

THIRD SESSION

THIRTY-FIRST LEGISLATURE

ASSEMBLÉE NATIONALE DU QUÉBEC

Bill 67

**An Act respecting lotteries, racing,
publicity contests and amusement machines**

First reading

Second reading

Third reading

M. JACQUES PARIZEAU

Ministre du revenu

L'ÉDITEUR OFFICIEL DU QUÉBEC

1 9 7 8

EXPLANATORY NOTES

This bill is intended to provide Québec with a supervisory, governing, regulating and controlling body for racing, lotteries other than government lotteries, publicity contests and amusement machines.

The body will be called the Régie des loteries et courses du Québec, and will succeed to the board of the same name founded by chapter 28 of the statutes of 1969. This bill replaces Divisions I, II, III, V and VI of that chapter.

The act will require certain persons engaged in certain activities related to racing, lotteries, or amusement machines to obtain a licence from the board and to pay duties.

The act will impose duties on publicity contests held in Québec.

The act will empower the board to make rules on procedures, conditions and standards governing the conduct of racing, lotteries and publicity contests and the operation of amusement machines, and rules of procedure and practice for matters coming before the board.

The act will give the board exclusive jurisdiction to hear and decide matters relating to the application of the act to racing, and to impose the related penalties or fines, and will give it jurisdiction as well to hear and decide certain litigations in the matter of lottery schemes, publicity contests and amusement machines. Its decisions will be final.

Chapter I deals with definitions.

Chapter II regards the establishment and the functions and powers of the board.

Chapter III makes provision for the issuing of licences, the connected duties and the related requirements and conditions. It also provides for the affixing of registration markers to certain kinds of apparatus and for the registration of racing colours.

Chapter IV covers duties on publicity contests.

Chapter V regards the keeping and preserving of books, registers and other documents, the filing of reports, the board's power to audit, investigate, search and seize, the recovery of sums owing to the board, the related assessments, refunds and interest, and the assessed person's right to object and to appeal to the board.

Chapter VI regards regulations.

Chapter VII deals with offences and penalties.

Chapter VIII makes miscellaneous provisions.

Bill 67

An Act respecting lotteries, racing,
publicity contests and amusement machines

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

CHAPTER I

DEFINITIONS

1. In this act, and in the regulations and rules hereunder,
unless the context indicates otherwise,

(a) “amusement machine” means a contrivance for providing
amusement or a game of skill;

(b) “publicity contest” means a contest, a lottery scheme, a
game, a plan or an operation which results in the awarding of a
prize, carried on for the object of promoting the commercial inter-
ests of the person for whom it is carried on;

(c) “racing” means horse racing or any other prescribed
form of racing;

(d) “racing judge” means a person responsible for racing
contests whose functions in this regard are described in the rules;

(e) “starting judge” means the person responsible for racing
starts, whose functions in this regard are described in the rules;

(f) “person” means an individual, a corporation, a partnership,
an association, a testamentary heir or executor, a sequestrator,
a trustee in bankruptcy, a liquidator, a trustee or an administrator;

(g) “race track” means a place where racing is held, including
the parking areas, grandstands, offices and other premises put at
the disposal of the employees, the spectators, or any person prac-
tising a profession or trade or carrying on a business or other

occupation relating to the racing held at, or to the operation of, the race track;

(h) “prescribed”, in the case of a form or of information to be provided on a form, means prescribed by the board and, in other cases, prescribed by regulation of the Government;

(i) “board” means the Régie des loteries et courses du Québec established under section 2;

(j) “rule” means a rule adopted by the board by virtue of this act;

(k) “regulation” means a regulation made by the Government by virtue of this act.

In this act, and in the regulations and rules, the expression “lottery scheme” includes a game of chance and a game of mixed chance and skill.

CHAPTER II

RÉGIE DES LOTERIES ET COURSES DU QUÉBEC

DIVISION I

ESTABLISHMENT OF THE RÉGIE

2. A body is established under the name of “Régie des loteries et courses du Québec”.

3. The head office of the board is at the place determined by the Government; notice of the location or of any change of location of the head office shall be published in the *Gazette officielle du Québec*.

The board may hold its sittings anywhere in Québec.

4. The board is composed of five controllers, including a president and a vice-president, appointed by the Government.

At least one controller must be a judge of the Provincial Court or of the Court of the Sessions of the Peace.

The president is appointed for a term of not over five years and the other controllers for a term of not over three years.

The Government shall fix the salary and, where that is the case, the additional salary, fees and allowances of each of the controllers and the indemnities to which they are entitled.

5. The president is the director general of the board; he is responsible for the administration of the board within the scope of its internal management by-laws.

6. At the end of their terms, the controllers remain in office until they are replaced or re-appointed.

7. The secretary and the other members of the staff of the board are appointed and remunerated in accordance with the Civil Service Act (1965, 1st session, chapter 14).

8. The president, the vice-president and every other controller designated by the Government hold office on a full-time basis.

9. No controller holding office on a full-time basis may, under pain of forfeiture of office, have any direct or indirect interest in an undertaking causing his personal interest to conflict with that of the board. However, such forfeiture is not incurred if such an interest devolves to him by succession or gift, provided that he renounces or disposes of it with all possible dispatch.

Every other controller having a direct or indirect interest in an undertaking must, under pain of forfeiture of office, divulge this interest in writing to the president of the board and abstain from any decision regarding that undertaking.

10. If the president is unable to act, is dismissed or is removed, the vice-president shall act as president while the president remains unable to act or until a new president is appointed.

If another controller is unable to act, the Government may appoint a person to exercise his functions while he remains unable to act and fix the salary and, where that is the case, the additional salary, fees and allowances of that person.

11. Three controllers including the president are a quorum of the board.

12. In case of a tie-vote, the president has a casting vote.

13. The decisions of the board shall be in writing and substantiated, and they form part of its records. The board may for cause review or revoke any decision it has made.

14. The minutes of the sittings of the board, approved by it and certified true by the president or the secretary, are authentic. The same rule applies to documents or copies emanating from the board or forming part of its records, when they are signed by the president or the secretary.

No deed, document or writing binds the board or may be attributed to the board unless it is signed by the president, another controller or a member of the staff of the board and only, in the two latter cases, to the extent determined by by-law.

Such a by-law may also, on the conditions fixed therein, allow the signature of the president to be affixed by means of an automatic device to such documents as may be determined in the by-law.

Such a by-law may also allow a facsimile of the signature of the president, that other controller or that member of the staff to be engraved, lithographed or printed on such documents as may be determined in the by-law; in that case, the facsimile has the same value as the signature itself if the document is countersigned by a person authorized by the president.

15. The controllers, the members of the staff of the board and the persons to whom the board has delegated powers cannot be sued by reason of official acts done in good faith in the performance of their duties.

16. None of the extraordinary recourses provided in articles 834 to 850 of the Code of Civil Procedure may be exercised and no injunction may be granted against the board, the controllers or against a person to whom the board has delegated powers acting in their official capacity.

Two judges of the Court of Appeal, upon motion, may annul summarily any writ, order or injunction issued or granted contrary to the preceding paragraph.

17. The financial year of the board ends on 31 March each year.

18. Not later than 30 June each year, the board shall submit to the *Ministre du revenu* a report of its activities for the preceding financial year. The Minister shall table that report before the *Assemblée nationale* if he receives it during a session; otherwise, or if he receives it after an adjournment, he shall table it within thirty days after the opening of the next session or after resumption.

DIVISION II

FUNCTIONS AND POWERS OF THE BOARD

19. The functions of the board are to ensure the application and execution of and compliance with this act, the regulations and the rules, to supervise and control, in the best interests of the public and in accordance with this act, racing, publicity contests, the operation of amusement machines and, if so empowered by the Government, lottery schemes.

It may, in particular, issue the licences provided for under this act.

20. The board may make rules respecting

(a) the setting up and operation of race-tracks and race-horse training or breeding farms;

(b) the hiring of the persons necessary for the organization, management, supervision and control of racing and the qualifications, duties and functions of such persons;

(c) the nature, number and frequency of racing meetings and of lottery schemes;

(d) the distribution of dates and times for the conduct of racing meetings and of lottery schemes;

(e) the nature and the method of operation of amusement machines;

(f) the nature, quality and use of machines or equipment utilized in activities governed by this act;

(g) the maintaining of public order and the safety of persons or animals in premises in which activities governed by this act are being carried on;

(h) the establishment of regions and the fixing of a licensing quota for each region;

(i) the conditions that the Régie may require from persons applying for a licence;

(j) the carrying or the posting up of licences;

(k) the advertising relating to activities governed by this act.

It may also make any other rule relating to the organization, management, conduct and operation of racing, race-horse breeding and training, publicity contests and the operation of amusement machines and lottery schemes.

21. The board may, in accordance with the law and with the approval of the Government, enter into any agreement with another government, a department or body thereof or with any other person for the application of this act.

22. The board may make internal management by-laws for the conduct of its business; such by-laws come into force from their approval by the Government.

23. The board has, to the exclusion of any tribunal, jurisdiction

(a) to hear and decide, in respect of racing, any matter dealing with the application of and compliance with this act, the regulations or the rules and, in appeal, the decisions of the judges contemplated in sections 24 and 25;

(b) to impose, in the matter of racing, on any person it finds guilty of an offence against this act, the regulations or the rules, or any person who refuses to comply with an order given under this act, the regulations or the rules, in addition to the penalties prescribed in the rules, the fines provided for in section 121, and to collect the amount of these fines;

(c) to hear and decide, in respect of the organization and conduct of and the awarding of prizes under a lottery scheme or publicity contest and the method of operation of an amusement machine, any litigation between a person participating in a lottery scheme and the holder of the licence relating to that scheme, between a person participating in a publicity contest and the person for whom the contest is being held, or his representative, or between a person utilizing an amusement machine and the holder of the licence relating to that machine; and

(d) to adjudge, at its discretion, and to collect the prescribed costs for the proceedings held before it or for hearing the questions it has decided.

24. The board may delegate, in writing, to a racing judge, the power

(a) to issue, in the circumstances it fixes, the prescribed licences it determines and collect the duties therefor on behalf of the board;

(b) to hear and decide matters dealing with the application of and compliance with the racing rules;

(c) to impose, on any person he finds guilty of an offence against the racing rules or any person who refuses to obey an order given under these rules, in addition to the penalties prescribed in these rules, a fine of not less than twenty-five nor more than one thousand dollars, in the case of a natural person, nor less than fifty nor more than one thousand dollars, in the case of a person other than a natural person, and collect, on behalf of the board, the amounts of these fines and of those imposed by the starting judges; and

(d) to adjudge and collect the prescribed costs for the proceedings held before him or for hearing the questions he has decided.

25. The board may, in writing, delegate to a starting judge the power to impose on any person who disobeys his orders, uses abusive language in his regard, attempts to take undue advantage in a race or otherwise violates the rules of racing that the said judge must cause to be respected, in addition to a suspension of not more than fifteen days of the privileges conferred by the licence, a fine of at least twenty-five and of not more than two hundred dollars, in the case of a natural person, and of not less than fifty nor

more than two hundred dollars, in the case of a person other than a natural person.

26. Where a racing judge or a starting judge considers that the penalty or the maximum fine that he may impose is insufficient, taking into account the seriousness of the offence committed, he must immediately transfer the matter to the board for a decision.

27. The board, the racing judges and the starting judges, in a matter before them, may forbid any person to perform an act which, in their opinion, should not be performed before they have settled this matter, and they may issue any directives they consider necessary to give effect to their prohibition.

28. A decision of the board, a racing judge or a starting judge is not nullified for a defect of form.

29. Any interested person may appeal to the board regarding a decision rendered by a racing judge or starting judge. However, no appeal lies from such a decision in cases where the penalty, fine or costs adjudged are less than the fixed minimum for appeal.

30. The board, sitting in appeal, may confirm, amend or quash any decision submitted to it and render the decision which, in its judgment, should have been rendered in the first place.

31. Any decision of the board entailing the condemnation to pay a sum of money may, when it has become final, be homologated, upon a motion of an interested party, by the Superior Court or the Provincial Court, according to their respective jurisdictions, taking into account the amount involved.

The first paragraph also applies to a decision taken by a racing judge or a starting judge that has not been appealed before the board.

After homologation, a decision becomes executory in the same manner as a judgment of the Court that homologated it.

32. Subject to section 98, no appeal lies from a decision rendered by the board under this act.

33. The board may make rules of procedure and practice for the hearing of the matters contemplated in sections 23 to 25; these rules come into force from their publication in the *Gazette officielle du Québec*.

CHAPTER III

RACING, LOTTERY SCHEMES AND AMUSEMENT MACHINES

DIVISION I

LICENCES

34. No person may, in the matter of racing or of the breeding or training of race-horses, or of amusement machines or lottery schemes, carry on an activity for which a licence is prescribed, unless such a licence has been issued to him by the board upon payment of the prescribed duties, in the manner and at the time prescribed.

No person may operate a business or practise a profession, trade or occupation at a race track unless a licence has been issued to him by the board upon payment of the prescribed duties, in the manner and at the time prescribed.

35. Section 34 does not apply to a person who owns an amusement machine for purposes other than to derive a revenue therefrom.

36. A person wishing to obtain a licence must, within the prescribed time, apply to the board therefor or, where such is the case, to the racing judge, by sending him the prescribed form duly completed.

He must also furnish the relevant documents and information that the board or, as the case may be, the racing judge may require, and meet the conditions provided for by the rules.

Any modification relating to the documents or information contemplated in the preceding paragraphs must be reported immediately to the board under pain of revocation of the licence.

37. The board shall enter every application for a licence in a register, to which the public may have access during office hours.

38. Where the board receives an application for a race track licence, it shall cause to be published, in a Québec City newspaper, in a Montreal newspaper and in a newspaper of the place where the track is situated or, if it has no newspaper, in a newspaper of the nearest place that has one, a notice of the application, identifying the applicant, stating the nature of his application and indicating the site of the race track.

39. The board, in the notice mentioned in section 38, shall call upon any person wishing to do so to send to it, within 15 days from the publication of the notice, a signed document stating the objections he may have to the issue of the licence and the reasons for these objections.

40. Any person may have access to the document contemplated in section 39 and obtain a copy of it upon payment to the board of the prescribed fees.

41. No person who, in good faith, raises an objection under section 39 may be sued in damages by reason of his objection.

42. Where an objection has been raised under section 32, the board must summon the interested persons to a public hearing to enable them to be heard; the board shall fix the date, place and time of the hearing and give notice of it, by registered or certified mail or by personal service, to the interested persons at least ten days before the date fixed.

43. The board may, in the cases provided for by the rules, compel a person applying for a licence to pay the cost of a study that the board may make or request to assist it in taking its decision, or a person applying for a race track licence to pay the cost of the publication of the notice provided for in section 38 and, for that purpose, to furnish it with a guarantee of the payment of the cost of the study or of the publication of the notice.

44. A race track licence, racing licence, race-horse breeding farm licence, race-horse training farm licence or a race-horse breeding and training farm licence is issued only to a natural person who has been domiciled in Québec for not less than twelve months or to a person, other than a natural person, having its head office or principal establishment in Québec.

45. The board may, in the cases provided for by the rules, require as a condition of the issue of a licence that the applicant be finger-printed and photographed.

46. In the matter of racing, the board or, as the case may be, a racing judge may require, as a condition of the issue or maintenance of a licence, that the person applying for or being the holder of the licence furnish it or him with a certificate attesting that, in the last six months, he has successfully undergone a medical examination of such nature as may be determined by the board or, if the board so requires, that he undergo such a medical examination before a physician chosen and remunerated by the board.

47. Where the exercise of the privileges conferred by a licence involves, for the holder, financial responsibilities towards the board or the public, the board may, in the cases provided for by the rules, require as a condition of the issue of that licence or its maintenance that the person making the application or the holder pay to it security in the amount fixed by it, taking into account the importance of these financial responsibilities.

48. The board may, in the cases provided for by the rules, require as a condition of the issue of a licence or its maintenance that the applicant or holder have and maintain, for the duration of that licence, liability insurance or such other form of protection as the board may consider satisfactory, in an amount enabling him to satisfy a claim arising out of his civil liability.

49. The board may impose, upon the issue of a licence, any other condition provided for by the rules as to the exercise of the privileges conferred by that licence; this condition must, however, be indicated in the licence.

50. The board may, when the public interest so requires, refuse to issue a licence, or suspend or revoke a licence.

It may, in addition, when the holder of a licence refuses or neglects to comply with this act, the regulations or the rules, suspend or revoke his licence or require, for its maintenance or revalidation, that he fulfil the conditions it may require as to the exercise of the privileges conferred by that licence.

51. The board must, in the case of the suspension or revocation of a licence, allow the holder to be heard; it must thereafter, with diligence, give him notice in writing of its decision, indicating to him the reasons therefor.

52. Licences are unassignable; every licence expires on the date appearing on it, and no licence may be issued for a period of over one year.

DIVISION II

REGISTRATION MARKER

53. No person may use a device for the sale, recording or automatic compiling of *paris mutuels*, or another prescribed device that may be used in the exercise of privileges conferred by a licence, unless he has a registration marker placed on it by the board.

54. The registration provided for in section 53 is made upon payment to the board of the prescribed duties, in the manner and at the time prescribed.

55. Sections 36, 43 and 49 to 52 apply, *mutatis mutandis*, to the registration provided for in section 53.

DIVISION III

REGISTRATION

56. In the matter of racing, the distinctive colours adopted to identify the owners, drivers, jockeys or stables or teams, and the names of the stables or teams under which the vehicles or animals taking part in a race are entered must be registered with the board as well as the documents and property of which registration is provided for by the rules.

57. The registration contemplated in section 56 is made in accordance with the rules, upon payment to the board of the prescribed duties, in the manner and at the time prescribed.

CHAPTER IV

DUTIES ON PUBLICITY CONTESTS

58. A person for whom a publicity contest is carried on in which the total value of the prizes offered exceeds one hundred dollars must pay to the board, at the same time as he sends the form provided for in section 59, the following duties:

(a) 10% of the value of a prize offered to contestants from Québec exclusively; and

(b) 3% of the value of a prize offered to a group of contestants from Canada exclusively, when that group includes contestants from Québec; and

(c) 0.5% of the value of a prize offered to any other group of contestants including contestants from Québec.

59. The person contemplated in section 58 must, in addition,

(a) not less than thirty days before the publicity contest is launched, notify the board that it is being held by sending it the prescribed form duly completed;

(b) file any relevant information or document that the board may require; and

(c) comply with all the conditions relating to the publicity contest provided for by the rules.

60. The board may, in the cases provided for by the rules, require from a person for whom a publicity contest is carried on, security in the amount fixed by the board, taking into account the value of the prizes offered to Québec contestants in this contest.

61. For the purposes of section 58, the value of a prize is that which is advertised in the advertising of the contest; if it is not, it is equal to the total amount that would be charged to a person wishing to obtain, on the Québec market, goods or services identical or similar to that prize.

62. For the purposes of section 58, a prize is offered to contestants from Québec when, *inter alia*,

(a) the rules or the advertising of a publicity contest clearly indicate that that prize is offered only to a contestant from Québec, that the contest is carried on only in Québec or that it is only for persons residing in Québec;

(b) the participation form for a publicity contest may be obtained only in Québec; or

(c) the commercial interests of the person for whom a publicity contest is carried on are confined to Québec, even if the advertising of that contest is broadcast outside Québec.

63. This chapter does not apply to a publicity contest carried on to promote the commercial interests of a periodical, regional radio station or television station from outside Québec even if that periodical is distributed in Québec or that station broadcasts into Québec.

CHAPTER V

ENFORCEMENT

DIVISION I

ACCOUNTING AND CONTROL

§ 1.—*Books, accounts and reports*

64. The board may compel the holder of a licence to keep up to date a complete accounting system of the operations and transactions made by him in the exercise of the privileges conferred upon him by his licence.

For these purposes, he must keep at his principal establishment, at his residence or at another place designated by the board, *inter alia*, the registers, books of account and vouchers that the board may require so that it may at any time audit the items and amount of each of the operations and transactions contemplated in the preceding paragraph.

Where the holder of a licence subject to the obligations provided for by the preceding paragraphs does not keep the appropriate registers and books of account, the board may order him to keep the registers and books of account it specifies and he must comply with that obligation.

65. The holder of a licence, when the board so requires, must deposit in a trust account the moneys that he collects from the public within the scope of the activities related to his licence.

Those moneys must be used only to pay the expenses incurred by him for those activities and only for the purposes for which the licence was issued to him. A withdrawal from that trust account must be made in conformity with the rules established by the board.

66. Any person who is required, under section 64, to keep registers and books of account must preserve them, and the documents and other vouchers necessary for the audit of the information contained in those registers and books of account, until written permission to dispose of them has been obtained from the board.

67. The board may require that a person holding a licence or for whom a publicity contest is carried on file with it, in the form and at the time determined by the board, a report of his activities, together with all the information required.

§ 2.—*Audit and inquiries*

68. A person authorized by the board may, for the application of and compliance with this act, the regulations or the rules, enter at any reasonable time into the places where registers and books are or should be kept in conformity with this act, the regulations or the rules or where anything is done relating to the application of this act, the regulations or the rules.

The person so authorized by the board may

(a) audit or examine the registers, books, accounts, vouchers, letters, telegrams or other documents, and the property, apparatus, equipment, processes or material the audit or examination of which may, in his opinion, help him in determining if this act, the regulations and the rules are being complied with;

(b) compel a person found on the premises to give him reasonable assistance in his audit or examination and, for that purpose, to accompany him on the premises;

(c) if, during an audit or examination, it appears to him that an offence against this act, the regulations or the rules has been or is about to be committed, seize and remove anything mentioned in paragraph *a* that may be used as evidence of the commission of that offence and, where required, immediately put an end, on the conditions he fixes, to the activity with which that offence is connected.

69. Where the board, under this act, terminates a lottery scheme or a publicity contest, it may,

(a) seize the amounts of money collected from the public, the prizes to be awarded and the other property relating to the conduct of that lottery scheme or publicity contest;

(b) require the payment of the security required under this act or confiscate the amount deposited as security;

(c) proceed with a drawing of lots to determine as many winners as that scheme or contest provided for;

(d) award the prizes seized to the winners; and

(e) out of the amounts of money seized and the amount of security paid or confiscated, after deducting the expenses incurred by the board to carry out the preceding measures,

(i) award to each winner who was not able to receive a prize mentioned in paragraph *d* a prize in money equivalent in value to the prize that should have been awarded to him under that scheme or contest or, if the funds are insufficient, proportionate to the value of that prize; and

(ii) if, in the case of a lottery scheme, any funds remain, pay the expenses incurred to organize and conduct it, up to the percentage of the amounts collected from the public permitted by the rules, and, if there is any remainder, remit it to the individual or agency to whom the licence for that scheme was issued or, at the discretion of the board, to a charitable or religious body; or

(iii) in the case of a publicity contest, if any funds remain, remit them to the person for whom the contest was held, or his representative.

70. The board may, by a demand that it transmits by registered or certified mail or by personal service, require from the holder of a licence or from a person for whom a publicity contest is carried on, within such reasonable time as it may fix, the filing by registered or certified mail of information, books, letters, accounts, invoices, financial statements or other documents.

The person to whom that demand is made must, within the fixed time, comply with the demand whether or not he has already filed information or documents of such a kind.

71. The board may, for the application of this act, the regulations or the rules, authorize any person to make an inquiry he considers necessary.

72. Any justice of the peace who is satisfied by information upon oath, as in form 1 of the Summary Convictions Act (Revised Statutes, 1964, chapter 35), that there is reasonable ground for believing that there is in any vehicle, aircraft, boat, place or building,

(1) anything upon or in respect of which any offence against this act, the regulations or the rules, has been or is suspected to have been committed,

(2) anything which there is reasonable ground to believe will afford evidence as to the commission of any such offence; or,

(3) anything which there is reasonable ground to believe is intended to be used for the purpose of committing an offence against this act, the regulations or the rules,

may at any time issue a warrant under his hand authorizing a member of the staff of the board or a person it designates, and a peace officer that such member of the staff or person calls to his assistance, to search, forcibly if need be, such vehicle, aircraft, boat, place or building for such thing, to open or have a receptacle opened and to seize that thing and take it away.

No search warrant contemplated in the first paragraph may be executed before seven o'clock in the morning or after eight o'clock in the evening, or on a non-judicial day, without the written permission of the justice of the peace who signed it.

73. Notwithstanding section 72, in the matter of racing, a person authorized in writing by the board and a peace officer that such person calls to his assistance may, at any time, without a warrant, if such person has reasonable ground to believe that there is in any vehicle, aircraft, boat, place or building,

(1) anything upon or in respect of which any offence against this act has been or is suspected to have been committed,

(2) anything which he has reasonable ground to believe will afford evidence as to the commission of any such offence, or

(3) anything which he has reasonable ground to believe is intended to be used for the purpose of committing an offence against this act, the regulations or the rules,

search, forcibly if need be, in such vehicle, aircraft, boat, place or building for such thing, open or have a receptacle opened, and seize that thing and take it away.

74. Any minute of an inquiry, search or seizure provided for in section 68, 71, 72 or 73 must be immediately transmitted to the board by the person who made it.

75. Property seized under this act must be deposited at the head office of the board or at another place designated by the board.

In the case of an amount of money, the board must deposit it in a trust account.

76. The board must, upon request, allow the examination of seized property by its owner or by the person who held it at the time of seizure.

77. Subject to section 69 and to the rules respecting the distribution of purses to participants in a racing meet, property seized under this act is, once the matter which led to the seizure has been settled, returned to its owner, unless the board orders its confiscation; however, no book, register, account, voucher or other document may be confiscated.

78. With the exception of sums of money, the board disposes, by public sale or destruction, of property that has been confiscated and property which, while not confiscated, has not been claimed within sixty days of the date on which the matter was settled.

79. No person may hinder or attempt to hinder in any manner whatsoever a person who performs an act that this subdivision compels or authorizes him to perform.

80. A person making an inquiry or a search under this act has the powers and immunity of a commissioner appointed under the Public Inquiry Commission Act (Revised Statutes, 1964, chapter 11). However, he cannot punish a person for contempt of court.

DIVISION II

RECOVERY

81. Any duty or other amounts exigible under this act are debts due to the Crown; they are recoverable before any court of competent jurisdiction or in any manner provided by this act.

Any sum owing to the Crown under this act constitutes a preferred debt ranking immediately after court costs.

82. Where an amount exigible under this act as duty or interest is not paid, the board may issue a certificate attesting the exigibility of the debt and the amount owing; that certificate is proof of the exigibility of the debt.

This certificate may be issued by the board at any time after the expiry of thirty days after the date that debt becomes exigible. However, if, in the opinion of the board, a debtor attempts to avoid payment of the duties and if the board orders that all duties, including interest, be paid immediately upon assessment, the board may issue that certificate immediately after issuing the order.

When that certificate is filed at the office of the court of competent jurisdiction, the prothonotary or clerk, as the case may be, shall enter on the back of the certificate the date of its filing and render judgment in favour of the board for the amount contemplated in the certificate and interest, if any, and costs against the person bound to pay the debt concerned. This judgment is equivalent to a judgment rendered by the competent court and has all the effects thereof.

DIVISION III

ASSESSMENTS, REFUNDS AND RECOURSES

§ 1.—*Assessments*

83. The board may determine or redetermine the amount of the duties and interest under this act and assess or reassess, as the case may be, any amount that a person owes to the Crown under this act:

(a) within four years following the date on which the duties should have been paid; or

(b) at any time, if the facts have been falsely represented through carelessness or voluntary omission or if fraud has been committed in rendering an account, filing a declaration or report or supplying information under this act, the regulations or the rules hereunder or if no account has been rendered, no declaration or report has been filed or no information has been supplied under this act, the regulations or the rules hereunder, provided that in the case of information, the false representation or failure to file could have influenced the determination of the amount contemplated above.

Without restricting the scope of the first paragraph, the board may also redetermine the amount of duties or interest under this

act and reassess within the twelve months following the date of mailing of a notice of first assessment, or of a notice of reassessment, as the case may be.

84. Every person shall, within thirty days following the date of the mailing of a notice of assessment, pay to the board the duties and interest exigible from him and then remaining unpaid, whether or not an objection to or appeal from the assessment is pending.

85. For the purposes of this act, the date of mailing of a notice of assessment under this act is deemed, in the absence of any contrary provision, to be the date indicated in any such notice, unless it is set aside by the board or any person acting in its name.

86. When a notice of assessment has been sent by the board, the assessment is deemed to have been made on the day of mailing of the notice of assessment.

87. Liability for the duties provided by this act is not affected by an incorrect or incomplete assessment or by the fact that no assessment has been made.

88. An assessment, subject to being varied or vacated or an objection or appeal and subject to a reassessment, is deemed to be valid and binding notwithstanding any error, defect or omission therein or in any proceeding relating thereto.

§ 2.—*Refunds*

89. Where a person has paid, as duties, an amount greater than that which was exigible from him under this act, the board may refund the excess to such person; the board must make such refund if the person concerned applies therefor within four years following the date on which that excess amount was paid to the board.

90. Where the board, by error or on the basis of inaccurate or incomplete information, has refunded to a person an amount greater than that which should have been refunded to him, the board may at any time assess that person the amount of the excess.

§ 3.—*Interest*

91. Notwithstanding any inconsistent provision, any claim of the board exigible under this act bears interest at the rate fixed

under section 28 of the Revenue Department Act (1972, chapter 22).

Where an overpayment by a person is refunded, the interest provided for in the preceding paragraph is paid to him on that amount for the period ending on the day of such refund and commencing on the day that amount was collected by the board; however, no interest is payable if the amount thereof is less than \$1.

§ 4.—*Objections*

92. A person who objects to an assessment under this act may, within 90 days from the day of mailing of the notice of assessment, serve on the board a notice of objection in duplicate in prescribed form setting out the reasons for the objection and all relevant facts.

93. A notice of objection under section 92 is served on the board by being sent by registered mail.

94. Upon receipt of the notice of objection, the board shall with all due dispatch reconsider the assessment and vacate, confirm or vary the assessment or reassess and make its decision known to the person concerned by sending him a notice by registered mail.

95. Section 92 does not apply to the new assessment contemplated in section 94.

96. A reassessment made by the board pursuant to section 94 is not invalid by reason only of not having been made within four years from the day of mailing of a notice of an original assessment.

97. The board may accept a notice of objection even if such notice was not served in duplicate or on the form prescribed in section 92.

§ 5.—*Appeals*

98. Where a person has served a notice of objection under section 92, he may appeal to the Provincial Court sitting for the district in which he resides to have the assessment vacated or varied after either

(a) the board has confirmed the assessment or reassessed, or

(b) 180 days have elapsed after service of the notice of objection and the board has not notified that person that he has vacated or confirmed the assessment or reassessed.

99. No appeal under section 98 may be instituted after the expiry of 90 days from the day notice has been mailed to the person concerned under section 94 that the board has confirmed the assessment or reassessed.

100. An assessment shall not be vacated or varied on appeal by reason only of any irregularity, informality, omission or error on the part of anyone in the observance of any non-peremptory provision of this act.

101. The appeal before the Provincial Court is exercised by a mere motion, three copies of which must be filed in the office of the Court.

Such motion and copies may also be filed by sending them, by registered mail, to the clerk of the Court.

When the three copies of such motion have been filed and the amount of fifteen dollars mentioned in section 102 has been paid, the clerk of the Court shall immediately send two copies thereof to the board which shall then send to the clerk without delay copies of all the documents relating to the objection and assessment.

102. Upon the filing of such motion, the person concerned must pay to the clerk of the Court an amount of fifteen dollars and, if his appeal is wholly or partly successful, such amount shall be repaid to him.

The Court cannot compel that person to pay any additional costs.

103. The procedure on such appeal is summary. Subject to the other provisions of this subdivision, such appeal and the hearing thereof is subject to the procedure governing ordinary actions before the Provincial Court.

104. The Court may dismiss the appeal or vacate the assessment, vary it or refer it to the board for reconsideration and reassessment.

105. The clerk of the Court shall, within eight days from the decision on the appeal, send a copy of it, by registered mail, to the board and to the person concerned.

A decision of the Court on an appeal is a final judgment of the Provincial Court within the meaning of the Code of Civil Procedure.

106. An appeal lies from any final judgment of the Provincial Court rendered under this subdivision.

The appeal is brought, heard and decided in accordance with the rules of the Code of Civil Procedure, subject to any contrary provision of this subdivision.

Where, upon an appeal brought by the board otherwise than by means of a counter appeal, the amount of the duties which is the subject of the dispute is not more than five hundred dollars, the Court of Appeal, when deciding on the appeal, shall grant to the respondent the reasonable and justified expenses incurred by him in respect of that appeal.

107. An appeal brought under this subdivision does not prevent the recovery, according to law, of the duties and interest which are the subject of the recourse.

Payment of the amounts contested under this subdivision is deemed made under protest.

108. The deposit of fifteen dollars mentioned in section 102 shall be paid into the consolidated revenue fund and reimbursed out of such fund, when required.

The expenses contemplated in section 106 shall be paid out of the consolidated revenue fund.

DIVISION IV

PROOF

109. Where this act, the regulations or the rules provide for the mailing of a demand for information or of a notice, *prima facie* proof that this act, the regulations or the rules have been complied with may be made by the affidavit of a controller or member of the staff of the board who had personal knowledge of the facts, provided that to such affidavit is annexed the certificate issued for the sending of the document by registered or certified mail or the part of such certificate relating to the particular case and a true copy of the demand for information or notice.

110. Where this act, the regulations or the rules provide for personal service of a demand for information or a notice, the service may be made by leaving the original of the proceeding with the person for whom it is intended by a member of the staff of the board. Such service may be made by handing the original of the proceeding to him in person, wherever he may be; it may be made at his domicile, by leaving the original at his domicile or ordinary residence, with a reasonable person residing there.

The member of the staff of the board who has made the service shall prepare an affidavit attesting:

(a) that the demand for information or the notice has been served;

(b) the date and place of the service and the name of the person upon whom service has been made.

That affidavit shall be accepted as *prima facie* proof of personal service of the demand for information or the notice.

111. Where this act, the regulations, the rules or the board oblige a person to file a return, report, statement, answer, certificate or any other document, an affidavit of a controller or of a member of the staff of the board attesting that he is entrusted with the appropriate registers and, after making a careful examination of it,

(a) he was unable to ascertain that the return, report, statement, answer, certificate or other document, as the case may be, was filed by the said person, is *prima facie* proof that no return, report, statement, answer, certificate or any other document, as the case may be, has been filed by such person; or

(b) he has ascertained that the return, report, statement, answer, certificate or other document was filed on a designated day is *prima facie* proof that the return, report, statement, answer, certificate or other document was filed on the date indicated and not previously.

112. An affidavit of a controller or a member of the staff of the board attesting that he is entrusted with the appropriate registers and that a document annexed thereto is a document or true copy of a document, made by or on behalf of the board or any other person exercising the powers of the board, or by or on behalf of a person subject to this act, is *prima facie* proof of the nature and content of the document and must be allowed as proof and has the same probative force as the original document if its accuracy had been proved in the ordinary manner.

113. An affidavit of a controller or a member of the staff of the board attesting that he is familiar with the operation of the board, that an examination of the registers shows that a notice of assessment under this act was mailed or otherwise communicated to a person subject to this act, the regulations or the rules, on a designated day, in accordance with this act, and that after making a careful examination of the registers and having made a search therein, he was unable to ascertain that a notice of objection or appeal respecting the assessment was received within the delay prescribed in that respect, is *prima facie* proof of the statements contained therein.

114. In any matter respecting an offence against this act, the regulations or the rules, an affidavit of a controller or member of the staff of the board attesting that he is entrusted with the registers concerned and that consultation of such registers reveals that the board has not received an amount required by this act to be paid to the board as a duty, must be accepted as *prima facie* proof of such statements.

115. When proof is furnished under sections 109 to 114 by an affidavit of a controller or member of the staff of the board, it is not necessary to prove his signature or status as a controller or member of the staff of the board. Nor is it necessary to prove the signature or the official capacity of the person before whom the affidavit was sworn.

116. In any matter respecting an offence against this act, the regulations or the rules, the filing, by a representative of the board, of a return, report, certificate, statement, answer or any other document, which was filed with or furnished to the board by the person concerned in that matter or on his behalf, or which was made or signed by that person or on his behalf, shall be accepted as *prima facie* proof that such return, report, certificate, statement, answer or any other document was filed or furnished by that person or on his behalf or was made or signed by him or on his behalf.

117. In any proceedings in appeal under section 98, the filing of a return, report, certificate, statement, answer or any other document filed or sent to the board by the person concerned or on his behalf, or made or signed by him or in his name, shall be accepted as *prima facie* proof that such return, report, certificate, statement, answer or other document was filed or sent by such person or in his name, or made or signed by him or in his name.

118. Any book, register or other document which has been the object of an examination or of which a member of the staff of the board or a person authorized by the board or to whom the board has delegated powers has taken possession, or which has been filed with the board may be copied, photographed or otherwise reproduced and any copy, photocopy or reproduction of such book, register or document, certified by the president or secretary of the board as being a copy, photocopy or reproduction of the original is admissible as evidence.

CHAPTER VI

REGULATIONS

119. The Government may make regulations to prescribe whatever is to be prescribed by regulation under this act, as well as any regulations it considers expedient for the application and enforcement of this act.

120. The regulations and rules made under this act come into force on the date of their publication in the *Gazette officielle du Québec* or on any later date fixed therein. However, the regulations concerning sections 34, 53, 54 and 57 may, once published and if they so provide, apply to a date preceding their publication, but not earlier than the current year; no such regulation may, however, apply to a date preceding the date of the coming into force of section 119.

CHAPTER VII

OFFENCES AND PENALTIES

121. Any person who infringes a provision of this act, of the regulations or of the rules or refuses to comply with an order given under this act, the regulations or the rules is guilty of an offence and is liable, upon summary proceeding, in addition to the costs, to a fine of not less than twenty-five nor more than five thousand dollars, in the case of a natural person, and not less than fifty nor more than fifty thousand dollars, in the case of a person other than a natural person.

122. Except in the matter of racing, proceedings under section 121 are instituted by the Attorney-General or by a person generally or specially authorized by him for that purpose.

123. Any person who prescribes or authorizes the commission of an offence, consents thereto or acquiesces or participates therein is a party to the offence and is liable to the same fine as that prescribed for the person who committed the offence, whether or not the latter has been prosecuted or found guilty.

CHAPTER VIII

MISCELLANEOUS PROVISIONS

124. A formula described as a formula prescribed or authorized by the board is deemed a formula prescribed by order of the board except if it is quashed by the board or by any person acting on its behalf.

125. This act replaces Divisions I, II, III, V and VI of the Lotteries and Races Act (1969, chapter 28) and sections 34 to 38, 46 to 53, 55, 57 to 59, 83 to 88 and 146 of the Licenses Act (Revised Statutes, 1964, chapter 79).

126. The Act to amend the Lotteries and Races Act (1972, chapter 17) is repealed.

127. A member of the board appointed under section 4 of the Lotteries and Races Act remains in office, notwithstanding this act, until the expiry of his term of office.

128. The board succeeds to the body contemplated in section 2 of the Lotteries and Races Act and, for that purpose, acquires the rights and assumes the obligations thereof.

129. Section 125 does not invalidate a deed or an operation provided for by the provisions replaced by that section, or by a regulation regarding those provisions; if the provisions of this act differ, with respect to such a deed or such an operation, from the provisions replaced, that deed or operation remains valid if it is made to conform with the provisions of this act within the prescribed period.

130. The licences issued under the provisions of the Lotteries and Races Act and of the Licenses Act replaced by this act remain in force until the date when they would have expired under the said provisions and their holders may, until that date, carry out the operations authorized by such licences, subject to the provisions of this act, or of the regulations or rules, without being required, for such operations, to hold a licence issued under this act.

131. The regulations, orders in council, agreements, understandings and accords made under Divisions I, II, III, V and VI of the Lotteries and Races Act or under the Licenses Act with respect to those provisions of the said act which are replaced by section 125, remain in force until they are repealed, replaced or amended by regulations, orders in council agreements, understandings and accords made under this act.

Sec. 133. *Section 33a of the Licenses Act as proposed in this section of this bill, is entirely new law.*

Sec. 134. *Section 139 of the Licenses Act presently reads as follows:*

"139. The words "automatic distributor" mean any machine and any apparatus, with or without mechanism, automatic or otherwise, and any other article or collection of articles, in whatever form or under whatever name the same is commonly known, which serves or is intended to serve or the make or the arrangement of which indicates that it is intended for the sale or delivery of merchandise, or services, of recreation, of amusement or of any purpose whatsoever, either through automatic operation, or through skill or choice of the operator, of through hazard or chance or through a combination of the operator's skill and of hazard or chance."

132. In any act, proclamation, order in council, regulation, contract or document, a reference to any section of Division I, II, III, V or VI of the Lotteries and Races Act or to any provision of that act is deemed a reference to this act or to the equivalent provision of this act.

Similarly, any reference to any provision of the Licenses Act replaced by section 125 is deemed a reference to the equivalent provision of this act.

133. The Licenses Act (Revised Statutes, 1964, chapter 79) is amended by adding, after section 33, the following section:

“33a. The licences and duties provided for in this division are not required or due in respect of a place of amusement while an activity is being carried on or while an amusement machine is being operated under the authority of a licence issued under the Act respecting lotteries, racing, publicity contests and amusement machines (1978, chapter *insert here the chapter number of Bill 67*).”

134. Section 139 of the said act is replaced by the following section:

“139. The words “automatic distributor” mean any machine and any apparatus, with or without mechanism, automatic or otherwise, and any other article or collection of articles, in whatever form or under whatever name it is commonly known, which serves or is intended to serve or the make or the arrangement of which indicates that it is intended for the sale or delivery of merchandise, or services or of any purpose whatsoever, whatever its mode of operation may be.”

135. Sections 58 and 59 do not apply to a publicity contest launched within thirty days of their coming into force.

[[**136.** The amounts collected or confiscated by the board under this act form part of the consolidated revenue fund.

The amount of a reimbursement made by the board under this act as well as the interest applied thereto is paid out of the consolidated revenue fund.]]

[[**137.** The amounts required for the application of this act are taken out of the consolidated revenue fund for the fiscal year 1978/1979 and, for the subsequent fiscal years, out of the moneys granted every year for that purpose by the Legislature.]]

138. The Ministre du revenu is responsible for the application of this act.

139. This act will come into force on the date to be fixed by proclamation of the Government, except the provisions excluded by that proclamation, which will come into force, in whole or in part, on any later date that may be fixed by proclamation of the Government.