceding that following year.

Indexation
of a
deferred
annuity.

A deferred annuity is adjusted by indexation in the manner provided for in the first paragraph, but this adjustment only applies from 1 January following the seventieth birthday of the judge.

Judge
dismissed.

"250. A judge who is dismissed is not entitled to any pension. However, he is entitled to the reimbursement of his contributions with the interest accrued at the rate fixed by regulation of the Lieutenant-Governor in Council.

Reimburse-
ment of
contribu-
tions to
heirs.

"251. If a judge dies before he retires and leaves no spouse or child or if he has made the election in accordance with section 240 for a deferred annuity and he dies before he is entitled to it,

his heirs are entitled to the reimbursement of his contributions with the interest accrued at the rate interest fixed by regulation of the Lieutenant-Governor in Council.

Person entitled to a pension holding an office for the Government.

"252. If any person entitled to a pension under this part receives a salary for holding any office under the Government of Québec, an amount equal to the amount of his pension is deducted from that salary.

Prior years computed for pension purposes.

"253. If a judge has held, at a time prior to his appointment, any judicial office to which a pension was attached under this part, the years during which he has held that office may be counted for the purposes of his pension.

Payment to consolidated revenue fund.

However, a judge who has obtained the reimbursement of his contributions shall not benefit by this section unless he pays to the consolidated revenue fund an amount equal to the contributions that were reimbursed to him, in the manner and at the rate of interest determined by regulation.

Regulations.

"254. The Lieutenant-Governor in Council may, by regulation,

(a) determine the terms and conditions of payment of pensions and contributions;

(b) fix the rate of computation of interest in the cases contemplated in sections 240, 250 and 251;

(c) for the application of the second paragraph of section 253, determine the terms and conditions according to which a judge may make payments to the consolidated revenue fund and the rate of interest he must pay on these amounts;

(d) determine the other rules necessary for the application of this part and in particular specify, for the application of section 245, the scope of the expressions "educational establishment" and "permanent disability".

Coming into force.

Any regulation comes into force on the date of its publication in the *Gazette officielle du Québec* or on a later date fixed therein.

“PART VII

“THE CONSEIL DE LA MAGISTRATURE, REFRESHER PROGRAMMES FOR JUDGES AND JUDICIAL ETHICS

“CHAPTER I

“THE CONSEIL DE LA MAGISTRATURE

“DIVISION I

“ESTABLISHMENT

Constitu-
tion.

“255. A body, hereinafter called the “council”, is established under the name of Conseil de la magistrature.

Compo-
sition.

“256. The council is composed of thirteen members, namely:

(a) the chief judge of the Provincial Court, who is the chairman thereof, and the senior associate chief judge of that court;

(b) the chief judge and the senior associate chief judge of the Youth Court;

(c) the chief judge and the senior associate chief judge of the Court of the Sessions of the Peace;

(d) one of the chief judges of the Municipal Courts of Laval, Montreal and Québec;

(e) two judges chosen among the judges of the Provincial Court, the Court of the Sessions of the Peace and the Youth Court and appointed after consultation with a body representative of the judges of these courts;

(f) two advocates appointed after consultation with the Barreau du Québec; and

(g) two persons who are not judges or advocates, appointed after consultation with the Conseil consultatif de la justice.

Appoint-
ment of
members.

“257. The Lieutenant-Governor in Council appoints the members of the council contemplated in paragraphs *d* to *g* of section 256. He also designates the vice-chairman of the council from among the members.

Term of
office.

The term of office of the members of the council appointed under the first paragraph is not more than three years; at the expiry of their term, these members remain in office until they are replaced or reappointed.

Attendance
allowance
and reim-
bursement
of expenses.

“258. The members of the council, except the judges, are entitled to an attendance allowance and to the reimbursement of

their justifiable expenses incurred in the performance of their duties, in accordance with the terms and conditions and in the amount fixed by regulation of the Lieutenant-Governor in Council.

Indemnity. However, the judges are entitled to the indemnity provided for in section 124.

Quorum. **"259.** Seven members of the council, including the chairman or vice-chairman, one of the members contemplated in paragraph *f* of section 256 and one of the members contemplated in paragraph *g* of the said section, are a quorum.

Meetings. **"260.** The council meets as often as necessary, when convened by the chairman.

Sittings
in camera. It may sit *in camera* and hold its sittings at any place in Québec.

Internal
manage-
ment. **"261.** The council may make by-laws for its internal management or to establish committees and determine their functions.

Minutes. **"262.** The minutes of the sittings of the council or of one of its committees are authentic if they are approved by the members of the council or of the committee, as the case may be; the same rule applies to documents or copies emanating from the council or forming part of its records if they are certified true by the chairman or the secretary.

Secretary
and
personnel. **[["263.** The secretary and the other members of the personnel of the council are appointed and remunerated in accordance with the Civil Service Act (1965, 1st session, chapter 14).]]

"DIVISION II

"FUNCTIONS OF THE COUNCIL

Functions **"264.** The functions of the council are:

- (a) to organize, in accordance with Chapter II of this part, refresher programmes for judges;
- (b) to adopt, in accordance with Chapter III of this part, a judicial code of ethics;
- (c) to receive and examine any complaint lodged against a judge to whom Chapter III of this part applies;
- (d) to promote the efficiency and uniformization of procedure before the courts;
- (e) to receive suggestions, recommendations and requests made to it regarding the administration of justice, to study them

and to make the appropriate recommendations to the Ministre de la justice, and

(f) to cooperate, in accordance with the law, with any body pursuing similar purposes outside Québec.

“CHAPTER II

“REFRESHER PROGRAMMES FOR JUDGES

Information, etc., programmes for judges.

“265. The council shall establish information, training, refresher or reorientation programmes for the judges of the courts under the legislative authority of Québec and appointed by the Lieutenant-Governor in Council.

Preparation.

“266. The council shall determine the needs, prepare the programmes and fix the terms and conditions of application; it may, for that purpose, act in cooperation with the Barreau du Québec, the law faculties and the Ministère de la justice.

Authorization for expenditures.

“267. The Lieutenant-Governor in Council determines the amounts over which expenditures by the council in the application of this chapter require the approval of the Ministre de la justice.

“CHAPTER III

“JUDICIAL ETHICS

“DIVISION I

“GENERAL PROVISION

Application.

“268. This chapter applies to a judge appointed under this act, unless that judge is on leave without pay and is mainly engaged in duties other than judicial duties.

Idem.

It also applies to a judge of the Municipal Courts of Laval, Montreal and Québec, and to a justice of the peace appointed in accordance with section 196, if the deed of appointment indicates that section 198a applies to that justice of the peace.

“DIVISION II

“CODE OF ETHICS

Code of ethics.

“269. The council shall, by regulation, adopt a judicial code of ethics.

Meeting of the judges. However, it must previously call a meeting of the judges to whom the code of ethics applies to consult them on the draft regulation.

Approval. A regulation made under this section is submitted to the approval of the Lieutenant-Governor in Council who may amend it, if he thinks it necessary.

Coming into force. It comes into force on the date of its publication in the *Gazette officielle du Québec* or on a later date fixed therein.

Contents. **"270.** The code of ethics determines the rules of conduct and the duties of the judges towards the public, the parties to an action and the advocates, and it indicates in particular which acts or omissions are derogatory to the honour, dignity or integrity of the judiciary and the functions or activities that a judge may exercise without remuneration notwithstanding the first paragraph of section 73.

"DIVISION III

"EXAMINATION OF COMPLAINTS

Object of complaints. **"271.** The council receives and examines a complaint lodged by the Ministre de la justice, a chief judge, a senior associate chief judge, an associate chief judge or any other person, alleging that a judge

- (a) has not fulfilled his duties in a satisfactory manner;
- (b) has placed himself in such a position that he cannot fulfil his duties in a satisfactory manner;
- (c) is guilty of bad conduct; or
- (d) has contravened the code of ethics.

Contents. **"272.** Any complaint is made in writing to the secretary of the council and states the facts with which the judge is charged and the other relevant circumstances.

Necessary information. **"273.** The council shall examine the complaint; it may, for that purpose require from any person the information it deems necessary.

Copy to judge. **"274.** The council shall forward a copy of the complaint to the judge; it may require an explanation from him.

Complaint not justified. **"275.** If the council, after examining a complaint, establishes that it is not justified, it shall notify the plaintiff of it and state its reasons therefor.

Inquiry.

"276. The council may, after examining a complaint, decide to make an inquiry. It must make an inquiry, however, if the complaint is lodged by the Ministre de la justice or if the latter requests it in accordance with section 94a or 238.

"DIVISION IV

"INQUIRY

Committee.

"277. To conduct an inquiry on a complaint, the council establishes a committee consisting of five persons chosen from among its members and designates a chairman among them.

Quorum.

Three persons are a quorum of the committee.

Meetings.

"278. The committee meets as often as necessary, when convened by its chairman.

Copy of complaint, etc.

"279. The committee communicates to the judge a copy of the complaint or of the request of the Ministre de la justice made in accordance with section 94a or 238.

Calling by committee.

Within thirty days after the communication of the complaint, the committee calls the judge concerned, the Ministre de la justice and the plaintiff, to proceed with the proof and hearing.

Hearing.

"280. The committee hears the parties, their attorney or their representative and their witnesses.

Facts and testimonies.

It may inquire into the relevant facts and call any person apt to testify on such facts.

Examination.

The witnesses may be examined or cross-examined by the parties.

Powers and immunity.

"281. The members of the committee enjoy, for the purposes of an inquiry, the powers and immunity of commissioners appointed under the Public Inquiry Commission Act (Revised Statutes, 1964, chapter 11).

Recusation of a member of the committee.

"282. A party to the inquiry may request the recusation of a member of the committee for one of the causes provided for in articles 234 and 235 of the Code of Civil Procedure.

Obligation to declare.

Furthermore, a member of the committee who is aware of a ground of recusation to which he is liable is bound to declare it.

Rules of procedure, etc.

"283. The committee may make rules of procedure or rules of practice for the conduct of an inquiry.

Sec. 34. *This section makes a transitional provision, taking account that the Courts of Justice Act provides for two offices of chief judge of the sessions.*

Orders of
procedure. If necessary, the committee or one of its members makes the orders of procedure, based on the Code of Civil Procedure, that are necessary for the carrying out of its duties.

Suspension
of a judge. **"284.** The council may, after consultation with the Ministre de la justice, suspend a judge for the duration of an inquiry on him.

Report of
inquiry and
recommen-
dations. **"285.** The committee submits the report of its inquiry and its recommendations to the council. It transmits a copy of it to the Ministre de la justice.

Complaint
not
justified. **"286.** If the report of the inquiry establishes that the complaint is not justified, the council notifies the judge concerned, the Ministre de la justice and the plaintiff. That notice states the grounds on which it is based.

Complaint
justified. **"287.** If the report of the inquiry establishes that the complaint is justified, the council, according to the recommendations of the report of the inquiry,

(a) reprimands the judge; or

(b) recommends that the Ministre de la justice and Procureur général file a motion with the Court of Appeal in accordance with section 76 and suspend the judge, with or without salary, for the period determined by the council.

Motion to
Court of
Appeal. **"288.** If the Ministre de la justice and Procureur général, in accordance with section 76, files a motion with the Court of Appeal, he may, in that motion, request that the judge be suspended from office with or without salary, until the report of the court.

Services of
an advocate. **"289.** The council may retain the services of an advocate to assist the committee in the conduct of its inquiry.

"CHAPTER IV

"MISCELLANEOUS PROVISIONS

Amounts
required. **[["290.** The amounts required for the application of this part are taken out of the consolidated revenue fund."]]

Appoint-
ment of a
senior
associate
chief judge
of the Court
of the
Sessions of
the Peace
prohibited. **34.** The Lieutenant-Governor in Council shall not appoint a senior associate chief judge of the Court of the Sessions of the Peace with residence at Québec, in accordance with section 72a of the Courts of Justice Act, enacted by section 4 of this act, so

Sec. 35. *This section is transitional and provides that the judges are to receive their salary during the period necessary for the passing of a regulation fixing their remuneration. It also recognizes the vested rights of chief judges and associate chief judges having held that office for ten years.*

Sec. 36. *This section is transitional, and it provides that the associate chief judges of the Provincial Court and of the Youth Court become senior associate chief judges of those courts.*

Sec. 37. *This section provides that the judges of the Court of the Sessions, of the Provincial Court and of the Youth Court in office at the tabling of this bill may elect to have the new retirement plan apply to them.*

Sec. 38. *This section establishes a transitional rule regarding pension, and guarantees the judge electing for the new retirement plan a pension equal to that which he would have received under the present plan.*

long as the chief judge of the sessions residing at Québec, in office at the coming into force of the said section 72a, has not retired.

Salary
continued.

35. A judge of the Court of the Sessions of the Peace, of the Youth Court or of the Provincial Court receives the salary to which he is entitled upon the sanction of this act, until the coming into force of a regulation made under section 74 of the Courts of Justice Act, enacted by section 5 of this act.

Salary and
additional
remunera-
tion of chief
judge or
senior
associate
chief judge.

Furthermore, if that judge is chief judge or associate chief judge or if he has had the status thereof for not less than ten years, or if he has formerly held such an office for at least ten years, he is entitled to receive, until he resigns or retires, the salary that a chief judge receives upon the sanction of this act and from the coming into force of a regulation made under section 74 of the Courts of Justice Act, enacted by section 5 of this act, he is entitled to receive, in addition to his salary as a judge, the amount of additional remuneration attached to the office of chief judge or senior associate chief judge.

Senior
associate
chief judges
of the
Youth
Court and
Provincial
Court.

36. Upon the coming into force of sections 104 and 118 of the Courts of Justice Act, enacted by sections 16 and 24 of this act, the associate chief judge of the Youth Court and the associate chief judge of the Provincial Court become, *pleno jure*, senior associate chief judges of those courts.

Election
allowed
for certain
judges.

37. Subject to sections 38 to 42, Part VI of the Courts of Justice Act, enacted by section 33 of this act, applies from (*insert here the date of the tabling of this bill*) to a judge of the Court of the Sessions of the Peace, the Youth Court or the Provincial Court appointed before that date, in office on that date if, not later than 1 January 1979, he elects for the retirement plan provided for by such Part VI by notifying in writing the Commission administrative du régime de retraite to that effect.

Election
not
allowed.

A judge of the Youth Court who notifies the Ministre de la justice in accordance with section 116a of the Courts of Justice Act, enacted by section 145 of chapter 20 of the statutes of 1977, shall not make the election provided in the first paragraph.

Transfer of
years of
service to
the retire-
ment plan.

38. The judge having made the election provided for in section 37 transfers, to the retirement plan established by Part VI of the Courts of Justice Act, such number of years during which he has held office as are required, at the time of electing, to acquire, a pension of at least \$20,480 under that plan; in the case of a judge who, at the time of the election, is chief judge or associate chief judge or who has had the status thereof for not less than ten years or who, at the time of the election, has formerly held such an

Sec. 39. *This section establishes, for pension purposes, a rule respecting the redemption of the years of office of a judge preceding his exercising his option.*

Sec. 40. *This section establishes rules of payment for the years redeemed.*

Sec. 41. *This section provides that the debt contracted by a judge under section 39 is extinguished at his death.*

Sec. 42. *This section is for concordance.*

Sec. 43. *This section indicates that contributions to the new retirement plan are payable only from 1 January 1979.*

Sec. 44. *This section is for concordance.*

office for at least ten years, the value of the pension so acquired is \$23,040.

Minimum
pension.

In no case, however, shall the judge having made the election receive a smaller pension on his retirement than he would have received had he not made the election.

Redemp-
tion of the
value of
years of
office.

39. The judge making the election provided for by section 37 may, to increase the value of the pension that will be paid to him, redeem, not later than 1 July 1979, the value of his years in office exceeding the number of years contemplated in the first paragraph of section 38.

Maximum
years
transfer-
able or
redeemable.

However, in no case shall the aggregate of the years transferred under section 38, the years redeemed under this section and the years of office to be completed by the judge until he holds his office for twenty-five years or he reaches seventy years of age, exceed twenty-five years.

Cost of
redemption.

40. The cost of the redemption provided for in section 39 is equal to 7.5% of \$42,240 for each of the years of service to be redeemed.

Payment of
redemp-
tion.

The payment of the amount so established may be made over a period of not over ten years after agreement between the judge and the Commission administrative du régime de retraite; in that case, the debt contracted by the judge bears interest at the rate of 6% per year.

Debt ex-
tinguished.

41. The debt contracted by a judge under section 40 is extinguished at his death.

Years
computed
for pension
purposes in
the case of
an election.

42. A judge making the election provided for in section 37 shall, for the application of section 239 of the Courts of Justice Act, enacted by section 33 of this act, count only the years during which he has held office since exercising his option and those he has redeemed in accordance with sections 39 and 40, up to the value of the amounts he has paid.

Optional
contri-
bution to
retire-
ment plan.

43. Notwithstanding section 248 of the Courts of Justice Act, enacted by section 33 of this act, no judge is bound to pay a contribution to the retirement plan established by Part VI of the said act before 1 January 1979.

Chief
judges of
the Courts
of the
Sessions of
the Peace.

44. Notwithstanding section 256 of the Courts of Justice Act, enacted by section 33 of this act, the two chief judges of the Court of the Sessions of the Peace become members of the Conseil de la magistrature from the coming into force of that section.

Sec. 45. *This section is for concordance; it recognizes, in the Code of Civil Procedure, the civil jurisdiction of the Youth Court.*

Sec. 46. *This section is for concordance.*

Sec. 47. *The effect of the proposed amendment is to bring appeals from judgments rendered in the district of Témiscamingue to Québec.*

Sec. 48. *This section is for concordance.*

Sec. 49. *This section is for concordance.*

Sec. 50. *This section is for concordance and entitles the chairman and vice-chairman of the Expropriation Tribunal to the same additional remuneration and, if such is the case, to the same pension as are attributed by law to the chief judge of the Provincial Court.*

C.P.C.,
a. 22, am. **45.** Article 22 of the Code of Civil Procedure is amended by replacing paragraph *d* by the following paragraphs:

- “(d) the Youth Court;
(e) the municipal courts.”

Id., a. 23,
replaced. **46.** Article 23 of the said Code is replaced by the following article:

“**23.** The jurisdictions of the Court of Appeal, the Superior Court and the Provincial Court extend throughout the province; the jurisdiction of the Youth Court or of a municipal court is limited to a designated territory or to designated judicial districts.”

Id., a. 30,
replaced. **47.** Article 30 of the said Code, amended by section 12 of chapter 10 of the statutes of 1975, is replaced by the following article:

“**30.** Appeals from judgments rendered in the districts of Beauharnois, Bedford, Drummond, Hull, Iberville, Joliette, Labelle, Montreal, Pontiac, Richelieu, Saint-François, Saint-Hyacinthe, and Terrebonne are brought before the Court of Appeal sitting at Montreal; those from judgments rendered in the other districts, before the court sitting at Québec.”

Id., a. 36a,
added. **48.** The said Code is amended by inserting, after article 36, the following:

“SECTION IV A

“YOUTH COURT

“**36a.** The jurisdiction of the Youth Court and the procedure to be followed before it are determined by special acts.”

1972, c. 55,
s. 53,
replaced. **49.** The Transport Act (1972, chapter 55) is amended by replacing section 53 by the following section:

Appoint-
ment of
chairman
and vice-
chairman. **“53.** The Lieutenant-Governor in Council shall appoint one of the judges of the Transport Tribunal chairman of the Tribunal and two other judges of the Provincial Court substitutes for the other members.”

1973, c. 38,
s. 4
replaced. **50.** The Expropriation Act (1973, chapter 38) is amended by replacing section 4 by the following section:

Chairman
and vice-
chairman. **“4.** The chairman and the vice-chairman of the tribunal shall have the same status and be entitled to the same salary, additional

Sec. 51. *This section is for concordance and provides the terms and conditions of application of the retirement plan proposed to judges of the Municipal Courts of Laval, Montreal and Québec who, pursuant to the charters of these cities, are entitled to the same pension as judges of the sessions.*

remuneration, allowances and, if such is the case, to the same pension as are attributed by law to the chief judge of the Provincial Court."

51. A judge of the Municipal Court of Laval, Montreal or Québec appointed before (*insert here the date of the tabling of this bill*), in office before such date may elect to have the retirement plan provided for in Part VI of the Courts of Justice Act apply to him from (*insert here the date of the tabling of this bill*) by giving notice of his election to the clerk or manager of the city concerned, before 1 January 1979.

Sections 38 to 43 of this act apply, *mutatis mutandis*, to that judge and the contribution contemplated in section 247 of the Courts of Justice Act shall be paid to the city concerned, which administers the plan for judges of the Municipal Court.

Coming
into force.

52. This act will come into force in whole or in part on the date fixed by proclamation of the Lieutenant-Governor in Council or on a later date fixed therein.