IN THE MATTER OF THE 6TH QUADRENNIAL COMMISSION ON JUDICIAL COMPENSATION AND BENEFITS

BOOK OF DOCUMENTS OF THE PROTHONOTARIES OF THE FEDERAL COURT TO THE JUDICIAL COMPENSATION AND BENEFITS COMMISSION

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I N D E X

Tab

Annex 1:

Details of Economic and Fiscal Projections

Economic Projections

The average of private sector forecasts has been used as the basis for economic and fiscal planning since 1994. This helps ensure objectivity and transparency, and introduces an element of independence into the government's economic and fiscal forecast. The economic forecast presented in this section is based on a survey conducted in March 2021.

The March survey includes the views of 13 private sector economists:

1. BMO Capital Markets,
2. Caisse de dépôt et placement du Québec,
3. CIBC World Markets,
4. The Conference Board of Canada,
5. Desjardins,
6. IHS Markit,
7. Industrial Alliance Insurance and Financial Services Inc.,
8. Laurentian Bank Securities,
9. National Bank Financial Markets,
10. Royal Bank of Canada,

11. Scotiabank,
12. TD Bank Financial Group, and
13. The University of Toronto (Policy and Economic Analysis Program).

Private sector economists expect real gross domestic product (GDP) to rebound from a contraction of 5.4 per cent in 2020 to growth of 5.8 per cent in 2021 and 4 per cent in 2022, a faster recovery than the growth rates of, respectively, 4.8 per cent and 3.2 per cent projected in the November 2020 Fall Economic Statement (FES 2020). This improved outlook reflects stronger-than-expected results in the last quarter of 2020, and higher projected growth starting in the second quarter of this year due to a faster anticipated rollout of vaccines (Table A1.1 below). Real GDP growth is expected to moderate to about 2 per cent on average per year over the remaining years of the forecast horizon, reflecting a return to trend long-run growth rates.

Along with the faster recovery in economic activity, the unemployment rate is expected to decline from its peak of 9.6 per cent in 2020 to 8 per cent in 2021 and 6.5 per cent in 2022, a faster projected decline than in FES 2020. The unemployment rate is expected to reach 5.9 per cent by 2025.

The outlook for GDP inflation (the broadest measure of economy-wide price inflation) in the March 2021 survey has also been revised up for 2021 compared to FES 2020 forecast (from 2.2 per cent to 3.3 per cent) reflecting better-than-expected results in the second half of 2020 and upward forecast revisions in the first quarter of 2021, in part attributable to higher oil prices. Going forward, GDP inflation is expected to stand at about 2 per cent per year.

As a result of these developments, the level of nominal GDP (the broadest measure of the tax base) is projected at $2,408 billion for 2021, $68 billion higher than projected in FES 2020 (but still $75 billion lower than projected in the Economic and Fiscal Update 2019). The nominal GDP level difference with FES 2020 is expected to average about $70 billion per year over the 2020-2025 period.

While the outlook for the short-term interest rate is broadly similar to FES 2020 projection, forecasts for the long-term interest rate have been revised up in the March 2021 survey by about 40 basis points over the 2020-2025 period compared to FES 2020 forecast.

Table A1.1

Average Private Sector Forecasts

per cent, unless otherwise indicated

	2020	2021	2022	2023	2024	2025	2020-2025
Real GDP growth[1]							
Fall Economic Statement 2020	-5.5	4.8	3.2	2.3	2.1	1.9	1.5
Budget 2021	-5.4	5.8	4.0	2.1	1.9	1.8	1.7
GDP inflation[1]							
Fall Economic Statement 2020	0.1	2.2	2.0	2.0	2.1	2.1	1.7
Budget 2021	0.8	3.3	2.0	2.0	2.1	2.0	2.0
Nominal GDP growth[1]							
Fall Economic Statement 2020	-5.4	7.0	5.3	4.4	4.3	4.0	3.3
Budget 2021	-4.6	9.3	6.0	4.0	4.0	3.8	3.8
Nominal GDP level (billions of dollars)[1]							

Note: Forecast averages may not equal average of years due to rounding. Numbers may not add due to rounding.

[1] Figures have been restated to reflect the historical revisions in the Canadian System of National Accounts and in the Labour Force Survey. Sources: Statistics Canada; for the Fall Economic Statement 2020, Department of Finance Canada September 2020 survey of private sector economists; for the Budget 2021, Department of Finance Canada March 2021 survey of private sector economists.

	2020	2021	2022	2023	2024	2025	2020-2025
Fall Economic Statement 2020	2,186	2,340	2,465	2,572	2,682	2,789	
Budget 2021	2,204	2,408	2,553	2,657	2,763	2,869	
Difference between Fall Economic Statement 2020 and Budget 2021	18	68	89	84	81	79	70
3-month treasury bill rate							
Fall Economic Statement 2020	0.4	0.2	0.3	0.5	1.1	1.5	0.7
Budget 2021	0.4	0.1	0.2	0.5	1.1	1.6	0.7
10-year government bond rate							
Fall Economic Statement 2020	0.7	0.9	1.2	1.6	2.0	2.4	1.5
Budget 2021	0.7	1.5	1.8	2.1	2.5	2.7	1.9
Exchange rate (US cents/C$)							
Fall Economic Statement 2020	74.2	76.1	76.6	77.9	78.9	79.2	77.2
Budget 2021	76.6	79.4	79.8	80.8	81.0	81.0	79.4
Unemployment rate[1]							
Fall Economic Statement 2020	9.8	8.2	7.1	6.4	6.1	6.1	7.3
Budget 2021	9.6	8.0	6.5	6.2	6.0	5.9	7.0

Note: Forecast averages may not equal average of years due to rounding. Numbers may not add due to rounding.

[1] Figures have been restated to reflect the historical revisions in the Canadian System of National Accounts and in the Labour Force Survey. Sources: Statistics Canada; for the Fall Economic Statement 2020, Department of Finance Canada September 2020 survey of private sector economists; for the Budget 2021, Department of Finance Canada March 2021 survey of private sector economists.

	2020	2021	2022	2023	2024	2025	2020-2025
Consumer Price Index inflation							
Fall Economic Statement 2020	0.7	1.7	1.9	2.0	2.1	2.1	1.7
Budget 2021	0.7	2.2	2.0	2.1	2.1	2.1	1.9
U.S. real GDP growth							
Fall Economic Statement 2020	-4.3	3.7	3.3	2.6	2.2	2.0	1.6
Budget 2021	-3.5	6.0	4.3	2.2	1.9	1.8	2.1
West Texas Intermediate crude oil price ($US per barrel)							
Fall Economic Statement 2020	39	46	52	54	58	59	51
Budget 2021	39	60	61	60	60	60	57

Note: Forecast averages may not equal average of years due to rounding. Numbers may not add due to rounding.

[1] Figures have been restated to reflect the historical revisions in the Canadian System of National Accounts and in the Labour Force Survey. Sources: Statistics Canada; for the Fall Economic Statement 2020, Department of Finance Canada September 2020 survey of private sector economists; for the Budget 2021, Department of Finance Canada March 2021 survey of private sector economists.

BANK OF CANADA
BANQUE DU CANADA

Monetary Policy Report Press Conference Opening Statement

Opening statement
Tiff Macklem - Governor
Ottawa, Ontario
April 21, 2021

Good morning. Thank you for joining me to discuss today's policy announcement and the Bank's *Monetary Policy Report* (MPR).

My message today is twofold.

First, the economic outlook has improved, and Governing Council is more confident in the resilience of the economy to the pandemic. Canadian households and businesses are adapting to the virus, finding new ways to shop, serve customers and work remotely. More important still, the rollout of vaccines is progressing, and we expect better times ahead.

But second, most of Canada is now dealing with more contagious variants of the virus. The third wave has introduced a new dimension of uncertainty and is straining health care resources in some regions. This will slow the return to work for many low-wage earners, young people and women in hard-to-distance sectors who have borne the brunt of job losses throughout the pandemic. Too many Canadians remain out of work and there is still considerable excess supply in the economy. I understand how difficult this third wave is for Canadians hoping to return to work and businesses struggling to cope with the latest restrictions. I know the toll has been immense, and this latest setback is tough. You can be sure that the Bank of Canada will continue to support Canadians and the Canadian economy throughout the recovery.

Before I turn the Governing Council's policy discussions, let me say a word about the format of the MPR itself. You will notice two new boxes in the Report—boxes 2 and 3—that review the changes to the global and Canadian projections since January. We have added these boxes to enhance the transparency of our analysis and more clearly explain changes to our forecast. We intend to make these a regular feature of our MPR and we look forward to your feedback on this innovation.

Let me now turn to the Governing Council's deliberations.

We spent a lot of time talking about incoming economic data. The first quarter is now looking like it was considerably stronger than we were expecting back in January. This partly reflects a better global backdrop, particularly in the United States. The US recovery is being supported by a rapid rollout of vaccines and substantial fiscal stimulus, which is bringing spillover benefits to Canada through higher demand for exports and stronger commodity prices.

But the most important factor in the unexpected economic strength has been the resilience and adaptability of Canadian households and businesses. Lockdowns through the second wave had much less economic impact than they did through the first wave. And as restrictions were eased, the economy bounced back quickly with substantial job gains in February and March. The third wave is a new setback, and we can expect some of these job gains to be reversed. But the performance of the economy in recent months has increased our confidence in the underlying strength in the recovery.

With the vaccine rollout progressing, we are expecting strong consumption-led growth in the second half of this year. Fiscal stimulus from the federal and provincial governments will also make an important contribution to growth. Strong growth in foreign demand and higher commodity prices are expected to drive a solid rebound in exports and business investment, leading to a more broad-based recovery. Overall, we now project that the economy will expand by around 6½ percent this year, slowing to about 3¾ percent in 2022 and 3¼ percent in 2023.

You won't be surprised to hear that we also spent some time discussing what is happening in the housing market. The pandemic has led to some unique circumstances. With so many households working and studying at home, we see many people wanting more living space. And interest rates have been unusually low, making borrowing more affordable. While the resulting house price increases are rooted in fundamentals, we are seeing some signs of extrapolative expectations and speculative behaviour.

Given elevated levels of household debt and the risks that households may overstretch in the face of rising housing prices, we welcome the recent proposal by the Superintendent of Financial Institutions to introduce a fixed floor to the minimum qualifying rate for uninsured mortgages. New measures just announced in the federal budget will also be helpful. We are watching developments in the housing market very closely, and we will have more to say about this in our *Financial System Review* next month.

The Governing Council also spent time discussing estimates of the amount of slack in the economy and the outlook for potential growth. With the economy proving more resilient to the pandemic and vaccines rolling out, we are hopeful there will be less labour-market scarring and less lost capacity than we earlier feared. Bankruptcies have been low, and surveys of investment intentions and our own Business Outlook Survey both suggest that many companies are speeding up investments in digital technologies. These factors are reflected in our decision to raise our estimate of the economy's potential output.

But it bears stressing that considerable uncertainty surrounds our estimate of potential output. We have never seen a recession or recovery like this. The pandemic continues to have widely different impacts across sectors, businesses and groups of workers. Further, economic restrictions have affected both demand and supply, making it more difficult to interpret economic signals. This all means that as the recovery continues, we will be paying attention to a broad spectrum of indicators of slack, including a range of labour market measures.

Of course, we also discussed the outlook for inflation. We know that over the next few months, inflation will rise due to base-year effects, which simply reflect the impact one year later of the plunge in some prices at the start of the pandemic. When combined with a further rise in gasoline prices, we expect inflation to rise temporarily to around the top of our 1 to 3 percent control range. Governing Council is looking through this temporary increase.

We expect inflation to ease back toward 2 percent in the second half of this year and fall further due to the excess capacity in the economy. Inflation should then return to 2 percent on a sustained basis as slack is absorbed in the second half of 2022.

Taking into account the improved economic outlook and the considerable slack that remains, Governing Council judged that the recovery still needs extraordinary support from monetary policy. We remain committed to holding the policy interest rate at the effective lower bound until economic slack is absorbed so that the 2 percent inflation target is sustainably achieved. Based on the Bank's latest projection, this is now expected to happen some time in the second half of 2022. In the current context, though, there is considerable uncertainty about the timing, particularly in light of the complexity involved in assessing supply and demand that I mentioned earlier.

Our forward guidance continues to be reinforced and supplemented by our quantitative easing (QE) program. We decided to adjust the program to a target of $3 billion weekly net purchases of Government of Canada bonds. That is down from a minimum of $4 billion per week, while we will be maintaining broadly the same maturity composition of our purchases. This adjustment to the amount of incremental stimulus being added each week is consistent with the progress toward economic recovery we have already seen.

Looking ahead, further adjustments to the pace of net purchases will be guided by our ongoing assessment of the strength and durability of the economic recovery. If the recovery evolves in line with or stronger than in our latest projection, then the economy won't need as much QE stimulus over time. Further adjustments to our QE program will be gradual, and we will be deliberate both in our assessment of incoming data and in the communication of our analysis.

We are committed to providing the appropriate degree of monetary policy stimulus to support the recovery and achieve the inflation objective.

With that, let me stop and turn to you for questions.

Content Type(s): **Press**, **Speeches and appearances**, **Opening statements**

Monetary Policy Report – April 2021

As the economy recovers from the COVID-19 pandemic, the Bank is forecasting growth of around 6 ½ percent this year, slowing to about 3 ¾ percent in 2022 and 3 ¼ percent in 2023.

Related information

Bank of Canada will hold current level of policy rate until inflation objective is sustainably achieved, adjusts quantitative easing program

April 21, 2021

Media Relations Ottawa, Ontario
The Bank of Canada today held its target for the overnight rate at the effective lower bound of ¼ percent, with the Bank Rate at ½ percent and the deposit rate at ¼ percent.
Content Type(s): **Press**, **Press releases**

Monetary Policy Report - Press Conference (Webcasts) - April 2021

April 21, 2021

Release of the Monetary Policy Report - Press conference by Governor Tiff Macklem (11:00 (ET) approx.).
Content Type(s): **Press**, **Speeches and appearances**, **Webcasts**

Labour Force Survey, March 2021

Text | Tables | Related information | Release schedule | Previous release | PDF (465 KB)

Released: 2021-04-09

March Labour Force Survey (LFS) data reflect labour market conditions during the week of March 14 to 20.

Compared with the February 2021 reference week, public health measures were less restrictive in several provinces during the March LFS reference week. Stay-at-home orders had been lifted for all regions of Ontario by March 8, although personal care services, recreation and fitness facilities, and in-person dining remained closed in some areas, including Toronto. In Quebec, measures affecting restaurants, and recreation and entertainment facilities were eased in some regions in late February and

Canada

Employment — Canada

18,834,000
March 2021

1.6% ↑
(monthly change)

Source(s): Table 14-10-0287-01.

Unemployment rate — Canada

7.5%
March 2021

early March, while Montréal and surrounding regions remained under the highest level of restriction.

-0.7 pts ⬇

(monthly change)

Source(s): Table 14-10-0287-01.

Lockdown measures in Newfoundland and Labrador were partially eased on February 27 and again on March 11, although in-person dining remained closed in St. John's and the Avalon Peninsula. Various measures were also eased in Manitoba, Saskatchewan, Alberta, Prince Edward Island and Nova Scotia.

Highlights

Employment growth continues and unemployment rate falls

Employment rose 303,000 (+1.6%) in March, and was within 1.5% of its pre-COVID February 2020 level.

The unemployment rate fell 0.7 percentage points to 7.5%, the lowest level since February 2020.

Both full- (+175,000; +1.2%) and part-time (+128,000; +3.9%) employment increased.

Self-employment rose for the first time in three months, up 56,000 (+2.1%), but remained 5.4% (-156,000) below its pre-COVID February 2020 level.

Total hours worked rose 2.0% in March, driven by gains in several industries, including educational services, retail trade and construction.

There were 1.5 million Canadians unemployed, up 371,000 (+32.4%) compared with February 2020.

Compared with February 2020, there were 296,000 (-1.5%) fewer people employed in March 2021, and 247,000 (+30.4%) more people worked less than half of their usual hours.

The labour underutilization rate fell 1.9 percentage points to 14.7%, the lowest level since February 2020.

Employment up in industries most affected by easing of public health restrictions

Employment in retail trade rose by 95,000 (+4.5%) in March, fully recouping the remainder of the losses sustained in January.

Employment in information, culture and recreation increased (+62,000; +9.4%) for the first time since September.

There were 21,000 (+2.4%) more people working in accommodation and food services.

Following little change in February, employment in the goods-producing sector rose 43,000 (+1.1%) in March, with construction contributing most of the gain (+26,000; +1.8%).

Employment increases in most provinces

Employment increased in seven provinces: Newfoundland and Labrador, Prince Edward Island, Quebec, Ontario, Manitoba, Alberta and British Columbia.

Employment was unchanged in Nova Scotia, New Brunswick and Saskatchewan.

Young women continue to face challenges despite growth in youth employment

Employment among youth aged 15 to 24 rose by 115,000 (+5.0%) in March, with gains entirely in part-time work.

Compared with February 2020, employment was down 122,000 (-9.5%) among young women, compared with 39,000 (-3.0%) among young men.

Building on an increase of 134,000 (+1.1%) in February, employment among people aged 25 to 54 rose a further 87,000 (+0.7%) in March.

Employment among people aged 55 and older rose by 101,000 (+2.5%) but their employment rate was 0.8 percentage points lower than in February 2020.

Employment growth continues and unemployment rate falls

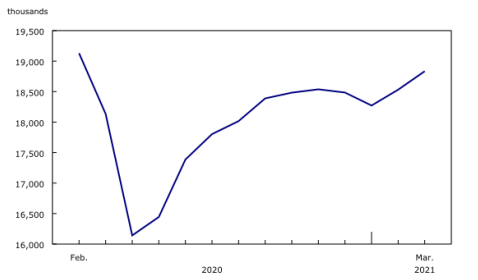
Employment rose by 303,000 (+1.6%) in March. Combined with an increase of 259,000 (+1.4%) in February, this brought employment to within 1.5% (-296,000) of its February 2020 level. The unemployment rate fell 0.7 percentage points to 7.5%, the lowest level since February 2020.

The employment rate–the percentage of the population aged 15 and older that is employed—increased 0.9 percentage points to 60.3%, which was 1.5 percentage points below the rate seen in February 2020.

Employment gains in March were spread across most provinces, with the largest increases in Ontario, Alberta, British Columbia and Quebec. Much of the employment increase reflected continued recovery in industries—including retail trade and accommodation and food services—where employment had fallen in January in response to public health restrictions. Growth in health care and social assistance, educational services, and construction also contributed to the national increase in March.

Employment increased for both men and women in all major age groups in March. Compared with February 2020, employment among youth aged 15 to 24, particularly young women (-122,000; -9.5%), remains furthest behind.

Chart 1
Employment within 296,000 of February 2020 level



The COVID-19 pandemic continues to impact the labour market. Compared with February 2020, there were 296,000 (-1.5%) fewer people employed in March 2021, and 247,000 (+30.4%) more people working less than half of their usual hours. The number of workers affected by the COVID-19 economic shutdown peaked at 5.5 million in April 2020, including a drop in employment of 3.0 million and an increase in COVID-related absences from work of 2.5 million.

Both part- and full-time work up in March

Both full- (+175,000; +1.2%) and part-time (+128,000; +3.9%) work increased in March. Full-time work continued to grow across a broad range of industries, while the increase in part-time work mostly reflected continued growth in services-producing sectors such as restaurants, recreation, and retail trade, as many businesses were permitted to reopen to customers in March following restrictions in previous months. Part-time employment was 3.8% (-136,000) lower than in February 2020 while full-time work was down 1.0% (-160,000).

Private sector employees drive employment growth in March

The number of private sector employees rose 201,000 (+1.7%), as public health restrictions continued to ease through late February and early March. This added to gains of 226,000 (+1.9%) in February 2021 and brought the number of private sector employees to within 2.4% (-300,000) of its February 2020 level.

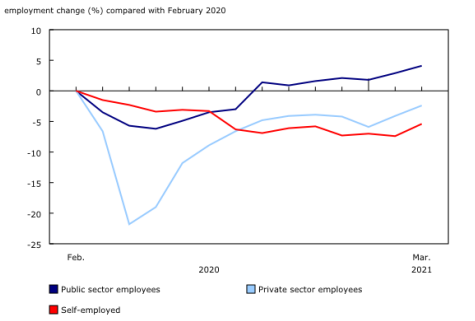
Public sector employment continued on an upward trend, increasing by 46,000 (+1.1%) in March. Compared with February 2020, the number of public sector employees was up 160,000 (+4.1%).

Self-employment rose for the first time in three months, up 56,000 (+2.1%) in March. Proportionally, it remained furthest from pre-pandemic levels, down 5.4% (-156,000) compared with February 2020. The number of self-employed workers had been on a relatively continuous downward trend since the onset of the pandemic.

Number of Canadians working at locations other than home increases for the second consecutive month

Among workers who worked at least half their usual hours in March, the number working at locations other than home increased by about 600,000 for the second consecutive month as public health restrictions eased across the country.

Chart 2
Employment up for both employees and the self-employed



While the number of Canadians working from home declined by 200,000 in March, working from home remains an important adaptation to the COVID-19 pandemic. Of the 5.0 million Canadians working from home in March, more than half (2.9 million) were doing so temporarily in response to COVID-19.

Total hours worked approaches pre-COVID level

Along with employment, total hours worked across all industries is a core indicator of the state of the labour market. Total hours worked can be influenced by a number of factors such as employment growth, compositional change in employment by industry and occupation, and changes in absences from work.

Total hours worked rose 2.0% in March, driven by gains in several industries, including educational services, retail trade, and construction. Building on a steady upward trend since April 2020, this brought total hours to within 1.2% of February 2020 levels. Hours worked among the self-employed continued to be much further behind (-7.7%) February 2020 levels, while hours among employees returned to pre-pandemic levels.

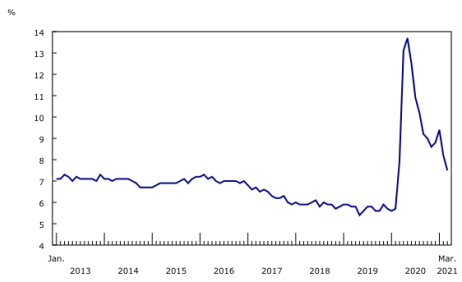
Unemployment rate falls to lowest level since start of pandemic

The unemployment rate declined for the second consecutive month, falling 0.7 percentage points to 7.5% in March, the lowest since February 2020. This reflected strong employment growth that exceeded the number of people entering the labour market.

The number of people unemployed fell 148,000 (-8.9%) in March, with the majority (59.0%) of people leaving unemployment becoming employed. Despite sharp reductions in both February and March, the number of people unemployed stood at 1.5 million, up 371,000 (+32.4%) compared with February 2020.

Consistent with a second month of employment rebound, the number of people on temporary layoff fell by 106,000 (-41.2%) in March. The number of long-term unemployed—people who had been looking for work or on temporary layoff for 27 weeks or more—held steady in March. There were 286,000 (+159.5%) more people in long-term unemployment compared with February 2020.

Chart 3
Unemployment rate lowest since February 2020



Unemployment rate edges up among South Asian Canadians, little changed for other visible minority groups

In March, the unemployment rate edged up 1.2 percentage points to 9.9% among South Asian Canadians aged 15 to 69, but was unchanged in the other six largest population groups designated as visible minorities (not seasonally adjusted). The unemployment rate for visible minority groups overall (9.4%) was little changed and remained higher than that of Canadians who are not Indigenous nor a visible minority, whose unemployment rate fell 0.5 percentage points to 7.5%.

Labour market underutilization rate at lowest level since the beginning of pandemic

The labour underutilization rate reflects the proportion of people in the potential labour force who are: unemployed; want a job but have not looked for one; or are employed but working less than half of their usual hours for reasons likely related to COVID-19. When used in combination with the unemployment rate, the labour underutilization rate sheds light

on the extent to which COVID-19 has resulted in the economy not generating employment for those who want to work and are available to do so.

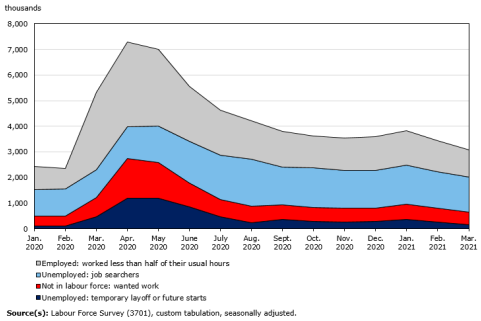
In March, the labour underutilization rate fell 1.9 percentage points to 14.7%, the lowest level since February 2020. All components of labour underutilization decreased, including those who were employed but worked less than half their usual hours (-159,000; -13.1%); those on temporary layoff or with arrangements to start a job in the near future (-106,000; -41.2%); those who wanted a job but did not look for one (-57,000; -10.3%); and job searchers (-42,000; -3.0%).

Since the beginning of the COVID-19 pandemic, a wide range of indicators have been used to fully capture the extent of labour market impacts. If those who wanted a job but were not actively looking for one, and therefore did not meet the definition of unemployed, were included in the count of the unemployed, the adjusted unemployment rate in March would be 9.7% (down 1.0 percentage points from February 2021).

Employment rate and labour force participation rate close in on pre-pandemic levels

As the labour market adjusts to the third wave of the COVID-19 pandemic, the share of the population that is employed, and the share that is participating in the labour market, will be important indicators of labour market conditions.

Infographic 1
Notable drop in people working less than half their usual hours



In March, the employment rate—that is, the share of the population aged 15 and older that is employed—increased 0.9 percentage points to 60.3%, 1.5 percentage points below the rate seen in February 2020. Prior to the pandemic, the employment rate had been hovering between 61% and 62% for several years.

The labour force participation rate—that is, the share of the population aged 15 and older that was either employed or unemployed—rose 0.5 percentage points to 65.2% in March, 0.3 percentage points lower than February 2020. Before the onset of COVID-19, the participation rate had hovered around 65% through most of 2018 and edged up closer to 66% for much of 2019.

Employment up in industries most affected by easing of public health restrictions

As public health restrictions were further eased in several provinces in March, the number of people working in several industries most affected by these restrictions increased. At the same time, notable gains were also seen in health care and social assistance, educational services, and construction.

Employment in retail trade rose by 95,000 (+4.5%) in March, fully recouping the remainder of the losses sustained in January and bringing employment back to the levels observed before the pandemic in February 2020. Ontario contributed the most to the monthly employment gain.

Employment in information, culture and recreation increased for the first time since September as 62,000 (+9.4%) more people worked in this industry in March. This gain fully offset the declines observed over the

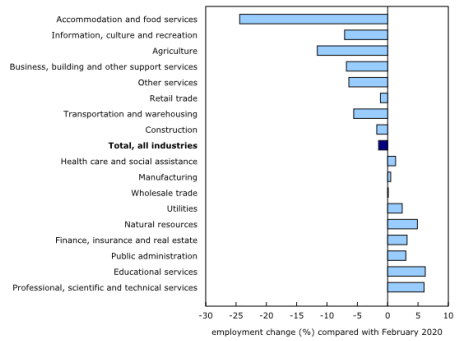
previous five months, and returned employment to within 7.1% of its pre-COVID levels.

There were 21,000 (+2.4%) more people working in accommodation and food services in March. Although losses associated with the December and January lockdowns have been erased, employment remains furthest from full recovery at 24.4% (-298,000) below February 2020 levels.

Notable employment gain in health care and social assistance

In March, the number of people working in health care and social assistance rose by 47,000 (+1.9%). Gains were spread across the country, including in Quebec, Ontario and British Columbia. Employment in the industry has hovered around its pre-COVID level since January. According to data from the Job Vacancy and Wage Survey, the health care and social assistance industry recorded more job vacancies (88,600) than any other sector for the third consecutive month in January.

Chart 4
Recovery to pre-COVID employment varies across industries



Employment gains continue in educational services

After increasing by nearly 30,000 in February, employment in educational services increased a further 35,000 (+2.4%) in March, almost entirely as a result of gains in Ontario and Alberta. Part of this increase was due to spring break being moved to mid-April in Ontario to limit the spread of COVID-19, affecting typical seasonal patterns for some workers in this industry. Compared with February 2020, employment in this industry was up 86,000 (+6.2%).

Employment in professional, scientific and technical services little changed for a second month

Employment in professional, scientific and technical services was little changed for the second consecutive month in March. Despite this pause, employment in the industry was up 6.0% (+92,000) compared with February 2020.

Payroll employment results from the Survey of Employment, Payrolls and Hours (SEPH) for January 2021 showed that, within the industry, scientific research and development services (+6.0%), and computer systems design and related services (+5.0%), were up the most compared with pre-pandemic levels, while advertising, public relations, and related services (-11.4%) was the furthest behind.

Growth in goods-producing sector resumes on the strength of construction

Following little change in February, employment in the goods-producing sector rose 43,000 (+1.1%) in March, with construction contributing the most to the gain (+26,000; +1.8%).

Employment in the natural resources industry also increased (+7,000; +2.2%), with Alberta (+4,400; +3.2%) and British Columbia (+2,900; +5.9%) accounting for nearly all of the rise.

The number of people working in manufacturing was little changed in March. Employment in this industry has been hovering around pre-pandemic levels since September.

Employment increases in most provinces

Employment increased in seven provinces in March, including Ontario and Quebec. Employment was unchanged in Nova Scotia, New Brunswick and Saskatchewan.

For further information on key province and industry level labour market indicators, see "Labour Force Survey in brief: Interactive app."

Employment in Ontario rose by 182,000 (+2.5%) in March, accounting for 60.1% of the national increase. Gains were in full- and part-time work and were spread across a number of industries, including a notable increase in retail trade. The unemployment rate fell 1.7 percentage points to 7.5%. In the Toronto census metropolitan area (CMA), employment rose 64,000 (+2.0%), the first increase since October 2020.

In Quebec, employment rose by 26,000 (+0.6%) in March, following a notable increase in February. The unemployment rate held steady at 6.4%. In the Montréal CMA, where tighter public health restrictions remained in place as of the LFS reference week, employment was little changed.

Employment increased in Alberta (+37,000; +1.7%), British Columbia (+35,000; +1.3%) and Manitoba (+6,300; +1.0%) in March. The unemployment rate fell 0.8 percentage points in Alberta to 9.1% and was unchanged in both British Columbia (6.9%) and Manitoba (6.8%).

In Newfoundland and Labrador, employment rose by 13,000 (+6.5%) as lockdowns imposed in February were lifted. The unemployment rate declined 2.9 percentage points to 12.4%.

Employment also rose in Prince Edward Island (+1,300; +1.7%) and the unemployment rate fell 1.1 percentage points to 8.1%.

Employment up in the Northwest Territories

The Labour Force Survey collects labour market data in the territories produced in the form of three-month moving averages.

In the Northwest Territories, employment increased by an estimated 700 people in the first quarter of 2021 and the employment rate (employment as a percentage of the population aged 15 and older) rose 1.8 percentage points to 68.5%. The unemployment rate was little changed at 6.4%.

Following an increase in the fourth quarter of 2020, employment in Yukon was little changed in the first quarter. Over the same period, more people were searching for work and the unemployment rate rose 1.5 percentage points to 6.7%.

Employment in Nunavut held steady for the second consecutive quarter. The unemployment rate was 7.5% in the first quarter.

Young women continue to face challenges despite growth in youth employment

Employment among youth aged 15 to 24 rose 115,000 (+5.0%) in March, with gains entirely in part-time work. This followed an increase of 100,000 (+4.5%) in February. Increases in March were evenly split between young men (+56,000; +4.6%) and young women (+59,000; +5.3%).

Youth employment fell sharply in December and January as renewed public health restrictions affected industries with high youth employment such as retail trade. After gains in February and March, these losses have been regained and youth employment was closer to February 2020 levels (-6.2%; -161,000) than at any time since the beginning of the COVID-19 pandemic.

Young women continue to be more affected than young men by pandemic-related changes in the labour market. Compared with February 2020, employment was down more among young women (-122,000; -9.5%) than among young men (-39,000; -3.0%) in March. Much of this difference was attributable to the retail trade industry, where employment was down 27,000 among young women but up 43,000 for young men (not seasonally adjusted). Within retail trade, young men and women tend to work in different types of businesses. For example, in 2019, one in five (21.8%) young women employed in retail worked in clothing and clothing accessories stores, compared with 7.5% of young men. Payroll employment results from the SEPH show that the clothing and clothing accessories subsector of retail trade has been hardest hit since the start of the pandemic.

The unemployment rate for youth fell 3.1 percentage points in March to 14.0%, but remained 3.6 percentage points higher than in February 2020. In contrast with recent months, the unemployment rate was not significantly higher among young women (13.8%) than among young men (14.1%) in March.

Among young men, the labour force participation rate—the share of the population that is either employed or unemployed—was up 1.5 percentage points in March to 64.4%, as the increase in employment more than offset the decline in the unemployed. This brought their labour force participation to a rate on par with that seen in February 2020.

For young women, labour force participation was little changed in March at 62.6%, as the increase in employment was similar to the decrease in the unemployed. The labour force participation rate of young women was 2.7 percentage points lower than in February 2020.

Employment continues to recover among core-aged Canadians

Building on an increase of 134,000 (+1.1%) in February, employment among people aged 25 to 54 rose a further 87,000 (+0.7%) in March, with gains focussed in full-time work. The employment increase was similar among core-aged women (+30,000; +0.5%) and men (+56,000; +0.9%). This brought employment to within 61,000 (-0.9%) of its pre-pandemic level for core-aged men, and within 77,000 (-1.3%) for women.

The labour force participation rate for core-aged adults—or the proportion of this age group who are either employed or unemployed—rose 0.4 percentage points to 87.7% in March and has been similar to pre-pandemic levels for both men and women since September 2020.

The unemployment rate fell half a percentage point for core-aged men to 6.4% in March, the lowest rate since February 2020. Following declines in February, the unemployment rate for core-aged women held steady at 6.4% in March.

Employment among older Canadians returns to pre-pandemic levels

Employment among people aged 55 and older rose by 101,000 (+2.5%) in March. While this brought total employment for this age group back to pre-pandemic levels, the employment rate was 0.8 percentage points lower than in February 2020, as the population in this age group increased 2.4% over the period.

March employment gains among older workers were primarily in full-time work. Increases were seen among both women (+3.3%; +60,000) and men (+1.8%; +41,000) and were spread across a number of industries, particularly retail trade, and professional, scientific, and technical services.

The unemployment rate for people aged 55 and older fell 0.9 percentage points to 6.3% in March, 1.1 percentage points higher than in February 2020.

Employment rate for very recent immigrants remains stable

COVID-19 travel restrictions have brought the number of newcomers to Canada to a record low. With the population of very recent immigrants (people who have been in Canada for less than five years) falling faster than their employment, the employment rate for this group recovered quickly from losses early in the pandemic. In the three months ending in March, the employment rate for this group was 65.4%, little changed from the three months ending in February 2020.

Compared with the three-month period immediately before the start of the COVID-19 pandemic (December 2019 to February 2020), the employment rate for immigrants who have been in Canada for five years or more, was down 2.3 percentage points to 57.4% in March, while for people born in Canada, the rate fell 3.1 percentage points to 58.3% (not seasonally adjusted).

Employment rate still below pre-pandemic levels for both Indigenous and non-Indigenous Canadians

Among Indigenous people, the employment rate for the three-month period ending in March was 52.7% (not seasonally adjusted). This was 3.5 percentage points lower than what it was during the three-month period immediately before the pandemic (December 2019 to February 2020). Over the same period, the employment rate among non-Indigenous Canadians fell 2.7 percentage points to 58.5% (not seasonally adjusted).

Looking ahead: Public health restrictions tighten in response to the third wave

LFS results over the past year have demonstrated the extent to which employment—particularly part-time employment among youth and women—responds to public health measures intended to contain the spread of COVID-19.

Since the March LFS reference week, restrictions have been tightened in a number of jurisdictions across Canada, including in British Columbia, Quebec and Ontario, where "circuit breaker" lockdowns of various degrees have been implemented in recent weeks. The labour market impact of these new restrictions may be reflected in April LFS results, to be released on May 7.

Table 1
Labour force characteristics by age group and sex, seasonally adjusted

Table 2
Employment by class of worker and industry, seasonally adjusted

Table 3
Labour force characteristics by province, seasonally adjusted

Table 4
Labour force characteristics by province, age group and sex, seasonally adjusted (Newfoundland and Labrador, Prince Edward Island, Nova Scotia, and New Brunswick)

Table 5
Labour force characteristics by province, age group and sex, seasonally adjusted (Quebec, Ontario, Manitoba, Saskatchewan, Alberta, and British Columbia)

Table 6
Employment by province and industry, seasonally adjusted

Table 7
Labour force characteristics by census metropolitan area, three-month moving average, seasonally adjusted

Table 8
Labour force characteristics by Montréal, Toronto and Vancouver census metropolitan areas, monthly, seasonally adjusted

Table 9
Labour force characteristics by province and economic region, three-month moving average ending in March 2020 and March 2021, unadjusted for seasonality

Table 10
Labour force characteristics by territory, three-month moving average, seasonally adjusted

Table 11
Average usual hours and wages of employees by selected characteristics, unadjusted for seasonality

Table 12
Regional unemployment rates used by the Employment Insurance program,, three-month moving average, seasonally adjusted

Sustainable Development Goals

On January 1, 2016, the world officially began implementation of the 2030 Agenda for Sustainable Development—the United Nations' transformative plan of action that addresses urgent global challenges over the next 15 years. The plan is based on 17 specific sustainable development goals.

The Labour Force Survey is an example of how Statistics Canada supports the reporting on the global sustainable development goals. This release will be used to help measure the following goals:

Note to readers

The Labour Force Survey (LFS) estimates for March are for the week of March 14 to 20.

The LFS estimates are based on a sample and are therefore subject to sampling variability. As a result, monthly estimates will show more variability than trends observed over longer time periods. For more information, see "Interpreting Monthly Changes in Employment from the Labour Force Survey."

This analysis focuses on differences between estimates that are statistically significant at the 68% confidence level.

LFS estimates at the Canada level do not include the territories.

The LFS estimates are the first in a series of labour market indicators released by Statistics Canada, which includes indicators from programs such as the Survey of Employment, Payrolls and Hours (SEPH);

Employment Insurance Statistics; and the Job Vacancy and Wage Survey. For more information on the conceptual differences between employment measures from the LFS and those from the SEPH, refer to section 8 of the *Guide to the Labour Force Survey* (71-543-G).

Since March 2020, all face-to-face interviews have been replaced by telephone interviews to protect the health of both interviewers and respondents. In addition, all telephone interviews were conducted by interviewers working from their home and none were done from Statistics Canada's call centres. As has been the case each month since June, approximately 40,000 interviews were completed in March.

The distribution of LFS interviews in March 2021 compared with February 2021, was as follows:

Telephone interviews – from interviewer homes

• February 2021: 67.0%

• March 2021: 66.6%

Online interviews

• February 2021: 33.0%

• March 2021: 33.4%

The **employment rate** is the number of employed people as a percentage of the population aged 15 and older. The rate for a particular group (for example, youths aged 15 to 24) is the number employed in that group as a percentage of the population for that group.

The **unemployment rate** is the number of unemployed people as a percentage of the labour force (employed and unemployed).

The **participation rate** is the number of employed and unemployed people as a percentage of the population aged 15 and older.

Full-time employment consists of persons who usually work 30 hours or more per week at their main or only job.

Part-time employment consists of persons who usually work less than 30 hours per week at their main or only job.

Total hours worked refers to the number of hours actually worked at the main job by the respondent during the reference week, including paid and unpaid hours. These hours reflect temporary decreases or increases in work hours (for example, hours lost due to illness, vacation, holidays or weather; or more hours worked due to overtime).

In general, month-to-month or year-to-year changes in the number of people employed in an age group reflect the net effect of two factors: (1) the number of people who changed employment status between reference periods, and (2) the number of employed people who entered or left the age group (including through aging, death or migration) between reference periods.

Supplementary indicators used in March 2021 analysis

Employed, worked zero hours includes employees and self-employed who were absent from work all week, but excludes people who have been away for reasons such as 'vacation,' 'maternity,' 'seasonal business,' and 'labour dispute.'

Employed, worked less than half of their usual hours includes both employees and self-employed, where only employees were asked to provide a reason for the absence. This excludes reasons for absence

such as 'vacation,' 'labour dispute,' 'maternity,' 'holiday,' and 'weather.' Also excludes those who were away all week.

Not in labour force but wanted work includes persons who were neither employed, nor unemployed during the reference period and wanted work, but did not search for reasons such as 'waiting for recall (to former job),' 'waiting for replies from employers,' 'believes no work available (in area, or suited to skills),' 'long-term future start,' and 'other.'

Unemployed, job searchers were without work, but had looked for work in the past four weeks ending with the reference period and were available for work.

Unemployed, temporary layoff or future starts were on temporary layoff due to business conditions, with an expectation of recall, and were available for work; or were without work, but had a job to start within four weeks from the reference period and were available for work (don't need to have looked for work during the four weeks ending with the reference week).

Labour underutilization rate (specific definition to measure the COVID-19 impact) combines all those who were unemployed with those who were not in the labour force but wanted a job and did not look for one; as well as those who remained employed but lost all or the majority of their usual work hours for reasons likely related to COVID-19 as a proportion of the potential labour force.

Potential labour force (specific definition to measure the COVID-19 impact) includes people in the labour force (all employed and unemployed people), and people not in the labour force who wanted a

job but didn't search for reasons such as 'waiting for recall (to former job),' 'waiting for replies from employers,' 'believes no work available (in area, or suited to skills),' 'long-term future start,' and 'other.'

Information on population groups

Beginning in July 2020, the LFS includes a question asking respondents to report the population group(s) to which they belong. Possible responses, which are the same as in the 2016 Census, include:

- White
- South Asian e.g., East Indian, Pakistani, Sri Lankan
- Chinese
- Black
- Filipino
- Arab
- Latin American
- Southeast Asian e.g., Vietnamese, Cambodian, Laotian, Thai
- West Asian e.g., Iranian, Afghan
- Korean
- Japanese
- Other

For LFS records interviewed before July 2020, population group characteristics were assigned using an experimental sample matching data integration method, which involves LFS and the Census of

Population. These historical data occasionally complement population group data collected directly in LFS, through a comparison of year-over-year changes in the unemployment rate.

According to the *Employment Equity Act*, visible minorities are "persons, other than Aboriginal peoples, who are non-Caucasian in race or non-white in colour." In the text, people who identify as a member of a population group (visible minority) are analyzed separately.

Seasonal adjustment

Unless otherwise stated, this release presents seasonally adjusted estimates, which facilitate comparisons by removing the effects of seasonal variations. For more information on seasonal adjustment, see Seasonally adjusted data – Frequently asked questions.

The seasonally adjusted data for retail trade and wholesale trade industries presented here are not published in other public LFS tables. A seasonally adjusted series is published for the combined industry classification (wholesale and retail trade).

Revisions to the Labour Force Survey

To ensure that the LFS reflects current labour market conditions as accurately as possible, data are revised following each census to reflect the most recently available population estimates, geographic boundaries, and industry and occupation classifications.

Changes to LFS data tables on the Statistics Canada website and information products resulting from this historical revision were released on January 25, 2021.

Next release

The next release of the LFS will be on May 7, 2021. April data will reflect labour market conditions during the week of April 11 to 17.

Products

More information about the concepts and use of the Labour Force Survey is available online in the *Guide to the Labour Force Survey* (71-543-G).

The product "Labour Force Survey in brief: Interactive app" (14200001) is also available. This interactive visualization application provides seasonally adjusted estimates by province, sex, age group and industry. The interactive application allows users to explore and personalize the information presented.

The product "Labour Market Indicators, by province and census metropolitan area, seasonally adjusted" (71-607-X) is also available. This interactive dashboard provides customizable access to key labour market indicators. Users can configure an interactive map and chart showing labour force characteristics at the national, provincial or census metropolitan area level.

The product "Labour Market Indicators, by province, territory and economic region, unadjusted for seasonality" (71-607-X) is also available. This dynamic web application provides access to labour market indicators for Canada, province, territory and economic region and allows users to view key labour market indicators, observe geographical rankings for indicators using an interactive map and table, and copy data into other programs.

The product *Labour Force Survey: Public Use Microdata File* (71M0001X) is also available. This public use microdata file contains non-aggregated data for a wide variety of variables collected from the Labour Force Survey. The data have been modified to ensure that no individual or business is directly or indirectly identified. This product is for users who prefer to do their own analysis by focusing on specific subgroups in the population or by cross-classifying variables that are not in our catalogued products.

Contact information

For more information, or to enquire about the concepts, methods or data quality of this release, contact us (toll-free **1-800-263-1136**; **514-283-8300**; STATCAN.infostats-infostats.STATCAN@canada.ca) or Media Relations (**613-951-4636**; STATCAN.mediahotline-ligneinfomedias.STATCAN@canada.ca).

Date modified:
2021-04-09

Building a better working world

Ontario

Combined federal and provincial personal income tax rates - 2021[1,5]

Taxable income			Ontario				
					Marginal rate on		
Lower limit		Upper limit	Basic tax[2]	Rate on excess	Eligible dividend income[3]	Other dividend income[3]	Capital gains[4]
$ -	to	$ 13,808	$ -	0.00%	0.00%	0.00%	0.00%
13,809	to	15,850	-	15.00%	0.00%	6.87%	7.50%
15,851	to	20,821 [6]	306	25.10%	0.00%	11.61%	12.55%
20,822	to	45,142	1,554	20.05%	0.00%	9.24%	10.03%
45,143	to	49,020	6,430	24.15%	0.00%	13.95%	12.08%
49,021	to	79,500	7,367	29.65%	7.56%	20.28%	14.83%
79,501	to	90,287	16,404	31.48%	8.92%	22.38%	15.74%
90,288	to	93,656	19,800	33.89%	12.24%	25.16%	16.95%
93,657	to	98,040	20,942	37.91%	17.79%	29.78%	18.95%
98,041	to	150,000	22,604	43.41%	25.38%	36.10%	21.70%
150,001	to	151,978	45,159	44.97%	27.53%	37.90%	22.48%
151,979	to	216,511 [7]	46,049	48.29%	32.11%	41.71%	24.15%
216,512	to	220,000	77,213	51.97%	37.19%	45.95%	25.98%
220,001	and up		79,026	53.53%	39.34%	47.74%	26.76%

1. The tax rates include the provincial surtaxes and reflect budget proposals and news releases up to January 15, 2021. The rates do not include the Ontario Health Premium (see note 5 below). Where the tax is determined under the alternative minimum tax provisions (AMT), the above table is not applicable. AMT may be applicable where the tax otherwise payable is less than the tax determined by applying the relevant AMT rate to the individual's taxable income adjusted for certain preference items. Effective for 2017 and subsequent taxation years, provincial surtax and the Ontario tax reduction are pro-rated if the individual is a multijurisdictional filer.

2. The tax determined by the table should be reduced by the applicable federal and provincial tax credits (see chart below), other than the basic personal tax credits, which have been reflected in the calculations (see Note 7 below).

3. The rates apply to the actual amount of taxable dividends received from taxable Canadian corporations. Eligible dividends are those paid by public corporations and private companies out of earnings that have been taxed at the general corporate tax rate (the dividend must be designated by the payor corporation as an eligible dividend). Where the dividend tax credit exceeds the federal and provincial tax otherwise payable on the dividends, the rates do not reflect the value of the excess credit that may be used to offset taxes payable from other sources of income. This assumption is consistent with prior year rates. Where applicable, the provincial surtax has been applied prior to deducting the dividend tax credit.

4. The rates apply to the actual amount of the capital gain. The capital gains exemption on qualified farm or fishing property and small business corporation shares may apply to eliminate the tax on those specific properties.

5. Individuals resident in Ontario on December 31, 2021 with taxable income in excess of $20,000 must pay the Ontario Health Premium. The premium ranges from $nil to $900 depending on the individual's taxable income, with the top premium being payable by individuals with taxable income in excess of $200,599.

6. Individuals resident in Ontario on December 31, 2021 with taxable income up to $15,850 pay no provincial income tax as a result of a low-income tax reduction. The low-income tax reduction ($251 of Ontario tax) is clawed back for income in excess of $15,850 until the reduction is eliminated, resulting in an additional 5.05% of provincial tax on income between $15,851 and $20,821.

7. The federal basic personal amount comprises two elements: the base amount ($12,421 for 2021) and an additional amount ($1,387 for 2021). The additional amount is reduced for individuals with net income in excess of $151,978 and is fully eliminated for individuals with net income in excess of $216,511. Consequently, the additional amount is clawed back on net income in excess of $151,978 until the additional tax credit of $208 is eliminated; this results in additional federal income tax (e.g., 0.32% on ordinary income) on net income between $151,979 and $216,511.

A chart of the most common non-refundable tax credits is available on the next page

Source: Ernst & Young Electronic Publishing Services Inc.

Ontario

Federal and provincial personal tax credits - 2021[1]

	Federal credit	Provincial credit[2,6]
Amount of credits:		
Basic personal credit (see notes 2 and 7 above)[3,4]	$ 1,863	$ 857
Spousal credit (reduced when spouse's income over $0 (federal) and $924 (provincial))[3,4]	1,863	728
Equivalent-to-spouse credit (reduced when dependant's income over $0 (federal) and $924 (provincial))[3,4]	1,863	728
Caregiver credit (reduced when particular person's income over $17,256 (federal) and $17,544 (provincial))	1,102	404
Age credit (65 and over)[5]	1,157	268
Disability credit	1,299	692
Pension income (maximum)	300	118
Canada employment credit	189	-
Credits as a percentage of:		
Tuition fees	15.00%	-
Medical expenses[7]	15.00%	7.88%
Charitable donations		
- First $200	15.00%	7.88%
- Remainder[8]	29% / 33%	17.41%
CPP contributions[9]	15.00%	7.88%
EI premiums	15.00%	7.88%

1. This table lists the most common non-refundable tax credits; other non-refundable and refundable credits may be available.
2. The tax value of each provincial tax credit includes the reduction in provincial surtax as it would apply to taxpayers in the highest tax bracket (except for the age credit).
3. The federal tax value of the basic personal credit, the spousal credit and the equivalent-to-spouse credit represents the amount available to taxpayers in the highest tax bracket. An additional amount may be available for individuals with taxable income below $216,511 (see Note 7 to the chart above).
4. A federal caregiver tax credit of $344 may be available in respect of a spouse, dependant or child who is dependent on the individual by reason of mental or physical infirmity.
5. The maximum federal age credit of $1,157 occurs at $38,893 of net income and declines to nil as net income rises to $90,313. The maximum provincial age credit of $268 occurs at $39,546 of net income and declines to nil as net income rises to $74,960.
6. A provincial non-refundable tax credit may be available for low-income working individuals and families, providing a maximum credit of $850 for a single individual and $1,700 for couples. The credit is reduced by 10% of the greater of the individual's net income exceeding $30,000 and family net income exceeding $60,000.
7. The credit applies to eligible medical expenses that exceed the lesser of $2,421 and 3% of net income. The provincial credit applies to eligible medical expenses that exceed the lesser of $2,463 and 3% of net income.
8. The federal tax credit rate of 33% applies to charitable donations in excess of $200 to the extent the individual has taxable income in excess of $216,511; otherwise, a federal tax credit rate of 29% applies.
9. One-half of CPP paid by self-employed individuals is deductible in computing taxable income.

Source: Ernst & Young Electronic Publishing Services Inc.

Corporate income tax rates for active business income* – 2021

Includes all rate changes announced up to January 15, 2021

	Income eligible for small-business deduction (SBD) (generally up to $500,000[1])	Manufacturing and processing (M&P) income not eligible for federal SBD (greater than $500,000)	General income not eligible for SBD (non-M&P income)
	%	%	%
Federal rates[2]	9.00[3]	15.00	15.00[2]
Combined federal and provincial rates:			
Newfoundland and Labrador	12.00	30.00	30.00
Prince Edward Island	11.00[4]	31.00	31.00
Nova Scotia	11.50[5]	29.00[5]	29.00[5]
New Brunswick	11.50	29.00	29.00
Quebec	13.00[6,7]	26.50[8]	26.50[8]
Ontario	12.20[9]	25.00	26.50
Manitoba	9.00	27.00	27.00
Saskatchewan[10]	9.00 (up to $500k)/ 15.00 ($500k–$600k)[1]	25.00	27.00
Alberta[11]	11.00	23.00	23.00
British Columbia	11.00	27.00	27.00
Northwest Territories	11.00[12]	26.50	26.50
Nunavut	12.00	27.00	27.00
Yukon	9.00[13]	17.50	27.00
Non-resident	N/A	25.00	25.00

*Rates represent calendar-year rates unless indicated otherwise.

Notes:

1. The federal small-business limit is $500,000. The small-business limit for the provinces and territories is also $500,000, with the exception of Saskatchewan, which increased its small-business limit to $600,000 effective January 1, 2018.
2. A federal general rate reduction of 13.00% applies to the base federal rate of 28.00% for active business income not eligible for other incentives, as well as to investment income earned by a non-Canadian-controlled private corporation. Income earned by a personal services business does not benefit from the federal general rate reduction. The tax rate on personal services business income earned by a corporation is 33.00%. The federal rate applicable to investment income earned by Canadian-controlled private corporations (CCPCs) is 38.67%, due to the additional 10.67% refundable federal income tax.
3. The small-business rate was reduced from 10.50% to 10.00% effective January 1, 2018 and was further reduced to 9.00% effective January 1, 2019. The federal SBD is reduced if taxable capital employed in Canada exceeds $10 million in the preceding taxation year and is eliminated when it exceeds $15 million. An SBD reduction (grind) for large CCPCs applies in all provinces and territories. For taxation years beginning after 2018, the federal SBD is also reduced if a CCPC earns passive investment income exceeding $50,000 in the preceding taxation year and is eliminated when this type of income exceeds $150,000. The applicable federal SBD reduction for taxation years beginning after 2018 is equal to the greater of the taxable capital and passive investment income grinds. As of January 15, 2021, Ontario and New Brunswick are the only provinces that have enacted legislation confirming that they will not parallel the federal SBD reduction with respect to passive investment income. The SBD generally applies to M&P income within the small-business income limit.
4. In accordance with its 2020–21 budget tabled on June 17, 2020, Prince Edward Island has reduced its small–business rate from 3.00% to 2.00%, effective January 1, 2021.
5. Nova Scotia reduced its general corporate income tax rate from 16.00% to 14.00% and its small-business tax rate from 3.00% to 2.50%, effective April 1, 2020.
6. Effective for taxation years beginning on or after January 1, 2017, a CCPC must meet certain qualification criteria concerning the minimum number of hours paid or be a CCPC in either the primary (i.e., agriculture, forestry, fishing, hunting and certain resource-based sectors) or M&P sector to benefit from the small-business tax rate. The minimum number of hours paid criterion requires that an eligible corporation's employees work at least 5,500 hours annually, and the amount of the deduction is reduced linearly when the hours are between 5,500 and 5,000 hours. A maximum of 40 hours per week per employee is considered. Special conversion rules apply to take into consideration hours worked (but not necessarily paid in the form of wages) by actively engaged shareholders who hold, directly or indirectly, shares of the corporation that carry more than 50% of the voting rights. Quebec has adjusted the calculation of a corporation's remunerated hours for purposes of meeting the minimum 5,000/5,500 hours threshold for claiming the small-business deduction. This adjustment limits the impact of any temporary suspension of a corporation's activities between March 15 and June 29, 2020 due to the COVID-19 pandemic. Further details may be found in Quebec Information Bulletin 2020-9.
7. CCPCs engaged in M&P activities in Quebec (and CCPCs in the primary sector effective for taxation years beginning on or after January 1, 2017) were eligible for an additional reduction in the small-business rate of up to 4.00% where the proportion of activities in the primary or M&P sector was 50% or more and was reduced linearly where the proportion was between 50% and 25%. However, in its 2018–19 budget, Quebec announced it would ease the tax burden on small businesses in sectors other than the primary and M&P sectors by standardizing the small-business rate so that it would be reduced to 4.00% by 2021. Therefore, effective March 28, 2018, Quebec reduced the

small-business rate from 8.00% to 7.00%, resulting in an effective rate of 7.24% for the 2018 taxation year, and continued to gradually reduce this rate to 4.00% as follows: January 1, 2019 – 6.00%; January 1, 2020 – 5.00%; and January 1, 2021 – 4.00%. Quebec has also phased out the additional deduction for CCPCs in the primary and M&P sectors over the same time period to maintain an effective small-business rate of 4.00% for CCPCs in these sectors throughout this period.

8. Quebec gradually reduced the general corporate income tax rate from 11.90% to 11.50% over four years, effective January 1 of each year beginning in 2017 and based on the following schedule: 2017 – 11.80%; 2018 – 11.70%; 2019 – 11.60%; and 2020 – 11.50%.
9. Ontario reduced its small-business rate from 3.50% to 3.20%, effective January 1, 2020.
10. Saskatchewan is temporarily reducing its small-business rate from 2.00% to nil, effective for the period commencing October 1, 2020 and ending on June 30, 2022. The small-business rate will increase to 1.00% effective July 1, 2022 and return to a rate of 2.00% on July 1, 2023.
11. Alberta has accelerated the tax cuts that were enacted in 2019, by reducing the province's general corporate income tax rate from 10.00% to 8.00% effective July 1, 2020. The rate was originally scheduled to be reduced from 10.00% to 9.00% on January 1, 2021 and to 8.00% on January 1, 2022. The general corporate income tax rate was already reduced to 11.00% effective July 1, 2019 and to 10.00% effective January 1, 2020.
12. Northwest Territories has reduced its small-business income tax rate from 4.00% to 2.00%, effective January 1, 2021.
13. Yukon has reduced its small-business tax rate to nil, effective January 1, 2021. For 2020, a rate of 1.50% applied to M&P income eligible for the SBD, while a rate of 2.00% applied for non-M&P income eligible for the SBD.

Pages

Prothonotary Position

Message from the Chief Justice

History

Canadian Courts

Members of the Court

Jurisdiction

Liaison Committees

Careers

Reports and Statistics

Message from the Chief Justice

Video from the Chief Justice

Letter from the Chief Justice

Credit: Balfour

Hello, I'm Paul Crampton, Chief Justice of the Federal Court. It's my great pleasure to introduce you to our new website.

The Federal Court occupies a special place in Canada's justice system. We are the country's national, bijural and bilingual trial court.

We deal with cases in a broad range of areas of federal jurisdiction, including national security law, intellectual property law, maritime law, aboriginal law, and administrative law, which includes the vast area of immigration law.

The Court sits in cities across the country, from St. John's to Vancouver to the three northern territories, and everywhere in between.

The Federal Court is committed to addressing two pressing challenges. The first is improving access to justice. The second is modernizing the Court to keep pace with technological change.

In the past few years, we have made significant strides on both these fronts. These are summarized in a progress report on our website that provides an update on the realization of our 2014-2019 Strategic Plan.

We have achieved this success by making connections and listening to what our stakeholders have to say. We have reached out to the bar, to law schools, and to the public, to learn what we can do better and then to innovate.

We are connecting, we are serious about the feedback we receive, and we are changing. Many of our Rules have been updated. We have introduced greater flexibility into our processes. Our courtrooms are now more modern and accessible.

And we have modernized many aspects of our work, including e-filing, e-courtrooms, video-conferencing, electronic assignment calendars, webcasts, and social media.

This is all in service of one goal: to better serve the public in the administration of justice.

As we near our 50th anniversary, I am pleased to announce the launch of the Federal Court's new website. We have developed new ways for people to connect with us – be they lawyers, self-represented parties, the media, or the general public.

Our guiding goal has been to assist you to understand and stay abreast of the Court and its work. You will find much more helpful information, as well as new tools, including checklists, interactive forms, a procedural roadmap, a timelines calculator, and calendar of Hearings. And all within three clicks!

This website is the product of many peoples' hard work and creativity. I am proud of what we have accomplished together.

I invite you to try out the new features, and send us your comments. And don't forget to connect with us on Twitter.

Welcome to the Federal Court.

Federal Court  Cour fédérale

Practice Direction (COVID-19): Update #7 (January 18, 2021)

[paragraph numbering corrected]

The Court's facilities in Ontario and Quebec are being closed until further notice. The Court will continue to conduct its regular operations in those provinces by video conference, teleconference and in writing. In the rest of Canada, the Court's operations will continue as they have been over the last several months, except that drop boxes have been deployed at Registry counters for the filing of paper documents. The Court is also announcing new requirements for the formatting of electronic documents.

[1] Given the public health measures recently announced in Ontario and Quebec, the Court's facilities in those provinces have been closed to the public until further notice. Persons who are unable to file documents electronically, as described below, may make special arrangements to drop off documents by contacting the Registry at the appropriate number below:

- Toronto: 416-973-3356
- Ottawa: 613-992-4238
- Montreal: 514-283-4820
- Quebec City: 418-648-4920

[2] The Court will continue to conduct its regular operations in Ontario and Quebec remotely, as explained below. Elsewhere in Canada, the Court's operations will continue as they have been for the last several months, as also explained below. However, to reduce the risks of COVID-19 transmission, Registry counters will no longer accept documents "over the counter" until further notice. Drop boxes have been deployed for that purpose. Nothing in this practice direction is intended to change the existing practice with respect to the designated (national security) proceedings Registry.

[3] The Court will continue to closely monitor the evolving situation across the country and will provide further updates when appropriate.

In-person Hearings

[4] The Court will cease holding in-person hearings in Ontario and Quebec until February 12, 2021. Exceptions may be made in exceptional circumstances (to be determined on a case-by-case basis) and for the Court's designated (national security) proceedings.

[5] The Court will continue to be prepared to hold in-person hearings in other provinces upon request. In deciding whether to do so, it will consider any submissions that may be made

by the parties, the latest recommendations by local public health authorities and the availability of the Court's judicial officers and staff.

[6] Subject to paragraphs 4 and 5 above, the Court will continue to schedule all *applications for judicial review* as well as *all general sittings* to be heard by video conference (or exceptionally by teleconference).

[7] For general sittings, requests for an in-person hearing should be made by submitting a letter under Rule 35(2) of the *Federal Courts Rules* to the Registry: see e-mail addresses in Appendix. For applications for judicial review scheduled as a special sitting, the requests should be sent by e-mail to the Registry within 14 days of the date of the scheduling Order or Direction. In-person hearings may be scheduled to take place at a later date than the initially scheduled video conference hearing.

Proceedings by Video Conference, Teleconference and in Writing

[8] Video conference hearings will continue to be conducted over Zoom. The Court's approach to such hearings is explained here.

[9] The Court will require electronic copies of all documents that are required for any telephone or video conference hearing, or for the adjudication of any matter in writing. When electronic documents are filed, parties will be exempted from the requirement to file paper copies of those documents. An exception to the requirement to file documents electronically may be made where a party is unable to file documents in that manner. Where documents have previously been filed in paper only, electronic copies of those documents may be required to be filed at least 10 days prior to the hearing.

Electronic Filing

[10] Electronic documents should be filed by e-mail (maximum attachment size of 18 MB)[1] at one of the addresses set forth in the Appendix. Parties are also encouraged to file large documents via SharePoint – where they wish to do so, they shall contact the Registry. For more information regarding electronic filing, please consult the Federal Court's Notice to the Profession and Annex thereto.

A. Page numbering and pinpoints: Electronic files should display page numbers on each page in the file, consecutively numbered. Pinpoint references to those page numbers shall be provided when referring to such materials in written submissions.

[1] **Note**: The maximum e-mail size is 25 MB. However, attachment of a PDF document to an e-mail increases the effective size of the PDF document by approximately 30 %. Larger PDF documents (i.e., over 18 MB) must be split into smaller parts before sending. Please consult sections 3.2.1.1 and 6.8 of the E-filing Guide for information on reducing the size of PDF documents: https://www.fct-cf.gc.ca/content/assets/pdf/base/E-filing-Guide-May-7-2020-Final-EN.pdf

B. Bookmarks: Bookmarks shall be included in all electronic files that contain more than one document. Each such document, and each appendix, exhibit or schedule shall be separately bookmarked.

C. Optical Character Recognition (OCR): Before filing electronic documents that include scanned content or images, parties shall process the document with an OCR application – this allows other parties and the Court to search the document using key word searches. If possible, documents should be converted directly from digital format to PDF, rather than being printed and then scanned to PDF. However, if a document is scanned, the OCR process should be completed before submitting the document to the Court.

D. Confidential Documents: Confidential materials filed pursuant to a confidentiality order or direction should be filed in a manner that preserves the confidentiality of the document. One acceptable procedure is to submit a password-protected PDF or a secure electronic file transfer to the appropriate e-mail address set forth in the Appendix, and provide the password or instructions to the Registry by email or telephone as appropriate. Such documents must be clearly identified as confidential and broken down into documents not exceeding 18 MB, or by such other means as may be directed by the Court. Paper copies of confidential documents may be filed at the Registry.

E. Inability to Submit Documents Electronically: Persons in Ontario and Quebec who are unable to submit electronic documents are referred to paragraph 1 above. Persons elsewhere in Canada may submit hard copies of documents at drop boxes that have been placed at each of the Court's facilities (see paragraph 2 above).

Service of Documents between Parties

[11] A party may serve a document electronically pursuant to the following *Federal Courts Rules*: Rules 139(1)(e), 141, 143, and 146(1) and forms 141A (Notice of Consent to Electronic Service), 141B (Withdrawal of Consent to Electronic Service), and form 146A (Affidavit of Service).

A. Deemed consent: Parties shall provide an electronic address on each document filed with the Court. Exceptions will be made for self-represented parties who do not have access to the necessary technology to receive / send documents electronically. If a party has provided an electronic address on a document filed in Court, or if counsel for a party has an electronic address publicly listed by the counsel's law society, that party shall be deemed, until further notice, to have consented pursuant to Rule 141 to electronic service of documents at that electronic address. Pursuant to Rule 148, on informal request by a party who did not have notice of a served document or did not obtain notice of it at the time of service, the Court may set aside the consequences of default or grant an extension of time or an adjournment.

B. Originating documents: Personal service of an originating document filed electronically by a party other than the Crown in proceedings brought under the *Immigration and Refugee Protection Act* or the *Citizenship Act* shall be effected by the Registry on the Crown, the Attorney General of Canada or any other Minister of the Crown in accordance with the practice under Rule 133 of the *Federal Courts Rules*. Service effected in this fashion will relieve an applicant from the requirement to effect personal service.

C. Until further notice, the Registry may issue an originating document electronically. This shall be deemed to meet the requirements for issuance under the *Rules*.

D. Where service of a document that is required to be served personally cannot practicably be effected, parties may apply informally by letter (sent electronically) for an order for substituted service (Rule 136) or to validate service (Rule 147).

Safeguards at the Court's facilities

[12] The Courts Administration Service has posted guides on its website to inform the public regarding the special health and safety measures that have been, or shall be, taken within the Court's facilities: one dealing with general matters and another on security screening.

[13] The special measures applicable within the courtroom are available here.

Public and Media Access to Documents and Hearings

[14] Members of the media and general public seeking access to documents on the Court record may request electronic copies of non-confidential documents. Requests for documents may be made at the following e-mail address: FC_Reception_CF@cas-satj.gc.ca. However, due to limited staff on-site, only the following may be available:

A. documents that have been submitted to the Court electronically by the parties, and

B. documents that have previously been scanned to the record by the Registry.

[15] Members of the public, including the media, may consult the Calendar of Hearings on the Court's website (https://www.fct-cf.gc.ca/en/court-files-and-decisions/hearings-calendar) to find out which matters are to be heard. Where the matter proceeds remotely, arrangements may be made to allow for attendance of members of the public and the media provided that an advance notice of two business days is given. Such notice must be provided by email to HEARINGS-AUDIENCES@FCT-CF.CA.

[16] Parties are encouraged to follow the Court on Twitter (@FedCourt_CAN_en) and to regularly visit the Court's website (www.fct-cf.gc.ca) for updates and for information regarding changes in the scope of the Court's operations.

Fees

[17] Any fees payable shall be paid by phone using a valid VISA, MasterCard or American Express credit card: Find a local phone number - Telephone List. An exception will be made for self-represented litigants who do not have a credit card. In such circumstances, any applicable fees may be paid after registry operations return to normal. In the meantime, the Registry will accept the documents for filing.

Gowning

[18] The requirement to gown for an appearance in Federal Court is suspended for all hearings that proceed by video conference. Counsel and parties are expected to dress in appropriate business attire. Judges and prothonotaries will similarly dress in business attire. Gowning for in-person hearings remains subject to the February 6, 2017 Notice.

Commissioning of Affidavits

[19] As with the first wave of the COVID-19 pandemic, the Court will make special accommodation for the commissioning of affidavits in circumstances where it is not possible or is medically unsafe for the deponent to physically attend before a commissioner. Examples might include deponents who are required to self-quarantine, others who are unable to leave their residences, and those who are not permitted to receive visitors. Many provinces and Superior Courts have adopted and published accommodations and mechanisms for remote commissioning, swearing or affirming affidavits to be used in proceedings during the pandemic.

[20] Pursuant to s. 53(2) of the *Federal Courts Act*, and subject always to the discretion of the Court to apply the best evidence requirements, affidavits sworn or affirmed remotely using modes deemed acceptable in any Superior Court of any province will be accepted for filing until further notice. For greater certainty, all affidavits must be sworn or affirmed. A scanned version of an affidavit may be accepted for filing, provided that the original version is filed with the Court if specifically ordered or directed by the Court.

Flexibility

[21] The Court is committed to being as flexible as reasonably possible in assisting the public to deal with this situation and the consequences that it may be having for their professional and personal lives.

[22] This practice direction supersedes all prior COVID-19 practice directions.

APPENDIX

Parties can file documents by e-mail* by writing to the local Registry office:

- Vancouver and Yukon: VAN_reception@fct-cf.ca
- Calgary: CAL_reception@fct-cf.ca
- Edmonton and Northwest Territories: EDM_reception@fct-cf.ca
- Winnipeg, Regina and Saskatoon: WPG_reception@fct-cf.ca
- Toronto: TOR_reception@fct-cf.ca
- Ottawa: fc_reception_cf@cas-satj.gc.ca
- Montreal and Nunavut: MTL_reception@fct-cf.ca
- Quebec: QUE_reception@fct-cf.ca
- Halifax: HFX_reception@fct-cf.ca
- Charlottetown: CHA_reception@fct-cf.ca
- Fredericton: FRE_reception@fct-cf.ca
- Newfoundland and Labrador: STJ_reception@fct-cf.ca

* **Note:** The maximum e-mail size is 25 MB. However, attachment of a PDF document to an e-mail increases the effective size of the PDF document by approximately 30 %. Larger PDF documents (i.e., over 18 MB) must be split into smaller parts before sending. Please consult sections 3.2.1.1 and 6.8 of the E-filing Guide for information on reducing the size of PDF documents: https://www.fct-cf.gc.ca/content/assets/pdf/base/E-filing-Guide-May-7-2020-Final-EN.pdf

STANLEY M. BECK, Q.C.

PHONE: (416) 947-9022
FAX: (416) 363-9135

SUITE 500
70 BOND STREET
TORONTO, CANADA M5B 1X3

May 20, 1999

Chair
Management Board of Cabinet
12th Floor, Ferguson Block
77 Wellesley Street West
Toronto, Ontario
M7A 1N3

Dear Sir:

Pursuant to the *Courts of Justice Act, 1994*, R.S.O. 1990, c. 43, s. 51.13, and Appendix "A" to the Framework Agreement, the Fourth Provincial Judges Remuneration Commission has the honour of presenting its majority award with respect to the remuneration, benefits, allowances and pension of Provincial Court judges in Ontario. The recommendations relate to a time period commencing May 1, 1998. We also enclose the minority report of Valerie Gibbons.

Respectfully yours,

Stanley M. Beck, Q.C.

John C. Murray

cc: Secretary, Management Board of Cabinet

FOURTH TRIENNIAL REPORT

OF THE

PROVINCIAL JUDGES

REMUNERATION COMMISSION

(1998)

IN THE MATTER OF THE *COURTS OF JUSTICE ACT* AND IN THE MATTER OF AN INQUIRY BY THE PROVINCIAL JUDGES REMUNERATION COMMISSION (1998) INTO THE COMPENSATION OF PROVINCIAL COURT JUDGES

B E T W E E N:

HER MAJESTY THE QUEEN IN RIGHT OF THE PROVINCE OF ONTARIO

(the "Government of Ontario")

- and -

THE ONTARIO JUDGES' ASSOCIATION, THE ONTARIO FAMILY LAW JUDGES' ASSOCIATION AND THE ONTARIO PROVINCIAL COURT (CIVIL DIVISION) JUDGES' ASSOCIATION

(the "Judges")

BEFORE: Stanley M. Beck, Chair
Valerie A. Gibbons, Government of Ontario's Nominee
John C. Murray, Judges' Nominee

APPEARANCES:

On Behalf of the Government of Ontario:	Roy C. Filion, Counsel Frances R. Gallop
On Behalf of the Judges:	C. Michael Mitchell, Counsel Steven M. Barrett Michael Code

HEARINGS: November 26, 27, December 16, 17, 18, 1998
January 19, 28, February 4, 15, 1999

Executive Summary

1. This is the Report of the Fourth Triennial Provincial Judges Remuneration Commission. The Commission was constituted pursuant to the Courts of Justice Act, 1994, and the Framework Agreement, contained in Appendix A to the Act. The Framework Agreement governs the jurisdiction and terms of reference of each of the Triennial Commissions. A Commission's recommendations as to salaries, benefits and allowances, but not as to pensions, are binding on the Government.

2. The actual base salaries of the judges of the Provincial Court have not been increased since 1992. The agreed annual cost of living increase ("the AIW") was not paid from 1992 to 1996 due to provincial fiscal restraint.

3. The current base salary of a Provincial Court judge is $130,810. The base salary of a federally appointed judge of the General Division is $175,800. Over the past seven years, the salary of the Provincial judges has increased just over $6,500 (due entirely to the reinstatement of the AIW in 1996), as opposed to $28,000 for a judge of the General Division.

4. Legislative changes, particularly over the past four years, have seen the General Division's criminal law workload

effectively transferred to the Provincial Court. From 1993 to 1998, there has been a drop of some 78% in the number of criminal cases in the General Division. Those cases are now heard in Provincial Court. The result is, in effect, a single Ontario Court of Justice, with the General Division dealing primarily with matters of property and civil rights, and the Provincial Court dealing with criminal law.

5. The primary criterion which governs the Commission under the Framework is "to provide fair and reasonable compensation ... in light of prevailing economic conditions". The Government's 1998 Budget Statement indicated that in terms of growth, job creation and deficit reduction, the Ontario economy has never been stronger. An expanding economy has allowed for billions of dollars of additional program expenditures, at the same time that the deficit has been reduced.

6. In light of the severe restraint on the judges' salaries since 1991, the de facto transfer of the criminal law jurisdiction to the Provincial Court, and the buoyant state of the economy, it is the appropriate time to correct a significant inequity in the salaries of the Provincial Court.

7. We recommend that "fair and reasonable compensation" would be a salary base of $150,000 in 1998, $160,000 in 1999 and $170,000 in 2000. This recommendation will cost approximately $10,000,000 over the three year period.

8. The pension plan for the Provincial judges should be brought to the 66-2/3% level of the Federal judges. We set out a number of options as to how this might be accomplished. The mandatory implementation of our salary recommendations without a concomitant revision in the pension plan, would not be sound social policy, and would not accomplish the objective of attracting the ablest men and women to the Provincial bench.

I N D E X

This is the Fourth Triennial Report of the Provincial Judges Remuneration Commission ("the Commission"). The Commission was constituted pursuant to the Courts of Justice Act, 1994, R.S.O. 1990, c. 43, s. 51.13, and the Framework Agreement ("the Framework") contained in Appendix A to the Act, which governs the terms of reference and jurisdiction of each of the triennial commissions. Prior to dealing with the Framework, it is important to set out the historical context which led to it, as it is not possible to understand the agreement, and what occurred with respect to the remuneration of the Provincial Court judges subsequent to it, without some understanding of the remuneration setting process, the commission reports, and the response of successive provincial Governments.

BACKGROUND

The current structure of the Provincial Court dates from a basic restructuring in 1989. It is important to note, however, that in the 30 years prior to that, there was a steady evolution of the Magistrates', juvenile and family courts into the modern Provincial Court. The result of that evolution has been the creation of a Court that in every sense, in terms of its selection, qualifications, term of office, jurisdiction, responsibilities, and independence, including the process for determining compensation, is an integral part of the judiciary of Ontario. This evolution is best summarized in the statement of

Attorney General Ian Scott, when he announced Ontario's Court Reform initiative in May, 1989:

> Judges who conduct trials in Ontario whether criminal, civil or family matters will all be members of the same court...All judges in this Province must meet the same high standard prior to being appointed: ten years' experience at the bar. This is the highest standard in Canada for judicial appointment. Judges of this calibre of legal experience drawn from the same pool of lawyers in the Province should be able to enjoy the full range of judicial work in their area of legal expertise without artificial restrictions based on hierarchy.

Effective September 1, 1990, the Ontario Court of Justice was established. The hierarchy that Attorney General Scott referred to was abolished, at least in form, with the creation of the Ontario Court of Justice. All judges in Ontario, whether appointed by the Federal or Provincial Government, are members of that Court. The new Court was divided into two divisions, the General Division and the Provincial Division. The Trial Division of the Supreme Court and the District Court of Ontario merged to become the General Division. The Provincial Court (Criminal Division) and the Provincial Court (Family Division) merged to become the Provincial Division, and all judges of that Court were expected to hear both criminal and family cases. The final change in nomenclature will take place this year with the Ontario Court (Provincial Division) becoming the Ontario Court of Justice, and

the Ontario Court (General Division) becoming the Superior Court of Justice.

The jurisdiction of the Ontario Court (Provincial Division) ("the Provincial Court") will be dealt with below.

Provincial judges are appointed under Section 41(1) of the Courts of Justice Amendment Act, 1989. The Attorney General may only appoint to the Provincial bench from a list of candidates recommended by the Judicial Appointments Advisory Committee, all of whom must have been a member of a provincial bar for at least 10 years. In short, the members of the Provincial Court are drawn from the same pool of practising lawyers as the members of the Ontario Court (General Division). As with judges of the General Division, judges of the Provincial Court enjoy security of tenure and all the other hallmarks of judicial independence both by statute and under the Constitution; see generally Reference re Remuneration of the Judges of the Provincial Court of Prince Edward Island ("the P.E.I. Reference"), [1997] 3 S.C.R. 3.

In the P.E.I. Reference, the Supreme Court of Canada, building on its earlier decisions in The Queen v. Beauregard, [1986] 2 S.C.R. 56, at 74, and Valente v. The Queen, [1985] 2 S.C.R. 673, at 704, firmly established that financial security is one of the necessary essentials for judicial independence, and stressed that the concept includes both the source and level of

compensation. The P.E.I. Reference dealt particularly with the determinative source of judicial compensation and held that:

> What judicial independence requires is an independent body, along the lines of bodies that exist in many provinces and at the federal level to set or recommend the levels of judicial remuneration....Governments are constitutionally bound to go through the commission process. The recommendations of the commission would not be binding on the executive or the legislature. Nevertheless, those recommendations are non-binding, and should not be set aside lightly, and if the executive or the legislature chooses to depart from them, it has to justify its decision - if need be, in a court of law (at p. 88).

Ontario presaged the decision in the P.E.I. Reference through the 1992 Framework, which provided for independent triennial commissions whose recommendations as to salaries, benefits and allowances, but not pensions, are binding on the Government.

REMUNERATION HISTORY

Prior to the Framework, there had been a number of reports dealing with the remuneration of the judges. The first Provincial Judges Remuneration Commission was appointed and reported in 1988, pursuant to Section 88 of the Courts of Justice Act, 1984. Prior to the Framework, the commissions made non-binding recommendations with respect to "the remuneration, allowances and

benefits of provincial judges". The first triennial commission was chaired by Gordon Henderson, Q.C. ("Henderson", or "Henderson (1988)"), and its report contains an extensive review of the history and jurisdiction of the Provincial Court, as well as the history of previous recommendations with respect to remuneration and the decision of successive governments with respect thereto. While we do not deem it necessary to review the history and jurisdiction of the Court in as thorough a manner as the first commission, a brief review of the remuneration history is important to give context to our recommendations.

Henderson noted that the touchstone for the judges was what the Federal government paid the County and District Court judges. The gap was briefly eliminated in 1973 and widened thereafter until the County and District Court was merged with the General Division in 1990. The repeated goal of the judges was to eliminate the differential. Indeed, as far back as 1968, the then Attorney General, Arthur Wishart, stated in the Legislature that the salary of the judges "is going to be the same" as that of the County and District Court judges.

The first Provincial Courts Committee was created by Order in Council in 1980, and 1983 amendments to the Provincial Courts Act provided a statutory basis for the Committee and its operations. In December, 1980, the first committee recommended that the judges receive an interim increase of $5,000 per year,

and the Government responded by increasing salaries $6,000 per year effective April 1, 1981. In its 1981 report, the Committee considered the recommendations of the Royal Commission Inquiry into Civil Rights (1968) ("the McRuer Report" or "McRuer"), and of the Ontario Law Reform Commission (1973), on an appropriate salary for the judges. The Committee commented on the "ever-widening gap" that had developed since 1974 between the salaries of the judges and those of the County and District Court despite "an opposite trend to expand the jurisdiction and responsibilities of Provincial Court Judges". The Committee concluded that "there is no justifiable basis for paying Provincial Court Judges less than County Court Judges", and recommended that serious consideration be given to eliminating the disparity. Specifically, it recommended an immediate increase for 1981 and further years "so as to achieve equality of remuneration between the Provincial Court Judges and the County Court Judges by April 1, 1985". No action was taken on the Committee's salary recommendations between its report of January, 1981, and late 1985. In October, 1985, the Committee declined to make any recommendation with respect to salaries until it received a response from the Government to its 1981 recommendations.

As a result, the Chair of Management Board of Cabinet, Elinor Caplan, announced in the Legislature that the Government had "decided not to accept the 1981 recommendation of

the...committee to establish parity" between the salaries of the judges and those of the federally-appointed District Court judges. Between the years 1981 and 1985, the judges received small increments, but "their financial position deteriorated dramatically" (Henderson). Indeed, the gap between the judges and the District Court increased by some 50% between 1981 to 1985. In terms of later increases for both groups that were retroactive to April 1, 1985, the gap increased by 133%. With respect to an actual increase in 1985, the Committee recommended that salaries be increased immediately from $71,855 to $80,000. The Government responded by holding the increase to $75,000, because of the "well-recognized need for restraint in the expenditure of the province's financial resources".

As a result of publicly-expressed concerns in 1987 by the Ontario Courts' Advisory Council, chaired by the Chief Justice, and the judges themselves with respect to the salary impasse, the Government agreed to re-activate the Provincial Courts Committee. It was under that agreement that Henderson was appointed.

HENDERSON (1988)

The judges submitted, and Henderson accepted, as have the Supreme Court of Canada decisions in Valente, Beauregard, and the P.E.I. Reference, supra, that financial security is an essential

component of judicial independence. A proper compensation scheme must recognize the financial position in which a judicial appointment places an individual, and guarantee financial security within that context. Again, the judges argued for a salary that would leave little gap between a Provincial Court judge and a judge of the District Court. Appointment to one should be seen as desirable as appointment to the other. In terms of comparisons, the judges argued for considering those at senior levels of private practice, the District Court judges and Provincial Deputy Ministers. Each of those should be used to provide a comparative framework for an appropriate compensation level.

In its decision, Henderson rejected the notion of parity with the judges of the County and District Courts. It noted the comment of Attorney General Wishart as to the salary level being the same, but also noted that subsequent governments had taken the position that it would be inappropriate to link provincial judicial remuneration with federal judicial remuneration. The Provincial Government has a responsibility to the taxpayers of the Province and it ought not, in effect, transfer decision-making in such an important area to the Federal Government. Henderson, while accepting that, on the whole, the work of the judges was of equivalent responsibility, volume and complexity to that assigned to those who sat on the District Court, declined to take the next step of saying that there should be parity in

remuneration. It essentially agreed with the position taken by the Chair of the Management Board in 1985, that it would be inappropriate to set a provincial salary by direct linkage with a federally-determined salary. Secondly, Henderson noted that it had no way of judging whether the judges of the District Court were being paid appropriately - they could be paid too much or too little. Third, Henderson noted that the Report of the Ontario Courts Inquiry (1987) ("Zuber"), had recommended the abolition of the District Court, and it would be imprudent to recommend salary linkage.

The factor that ranked highest with Henderson, and it is one that will be echoed in the recommendations of this Commission, was the continuing need to attract candidates of the highest quality to the Provincial Court, and to retain them on the bench for the duration of their careers. As Henderson put it, "It is absolutely essential that the salary Provincial Court Judges receive be high enough to signify, both to the sitting Judges and to potential candidates, that the Ontario Government respects and trusts the professionalism and dedication of its judiciary. To be attractive, the salary need not - and ought not to be - excessive. It must, however, be sufficiently generous to offset the financial and social restrictions Provincial Court Judges must endure as a cost of ensuring their independence."

Henderson recommended that the judges receive an annual

salary, effective April 1, 1987, of $105,000, as against the $81,510 they were then receiving, a 29% increase. He also recommended that the judges' salaries be adjusted by an inflation factor on an annual basis, and that the national average of the Consumer Price Index be used.

SECOND TRIENNIAL REPORT (1992)

Gordon Henderson also chaired the Second Triennial Commission in 1992 ("Henderson 1992" or "Henderson"). Henderson noted that many of the recommendations made in his first triennial report were not implemented, with resultant "erosion in the salaries and benefits of Provincial Judges". He also noted that, as part of a broad restraint program, the then Government had frozen the salary of the Provincial judges at the 1991 level through to March 31, 1994, which would be the end of the second triennial commission's mandate, all without consulting the Commission. What the Government did accept from Henderson (1988) was the principle of an automatic annual adjustment. The adjustment was to be made on the basis of a wage index published by Statistics Canada (hereinafter referred to as the "AIW", the Annual Industrial Wage). Henderson also noted that the AIW adjustments were also to be frozen to March 31, 1994.

Notwithstanding the freeze in salaries and in annual

increment, Henderson decided to proceed with making recommendations so that they might guide the Government with respect to any future course of action. It should be noted, however, that the Government did increase the judges' salaries to $105,000 effective April 1, 1989, some two years after Henderson recommended that that salary level come into force. At the time the Henderson (1992) recommendations would take effect, April 1, 1991, the recommended salary rate from Henderson (1988), with adjustments, would have been $126,655, as against $116,425, which was the salary paid at that date. Henderson commented that the shortfall for the five-year period from April 1, 1987, to April 1, 1992, over what his Commission considered to be an appropriate salary and what was actually paid, was some $70,000.

Henderson recommended an annual salary as of April 1, 1991, of $127,000, with an annual adjustment based on the AIW. He also recommended that the judges receive back pay based on the AIW from April 1, 1987. As noted, Henderson decided to make salary recommendations notwithstanding the Government freeze. The District Court was amalgamated with the Ontario Court, General Division, in 1990, and the submission of the judges therefore became one of parity with the General Division. Once again, Henderson was not prepared to accept the principle of parity. As the Commission put it, "Each level of judicial responsibility and remuneration should be considered on its own merits." If Henderson (1988) had been implemented, including the annual AIW

increase, the April 1, 1991 salary would have been $126,655, as opposed to the $116,425 being paid. Henderson (1992) recommended a base salary as of April 1, 1991, of $127,000, with an annual AIW adjustment to be continued. Henderson was also clear that the judges should receive back pay from April 1, 1987, that is, the $70,000 that had been foregone.

THE FRAMEWORK AGREEMENT

In the course of the proceedings before Henderson (1992), the judges were advised by the Government that it intended to freeze their salary at the 1991 level from April 1, 1992, through to March 31, 1994, and that the AIW increases would not be provided. It was in that context, which was one of overall Provincial economic constraint, and the judges' continuing concern over their treatment by the Government, that the Framework was negotiated. Apart from the broader agreement, the Framework also set the judges' salary, outside the context of the triennial commissions, at $124,250 as of April 1, 1991. The judges gave up the AIW for 1992-93, but would receive it thereafter.

The Framework firmly recognized the judges of the Provincial Court as a separate and independent branch of government, and not as employees of the Executive. In this, the Framework provided in

1992 what the Supreme Court of Canada held in 1997 was constitutionally required.

It is the essence of the Framework that it deals with the relationship between the Executive branch of the Government and the judges, "including a binding process for the determination of Judges' compensation. It is intended that both the process of decision-making and the decisions made by the Commission shall contribute to securing and maintaining independence of the Provincial Judges." As noted, the triennial commissions make recommendations with respect to salaries, benefits and allowances, and the design and level of pension benefits. A Commission's recommendations with respect to salaries, benefits and allowances, but not pensions, "have the same force and effect as if enacted by the Legislature". The binding process was to take effect as of the 1995 commission. The Framework sets out the criteria which each Commission shall consider. Section 25 of the Framework is as follows:

> The parties agree that the Commission in making its recommendations on provincial judges' compensation shall give every consideration to, but not limited to, the following criteria, recognizing the purposes of this agreement as set out in paragraph 2.
>
> (a) the laws of Ontario,
>
> (b) the need to provide fair and reasonable compensation for judges in light of prevailing economic conditions in the province and the overall state of the provincial

economy,

(c) the growth or decline in real per capita income,

(d) the perimeters set by any joint working committees established by the parties,

(e) that the Governments may not reduce the salaries, pensions or benefits of Judges, individually or collectively without infringing the principle of judicial independence,

(f) any other factor which it considers relevant to the matters in issue.

These criteria will be considered in more detail later in these reasons.

THE SOCIAL CONTRACT ACT AND THE FREEZE

The Framework was finalized in November, 1992. It was followed almost immediately in 1993 with the Government's proposals for a "social contract" to cover wages across the public sector in a time of economic difficulty. A Social Contract Act was passed, but the judges took the position that it did not apply to them. The result of negotiation was a Letter Agreement between the Attorney General, Marion Boyd, and the judges, whereby the judges, in addition to the freeze on their salaries for 1992-93, agreed to forego their AIW increase for the years 1993, 1994 and 1995. They also agreed to collectively make

available up to 3,000 extra sitting days per year. As part of the deal, it was agreed that the Framework would be included in a Bill containing amendments to the Courts of Justice Act, and that the Third Triennial Commission would be postponed from 1995 to 1996. Following the deal, the Government agreed that the Social Contract Act would not apply to the judges. The result of the above was that the judges received a salary increase on April 1, 1991, and no increase thereafter, and no annual increment from then until April 1, 1996.

THE THIRD TRIENNIAL COMMISSION (1996)

The Third Triennial Commission ("Brown" or the "Third Commission") reported in May, 1997, but its recommendations were retroactive to April 1, 1996. When Brown began its deliberations, the Framework had established the annual salary of a judge at $124,250. In addition, as noted, the judges subsequently agreed to waive the AIW to which they would have been entitled for the years 1993, 1994 and 1995. The effect of this was to freeze the judges' salary from 1992 until April, 1996. Apart from other submissions for a salary increase, the judges asked for a restoration of the annual AIW from either 1991 or 1992, which would have resulted in a salary of either $139,300 or $133,550. The Government argued that the Province was still faced with high levels of debt and a continuing deficit of some $8.2 billion in

the current year (1997) and, accordingly, it would be inappropriate to award a salary increase. The AIW adjustment for 1996 (the freeze now being off) would move the salaries from $124,250 to $125,120, and that was fair and reasonable in terms of the Framework.

Brown concluded, notwithstanding the evidence of increased levels of responsibility and increased caseload, that it would be inappropriate, in light of the financial condition of the Province, to award any increase beyond the automatic AIW. In taking this position, Brown commented as follows:

> ...This Commission shares the views expressed by the Scott Commission [the Federal Judges Remuneration Commission] to the effect that if the present quality of justice in Ontario and the independence of the judiciary are to be maintained, the apparent erosion in the overall financial position of the Judges must be reviewed again. We are all of the view, however, that this review should be carried out by the Fourth Triennial Commission to be struck in 1998. Moreover, given the pace of improvement in the provincial economy and, in particular, the improvement in the Government's financial condition, it would seem appropriate that the Fourth Triennial Commission inquires as to why a Judge's remuneration ought not to be restored to the level that would have been achieved had the AIW increases not been voluntarily waived for the years following the Framework Agreement to 1996.

Brown went on to state that the rationale for the AIW increases was to maintain the judges' remuneration at a constant

level, and that had not happened as a result of the 1992 Agreement. Accordingly, when financial circumstances permitted, Brown was of the opinion "that the foregone AIW increases ought to be implemented to maintain the integrity of the 1992 Framework Agreement". With respect to pensions, Brown made the following statement:

> Finally, this Commission is of the view that the present pension arrangements need to be studied again. It may be that a pension that more closely approximates the pension benefits of federally-appointed Judges would be appropriate. Again, in the present circumstances, and without the benefit of a thorough analysis, a change at this time is not appropriate.

THE CURRENT CASE

The essential position of the judges was that the nature of the Provincial Court has been completely transformed over the past ten years in terms of jurisdiction and workload, as well as in quality and selection of candidates for the Court. In the criminal law area particularly, the Provincial Court has become the primary court for criminal cases, whether minor or serious. It also has an enhanced place in family law, its jurisdiction over Charter cases has been affirmed by the Supreme Court, and it is often where ever-expanding regulatory actions are argued. In that context, it was argued, the judges should receive the same

salary and benefits as the judges in the General Division. In short, the argument was, once again, for parity.

The judges also asserted that the Government could no longer raise the spectre of adverse economic conditions to argue against appropriate remuneration for essential actors in the administration of justice. All the indicators point to a thriving provincial economy, and Government's expenditure decisions clearly indicate that money is available for those matters that are deemed to be important, and worthy of financial support. In that context, it was argued, it was no longer appropriate to short change those who preside over the Provincial Court and who are the primary face of justice to those who appear in the courts in Ontario. Each of the primary jurisdictional/workload arguments will be dealt with separately.

CRIMINAL LAW

The argument for the judges was that the steady re-classification of criminal law offences over the past 30 years, and particularly over the last four years, has been to dramatically increase the criminal jurisdiction of the Provincial Court. Statistics were cited to show that there has been a dramatic fall in the hitherto large percentage of indictable offences dealt with by the General Division. The accepted

generalization with respect to the classification of offences under the Criminal Code is that the more serious crimes are indictable offences, and the less serious crimes are summary conviction offences. And, traditionally, the General Division dealt with indictable offences, usually after a preliminary hearing in Provincial Court, and the Provincial Court dealt with summary offences. In the case of what has become known as "hybrid offences", the Crown can choose to proceed by either procedure, although previously the election resided primarily with the accused.

The position now is, through the legislative changes that will be referred to below, that there are only a very small group of indictable offences that fall exclusively within the jurisdiction of the General Division. Realistically, it is only murder and conspiracy to commit murder that fall into that category. A second sub-class of indictable offences is where the accused can elect the mode of trial, that is, summarily before a Provincial Court judge, or through indictment in the General Division with a preliminary hearing in the Provincial Court. A third sub-class are those indictable offences reserved exclusively for the Provincial Court. All summary offences, and all hybrid offences where the Crown elects to proceed summarily, are heard in the Provincial Court.

The constant legislative trend over the past 30 years has

been to move offences from the General Division to the Provincial Division, either by an outright classification of offences, an increase in the accused's election or, most importantly, the creation of hybrid offences. Hybrid offences are those where the election is up to the Crown (rather than the accused) as to whether to proceed by indictment or summarily. It was the submission of counsel for the judges that it was the significant move to hybrid offences in the 1990's that has had the most dramatic impact on the criminal law workload of the judges.

The last five years has seen four major reclassifications: Bill C-42 was passed in 1994; Bill C-17 and Bill C-8, the Controlled Drugs and Substances Act, were both passed in 1996; and further Criminal Code amendments have been tabled currently in the House of Commons. The overall effect of this legislation is to create, in effect, a single Criminal Court for Ontario in the Provincial Court (or its equivalent in the other provinces).

The increase in penalty available to the Provincial judges under the new legislation was, it was argued, as important as the creation of hybrid offences. Some of the serious crimes of violence, including those involving sexual assault, had previously been hybrid offences but carried the maximum summary conviction penalty of six months imprisonment. Accordingly, Crown prosecutors were reluctant to proceed by summary conviction. Bill C-42 tripled the summary conviction penalty to 18 months

imprisonment and this, along with making the most serious crimes of violence, apart from murder, hybrid offences, has had the effect of causing the Crown to proceed by summary conviction in a broad range of crimes. At the same time, Bill C-17 allowed the Crown and defence counsel to agree on a summary election in cases that were over six months old, something that was previously prohibited. This has allowed the increase in what might be termed historical offences, such as sexual assaults and child abuse, to be heard in the Provincial Court.

Bill C-8 accomplishes the same purpose for a wide range of drug offences, either placing them in the absolute jurisdiction of the Provincial Court or making them hybrid offences, with the sentence for possession and trafficking increased to five years less a day. The amendments that are currently before the House of Commons will further increase the number of serious offences that previously were exclusively indictable into hybrid offences, with appropriate sentencing powers in the Provincial Court. The net effect of all of the above, is that for practical purposes only the offences of murder and conspiracy to commit murder remain outside the jurisdiction of the Provincial Court. And in those cases that do proceed by indictment, a preliminary hearing is still conducted in Provincial Court.

Related to criminal jurisdiction is the Provincial Court's jurisdiction under the Young Offenders Act (YOA). This is in

effect a criminal code for offenders under the age of 18. In summary, all crimes committed by those under 18 years come within the exclusive jurisdiction of the Provincial Court. In the recent past, this has become an increasingly significant, and clearly important, part of its work.

THE TRANSFERRED WORKLOAD

The position of the Government was that there "has been very little change, at least since 1988, of the percentage of the criminal case load in Ontario that is disposed of in the Provincial Division". Indeed, counsel for the Government referred to the submission of Paul French, counsel to the judges in 1988, who stated to Henderson that:

> For all practical purposes, the Criminal Division of the Provincial Court has jurisdiction over everything, except murder committed by an adult.
>
> The conclusion to be drawn from the evidence that you have heard and from the statistics that have been made available to you are that anywhere between 95 to 97% of all the criminal matters in the Province are disposed of in the Criminal Division.

In short, counsel argued that the arguments made before this Fourth Triennial Commission were almost exactly the same arguments made to the First Triennial Commission, using the same

transfer of jurisdiction, and virtually the same criminal statistics. Looking at the percentage of criminal matters that the Provincial Court now disposes of, as against the numbers in 1988, it was submitted that the increase could hardly be characterized as a "dramatic increase" in jurisdiction and workload.

Apart from the statistical evidence, counsel for the Government also made the point that the Provincial Court has always had jurisdiction to deal with the types of offences that over the past number of years have been transferred exclusively to the Provincial Court, or made hybrid offences. In short, the jurisdiction has not been expanded; what has been expanded are the areas of either exclusive jurisdiction, or where the election as to how to proceed has been placed in the hands of the Crown rather than the accused.

The Judges' brief also referred to the Charter of Rights and Freedoms as expanding the jurisdiction of the Provincial Division. Once again, the Government argued that although that might be so, it was hardly a new matter. Again, the same submission was made in 1988 to Henderson. The judges' 1988 brief stated that:

> The impact of the Charter of Rights has been greatly felt in the Provincial Court (Criminal Division). It is now the rare case

> where a Charter argument is not made at trial....its judges have the task of defining the Charter of Rights, and making it relevant to the citizens of Ontario.

In summary, the Government submitted that on comparing the situation in 1988 as against the situation in 1998, it is difficult "to conclude that there has been a dramatic increase" in the Court's jurisdiction and workload.

Apart altogether from the argument over increased criminal jurisdiction and workload, the Government made the point that the judges did not address the significant increase in their numbers to deal with criminal law matters. On May 31, 1988, there were 159 judges in the Provincial Court (Criminal Division). By contrast, in 1998 there were 198 judges who were assigned exclusively or predominantly to criminal law matters. Indeed, some 27 of the new judges were appointed specifically to deal with the criminal caseload as a result of the decision of the Supreme Court in R. v. Askov (1990) 59 C.C.C. (3d) 449, where the case was dismissed because of undue delay and the Court was critical of the time it took to bring criminal cases to trial. The result, with an attendant public outcry, was a stay of proceedings in some 50,000 cases. It was this that led to the appointment of the 27 new judges in Ontario. In short, the Government submitted that it was "meaningless" to consider any increase in workload or jurisdiction without also examining the

increase in the number of judges available to handle the workload.

THE WORKLOAD

It is always difficult to deal with statistical arguments, particularly when it was submitted by the judges in 1988 that between 95% to 97% of all criminal matters in Ontario were handled in the Provincial Court (after analysis of Ministry of the Solicitor General "disposition" statistics, Henderson stated that the figure was 93%). What does it mean to say that there has been a 2% to 3% increase in the number of criminal offences disposed of in the Provincial Division? When the comparative statistics of the indictable offences heard in the General Division and the increase in the caseload of the Provincial Division are examined, it is clear that there has been a significant increase in the number of serious matters now heard almost exclusively in the Provincial Division. This is clearly a result of the jurisdictional and sentencing changes outlined above.

The judges submitted that the Ministry's 1997 data showed that the General Division received approximately 2% of the criminal case load, with the approximately 98% remainder being disposed of in the Provincial Court. Indeed, the Ministry's

figures for 1992 as against 1997 for the Provincial Court show 92% disposition in 1992 as against 97% disposition by 1998. Most importantly, the figures show that the greatest decline in General Division dispositions occurred over the last three years, that is between 1995 and 1998. The "Indictments Disposed" chart indicates a 50% drop, from 10,823 to 5,500 indictments, over the last three years. How significant, if at all, is that change? Is it insignificant, as the Government would have it, or does it indicate a change of important magnitude as the judges submit? There is no question that a 50-60% reduction in General Division indictments between 1993 and 1997 is large. Does it, however, indicate a significant increase in the Provincial Court's workload when approximately 500,000 charges are laid each year?

On a consideration of the statistics, and considering counsel's arguments as to what they actually indicate, we are of the opinion that fully three-quarters of what was previously a "significant and difficult caseload" in the General Division has been transferred to the Provincial Court. This, by itself, must have a significant impact on its workload. It is not just a matter of the number of cases, but also of the type of case, as one is talking about the most serious criminal offences that were traditionally within the exclusive preserve of the General Division, or were chosen to be proceeded with in the General Division by Crown counsel. In short, there has been a qualitative change in the kind of case and proceeding that is now conducted

in the Provincial Court rather than the General Division, "that results in lengthy or more complex proceedings that involve greater responsibility for the Provincial Division than in an earlier era".

Counsel for the Government argued that the admittedly large reduction in the General Division's criminal caseload of some 60% between 1993 and 1997 represents only a small - 5% - increase in the Provincial Division's total caseload. Counsel for the judges argued strongly that this was an inherently implausible argument. The figures for 1998 now show a 78% decline in the General Division's caseload and, it was argued, on the Government's theory, if the General Division's entire criminal workload were moved to the Provincial Court, it would still be insignificant. It was argued that given the type of case concerned, that is, the most serious indictable offences, such a large shift was bound to have a significant impact on the Provincial Court.

Moreover, once it was appreciated that of the some 500,000 charges laid each year, only 8-9% actually proceed to trial or a preliminary hearing, the impact of shifting an additional 5% of serious indictable matters from the General Division to the Provincial Division, can be appreciated. That 5% represents, according to the judges' argument, 25,000 charges that were not resolved earlier and required at least a preliminary hearing. And it is reasonable to assume that some "significant proportion" of

them would be included in the 8% of cases that actually proceed to trial. This, it was stressed, constitutes an enormous quantitative, as well as qualitative, increase in the workload of the Provincial Court.

INCREASE IN NUMBER OF JUDGES

As indicated above, counsel for the Government submitted that the increased workload for the Provincial Court must be seen in the context of the increased number of judges appointed to handle that workload. In 1988, there were some 159 judges sitting in the Provincial Court (Criminal Division). In 1998, there were 198 judges assigned exclusively or predominantly to criminal matters, and another 26 that are available for criminal law work. If there are 198 judges whose work is predominantly criminal, that is an increase of 39 judges, or 25% more than were available to hear criminal matters in 1988. In submission of the Government, it would be "meaningless" to examine the increase in workload or jurisdiction without also considering the significant increase in the number of judges available to handle that workload. The Government also submitted that a relevant statistic would be the number of days that the judges spent in Court from fiscal year 1994/95 (the first year relevant statistics were kept) to fiscal year 1997/98. The Government's figures indicate that the average annual days in Court have remained almost

constant at 177 days for the four-year period.

The judges' reply to the increase in their number, stressed again not simply the quantity of the workload, but the "increased responsibility, difficulty, complexity and importance" of the workload. The argument was that the Provincial Court's criminal work was now so similar to the previous workload of the General Division that, for that reason alone, parity in remuneration was justified. The judges also argued that the increase in judicial complement must also be measured against the growth of the caseload, and that when those figures were considered, the increase in complement was slightly less than the maximum increase in charges received. In addition, counsel made the point that during the period 1990 to 1998, the number of Crown Attorneys in Ontario has increased from 387 to 548, a 41.6% increase in complement. This gives some idea of the increased workload in the Provincial Court (Criminal Division), and is to be compared with the increase in judicial complement. Finally, when one compares the judges in the Provincial Court with those in the General Division, one sees significantly increased salaries and dramatically-reduced criminal caseloads for the General Division, as opposed to the opposite scenario for the Provincial Court (Criminal Division).

FAMILY LAW

As with criminal law, the judges submitted that the Provincial Court deals with a broad range of family law matters in Ontario. These include matters arising under the Children's Law Reform Act (Custody and Access), the Family Law Act, the Child and Family Services Act and other related statutes. Indeed, the only matters that fall exclusively to the General Division are divorce (which was agreed has today become a relatively minor matter), and custody, access and support ancillary to divorce. The support ancillary to divorce is only exclusive to the General Division if it concerns a matrimonial property issue. A further significant consideration with respect to family law is the creation of the Unified Family Court in 1977 under the Unified Family Court Act. Originally, it consisted of provincially appointed judges of the Family Court who, through agreement with the Federal Government, were also given jurisdiction over those matters reserved to federally appointed judges. In 1990, the Provincial Family Court became a branch of the General Division and was renamed the Family Court.

The Family Court currently operates as a branch of the General Division in the Counties of Hamilton-Wentworth, Frontenac, Leonard and Addington, Middlesex and Simcoe. This expansion was partially accomplished through the re-appointment or appointment of some judges of the Provincial Division to the

General Division. It is the expressed intention that when agreement is reached with the Federal government, the Family Court will be expanded to cover all of Ontario. It is also understood when the next expansion takes place in 1999, at least three-quarters of the appointees to the Family Court will come from the Provincial Division. In short, a significant percentage of judges in the Provincial Division with expertise in Family Law will become federally appointed judges with remuneration on the Federal judicial scale "while performing work which is not significantly different than the work they now perform in the Provincial Division" (Judges' Brief, p. 36).

The Government submitted, once again, that the Provincial Division's jurisdiction with respect to family law was basically the same in 1988 as it is today and, accordingly, was taken into account by the first three triennial commissions. Essentially, the only matters reserved exclusively to the General Division are divorce (and custody, access and support ancillary to divorce) and the distribution of matrimonial property. Indeed, with the creation of the Family Court, the workload of the Provincial Division in the family law area is actually decreasing. In 1995, the Family Court branch of the General Division was expanded to four new locations: London, Barrie, Kingston and Napanee. Five of the eight federal appointments came from the Provincial Division. The Family Court will be expanding to 12 new locations this year: Ottawa, Brockville, Perth, L'Original, Cornwall, Oshawa,

Peterborough, Lindsay, Cobourg, Newmarket, Bracebridge and St. Catharines. While there is no firm commitment that three-quarters of the new appointments will come from the Provincial Court, it is expected that a substantial number will come from the Provincial bench based on their experience in family law.

Those who are appointed to the Family Court will have the opportunity to be rotated out to do other General Division work. Similarly, other General Division judges will be able to be rotated into the Family Court. The importance of that, in the Government's submission, was that the jurisdiction in family law is still somewhat different in the General Division than in the Provincial Division, and those who are appointed to the Family Court are appointed as judges of the General Division and as such may be called upon to hear any matters within the General Division's jurisdiction. Moreover, in terms of workload, the creation and ongoing expansion of the Family Court will see the percentage of family law matters handled in the Provincial Court fall from 75% in 1988, to approximately 39% once the 1999 expansion of the Family Court is completed. A further recommended change that is likely to be enacted is that Young Offender matters which have been dealt with in some of the Family Courts on a trial basis, will be dealt with exclusively in the Provincial Court.

THE FRAMEWORK CRITERIA

It remains to consider the criteria which must govern this Commission in its decision-making. The criteria have been set out above. The two overriding and relevant criteria are those contained in Section 25(b) and (f). Section 25(b) reads as follows:

> (b) The need to provide fair and reasonable compensation for Judges in light of prevailing economic conditions in the province and the overall state of the provincial economy.

Before considering the fundamental issue of "fair and reasonable compensation", it is necessary to assess economic conditions and the state of the provincial economy.

THE PROVINCIAL ECONOMY

It is perhaps not too strong a statement to say that the Ontario economy, in terms of growth, job creation and deficit reduction, has never been stronger. To quote the Minister of Finance, The Honourable Ernie Eves, Q.C.:

> In the first quarter of 1998, Ontario experienced a rate of job growth unprecedented in the past 15 years....Between February, 1997, and February, 1998, more jobs

> were created in Ontario than have ever been created in a one-year period in the entire history of our Province.
>
> The Province's economy expanded by 4.8% in 1997. The average private-sector forecast for growth in 1998 is 4.0%.
>
> The private-sector forecasters expect Ontario's economy to grow faster than that of any of the G-7 over the next three years.

As would be expected in a robust economy, the deficit has been steadily reduced. The Minister announced that the 1997-1998 provincial deficit would be 5.2 billion dollars, a reduction of almost 1.4 billion dollars from the 6.6 billion dollar target set out in the 1997 budget. Moreover, the Minister was confident that the deficit would be eliminated by the year 2000-01. The 1998-99 forecast deficit of 4.2 billion dollars is to be contrasted with the actual deficit of 11.3 billion dollars in 1995-96. In short, over a four-year period, there has been a deficit reduction of some seven billion dollars.

The expanding economy has translated into rapid job creation, with some 265,000 net new private sector jobs being created in the 1997-98 period, the largest number of jobs created in a 12-month period in the Province's history. Strong economic growth has, of course, meant greatly increased provincial revenues which has allowed for a 30% reduction in the provincial personal income tax since 1995 (and this at the same time that the deficit has been reduced some 11 billion dollars). Indeed,

the economic performance has allowed the Government, as indicated by the Minister, to complete a 30% provincial income tax cut by July 1, 1998 - half-a-year ahead of schedule.

The Minister's 1998 Budget Statement also outlined the program initiatives that an expanding economy allowed. It is not necessary to detail here these initiatives. Suffice it to say that they run the gamut from education, health care, including salary increases for health care professionals, research and development funds, cultural initiatives, transportation upgrades, jobs in tourism and the arts, a youth training program, a major new student assistance program (jointly with the Federal Government), an opportunities program for those with learning disabilities, and an access to opportunities program focused on computer scientists and engineers. These are only a partial list of the programs, that over a number of years run into billions of dollars of expenditures. They are all reflective of a strong North American economy of which Ontario is Canada's major beneficiary. This has allowed strong program expansion and for individual sector needs to be addressed, at the same time that the provincial deficit and personal income taxes have been sharply reduced.

The Government, in its argument, recognized that the provincial economy has been strong and is continuing to improve. It chose to emphasize, however, the "astronomical debt load" of

approximately 110 billion dollars. It argued that the Province's fiscal condition ought to be seen in light of that debt and its nine billion dollar annual interest cost. Although a snapshot of the particular year indicates a strong economy, the overall fiscal condition is not one that dictates large wage increases, and the arguments of the judges ought to be seen in that context. The Government's brief also noted that the unemployment rate is currently at 7%, which is high compared to the 5% annual average rate in 1988. While the Ontario economy is strong and continuing to recover, it "still has some way to go to reach full health".

With respect to the debt, the judges responded that that is a matter of Government choice in times of an expanding economy. That is, the Government has chosen tax reductions and increased expenditures to utilize its greatly increased revenues. A different choice might have seen a greater emphasis on debt reduction. Every Government makes those sorts of economic tradeoffs given the interest cost of carrying the debt, as against the expansionary nature of tax reductions. Expansion will see the debt fall as a percentage of the provincial domestic product, which many economists see as the more relevant measure in terms of coping with Government debt. Indeed, many governments choose not to devote actual dollars to debt reduction at all, but rather rely on expansionary fiscal and monetary policies to lower debt as a percentage of an expanding GDP. It is that figure that is the most relevant in terms of an economy's capacity to carry

the interest charges.

Counsel for the Government also argued that there was no guarantee that strong economic conditions would continue indefinitely and, accordingly, the Government must be prudent in managing its finances. While it is certainly true that there is no guarantee of economic strength for the indefinite future, it is also true that the Government itself, in the Minister's 1998 Ontario Economic Outlook and Fiscal Review, forecast continued economic growth and low inflation. Indeed, the Minister quoted from the economic forecasting firm DRI/McGraw-Hill, in October, 1998, to the effect that "Ontario is expanding quickly...Lower tax rates and a large share of high technology industry will help to keep Ontario at the top of the provincial growth rankings over the next decade."

The Minister emphasized that Ontario is particularly well positioned globally. In terms of the economic downturn in Asia, he noted that Ontario's exports are oriented primarily to the U.S. market and consist mainly of finished consumer goods and capital goods. As a result, Ontario is less exposed to instability in Asia and the difficulties in the world's commodity markets. Indeed, with primary industries accounting for under 2% of the Province's GDP, Ontario has the least resource-based economy of all the provinces. In short, in terms of the near future, the economic outlook for Ontario remains very strong.

CONCLUSION ON ECONOMIC CRITERION

On all of the evidence, it is unquestionably clear that the Ontario economy is in excellent shape and is continuing to grow and create jobs at record rates. As noted, the Government has been able to reduce personal income taxes while at the same time funding a variety of programs deemed important to Ontario's economic, social and cultural well-being. And all of this at the same time that the provincial deficit has been greatly reduced. Whatever the merits of an increase in remuneration for the judges may be, we are of the opinion that there is no case for restraint based on the condition of the provincial economy, or expenditure restraint by the Government itself.

The conclusion with respect to the criterion set out in Section 25(b) of the Framework, insofar as it refers to "...prevailing economic conditions in the Province and the overall state of the provincial economy", is that economic conditions in Ontario are very strong, as is the overall state of the provincial economy. The Government's economic figures, quoted above, clearly indicate that, as do the Government's expenditure decisions, both of a major and minor nature, and of a one-time and multi-year commitment. The decision as to what would be "fair and reasonable compensation for the judges" in light of these economic conditions, will be dealt with below.

The criterion in Section 25(f) refers to "any other factor which it [the Commission] considers relevant to the matters in issue." We do not regard that criterion as in any way being limited by the criterion in Section 25(b). That is, it is an independent criterion which allows the Commission to take into consideration factors which it deems to be relevant. Again, this will be dealt with in our decision as to "fair and reasonable compensation".

FAIR AND REASONABLE COMPENSATION

The argument for the judges was, once again, parity with judges in the General Division. That would mean a salary of $175,800 as against the current $130,810. The argument was that the Provincial Court, as a result of the changes outlined above, has become the Criminal Court for Ontario. The General Division is the court for civil matters and family law. In reality, that is the only distinction between the Courts, apart from the inherent jurisdiction that lies with a superior court of record such as the General Division. That difference, however, was not enough, it was argued, to justify a large discrepancy in remuneration paid. There is now, in effect, one Ontario Court divided into the General Division for civil and family matters, and the Provincial Division for criminal law matters. To consign the Provincial Court to a second-class status in terms of salary

and pensions is, it was argued, to downgrade the importance of the Criminal Court. It is to send a message both to the profession and to the citizens of the Province that the criminal jurisdiction is of lesser importance than the jurisdiction that deals with property and contractual rights.

Counsel for the judges went through the history of their remuneration, and noted the continuing failure of governments to implement the recommendations of successive Committees and Commissions, usually on the basis of fiscal restraint. He argued that in light of current economic conditions, the time had now come to recognize the reality of the court system in Ontario, and to put all judges on the same economic basis. The issue was not one of "automatic linkage" which had been rejected by Henderson in 1988 and 1992, but of simple equity between those who perform the judicial function in Ontario. We ought not to perpetuate the perception of a second-class court, especially when it is that court that administers the criminal law and is the face of justice to the overwhelming majority of citizens who come into contact with the courts.

The position of the Government was that the case for parity with the General Division (and previously the District Court) has been a constant theme of the judges before each of the successive Committees and Commissions. Each one, it was argued, has rejected the concept of automatic linkage, notwithstanding some

expressions by various Attorneys-General that there should be no disparity. It was particularly emphasized that the argument for parity was strongly urged on Henderson (1988) and Henderson (1992), and was rejected both times. Henderson was firmly of the view that the matter of the appropriate salary for the Provincial Court is one for Ontario to determine in light of economic and social factors pertaining in the Province. Insofar as support for parity was expressed, it was with reference to the District and County Court, and not with respect to the General Division.

The Government also argued, as noted above, that most of the changes that have taken place in the Provincial Court's jurisdiction had already occurred by 1998 and were, accordingly, taken into account by the first three triennial commissions, as well as by the judges and the Government in the Framework. Insofar as there has been an increase in workload, it has been offset by the appointment of more judges, and the on-going transfer of family law jurisdiction to the Family Court. In summary, the Government submitted that the judges' salaries, pensions and benefits were "at a fair and appropriate level, and their salaries ought not to be increased beyond the automatic adjustment each year based on the AIW". Moreover, it was argued that the criteria outlined in the Framework do not justify any increase in compensation beyond the automatic AIW increase.

DECISION

While we do not consider that there ought to be automatic linkage with the federally-determined salary for judges of the General Division, we do think that the time has come for a substantial increase in the salary of the judges of the Provincial Court, such that the disparity with the General Division is considerably narrowed. As outlined above, successive governments have turned a deaf ear to the recommendations of the Committees and Commissions over the years with respect to appropriate remuneration. Moreover, as a result of general economic restraint and the salary freeze, including the give-up of the automatic AIW increases from 1992 through 1995, the judges have seen their salaries severely restrained in this decade and have fallen further behind their federal counterparts.

There are a number of factors that we consider relevant in setting an appropriate remuneration base. One very clearly is the salary paid to the judges of the General Division. The General Division is the Civil Court of Justice for Ontario; the Provincial Court is the Criminal Court of Justice for Ontario, and we can see no reason that justifies a significant disparity in the remuneration paid to the Provincial judges. While we reject the concept of automatic linkage, the salary of $175,800 currently paid to judges of the General Division is one very important factor which we would take into account.

In considering the salaries of the federal judges as extremely relevant, we are mindful of the writings of Professor Peter Russell, the leading scholar of the Canadian courts. Russell has noted that the differential treatment of federal and provincial judges promotes the perception of a two-level system of justice. To paraphrase Russell, this may have been tolerable when the provincial courts dealt with minor matters. It is not tolerable, however, when those courts are vested with jurisdiction over the most vital matters between the citizen and the state - the criminal law.

Russell has been particularly acute in stressing what is essentially a class-based distinction in treating the courts as a hierarchy, with the provincial courts at the lower end:

> The traditional practice of paying judges of the so-called lower courts much less than the judges of the intermediate and superior courts of the provinces may appear logical when the judicial system is viewed as a hierarchy. But the problem with translating this hierarchy of courts into a hierarchy of salaries is that we do not want the quality of justice to be hierarchically arranged. The quality of adjudication is likely to bear some relationship to the remuneration of the adjudicator. Commentators on our judicial system never tire of observing that most Canadians who experience the quality of justice at first hand do so in the lower courts. Accepting lower standards here in the courts used most often by Canadians from lower-income brackets, is a significant source of social injustice in Canada.

While we do not recommend parity, we think the time is long past-

due to end out-dated notions of hierarchy and second class status.

Another relevant factor is the salary paid to the most senior level of the civil service in Ontario. It is the salary determined in Ontario for the leaders and managers of the civil service. The judges of the Provincial Court are the senior provincial judicial officials, and while the two functions are vastly different, the salaries paid to senior civil servants are clearly a relevant factor to be taken into account.

The Crawford Commission (Federal, 1992) made the point as follows:

> We believe that an appropriate benchmark by which to gauge judicial salaries is rough equivalence with the mid-point of the salary range of the most senior level of federal public servant, the Deputy Minister 3, commonly referred to as DM-3. As the two immediately previous Triennial Commissions have also indicated, the DM-3 range and mid-point reflect what the marketplace expects to pay individuals of outstanding character and ability, which are attributes shared by deputy ministers and judges.

In 1998, the average salary for a DM-3 in Ontario was in the $170,000 plus range and topped at $195,000. We would particularly note the increases that were given in 1997. They were clearly to address what was seen as the deteriorating position of the most senior officials, coming through the years of financial

stringency - a position not unlike that of the judges. The increases averaged $41,600, which was an average salary increment of fully one-third. The increases continued in 1998, averaging 6.6%. While we do not recommend similar increases for the judges, we do consider how the government treated its most senior officials when the economy improved in 1997, to be particularly relevant.

A third relevant factor is the remuneration of practising members of the Ontario Bar. And here there was a good deal of controversy as to what the figures show and what is the relevant section of the Bar. Is it the average practitioner in the criminal courts? Should it be the most senior and highly-paid criminal lawyers in the hopes that they might be attracted to an appointment in the Provincial Court? Or should it be senior Crown counsel who appear daily in the Provincial Court? Depending how one answers those questions, the relevant figures would vary widely. On the whole, we are of the opinion that a figure in the area of what is paid to judges in the General Division, that is, $175,000, is a reasonable level of remuneration for those who we hope would seek appointment to the Provincial bench. That figure is higher than what is currently being paid to senior Crown counsel, and is more than is earned by some criminal lawyers. At the same time, however, it is far less than is earned by more senior criminal lawyers, and those who do a combination of civil and criminal litigation. The salary surveys were not at all

helpful in determining this question, and the best we, or any Commission, can do is to look at a cross-section of actors in the criminal law arena and ask what is a reasonable level of salary to consider.

Another factor that we think is important is the attraction of the Provincial bench to a cross section of the best of the men and women practising at the criminal bar, or with some experience at the criminal bar. For many, appointment to the Provincial Division would see little, if any, increase in salary. For others, such an appointment would constitute a fall, in some cases a very sharp fall, in remuneration. What is absolutely essential is that the level of remuneration (including pension, which will be dealt with below), be set at such a level that it will be attractive, or at least not a disincentive, to the ablest men and women at the bar. We are of the opinion that the current level of $130,810 is a disincentive, and a substantial increase is justified.

The inequity in a significant discrepancy between the salaries of federal and provincial judges, is brought into sharp relief by the creation of the Family Court. As noted, approximately three-quarters of the appointments to that Court have and will come from the Provincial Division. And when appointed, the salary becomes that of a judge of the General Division - for doing essentially the same work that was being

done while in the Provincial Division. While it is true that a judge of the Family Court can be rotated into General Division work, it does not change the fact of sharply increased pay for basically exercising the same jurisdiction. The matter is one of pure happenstance - the creation of the Family Court and the appointment of a significant number of Provincial Court judges to it. The question then becomes: should those who exercise the criminal law jurisdiction be paid significantly less than those who exercise the family law jurisdiction? We think not.

Support for a decision to award a substantial increase in remuneration "in light of prevailing economic conditions in the province" is outlined above. There is no need to repeat what we have said. The current levels of Government expenditure in the context of greater than budgeted for revenues, clearly indicate that money is available for a wide range of social, economic and cultural matters that are deemed worthy of support. Beyond all question, a substantial increase in the remuneration of the judges of the Provincial Court is one such matter. Our decision is as follows:

1. Commencing April 1, 1998, the base salary shall be $150,000;

2. Commencing April 1, 1999, the base salary shall be $160,000;

3. Commencing April 1, 2000, the base salary shall be $170,000.

The total base salary cost for the Ontario Court (Provincial Division) is $33,104.323. The increase in salary to $150,000 in 1998 will cost approximately $4,788,000, based on 250 puisne judges. The increase to $160,000 in 1999 and $170,000 in 2000, will cost an additional $2,500,000 in each of those years. The total cost of the increases over three years will be somewhat over $10,000,000, including those judges who hold senior administrative positions. Whether looked at in individual years, or in the aggregate, the cost is small both in absolute terms, and relative to the social benefit gained.

We are of the opinion that the recommended staged salary increase, with a final base of $170,000, provides a "fair and reasonable compensation for Judges in light of prevailing economic conditions in the Province...". While each successive Commission will, of course, make its own determination, we are of the opinion that the ratio of $170,000 to $175,800 is an appropriate range for the judges in the Provincial Court as against the judges in the General Division. In so stating, we have in mind the stated purpose of Attorney-General Ian Scott when he announced the creation of the Ontario Court of Justice:

> "[There] would be a single high standard of appointment to the bar, and essentially a single court, where judges drawn from the same pool of lawyers in the Province would be able to enjoy the full range of judicial work in their area of legal expertise without artificial restrictions based on hierarchy."

If the increases are thought to be generous, they are only so in light of the extremely restrictive salary position since 1991, which has seen an increase of just over $6,500 in the past seven years, as against $28,000 for the General Division in the same period. We would put particular stress on this point. For five of the seven years since 1991, the judges' salaries were frozen. In those years they did not receive the annual AIW increase (albeit through agreement), which was put in place to keep their salaries constant. Had the AIW increases been applied to the 1991 base, the 1998 salary would be $145,706. And we were mindful of the Third Triennial Commission's admonition, that when financial circumstances permitted, "the foregone AIW increases ought to be implemented to maintain the integrity of the 1992 Framework Agreement" (emphasis added). To bring the 1998 rate to $150,000, is a very modest increase to the salary base over seven years.

As to generosity, we would adopt the words of Professor Martin Friedland in his study for the Canadian Judicial Council, A Place Apart: Judicial Independence and Accountability in Canada, at p. 56:

> [T]he greater the financial security, the more independent the judge will be, and so, in my view, it is a wise investment for society to err on the more generous side. Even if economic conditions were such that a very large portion of the bar was willing to accept an appointment at a much lower salary,

> we would still want to pay judges well to ensure their financial independence - for our sake, not for theirs.

In accordance with Section 45 of the Framework, the annual base salaries shall be adjusted by the AIW on the first day of April in each year according to the formula set out therein.

BENEFITS AND ALLOWANCES

Allowances

1. Representation Costs

Section 13(c) of the Framework requires each Triennial Commission to recommend benefits and allowances as well as salaries. The main argument with respect to benefits and allowances was over representational costs. The position of the judges was that there is a constitutional requirement for this Commission to award reimbursement of representation costs incurred as a result of their participation in the hearings before the Commission. In particular, counsel relied on the decision of Roberts, J. in Re Judges of the Provincial Court of Newfoundland et al. and the Queen in Right of Newfoundland, 1998, 160 D.L.R. (4th) 337. In analyzing the decision of the

Supreme Court in the P.E.I. Reference, supra, Roberts J. emphasized that the independent tribunal envisaged by the Supreme Court, and mandated under the Framework in Ontario, required a determination through a hearing process "that is one step removed from the judges themselves". In ordering funding for the judges, Roberts J. held as follows:

> "For this dialectic [the hearing process] to function, the judges have to be represented before the independent commission and/or the courts, if necessary, in the same way that the executive and/or the legislature must be represented. Is it right and just, then, that the executive and/or legislative branches of government be represented by persons whose services are paid for out of the public purse while those who represent the judicial branch are not? I think not....
>
> For the system to work as envisaged, equity dictates that both parties to the process be funded, not just one."

The judges rely on the decision of Roberts, J. to ask for funding for the costs of the hearing before this Commission as a benefit or allowance.

Counsel for the Government sought to distinguish the Newfoundland decision in two ways: first, there was no Framework Agreement in Newfoundland "which comprehensively set out the terms and conditions of the relationship between the two branches in the context of

a compensation committee". Second, the Newfoundland Supreme Court noted that there were only 23 members of the Provincial Court in that Province, and it would be inequitable to impose the costs of a Commission on so few judges. By contrast, there are over 200 judges in Ontario over which to spread the costs of participation.

It is somewhat difficult to appreciate how the fact of the Framework, with its detailed provisions for a triennial commission, effectively decides the issue of the payment of the judges' representation costs. The fact that the Framework is silent on the issue is in no way determinative. The costs of a lengthy hearing, with voluminous exhibits, such as took place before this Commission, are very high. Whether the cost is spread over a small or a large number of judges, does not answer the question of what is equitably, and perhaps constitutionally, required. We are in agreement with Roberts, J. that it is neither right nor just that the executive be represented by persons whose services are paid out of the public purse, while those who represent the judicial branch are not. This is particularly so in a context where a hearing is statutorily required every third year, and a hearing process is constitutionally mandated as determined by the Supreme Court in the

P.E.I. Reference. In that context, we are of the opinion that the representation costs of the judges should be paid as an allowance by the Government for each triennial hearing.

There is nothing in the decision of the Supreme Court of Canada in the Alberta Provincial Judges' Association case (December 24, 1998) that holds to the contrary. We do not agree, as the Government argued, that the holding by the Supreme Court in that case was that representation costs were not a constitutional necessity. The Court simply held that the issue did not arise before it as a result of its prior decision in the P.E.I. Reference. What the Court said was:

> The court is of the opinion that the motion for direction [on costs] should be dismissed with costs and that it does not arise from the implementation of the judgment of the Court.

The Supreme Court was clearly of the opinion that it was within the jurisdiction of the compensation commissions to determine the issue of reimbursement in the context of the particular form and procedure established for the determination of compensation. As those procedures may vary, "so will the approach to the payment of representational costs of the judges".

In following the dictates of the Supreme Court, and the Newfoundland decision, supra, we hold that it would be fair, equitable and reasonable, in the context of this hearing under the Framework, that an allowance for costs be determined. We direct that counsel for the parties attempt to agree on an appropriate cost figure. If counsel cannot agree, or if it is felt that negotiation with respect to costs violates the dictates of the P.E.I. Reference, supra, we will remain seized of the matter and will hear submissions as to costs.

2. Expense Allowance and Robes

The judges currently receive an allowance for expenses of $2,000 per annum, including robes, and ask for an increase to $2,500, to match the Federal judges, and to replacement robes every seven years. We see no reason to increase the expense allowance of $2,000 per annum, but would grant an entitlement to new robes every seven years.

Benefits

1. Dental Plan

The judges request 100% reimbursement for basic services (now 85%) and 75% reimbursement of dentures,

major retractions and orthodontics (now 50%). The Government argues for the maintenance of the co-insurance principle, and says that the judges are simply cherry picking when they note that some provinces have 100% coverage for basic services and up to 80% coverage for major restorative work. We agree that there should be some principle of co-insurance, and would leave the reimbursement of basic services at 85%, but increase the coverage for major restorative work, dentures and orthodontic costs, to 75%, as it is those costs that may bear most heavily on the judges.

2. Implants

Implants are not currently covered by the Plan, and the judges ask that they be included with a reimbursement, as for other major restorative work, of 75%, with a cap of $2,000. We would grant this request, as implants are becoming a more common form of restoration.

3. Drug Plan

The judges ask an increase from coverage of 90% of drug costs to 100%. We are of the opinion that 90% is reasonable, as the Government pays 100% of the premium for this benefit.

4. Vision Care

The current supplemental vision plan provides a benefit of $200 payable every two years, with the judges paying 40% of the annual premium. The judges request the benefits be increased to $400 per annum, and that the current premium costs be frozen. The payment of $200 every two years for eyewear seems somewhat low in the current marketplace, and we would increase it to $400 every two years and require the judges to pay 30% of the cost of the annual premium.

5. Hearing Aids

The existing benefit is $200 lifetime, and the judges argue that that is seriously inadequate. They argue that the current cost of hearing aids can run from $1,000 to more than $3,000. Such a benefit would not be expensive in any benefit plan because of the low incidence of use. We are of the opinion that the request of $1,500 every five years is reasonable, and we so award.

6. Physiotherapy Coverage

The current plan provides $12 per visit to various paramedical practitioners (physiotherapists, podiatrists, naturopaths, etc.), up to a maximum of $1,000 per year per type of practitioner. We would set the reimbursement at $25 per visit once the annual coverage under OHIP expires.

7. PA Tests

The judges ask for coverage for this test, whose annual cost is in the $40 to $50 range. We do not think that specific coverage is required.

8. Life Insurance

The judges were concerned with insurance coverage for those judges who continue to work but who are no longer eligible for the basic life insurance coverage. We think that the request for life insurance of at least one times salary coverage for judges who continue to work is a reasonable one, and we so award. We would also award the requested $10,000 death benefit, arranged as a self-insured benefit.

9. Annual Vacation

We agree that the annual vacation should be increased from six weeks to eight weeks, and we so award.

PENSIONS

A judge of the Provincial Court currently receives a pension of 45% of salary at age 65, with 15 years of service. A judge who has more than 15 years of service accrued before the age of 65, receives an additional 1% per year for every year of service

beyond 15 years. He/she also receives an additional 1% of pension for every year worked past age 65 through to 75. The judges contribute 7% of salary, and the cost to the Government is 27% of payroll. Counsel for the judges emphasized that pensions are a critical component of judicial compensation. If they are inadequate, it will act as a significant deterrent to accepting an appointment to the Provincial bench.

Once again, the comparator raised by the judges was the pension paid to the judges of the General Division. Federally appointed judges have a pension of 66-2/3% of salary at age 65 after a minimum of 15 years of service, and also contribute 7% of salary. They may also elect supernumerary status, in which they have a reduced workload with full compensation up to age 75. In addition, a Rule of 80 factor is being introduced for Federal judges for early retirement before age 65 without penalty (that is, years of service and age must equal 80). Not only is there not a Rule of 80 for Provincial judges, there is an early retirement reduction factor of 5% per year between the ages of 60 to 64, and 2% per year between the ages 55 to 59. In the submission of the judges, the pension differences are so substantial that even if the salaries were the same, appointment to the Provincial bench would be far less attractive than a federal appointment. The argument of the judges was, once again, for parity with their federal counterparts.

It is recognized that judicial pensions, on a comparative basis, are expensive to fund. This is because judges are usually not appointed to the bench until significantly later in their careers, and their rate of accrual, as compared to other pension plans, must necessarily be considerably higher. It also explains why federal judges receive a full pension after 15 years of service. The higher accrual rate and the resultant high cost is an inherent feature of any judicial pension plan. But it is one of the necessary costs of a high-quality, respected justice system that attracts the ablest in the profession to a judicial appointment.

Previous Committees and Commissions that have dealt with pensions have focused on a replacement ratio of 75% of salary at retirement "when taxes, OAS and CPP are taken into account", as that was the goal set by the 1984 Report of the Provincial Courts' Committee. And it was that pension plan that the then-Government essentially implemented. Henderson (1988) recommended a 10% increase across-the-board, which would have lifted the pension to 55% at age 65 after 15 years of service. That recommendation was not implemented. Henderson (1992) commissioned an actuarial study. The study provided seven options to the Commission which ranged from no change to adopting the Federal pension plan. Henderson recommended no change in the entitlement, but said that for years of service beyond 15 accrued before the age of 65, the pension should increase by an additional 1% of

salary per year. This recommendation was implemented, but the Government continued to take no action on the Henderson (1998) recommendation of a 10% increase.

Counsel for the judges submitted that even in terms of the adoption of the 1984 Committee recommendation of a 75% replacement ratio at retirement, the current Ontario plan falls short of that goal. A chart was submitted comparing provincial and federal appointees at age 43 who elect to retire at ages 63, 65 and 70, with salaries assumed to be at their present levels. The chart shows that for a Provincial judge to reach a replacement level of 75%, he/she would have to rely on personal savings of 27% at age 63, 12% at age 65, and 7% at age 70. A federal appointee, on the other hand, would have to rely on only 4% of personal savings at age 63, and 0% personal savings at both ages 65 and 70 to achieve a replacement rate of 75%. It was submitted that such a heavy reliance in Ontario on pre-retirement savings makes the 75% goal unattainable. This was particularly so, it was argued, given that the average age of appointment in Ontario is now 43 years. The argument was that in the early years of one's professional practice and of raising a family, it is difficult to accumulate a significant amount of savings in the pre-appointment period.

The Government submitted that unlike salaries which will erode over time unless they are inflation-protected (such as

through the automatic AIW), pensions will not erode as they are automatically protected by the fact that the benefit formula is based on final salary at retirement and indexed thereafter. Accordingly, a change was not required. The change in 1991 was because of a change in demographics, that is, the increasingly younger age at appointment. Accordingly, there was an addition of 1% annual accrual for service in excess of 15 years before age 65. There is currently no such demographic shift and, it was submitted, no other changes which would justify a departure from the plan which was recommended and accepted in 1991. The Government also strongly contended that when one takes into account pre-appointment savings, the target of a replacement ratio of 75% of final salary at age 65 was either met or exceeded.

The dispute between the submission of the judges on the one hand and that of the Government on the other as to obtaining the goal of 75% replacement cost turned on the assumed level of pre-appointment retirement savings. The Government relied on the 1991 Joint Actuarial Report and Henderson (1992) in arguing that it was reasonable to assume a significant level of pre-appointment savings. The actuarial assumption used was zero RRSP contributions for the first five years of an appointee's career, and 85% of the maximum thereafter. The submission of the judges, it was argued, does not acknowledge any pre-appointment accrual. Given its estimated pre-appointment savings, the Government

charts indicated replacement rates equalling or exceeding the 75% target for all appointment ages. Assuming an appointment age of 45, which is close to the norm, the Government considered that a pre-appointment RRSP would provide 18% of the indicated replacement rate of 77%, and would rise to 23% for appointment at age 50 for the same replacement rate. For the Government's indicated replacement rate of over 80% at age 70 for those appointed at 45 years, 50 years, and 55 years, the assumed pre-appointment RRSP percentage contribution would be, respectively, 20%, 25% and 30%.

The Government also emphasized that on its calculation of the retirement rate achieved, and taking into account the 75% replacement target recommended in 1984 and adopted by Henderson (1992), the judges' current plan exceeds its own target and is very generous when applied against public and private pension plans in general.

There was sharp disagreement on the part of the judges with respect to the Government's assumptions as to pre-appointment RRSP savings - an assumption, as noted, that is critical to the calculation of its retirement rate. The judges, in a reply submission, said that the Government's assumed commencement of practice at age 25 is too low by some three years. And its assumed average starting income of $65,000 was far too high as lawyers in private practice, either as associates, in sole

practices or in small partnerships, tend to have relatively low incomes in their early years. The Government's actuarial assumptions assumed no RRSP contributions in the first five years of practice, and contributions of 85% of the maximum thereafter. The judges took issue with that assumption based both on what it considered an over-estimation of earnings in the early years of practice, and the demands on lawyers' income through their 30's and early 40's as families grow.

The Government's submission with respect to appointees at age 40, 45 and 50 assumed a pre-appointment RRSP contribution of 12%, 18% and 23% to achieve a replacement ratio of 76/77%. The judges submitted that it would be relevant to consider the amount of capital that that would represent in today's dollars. It calculated that the amount of capital that would have to be available in 1999 to the 40, 45 and 50-year-old appointee today was, respectively, $227,000, $457,000, and $817,000. It submitted that "lawyers at those ages do not have that amount of capital, or anywhere close to it, available in RRSPs today." Taking the Government's model and substituting what it considered more realistic figures, and correcting what it suggested were errors in the Government's model, the judges took the same ages of appointment, 40, 45 and 50 years, and a 65-year retirement age, and arrived at replacement ratios of 59% and 66% depending on whether the assumed RRSP contribution level was 50% or 85%. The replacement ratios for an appointee at 45 years, which is near

the current average age (43) at appointment, were 62% and 64%.

Most importantly, the judges submitted that pre-appointment savings were irrelevant when considering a comparison to the Federal pension plan, which it urged us to do. It emphasized that the guaranteed replacement ratio of the Federal plan, irrespective of OAS, CPP, and any pre-appointment RRSP savings, is 66-2/3%. It suggested that if one used the Government's assumptions for pre-appointment RRSP savings, and added them to the replacement ratio in the Federal plan, the Ontario plan would still be significantly behind at every level. That is, the gap between the Federal plan and the Ontario plan is very large, given that the Federal plan is so much higher in the first instance, notwithstanding any argument concerning pre-appointment RRSP savings.

DECISION

The statistical battle between the submissions of the Government and those of the judges is not possible of resolution for the very reason that it is based on assumptions. Moreover, and most importantly, we think that it begs the essential question. That question, in our view, is: What pension replacement ratio is necessary to attract a cross-section of the ablest men and women at the bar to the Provincial bench? The

pension ratio is as important, and arguably more important, than the base salary. This is so because of a younger appointment age, and longer life after retirement. If, as we indicated in our base salary decision, it is essential to have a remuneration package that is attractive in terms of comparison with federal judicial appointees, then the current Ontario pension plan needs revision.

As with the salary level, the matter of pensions must be seen in the context of what is, in effect, a single Ontario Court of Justice. It is, in our view, absolutely essential that the Ontario pension plan be seen to be as attractive as the Federal plan. Absent that, the hard reality is that the Provincial bench will not be as attractive as the Federal bench. And that is simply not acceptable in the arena of the criminal law. It is widely acknowledged that one of the main reasons senior, highly remunerated practitioners are willing to accept a federal judicial appointment at a greatly reduced salary, is because of the generous pension plan. The goal of doing away with a hierarchy of courts in Ontario, and attracting the same high quality of practitioner to the bench, regardless of the court, will not be attainable without a substantial revision to the pension plan. The mandatory implementation of our salary recommendations, without implementation of our pension recommendations, would not be sensible social policy.

Mindful that our recommendations as to pensions are not

binding, we would urge one of the following three options on the Government for improvement in the judges' pension plan, to be effective April 1, 1999. We would repeat that we regard the matter of pensions as being extremely important. The increase in salary that we have put in place will, by itself, be inadequate to provide a level of remuneration that will attract the desired quality of practitioner to the Provincial bench. It is critical that there be a concomitant improvement in the pension plan.

1. The first option would be to move the Provincial plan to the level of the Federal plan, that is, a replacement ratio of 66-2/3% at age 65 after 15 years of service, with a 7% contribution rate. There is a good deal to be said for moving to the Federal plan, as the current provincial goal of a 75% replacement rate at retirement depends on very generous assumptions as to pre-appointment RRSP contributions. We tend to agree with the submission of the judges that given that the average age of appointment in Ontario is now 43 years, it is difficult to assume that there will be, in most cases, significant pre-retirement savings. It is doubtful that that is the case in the first 12 to 15 years of one's career when building practices and families through that time period. The current annual cost of the Ontario pension plan is $9,449,000. The additional annual cost of introducing the Federal plan is estimated at approximately $4,816,000. The increase from $9.5 million to

$14.3 million seems to us to be both a reasonable and manageable annual increment - indeed, it is relatively minor, to achieve such an important social goal.

2. The second option is to move to a 20-year accrual rate of 3.3%. This is what was recommended by Professor Friedland in his 1995 study for the Canadian Judicial Council, A Place Apart: Judicial Independence and Accountability in Canada, p. 66. In Professor Friedland's opinion, a 20-year accrual period was reasonable for the Provincial judges to reach a 66-2/3% pension. That would mean an effective accrual rate of approximately 3.3%, which would be an increase above the current Ontario accrual rate of 2.5% over a 20-year judicial career between ages 45 and 65. If the Government does not wish to move immediately to a 66-2/3% replacement ratio, then we recommend that it move the current Ontario plan from an accrual rate of 2.5% for a 45-year-old appointee retiring at 65 years, to a 3.3% accrual rate. Any current members of the Provincial bench who might have a higher entitlement under the current Provincial plan would need to be grandfathered. Of course, if a Provincial judge retires before 15 years of service, he/she would have a smaller pension. There will be some who achieve 20 years of service prior to age 65 and might not get a full pension even with a 3.3% accrual rate. Without considering here the Rule of 80, some thought will have to be given to what, if any,

actuarial reduction should be put in place for those who leave before age 65 with 20 years of service or less. To repeat, the main point of Professor Friedland's conclusion was that a Provincial judge should be able to retire at age 65 after 20 years of service with a 66-2/3% pension, representing a 3.3% annual accrual rate. The additional cost of this recommendation is slightly less than the straight move to 66-2/3%, being estimated at $4.5 million. That would mean an annual cost of $13.9 million, as against the current $9.449 million.

3. A third option, and one that we would stress is not nearly as desirable as options 1 or 2, is an across-the-board increase on the lines recommended by Henderson (1988). He recommended that the entire range of percentages be increased by 10% so that a judge retiring at age 65, appointed at age 50, would receive 55% of salary, as opposed to the current 45%. Although this would be an improvement, it would still be significantly under the Federal plan of 66-2/3%. The estimated annual increased cost is $2,932,000.

Whichever of the three options are chosen, and we would hope that the Government would choose one of them, and preferably option 1 or 2, the increased annual costs are not great. The benefits to the Provincial judicial appointment process would, however, be enormous. Whichever option is chosen, consultation

with the judges will be required to work out appropriate implementation. The important thing is an agreement in principle, with an effective date of April 1, 1999.

RULE OF 80

The Rule of 80 under the Federal plan provides for retirement before age 65 without penalty if the years of service and the judge's age equal 80. With an earlier age of appointment becoming common, we think this is a beneficial rule to encourage retirement and regeneration of the bench. Under the Federal plan, a judge is required to serve at least 15 years in order to be eligible for the early retirement option, and we would recommend the same for Ontario if the Rule of 80 is brought into play, as we recommend. To quote the Scott Commission, "...In a changing world, there is a constant need for rejuvenation of the Bench by younger persons expressive of current views. Renewal must be systemic so as to ensure that the profile of the Bench is expressive of contemporary societal values. The result is, as has been recognized by successive Governments, that the appointment process can no longer be seen as a mere matter of finding suitable candidates for office who are at the end of their careers." We agree with those sentiments, and urge that the Rule of 80 be enacted.

EARLY RETIREMENT REDUCTIONS

The Rule of 80 which we recommend must be seen in the context of the current penalties for early retirement under the Ontario plan. Under the current plan there is a penalty of a 5% reduction in pension for every year between ages 60 to 64 that a judge takes early retirement, and an additional 2% per year for early retirement between ages 55 and 59. If there is to be a reduction, it should certainly be lesser for retirements closer to age 65 and greater for those further away from 65. That is the opposite of the current plan, and makes early retirement very unattractive. We recommend that a Rule of 80 be enacted, and that the early retirement reductions be eliminated. If they are not eliminated, they should be restructured at reduced levels, with the lower percentages coming the closer one gets to 65 years. One option that the judges suggested is that the current reduction factors be reversed, such that there would be a 5% reduction between ages 55 and 59 and only 2% between ages 60 and 64. If

there is to be a reduction factor, we agree with the suggestion for reversal of the current plan.

DATED at TORONTO this 20th day of May, 1999.

Stanley M. Beck, Chair

See attached Minority Report

Valerie A. Gibbons, Government of Ontario's Nominee

John C. Murray, Judges' Nominee

A D D E N D U M

Administrative Salaries

Currently there are seven Regional Senior Judges, two Associate Chief Judges and one Chief Judge for the Ontario Court of Justice (Provincial Division). These judges all receive a salary greater than Puisne Judges. The current differential -- between the salaries of these judges and the salary of a Puisne Judge shall be preserved to the extent possible except that in no case shall the salary of a Regional Senior Judge, Associate Chief Judge or Chief Judge exceed the salary of a Puisne Judge of the Ontario Court (General Division).

Stanley M. Beck, Q.C.

John C. Murray

Bank of Canada unfazed by short-term inflation increase

MARK RENDELL
PUBLISHED 3 DAYS AGOUPDATED APRIL 27, 2021

Bank of Canada Governor Tiff Macklem takes part in a news conference at the Bank of Canada in Ottawa on Dec. 15, 2020.

SEAN KILPATRICK/THE CANADIAN PRESS

Bank of Canada Governor Tiff Macklem said the central bank is not concerned about a temporary spike in inflation that is expected to take Consumer Price Index growth to around 3 per cent in the coming months.

In an appearance before the House of Commons finance committee on Tuesday afternoon, Mr. Macklem was grilled about the bank's inflation outlook.

The bank expects inflation to hit 3 per cent in the coming months, before dropping down closer to 2 per cent later in the year. This "blip" is largely the result of year-over-year comparisons for prices, such as gasoline or airfares, which took a major hit last spring, Mr. Macklem said.

"Monetary policy takes time to work. It doesn't make sense to overreact to temporary factors that are going to work their way out," he said.

"But if we saw that inflation was sustainably higher than forecast, and sustainably higher than our target, yes, we would react, and we have the tools and we know how to control inflation," he said.

Mr. Macklem's appearance followed the central bank's first significant step toward unwinding its ultra-stimulative monetary policy. Last Wednesday, the bank said it would reduce its pace of federal government bond-buying, known as quantitative easing, or QE, to $3-billion a week from $4-billion a week. The bank has been buying government bonds to hold down benchmark interest rates to make borrowing cheaper.

It also changed its forward guidance around the timing of a potential rate hike, saying an increase to the overnight policy rate could come in the second half of 2022 instead of 2023.

The bank's new economic projections, published last week, show inflation running above the 2-per-cent target for some time, with 2.3-per-cent inflation in 2021, 1.9-per-cent in 2022 and 2.3-per-cent in 2023.

"Given that we're going to hold [the policy rate] at the effective lower bound [of 0.25 per cent] until slack is absorbed, we probably will get some excess demand," he said.

“And with that you’ll probably get inflation going a little bit over the 2-per-cent target. We have a control band of 1 to 3 per cent and we’re prepared to use it. That’s part of a flexible inflation targeting regime,” he said.

Mr. Macklem reiterated on Tuesday that the change in forward guidance does not guarantee that the bank will raise rates in 2022. There is still significant uncertainty in the bank’s forecast about when slack in the economy will be absorbed and when inflation will return sustainably to 2 per cent, he said.

“This is a very nasty third wave [of COVID-19 infections], we are not through it yet,” Mr. Macklem said. “In our base case projection, we have restrictions being lifted toward the end of May and in June. If that gets extended, if there are new variants, if there’s problems with vaccines, those would all have consequences for our economic outlook.”

He said there are additional downside risks to the economic outlook beyond the pandemic tied to trade with the United States.

“If the Canadian dollar were to be a materially stronger, that could undermine the competitiveness of our exports and create a new headwind for our exports,” he said.

“There are also some risks with respect to protectionism. The U.S. has a Buy America program. Hopefully Canada and the U.S. can sit down and work this out so that we can have an integrated North American market. But if there were new protectionist measures that limited our access to the U.S. market, for example, that would also dampen our exports,” he said.

There is also the possibility that the economy heats up much faster than the bank is projecting. (Last week, it revised its 2021 GDP growth projection to 6.5 per cent, from its previous forecast of 4 per cent.)

One driver of an overshoot could be Canadians spending more of their savings than the bank is expecting, as vaccines become widespread and lockdowns are removed. The bank is modelling that Canadians only spend around 15 per cent of the additional savings they have accumulated over the past year.

Economic Action Plan 2014 Bill, No. 2

Second Reading—Debate Suspended

Hon. Larry W. Smith moved second reading of Bill C-43, A second Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures.

He said: Thank you for this opportunity today to speak to you on Bill C-43. This bill proposes to implement certain measures from the Economic Action Plan 2014.

[*Translation*]

Bill C-43 would implement the government's overall budget policy, which was presented in the House of Commons on February 11, 2104. In keeping with established legislative practices, this is the second budget implementation bill of 2014.

[*English*]

Today's act focuses on the drivers of growth and job creation — innovation, education, skills and communities — underpinned by our ongoing commitment to keeping taxes low and returning to a balanced budget in 2015.

Since we've introduced the Economic Action Plan to respond to the global recession, Canada has recovered both more than all of the output and all of the jobs lost during the recession.

Point of Order—Speaker's Ruling Reserved

Hon. Wilfred P. Moore: Your Honour, I rose on a point of order when notice was given of second reading, and I think I'm supposed to have the opportunity to speak then, rather than hear a debate. I may be wrong on that, but I think that's what's supposed to happen.

The Hon. the Speaker: I will hear the point of order. After hearing your arguments, I will make some comments. Thank you for giving me advance notice of your point of order.

Senator Moore: Thank you, Your Honour.

It's clear that omnibus bills such as Bill C-43 violate the parliamentary tradition that requires a vote on the principle of a bill at second reading. Bills such as Bill C-43 contain many issues that are not at all related. It is thus improper to put senators in the position of having to vote once on many unrelated issues. This is fundamentally unfair and out of order.

In any debate, there's the intrinsic rule of relevance. When casting a vote, it must be coherent with the matter and the principle at hand. Bill C-43, with its numerous unrelated matters and principles, does not meet this rule.

I would ask the Speaker to consider the argument made by Professor Louis Massicotte of Laval University who, in a 2013 paper, put the use of omnibus bills in historical and political context.

These bills have occurred not just in Ottawa, but in at least seven of the ten provinces. The province of Quebec has specific provisions on how to deal with omnibus bills, including sending them to a special committee, to the Committee of the Whole or to a specific standing committee.

In the United States, 42 states have provisions like that found in California, which states:

> . . . a statute shall embrace but one subject, which shall be expressed by its title. If a statute embraces a subject not expressed in its title, only the part not expressed is void . . .

I put to you, Your Honour, that if omnibus bills are justified by the thought that these bills have related but separate initiatives, as described in O'Brien and Bosc in the 2009 edition, surely there must be some common sense involved in arriving at what exactly relates the initiatives contained in the bill.

Professor Massicotte quoted the Honourable Lucien Lamoureux, former Speaker of the other place, who asked:

> . . . is there any end? Could a government wrap up half of its legislative programme into a single measure dealing with the improvement of the life of Canadians or ensuring prosperity for all?

This point was made, Your Honour, by Senator Day in his speech earlier this week.

We need to ask ourselves, what is the purpose of this chamber and its standing committees? If we do not put the proper legislation before the proper committee, how do we provide the proper study this chamber is tasked to provide?

At its very essence, an omnibus bill simply puts a senator in the position of voting on whether or not he or she agrees with the government and all it will do for, say, the next four years. Do we just vote once and go home for four years?

There's another aspect of this type of omnibus bill, as Professor Massicotte pointed out. They are used to make the opposition parties squirm. There is an entirely political component to these bills which has nothing to do with the proposed effect of the legislation itself.

(1030)

To my mind, this political component poisons the well of Parliament. It creates cynicism and is not what a government's legislative agenda is supposed to be about.

If one of the prime motivations for an omnibus bill is for the government members to stand up and accuse opposition parties of not supporting aspects of an omnibus bill, parts of which are fully supportable across the board, then this is an aspect which, to my mind, negates any argument in support of this type of legislation.

Honourable senators, as parliamentarians, we are accountable to our constituents in our regions for our work and our votes. By their very nature, omnibus bills make it impossible to be accountable for our votes. Further, such bills shield the government and parliamentarians from such accountability because of the umbrella protection and consequence of this single-vote process.

Let me leave you with the words of Mr. Stephen Harper, who in 1994 said the following about the use of omnibus bills:

> First, there is a lack of relevancy of these issues. The omnibus bills we have before us attempt to amend several different existing laws.
>
> Second, in the interest of democracy I ask: How can members represent their constituents on these various areas when they are forced to vote in a block on such legislation and on such concerns?
>
> We can agree with some of the measures but oppose others. How do we express our views and the views of our constituents when the matters are so diverse? Dividing the bill into several components would allow members to represent views of their constituents on each of the different components in the bill.

It seems to me that these words by our current Prime Minister are indeed accurate.

Omnibus bills are not new. They are not limited to this Conservative government. There is a clear trend of this affront on our democracy, and it is getting worse. Somebody must take a stand.

I therefore ask Your Honour to find Bill C-43 to be out of order.

Hon. Joan Fraser (Deputy Leader of the Opposition): Honourable senators, I rise in support of Senator Moore's point of order.

We have seen basically two kinds of omnibus bills come before us. One kind embraces a large number of legislative items that tend to be related to a single topic. We have seen omnibus bills, for example, on crime, where colleagues might or might not agree with every part of the bill, but at least it was all about crime. Colleagues will recall the accountability bill, parts of which some of us found highly objectionable, but the central objective of increasing accountability and transparency in government was, arguably, applicable to every part of that bill.

The bill we have before us today, however, is part of a different class of omnibus bills and a far more pernicious class that goes to the heart of parliamentary convention, I would suggest. It is a budget bill. Budget bills are, by ironclad convention, confidence matters, and so they should be. Control of the public purse is perhaps the fundamental element for which the people have fought against the sovereign for centuries. They should be confidence matters, but when budget bills are stretched to include widely disparate matters which would not normally be matters of confidence, that, I suggest, is a very dangerous abuse of the parliamentary system.

We have seen budget bills that contain items that by no stretch of the imagination could be seen as genuine confidence matters, such as petty amendments to the Judges Act.

When budget bills are used to force acceptance of unrelated matters, Parliament is deprived of its vital authority to make independent judgment of the matters brought before us. It is dangerous. It is a practice that, as Senator Moore said, did not begin with the present government, but it is oh so convenient for any government, and its use has been increasing.

I urge Your Honour to find accordingly.

Hon. Joseph A. Day: Honourable senators, I would like to join the debate on this matter on behalf of the Standing Senate Committee on National Finance. I refer Your Honour to Bill C- 10, which was a similar type of budget implementation bill dealt with by the National Finance Committee on June 11, 2009, to know the position that has been expressed by the committee over many years. Senators, 2009 was not the first time.

Comments have been made in relation to omnibus bills for budget implementation. I think it is important that Your Honour draw the distinction between omnibus bills generally and budget implementation. We heard from Senator McIntyre yesterday with respect to correcting the record in relation to a good number of different pieces of legislation as long as there is no controversy.

Budget implementation brings up the point Senator Fraser made in relation to confidence and the importance of government passing these bills in a timely manner. We just received this bill the day before yesterday, and here we are at second reading and expected to move on with this very expeditiously. That is the problem when there are so many different items in one bill. It is very difficult to do the job expected of us.

Senator Murray, Senator Oliver and Senator Kinsella all made statements on the record in relation to budget implementation omnibus bills. This particular approach has probably grown out of minority governments, where a minority government didn't want to lose a vote on confidence and, therefore, put in one piece of legislation a suite of items that people can't vote against and a lot of other less desirable pieces of legislation that are deserving of separate scrutiny. That practice, Your Honour, has increased very significantly over the past few years.

It was the minority governments in the 1990s where that first started happening, and it kept growing to where there was one budget implementation a year, even in majority times. Then a few years ago we started to get two budget implementation bills, and the numbers keep growing. We are up to almost 800 pages this year of budget implementation omnibus bills.

The only other point that may be of help to Your Honour on this point of order is the fact that this chamber saw fit to divide the bill into seven different parts. If that is the case with respect to this legislation from the point of view of a pre-study, then it perhaps should be the case with respect to reporting, which it has done. It has been pre-studied. We've got reports from all of the various committees that studied it. Perhaps it should be the case as well with clause-by-clause study of those portions that each committee has studied, and that would make this a much more meaningful manner of dealing with budget implementation bills that are so huge.

If the government is insisting on putting it all down in one 500- page bill, then this chamber should instruct the committees to deal with the seven different portions.

(1040)

In terms of instructions to committees, I could refer you to a number of different precedents, but one in particular is Senator Murray's motion a few years ago in which there was a question in relation to instruction of the chamber to the various committees, and that particular instruction was deemed to divide the bill. That would be a solution, borne here in the Senate, to finally deal with this very slippery slope of budget implementation bills coming at us in ever-increasing numbers of issues in the one bill.

The Hon. the Speaker: I see no one from the government.

I have two concerns, one of which is the much deeper question raised by Senator Moore and others. We received a message from the House of Commons, so I want to deal first with that part. I will listen to arguments from both sides in terms of whether we should or should not. The fact that we received the bill from the House of Commons — it's a confidence bill; it's a money matter; it's a budget bill — should we deal with it right away or wait for the ruling on the point of order? That's my first concern. After that, we can look into the much deeper and long-term question. First, I want to hear the government on the first part.

Hon. Yonah Martin (Deputy Leader of the Government): Your Honour, first of all, I appreciate the point of order raised by Senator Moore and the opportunity to speak on this matter and to answer that very important question. I also want to commend Senator Day and all members of the various committees that have put in many hours and have made a concerted effort to pre-study the bill, as well as the work they continue to do.

Your Honour, firstly, allow me to read from O'Brien and Bosc, page 725, as follows:

> It appears to be entirely proper, in procedural terms, for a bill to amend, repeal or enact more than one Act, provided that the requisite notice is given, that it is accompanied by a royal recommendation (where necessary), and that it follows the form required.

Additionally, while I appreciate the honourable senator's question, this type of legislation has been before the Senate and in the other house on various occasions, and we are fortunate to be able to look at those occasions for clarity on this matter.

At this time, I refer to several precedent-setting Speakers' rulings from the other place that support the procedural correctness and acceptance of this type of legislation.

Firstly, Speaker Sauvé, on June 20, 1983, which can be found at pages 26,537 and 26,538 of Debates, stated that:

> . . . although some occupants in the chair have expressed concern about the practice of incorporating several distinct principles in a single bill, they have consistently found that such bills are procedurally in order and properly before the House.

Next is Speaker Fraser, Debates, June 8, 1988, pages 16,255 to 16,257; and April 1, 1992, pages 9,147 to 9,149. On June 8, 1988, when he informed the house that he could not divide Bill C-130, the Canada-United States Free Trade Agreement Implementation Act, Speaker Fraser ruled as follows:

> Until the House adopts specific rules relating to omnibus Bills, the Chair's role is very limited and the Speaker should remain on the sidelines as debate proceeds and the House resolves the issue.

Speaker Parent, on April 11, 1994, faced similar objections to another budget bill, Bill C-17, when a member argued that the house was being asked to take a single decision on a number of unrelated items. As can be found at pages 2,859 to 2,861 of the Debates, the Speaker disagreed, noting that, in the chair's opinion:

> . . . a common thread does run through Bill C-17; namely, the government's intention to enact the provisions in the recent budget, including measures to extend the fiscal restraint measures currently in place.

Lastly, Speaker Parent, when addressing similar matters in relation to omnibus bills, on April 11, 1994, page 2,861 of Debates, stated:

> . . . it is procedurally correct and common practice for a bill to amend, repeal or enact several statutes. There are numerous rulings in which Speakers have declined to intervene simply because a bill was complex and permitted omnibus legislation to proceed.

Your Honour, I am confident that this bill in its current form is entirely proper and procedurally correct, as outlined by O'Brien and Bosc, and supported by the various rulings that I have cited, and I urge Your Honour to rule accordingly.

The Hon. the Speaker: I think I must rephrase my concern.

Senator Fraser: On the first point, Your Honour.

The Hon. the Speaker: On the first point. I need to hear from the government side and the opposition as to whether we should move right now on the first part or wait for my ruling, which could take a longer period of time.

Senator Fraser: Your Honour, you will have gathered from my earlier comments that I believe the second question is far- reaching, very important, and should not be subject to a speedy ruling.

To your first question, I do believe that we would not be necessarily fair to Canadians if we delayed proceeding with this bill, because it does contain tax measures, for example, that affect people, and we are coming up to the end of the taxation year.

So, with considerable regret, I would argue that the appropriate course would be to proceed with this bill, but simultaneously, Your Honour, to begin a profound study of this matter, starting with the ruling that you will eventually give, so that we may not be faced with this dreadful dilemma again.

The Hon. the Speaker: I would like to hear from the government on the first point.

Hon. Larry W. Smith: I wish to make a few comments, Your Honour.

Senator Martin reviewed the procedural elements of history. To put it in simple terms — because I'm a simple person — large bills have been before us not only in recent times but in past times of government, and they have moved through the Senate. I think that's a pretty important point.

The second thing is that this is the second act to implement certain provisions of the budget tabled in Parliament on February 11, 2014, so it's a continuation of the earlier budget bill in terms of tying pieces together.

Third, I'm very proud of the work that our Finance Committee, led by Senator Day, and the group did in terms of the hours spent, the witnesses we heard from, and the segmentation of key elements so that we could have expertise from senators on the Social Affairs Committee, like Kelvin Ogilvie, who is a renowned individual in his field, and the actual specifics of the legislation that dealt in the area of social affairs, as well as foreign affairs, and banking, trade and commerce. We had the bill in front of people who had, honestly, probably more expertise in these certain fields than the core members of our committee.

Fourth, we asked for extra time so that we could meet. I will not say how many hours were spent and how many witnesses we met, but I can tell you that we met up to three times per week with witnesses so that we would have a better understanding.

I don't want to be critical of my colleagues on the other side, but it's very hard sometimes when you have maybe one or two representatives in our meeting, besides the chair, and we have a full complement of people. We are trying to do the best we can with limited resources on the other side in our committees. It's unfortunate this is the way it is, but I think the work that has been done has propelled us to the point where we need to continue on.

(1050)

I ask everyone to recognize the world economic state and the fact that we have continued with the same message. Our government is trying to ensure that we create more jobs, a more stable economy and that we protect our citizens. This bill is critical to moving forward, especially in view of the economic times we live in and the measures that need to be taken to promote the economy of our country and the well-being of Canadian citizens.

I would urge you, Mr. Speaker, to allow us to move forward and proceed with this particular bill, Bill C-43.

[*Translation*]

Hon. Maria Chaput: Honourable senators, I agree with Senator Moore's comments, but I don't want to hinder consideration of Bill C-43 because I recognize how important it is that we study it now.

I have been a member of the Standing Senate Committee on National Finance for many years. As such, I and the other committee members have had to study omnibus budget bills. I have one main concern. It is clear that a 500-page omnibus bill comprises too many elements to allow for a thorough

and effective study. We need to proceed quickly, but effectively, and certain points are often forgotten. In cases like that, it is the smallest and most vulnerable who suffer. Those who have the quietest voice in the House of Commons and the Senate are the ones who suffer. Everyone knows that.

I would like to share a concrete example of what happened with the 2012-13 omnibus bill, which included changes to the status of co-ops, credit unions and caisses populaires. That bill amended the status of co-ops, credit unions and caisses populaires across Canada. It took away their privileges as co-ops and treated them as banks, as large financial institutions. This measure was largely overlooked. It happened very quickly. If memory serves me correctly, the committee heard from only one witness who represented co-ops and credit unions and who told us why the change would negatively impact the expansion and growth of these cooperative institutions. The bill passed and the measure was implemented.

In 2014, co-ops, credit unions and caisses populaires across the country took a stand. A petition is circulating and articles have appeared in newspapers. We have seen what an adverse effect this measure is having on the development of these small businesses, these co-ops, credit unions and caisses, and on smaller, remote communities. They want their status as co-ops to be reinstated, and that is the subject of the petition that will be presented to the federal government.

These are the types of details at issue. There is a multitude of them in these large bills. These bills are so big that we don't have enough time to do our jobs as parliamentarians properly, to ensure that the changes being made are the best, in this case, for Canada's economy.

Hon. Claude Carignan (Leader of the Government): Honourable senators, I would like to add a few thoughts. The arguments we're hearing from the other side seem to be related to how difficult it is to study the bill. The chamber has all the power it needs to study bills appropriately and as it sees fit. We proceeded with a pre- study. The Senate adopted a motion to conduct a pre-study of the bill. We divvied up the study of the bill among different committees according to subject matter.

When the Senate deems it appropriate, it can change the usual practices for studying the bill at first and second reading and committee stage. In the case of a pre-study, after second reading, the Senate can also refer the bill to committee and possibly to subject-specific committees.

I understand the opposition's concerns, but I believe that the chamber is master of its own procedure. It can, if deemed appropriate, resolve all these difficulties raised by the other side, and that is what we did in this case.

I would like to point out that, with respect to what was mentioned, there is nothing that justifies declaring the bill out of order in its current form. The difficulties and disadvantages related to the study of the bill have been resolved, as I mentioned, by the Senate decision to conduct pre-studies in subject-specific committees.

The Hon. the Speaker: You heard Senator Fraser's opinion. Do you agree with her?

Senator Carignan: I am sorry. I missed part of it because I had to leave for a few minutes.

The Hon. the Speaker: Senator Fraser basically told us that she does not want to delay the passage of Bill C-43. However, she would like to ensure that I initiate an in-depth study of the relationship between the use of omnibus bills and the Senate's authority to review government measures.

Senator Carignan: Obviously, I agree that we should not delay passage of the bill while you consider this matter. I understand that it is what you are going to do. At first glance, I see nothing that would justify ruling it out of order.

Senator Fraser: I would like to clarify one thing. I would certainly like to keep intact the authority to review bills. However, what is disappearing, with the greater frequency of omnibus bills, is the decision-making power of the Senate. In the case of a confidence motion, and because of the nature of our parliamentary system, the people who support the government have no choice but to accept

the entire bill. That is where I see a danger. Sometimes the opposition party does that because it is not prepared to face an election. However, that distorts our process. We should be able not only to examine but also to decide on our position for every single element, independent of all the others. That is the point I wanted to make.

[*English*]

Hon. Daniel Lang: Colleagues, I think there is an issue that has to be reinforced, and that's the question of whether the bill we are discussing today can have the various elements of different pieces of legislation encompassed in one.

The rules in this house, over time, are in part created through precedence and convention and how parliamentary procedure runs over the course of a number of years. If you look at the history of an omnibus bill, you will look back not 10 or 20 years but 30 years, when the practice became common with respect to gathering various legislative measures for the consideration of Parliament.

So this is not new. This has been accepted by precedent, by the House of Commons and by the Senate. So I would prevail upon His Honour, when he looks at the context of his ruling on the point of order, he has to look back with respect to what has been accepted by convention.

The other point I would make, colleagues, regarding the point of order is in terms of the question of utilizing a bill from the House of Commons and doing a pre-study with respect to a measure being dealt with simultaneously in the House of Commons. That has been accepted by convention, by the will of this house, not once, not twice, but for the six years I have been in this house there have been decisions taken about how we study these measures to get full understanding of the legislative agenda of the government.

(1100)

To put forward the argument to you, Your Honour, that there was not enough time to consider these measures, which I would think would be one of the most important aspects that you have to consider, I would say that more than adequate time has been presented to this house and to the committees because of the system that we adopted for the purposes of pre-study. If we didn't have the ability to pre-study, then I would say there would be a fair legitimacy to the argument put forward by the other side. But the reality is and common sense says that there's a way that you have to deal with legislative measures, because at the end of the day you're dealing with the people's business.

I haven't heard another alternative in respect to not dealing with the bill in this manner. The fact is there is only so much time in our parliamentary calendar and only so many ways that we can deal with legislative measures.

I submit to you, Your Honour, in view of what I've said and what other members have said in respect of this point of order, that I believe an omnibus bill is legitimate, and until this house changes the convention by the will of this legislature and, for that matter, the House of Commons, I think the process that we've undertaken is legitimate.

The Hon. the Speaker: I will take two more arguments, and then I will retire for five minutes. I will come back. Senator Ringuette?

[*Translation*]

Hon. Pierrette Ringuette: Honourable senators, I thank Senator Moore for once again drawing our attention to this situation involving an exception that is turning into the norm because of our goodwill.

I disagree with pre-studies. First of all, they render useless our primary duty, which is to give sober second thought to bills. Nobody has even given first thought to a bill at that point.

That is unacceptable. As senators, we eventually have to draw the line. Senator Moore's point of order is a signal that it is time to think about this and draw that line.

Our house is master of its own Rules, and we can make a rule about whether or not to study a House of Commons omnibus bill. If ever it is written in our Rules that this house will no longer accept omnibus bills that cover various subjects, the other place will have to think about that and react accordingly.

I think we are at the point of having to draw that line. Last year's Supreme Court ruling on the Senate and the structure of our Parliament made our responsibilities very clear. We have to live up to those responsibilities and give sober second thought to bills that cover a particular subject, not bills that encompass several subjects, as is the case with omnibus bills, because that is our primary duty.

I know that this is a difficult subject that calls for a lot of consideration on your part, but this decision will be crucial to the responsibilities of this chamber and the reason it exists.

Thank you, honourable senators.

Some Hon. Senators: Hear, hear!

[*English*]

Hon. Art Eggleton: Your Honour, I agree with what Senator Fraser has said with respect to proceeding on Bill C-43, but I would ask you to please look at the larger issue that we have under consideration.

Senator Martin pointed to a number of decisions by Speakers, particularly in the other house, in the past on this issue. However, the matter has grown. More and more is being put into these omnibus bills, and they don't all have the common thread and the common issues around a budget that they need to have to maintain that common thread.

That is the difficulty I have. These individual items, yes, they are examined by the different committees, and we do report it out, but I don't think that's good enough because there are many cases where I'd like to vote for a number of these items. I'd vote for some of the items in Bill C-43, for example. There are some items I would vote against. What do I do if I'm only presented with one bill, one vote? Of course, the leader will get up and say that, well, you voted against this and voted against that simply because you voted against a bill in total.

An Hon. Senator: They should stop saying that.

Senator Eggleton: I would like to vote for some of these items individually, and I think it's depriving this chamber and depriving Parliament of the ability to be able to deal with key issues that come before us by the way this has grown just too large in recent times.

We'll always have omnibus bills, but I think we need to shrink it back to a level that is far more reasonable and has a common thread.

[*Translation*]

Senator Carignan: Honourable senators, I believe that you have made several arguments in support of your position. I would just like to clarify one point. I mentioned pre-studies, and some senators suggested that this was a practice. It is not just a practice; the ability to conduct pre-studies is in the Rules. I would like to draw your attention to rules 10-11(1) and 10-11(2). Any senator can move a motion for the pre-study of a bill from the other place. All that to say that the chamber has the power to make rules and decide how to study a bill based on its nature or complexity.

[*English*]

The Hon. the Speaker: A final comment, Senator Patterson?

Hon. Dennis Glen Patterson: Thank you, Your Honour. Knowing that you wish to conclude this debate, I would like to bring up a couple of points that I don't think have been raised.

First, with regard to Senator Eggleton's concern about the lack of a common thread in a budget bill, such as is being considered in this point of order, I submit, Your Honour, that it is very difficult not to relate most matters contained in such a bill to the budget in general when the bill enacts matters referred to in the budget speech.

Speeches of finance ministers are lengthy, voluminous and cover a very broad area of public policy in Canada. If one looks at the budget as a broad statement of direction and policy from the government, then it is very difficult to say that the subject matter in such a bill is not included within the scope of the address of the Minister of Finance.

I'd also like to request respectfully that you consider another principle that I think exists from the origins of the Senate, and that is that this chamber should not interfere lightly with the will of the other place. We are independent, but we should also accept that, especially when we're dealing with a budget bill critical to the very operation of the government and our economy, as Senator Smith has pointed out, it would be, with respect, a serious affront to the will of the elected parliamentarians in the other place if you were to rule such a bill out of order. Thank you.

(1110)

The Hon. the Speaker: First, I want to thank everybody who participated in this great discussion. I will reflect on the matter and reserve my ruling on the second element of the point of order.

I will ask the Speaker *pro tempore* to take the chair. I will return in five minutes and rule on what I call "the first step." I believe there is an agreement. In the meantime, the Orders of the Day can proceed.

(Debate suspended.)

Adjournment

Motion Adopted

Hon. Yonah Martin (Deputy Leader of the Government), pursuant to notice of December 11, 2014, moved:

> That when the Senate next adjourns after the adoption of this motion, it do stand adjourned until Monday, December 15, 2014 at 5 p.m. and that rule 3-3(1) be suspended in relation thereto.

The Hon. the Speaker *pro tempore***:** Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to.)

Federal Framework on Lyme Disease Bill

Third Reading

Hon. Janis G. Johnson moved third reading of Bill C-442, An Act respecting a Federal Framework on Lyme Disease.

She said: Honourable senators, I am pleased to give third reading to Bill C-442, An Act respecting a federal framework for Lyme disease.

I wish to thank members of the Social Affairs, Science and Technology Committee, chaired by Senator Ogilvie, for their work in hearing witnesses and scrutinizing this legislation. If it were not for the efforts and tireless advocacy of member of Parliament Elizabeth May, this bill would not be before us today.

I would be remiss for not mentioning the participation of Health Minister Rona Ambrose, who took on this bill and made sure it would be a government priority.

Honourable senators, this bill has grown in prominence over the past year and has been embraced by all parties in the House of Commons. As you know, Lyme disease is the most commonly reported tick-borne infection in Canada. It is spreading increasingly within our country and already exists in southern parts of British Columbia, Manitoba, Ontario, Quebec, New Brunswick and Nova Scotia. If gone undetected or misdiagnosed, the consequences can be debilitating and life altering.

This legislation recognizes that the federal government needs to jointly work with all stakeholders to mitigate the effects of Lyme disease. Within 12 months of Royal Assent, the Minister of Health will convene a conference of provincial and territorial health ministers, as well as relevant medical stakeholders, to discuss the development of the federal framework.

This framework will establish a national medical surveillance program using the Public Health Agency of Canada; guidelines for the prevention, identification, treatment and management of the disease; sharing best practices across all jurisdictions; and standardized education materials for distribution.

The bill also requires the federal Minister of Health to prepare a report that sets out this framework, publish the report on the agency's website within one year after it is developed, and table it in Parliament 90 days later.

Finally, honourable colleagues, the bill requires the government to undertake a review of the effectiveness of the strategy no later than five years after the aforementioned report is tabled, and also table such a review in each House of Parliament.

Senators, I encourage you to pass Bill C-442 before we adjourn for the holidays.

Hon. Larry W. Campbell: Honourable senators, I rise to support the comments of my honourable colleague. This bill was started in the other place by the Leader of the Green Party, Elizabeth May, who is also my member of Parliament.

I believe that this bill, through the other place and under the auspices of the Social Affairs Committee, demonstrates what happens when partisanship takes a backseat to good science and to good policy. This framework will benefit all Canadians.

As somebody who lives in the Gulf Islands, I'm acutely aware of Lyme disease and how it has affected our community and southern British Columbia. To say that there is an epidemic in progress would be an understatement for our area.

Health Canada provided expert testimony, forecasting a possible 10,000 incidents in Canada each year by 2020. This, of course, does not include those people who have already been infected by this disease. The interesting thing about Lyme disease is that it is treatable, and if brought under control quickly enough, the symptoms and the disease itself will not affect your life.

This bill will allow health ministers, medical experts and patients to work to find a solution and to assure that Canadians have access to the best health care available to fight this disease.

Honourable senators, I urge you to vote yes on this bill.

An Hon. Senator: Question.

The Hon. the Speaker: Is it your pleasure, honourable senators, to adopt the motion?

Hon. Senators: Agreed.

(Motion agreed to and bill read third time and passed.)

Speaker's Ruling

The Hon. the Speaker: Honourable senators, after reflection, and because the two sides seem to agree on the process, we will proceed with Bill C-43. Senator Smith will speak and then Senator Day.

This will not interfere with my further reflection on, as we say in French, *décision au fond*, on the point of order raised by Senator Moore and, of course, with all the arguments made by honourable senators on both sides of the aisle.

I want to thank all those who participated in this discussion. It was interesting and long overdue. We will proceed with Bill C-43, and my ruling on the second element of the point of order will follow when we return in January.

Economic Action Plan 2014 Bill, No. 2

Second Reading

On the Order:

> Resuming debate on the motion of the Honourable Larry Smith, seconded by the Honourable Doyle, for the second reading of Bill C-43, A second Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures.

Hon. Larry W. Smith: Thank you for the opportunity to speak on Bill C-43. The bill proposes to implement certain measures from the economic action plan of 2014.

[*Translation*]

The purpose of Bill C-43 is to implement in general the government's budgetary policy introduced in the House of Commons on February 11, 2014. In accordance with established legislative practice, this is the second budget implementation bill of 2014.

(1120)

[*English*]

Today's act focuses on the growth and job creation — innovation, education, skills and communities — underpinned by our ongoing commitment to keep taxes low and to return to a balanced budget in 2015.

Since we introduced the Economic Action Plan to respond to the global recession, Canada has recovered both more than all of the output and all of the jobs lost during the recession.

The Canadian economy has posted one of the strongest job growth creation records in the G7 over the recovery, with more than 1.2 million net new jobs created since July 2009. Canada's GDP is now more than 7.6 per cent above our pre-recession peak.

For the seventh year in a row, the World Economic Forum has recognized our banking system as the soundest in the world.

Not only that, the Parliamentary Budget Officer confirmed that our government has put $30 billion in tax relief back into Canadian pockets, benefiting low- and middle-income families the most. The middle class has particularly benefited from our reduction in the GST, which we cut from 7 to 6 to 5

per cent. Under our government, the average family of four will save nearly $3,400 in taxes this year. Even *The New York Times* says Canada has the most affluent middle class in the world.

This economic resilience reflects the actions our government took before the global crisis: lowering taxes, paying down debt, reducing red tape, and promoting free trade and innovation.

However, there is still an uncertain global economic environment, and it is crucial that we strengthen Canada's Economic Action Plan. Honourable colleagues, you can see through this week, in international and world trading, the impact of the volatility of the world economy.

However, our government's commitment to responsible fiscal management is keeping us on track to return to balanced budgets in 2015. It also includes continuing to improve the integrity of the tax system to ensure that everyone pays their fair share. We will continue to close tax loopholes, address aggressive tax planning, clarify tax rules, and combat international tax evasion and aggressive tax avoidance. In doing so, our government will build on the responsible management that has not only kept taxes low, but also resulted in Canada's net debt being the lowest by far among the G7.

Bill C-43 contains several actions to reduce taxes for families and businesses, improve the regulatory environment, promote competitiveness and strengthen the financial sectors. The highlights are as follows.

Today's legislation reduces barriers to international and domestic flow of goods and services. We've gone from 5 free trade agreements in 2006 to 43 deals today, which is a remarkable achievement. We will also harmonize Canada's intellectual property regime, international norms and will help improve Canadian access to international markets, lower costs and attract foreign investment by reducing the regulatory burden and red tape.

Economic Action Plan 2014 proposes to modernize Canada's intellectual property framework by ratifying or exceeding widely recognized international treaties: the Madrid Protocol, the Singapore Treaty, the Nice Agreement, the Patent Law Treaty and the Hague Agreement. The Hague Agreement is one of the original foundations of patent law as it exists today. The idea is to strengthen Canadian patents to make us more competitive worldwide. The government has tabled these treaties in Parliament, and Bill C-43 will complete the amendments to the Patent Act, the Trade-marks Act and the Industrial Design Act to better align Canada's intellectual property framework with international practices.

Today's legislation expands the eligibility for the accelerated CCA for clean energy generation equipment to include water- current energy equipment and a broader range of equipment used to gasify eligible waste.

Honourable senators, this legislation is also about our people — about hard-working Canadians who need to pay their bills and look after their families. Since the last auction of wireless spectrum in 2008, prices have fallen by almost 20 per cent and jobs in the wireless industry have increased by 25 per cent. Today's legislation builds on this record by proposing to amend the Telecommunications Act and the Broadcasting Act to prohibit service providers from charging their subscribers to receive bills in paper form, fulfilling a commitment in the 2013 Speech from the Throne to end pay-to-pay billing practices.

Bill C-43 also adjusts the children's fitness tax credit currently valued at $500 and increases it to $1,000 beginning with 2015 tax year.

I would like to quickly highlight a couple of other important initiatives in Bill C-43.

They would amend the Employment Insurance Act to refund a portion of EI premiums paid by small businesses whose premiums were $15,000 or less in 2015 and/or 2016, saving 90 per cent of all businesses $550 million.

They would amend the Canadian Marine Act to permit the government to develop regulations to a specific project on federal port lands.

Bill C-43 proposes that the Income Tax Act be amended to extend a non-refundable tax credit available for interest payments on loans approved under the Canada Student Loans Program to interest paid on the Canada Apprentice Loan program.

Honourable senators, before I conclude, I would like to highlight the initiatives of the budget that focus on Canada's financial sector.

Bill C-43 delivers on the announcement made in the Economic Action Plan 2014 that would allow credit unions to continue to grow and prosper. In reference to Senator Chaput's point about credit unions, I just dug up another fact here. The federal government is moving forward with its parallel agenda with respect to credit unions, ensuring the regulatory framework is clear and supporting these provincial credit unions that want to be federally regulated. What this means is that the credit unions in Canada, the smaller credit unions, regionally, are having troubles supporting their existence. This move would allow smaller credit unions to merge with other credit unions in the country as federally-incorporated institutions, which would mean a better future for small credit unions. I thought I'd throw that in.

Geez, I'm so excited I'm almost losing my place. That's the number of concussions I took when I played, but I never missed a game.

To further strengthen the regime, today's legislation proposes to introduce an additional amendment that would clarify the types of high-risk foreign entities against which the minister could take action to protect the integrity of Canada's financial system.

Honourable senators, to conclude, today's legislation reinforces our government's commitment to create jobs, economic growth and long-term prosperity for hard-working Canadians. It takes serious steps forward to improve the integrity of the tax system, and it ensures that the tax burden is shared by all Canadians in a fair and equitable manner. It implements a number of measures to maintain Canada's financial sector advantage by reinforcing the stability of the sector, reducing regulatory red tape and encouraging competition.

I, therefore, urge all of you to support this very important legislation.

Honourable senators, as I have noted today, Economic Action Plan 2014 contains a host of benefits for all hard-working Canadians. Through this comprehensive and ambitious plan, we will pursue strategies that made us so resilient in the first place: responsibility, discipline and determination.

This act marks an important milestone in creating a brighter future for our country. I urge you to help us get this legislation passed so that we can continue working to create jobs, growth and long-term prosperity for all Canadians.

I would like to thank my mentor, Senator Irving Gerstein, for coaching me to give this speech today.

Hon. Joseph A. Day: Honourable senators, I'd like to thank my honourable colleague for his comments and remind all of us that in this chamber we don't vote on the budget; we vote on legislation that's before us.

(1130)

The legislation that's before us is this Bill C-43, which is 460 pages in length, as you might have heard mentioned earlier. I will try to keep my context in line with what you will be called upon to vote on.

Honourable senators, Bill C-43 has 401 clauses, and, with the time I have available and the patience you have to listen to me, I think I could not possibly go through all of the clauses. I will have to comment on some of the clauses that my honourable colleague Senator Smith (*Saurel*) has commented on, just to clarify that there is, perhaps, another point of view on some of these clauses.

There are 40 different laws that are amended, repealed or enacted in this piece of legislation. There are two stand-alone pieces of legislation that you should be aware of. The Canadian High Arctic Research Station act is in quite a few different clauses — good initiative. It would have been really nice to see that as separate, stand-alone legislation so that we could have looked into it and then voted on it appropriately.

The other is the proposed extractive sector transparency measures act, another stand-alone piece of legislation which would have been quite interesting for a particular committee that has expertise in that area to have some time to study.

The bill, honourable senators, is entitled "A second Act to implement certain provisions of the budget tabled in Parliament on February 11, 2014 and other measures." It's always the "and other measures," and the title recognizes and admits that this is not just budget implementation. It's other matters as well, and that's the difficulty that we had in the debate earlier. I will not go back into it, but that is the difficulty. Why not have one bill to implement certain measures in the budget and another bill to deal with the other matters? Why couldn't we do that? That's the issue that is before the Speaker now.

Honourable senators, Part 1 of the bill has 91 different provisions — 91 different provisions that we are asked to take a look at, things like extensions of exemptions for disposition of property used in farming and fishing businesses; that's a rollover of provisions in the Income Tax Act. Extension of tax referral provisions for breeding of animals. Amateur athletes trusts; these are for amateur athletes who receive money and put it in trust because they can't be making incomes, but what can they use the income from the trust for?

Definitions of split income, elimination of graduated-rate taxation for trusts in certain estates, non-resident trust rules, back-to-back loans, foreign accrual property. There is one interesting one here on Australia that I thought I should tell you about: taxation of taxpayers investing in Australian trusts, one of those really important things that we all have on the front burner for activities.

Honourable senators, any one of these items you could write a book on, and any one of these requires extensive study by experts who are deeply involved in this kind of matter, either lawyers or accountants. We couldn't possibly provide the study that we should in relation to those items.

Withholding income tax from payments made to certain individuals.

Part 2 is a little bit shorter. It implements certain Goods and Services Tax and Harmonized Sales Tax measures proposed in the budget. Great, and there are a good number of them.

Part 3 would modify the Excise Act, and there are a few of those. We were briefed on all of these so that we could have a general understanding of what appears there.

Part 4 is where all of the major work went on with the six other committees in this chamber that were asked to look into different parts of the other measures. There were seven committees. Finance Committee dealt with Parts 1, 2 and 3 that I've just talked about. Finance Committee had a number of areas that we dealt with in Part 4, but six other committees dealt with those as well. If those six other committees would discuss their reports that appear — some of them have, and they are on our Order Paper — then you would have a better opportunity to understand what those committees were studying and what is in the budget implementation bill's "other matters" that were studied by those other committees. Then, if those committees did clause by clause on the items that they studied, then our problem would be solved because we are dividing it up to a reasonable number of different points. That point has been made to our honourable Speaker.

So honourable senators, what are some of the items that appear? That's all I can do in the time available just to give you a bit of an overview of some of the items that our committee looked into. I've already started by dealing with the Finance Committee's study report, which was filed and adopted by this chamber two days ago. I've already talked about the first item. I got as far as item 1 in Division 1. There are 31 divisions, honourable senators, in Part 4, other matters.

The first division was intellectual property clauses, and there was a quite a bit of discussion with respect to the various items that we looked at in the patent law and industrial design law and the implementation, in Canada, of certain aspects of international conventions.

Division 8 was the next one we looked at, the Royal Canadian Mint. This is an interesting one because the Royal Canadian Mint is a Crown corporation that operated as a business, made a profit and paid that profit — the only shareholder being the people of Canada — back to the government in general revenue. It is significant profit because the Royal Canadian Mint does business all over the world. What are we doing in this legislation with respect to the Royal Canadian Mint? What was the problem? They've never asked for any money from the government. They're always giving money back to general revenue.

The Government of Canada, in its wisdom, has decided that the Royal Canadian Mint, which operates as a business, should not be making a profit with coins it makes for the Government of Canada. Any business would have profit built into its product, but for that portion of their income, they will not be able to charge any profit in relation to products for the Government of Canada. Why? I don't know why you would take away the good model of a Crown corporation that could be spun off, at any time. They could sell off the shares. The way the government is selling off other items to balance their budget, we could have done that with the Royal Canadian Mint. Instead, they are saving some funds by saying, "You can't make a profit on the coins that you make for us." I don't understand that one, honourable senators.

The next one is the division on the Northwest Territories. The Northwest Territories legislation was passed two years ago, giving more power to the territories. Now we're back, making some amendments. That's one of the things that have come up on a number of occasions here. A lot that was passed in previous budget implementation bills is back to be amended. Usually, it takes a year or so, and part of the problem is that those bills were not studied clearly enough. They weren't amended by this chamber to avoid the requirement that, two years later, maybe because of negotiations that were going on, maybe because of a court case, maybe because somebody finally sat down and read them, they discover that there have to be some amendments. That's repeated quite regularly. We see it in budget implementation bills more than in any other proposed legislation.

(1140)

Honourable senators, the next item I want to talk about are the proposed amendments to the Department of Employment and Social Development. Honourable senators will remember that a Social Security Tribunal, which was a combination of a number of different tribunals, was created about two years ago. Honourable senators might also be aware that as a result of the creation of that tribunal, which was to save money, reduce duplication and help with the backlog that existed, as a recent announcement in the paper stated, up to 40 people making over $100,000 a year sat at home for the past two years, waiting for something to happen with respect to this new amalgamated tribunal. At the same time, the tribunal developed an ever- increasing backlog such that upwards of 11,000 people have applications in there. One person just received a note that under the Canada Pension Plan his disability pension had been approved after five years of waiting. They said, "Thank you very much. Your appeal has been accepted because of the recent new information that you sent us." He said, "I sent that to you two years ago."

That's the kind of activity happening under this new amalgamated tribunal designed to save all kinds of money. We are now asked to make some amendments to deal with the backlog and hire more people. A limit of 74 was put on the number of adjudicators to work on appeals. They now propose taking away the upper limit and leaving it to the minister to determine how many he'd like to hire; and there's no limit on the expenses that can be incurred. This is clearly not satisfactory to the people of Canada; clearly not satisfactory to those people applying for disability pensions; and certainly not satisfactory from the point of view of revenue.

I want to mention the proposed amendments to the Financial Administration Act. They purport to give to the government the right to ignore paying certain small bills or collecting certain small amounts, and the small amount will be determined by the government. The argument is that it costs more to

process the cheque than it's worth and more to pursue collecting small amounts. Rather than tell us what the small amount is, there is a provision to allow the government from time to time to do that in regulations. The legal argument for that is *de minimis* — it's just too small to be bothered with. Maybe somebody should speak to the Auditor General with respect to the some of the *de minimis* things they are chasing after in relation to audits they are conducting these days.

Prothonotaries in the Federal Court are clerks who are halfway to being a judge. They are not necessarily legally trained but most of them are. Their salary is being increased to $228,000 a year. We also found out that Federal Court judges are paid just over $300,000 a year in salary. There was a time when senators and members of the House of Commons had their salaries tied to those of judges, but that was changed along the way by the current government.

Royal Canadian Mounted Police Pension Plan: There is a movement to take all non-uniformed RCMP and put them into the Public Service Pension Plan for public servants. Adjustments for those who are in the older, more attractive plan means they could retire earlier after 25 years at the age of 55 or 60, depending on their program.

Honourable senators, those are some of the items that appear in what we studied — nothing too terribly controversial. However, we found many proposed amendments to legislation, like the Social Security Tribunal amendments that we dealt with previously.

We had a quick look at the reports of the other Senate committees tabled in the Senate. We have to rely on their comments because we don't have the time to review all of their studies. Some excellent work was done. I reference in particular the very fine report of the Standing Senate Committee on Banking, Trade and Commerce under Senator Gerstein. The report deals with significant proposed amendments to the credit union legislation, which we passed a couple of years ago. The Canadian Bar Association stepped in on some of this and expressed their concerns about the broad application and the lack of guidance that appears in relation to some of the legislation being passed and asked for more clarity.

There is an interesting evolution in the role of the Business Development Bank of Canada. I'm pleased that the Banking Committee has studied and will follow this, I hope. We've got to be very careful about the evolving roles of the Business Development Bank of Canada and Export Development Canada. ECD was always for export but can now carry on business in Canada in competition with BDC, which wants to get into other areas and types of investment that they previously were not able to do. Those items require continued monitoring, honourable senators, and I'm sure the Standing Senate Committee on Banking, Trade and Commerce will do that.

The Standing Senate Committee on Transport and Communications spent the majority of their time talking about aerodromes. They informed us that prior to this bill, which gives the federal government authority with respect to airports and hangars across the country, anyone could build an aerodrome anywhere, and there were no regulations for safety. Primarily, the committee was involved with giving the government the authority to deal with those, which they didn't have previously.

The Standing Senate Committee on Foreign Affairs and International Trade pointed out in their report the panels for dispute resolution state to state. There used to be an established panel, but that is now moving toward ad hoc agreements. My recollection is that the Canada-Chile Free Trade Agreement was being revisited from the point of view of dispute resolution and expansion into financial services areas.

The Standing Senate Committee on Legal and Constitutional Affairs spent a significant amount of time on a number of items, in particular the question of computer and Internet use in relation to lotteries, which has been forbidden until now but is slowly moving into an area with regulations and will be allowed under certain circumstances.

The Canadian High Arctic Research Station was studied by Standing Senate Committee on Energy, the Environment and Natural Resources. It is one of those standalone pieces of proposed legislation that I mentioned to you.

(1150)

Honourable senators, those are the various committees that looked into different items, along with our committee's work on this. I believe the only problem that we had with respect to the pre-study that you should be aware of is that because it is a pre- study, and because it's new out there, for those who are impacted by the legislation, it's very difficult to find experts in the field who are ready to come before us to talk about the issues because they have not been developed yet. That's one of the advantages of sober second thought; we always look to what has happened in the House of Commons, determined who the witnesses were, see where the real sensitivities were and then follow up on areas that the House of Commons did not have an opportunity to do. We don't have that opportunity with a pre-study. But apart from those two general comments, and the fact that we are seeing a lot of corrections because things are being rushed through and not being dealt with as thoroughly as we would like to see, I believe with dividing the bill up into seven different parts they have been able to deal with the issues fairly thoroughly. We will be ready to proceed to clause-by-clause, if this chamber feels it's appropriate to send the bill to finance.

Thank you, honourable senators.

Hon. Jane Cordy: Will Senator Day take a question? I was interested in your comments about the fact that the Pension Appeal Board, two years ago, was changed into the tribunal — the infamous tribunal. As you recall last week, I asked questions in the chamber about it because two years ago, in June of 2012, I brought up the concerns that this replacement of the Pension Appeals Board and the EI Appeals Board of Referees would not serve Canadians well. I was told at that time by Senator LeBreton that for the Canadians who were concerned about it, it was nothing more than squawking and screaming. She went on to say that when honourable senators come back in the fall that some of these things that people were anticipating as disaster would be anything but.

You referred today, as I did last week, about the number of people — now 11,000 people — waiting on the Pension Appeal Board, who are looking for pensions for disabilities. This is a horrendous number of people who are waiting. These are Canadians without a lot of money.

What I also discovered today, which was in my local paper in Nova Scotia, in relation to the EI Appeals Board is that — and as you know, the local EI appeal boards were taken away and it is now this central tribunal with 74 full-time bureaucrats who are getting good salaries. We found out that the number of complaints about the EI appeal process has risen from 444 in 2007 to almost 10,000 people last year who were waiting more than four weeks to hear their appeal.

People are now waiting for more than four weeks — because of this new tribunal that was supposed to really speed things up and was supposed to be the be all and end all. We found out that last year there were 90,000 people who waited more than four weeks for their EI decision. That's double the number of people who waited in 2010. I see the statistics from the Pension Appeal Board, where the number of people waiting for a decision has doubled to 11,000 people since the appeal board was brought in. I see 90,000 EI claimants who are now waiting more than four weeks, which is double from what it was before this tribunal came in. And I see the number of complaints made by Canadians about the EI appeal process, which has gone from 444 in 2007 to almost 10,000 last year. In this omnibus bill they are now asking for unlimited funds to bring in people to try and make this right. This new tribunal is a disaster for Canadians. Would you not agree with that?

Senator Day: Thank you very much for that question.

I know that you, Senator Cordy, have put a lot of work into this particular area. What I'm reading from what is being proposed here is — and then there is the article that I mentioned to you that 40 adjudicators are making over $100,000 a year and sat home for most of the year because it wasn't organized — that there is definitely a problem and the minister has acknowledged that there is a problem.

The question is: Will he try to fix it by throwing money and hiring more adjudicators to do the work? What has to be done is to take a look at the systemic, the basic concept, which is that instead of four or five different specialized tribunals, Employment Insurance, et cetera, was to save money by

moving them altogether and then each of the 74 adjudicators allowed would be able to deal with any one of issues that might come before it. This would be any one of the five or six different statutes with all the different pieces of legislation that they would have to be familiar with. And they found out that they are not able to do that and what is happening is that there is an informal movement toward specialization, within the new tribunal.

That's a clear indication that this concept is not working. I'm sorry, I'm interrupting you.

Senator Cordy: In the Finance Committee, would you not think that when we had the regional Pension Appeal Boards, for example, in the Halifax region people would go to a government office in Halifax, have their appeal heard by Nova Scotians, who understand the situation and they would speak to them in person. There is nothing better than looking somebody in the eye and presenting your case. With the EI appeal boards it would be the same thing. They would go to the office in Halifax, eye to eye, explain their case, not in the formal way, but just in the way the appeal board members wanted to hear, about why they feel that they should be receiving their Employment Insurance benefits.

Would you agree from the perspective of better service to Canadians certainly a more cost-effective way of dealing with pension appeals for those with disabilities and Employment Insurance claims would be having them in the regions? In light of what is happening two years later, it would certainly have been a much more cost-effective way of dealing with this.

Senator Day: Thank you for the question.

I agree wholeheartedly with you. I can't help but draw a parallel with the government action in relation to Veterans Affairs, where all those offices were closed and they said, "Not to worry, the claims for veterans will all be dealt with through the service centres. They know how to deal with everything." The announcement yesterday was that Veterans Affairs is hiring as many people as they can find to act as case managers because of the backlog. And that is exactly the same situation with respect to this Social Security Tribunal. It's not working. It was not a good concept, and we should, as they would say in Newfoundland, cut bait and get on with things.

From:
Sent: July 9, 2020 8:00 AM
To
Cc: Crampton, Paul <Paul.Crampton@fct-cf.ca>;

Dear Furlanetto,

Please be advised that the Respondent, his firm and Counsel will not refer to you by the colonial title 'Prothonotary' as such term refers to the Catholic Church and the role of the recorder of slave deeds and other instruments of slavery. The Respondent respectfully requests that the title no longer be used by Furlanetto or Federal Court of Canada. Referring to themselves as such or members of the Court is evidence of systemic racism that must be addressed in the Federal Court of Canada/ Courts.

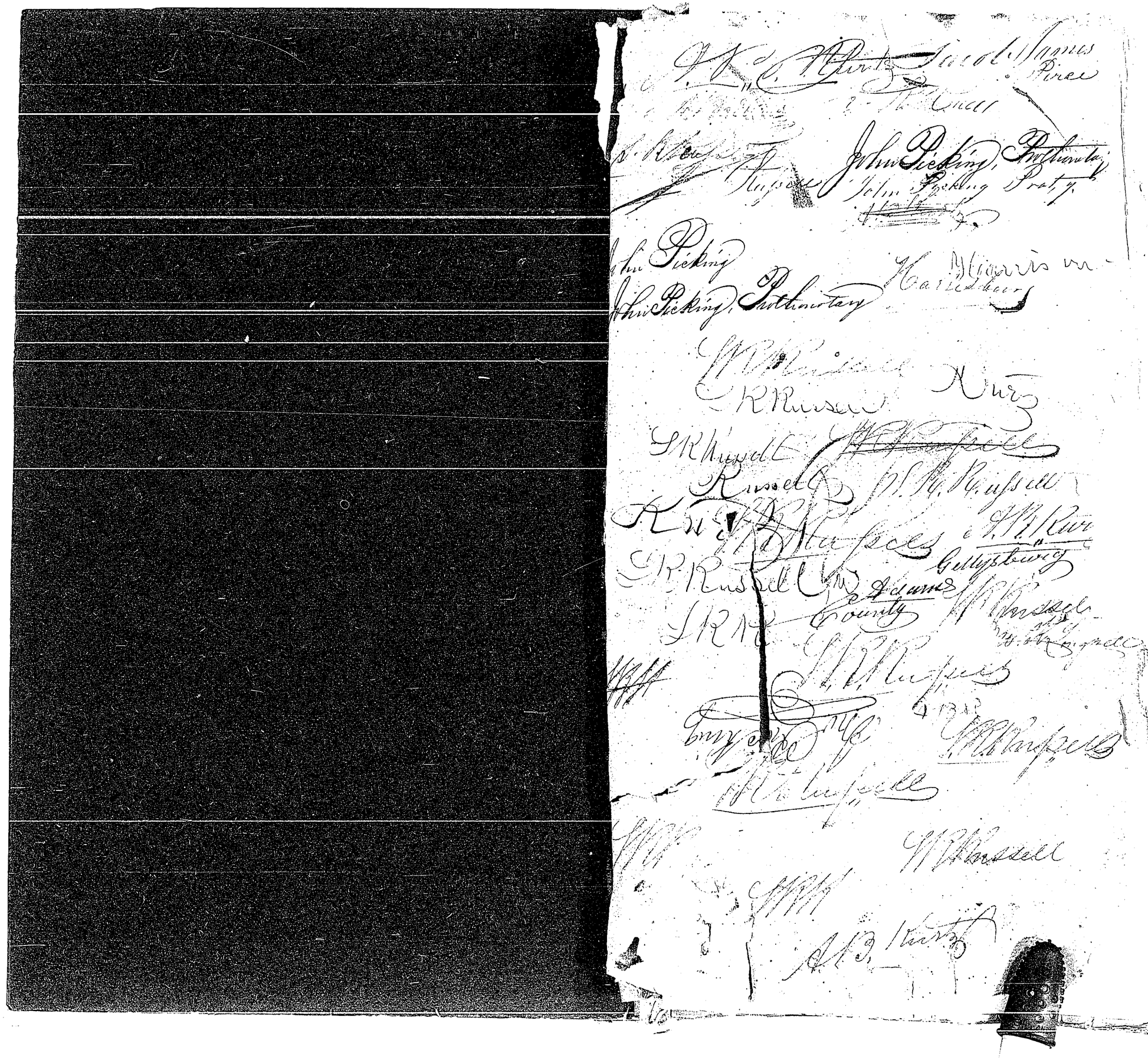
Alternative titles may be used, should the Federal Court of Canada provide alternative titles for use.

The Respondent did not …[REDACTED].

RG-47 - Records of the County Governments

- **Adams County, Prothonotary**
  - **Register of Negroes and Mulattoes, 1800-1820.** [Images] Grouped alphabetically by surname of slave owner and thereunder chronologically by date of registration. This register is a record of children born to slaves in Adams County. Information provided for each child includes name, occupation, and place of residence of the slave owner; name, date of birth, and gender of the child; whether negro or mulatto; and the date registered
- **Bedford County, Prothonotary**
  - **Record of Negro Mulatto Slaves, 1780, 1798.** [Images] Arranged chronologically by date the slave was registered. This roll documents slaves held in Bedford County. Information provided by each entry generally includes name and occupation of slave owner; slave's name, age, and length of servitude; the classification "negro" or "mulatto," and the date registered.
  - **Record of Negro and Mulatto Children, 1821-1825, 1828.** [Images] Arranged chronologically by date register was filed. Register of children who were born into slavery. Information provided for each child includes name and occupation of owner, date of birth, name of child and mother, date return was filed and date petition was filed with the Quarter Session Court.
  - **Record of Negro and Mulatto Children and Miscellaneous Slave Records, [ca. 1780-1834].** [Images] Arranged chronologically by date of document. Petitions to keep the services of slaves past age twenty-eight; certificates of claim to runaway slaves; court orders to remove runaway slaves; a bill of sale; an apprentice indenture; and a record of "negro" and "mulatto" children registered.
- **Bucks County, Prothonotary**
  - Register of Slaves, [ca. 1783-1830]. [Images] This volume documents the births of "negro" or "mulatto" children born to slave mothers. Information provided about each child includes name, occupation, and township of residence of the slave owner; name, gender, and either the age or date of birth of the child; and the date registered. This volume also contains records of manumissions, which may include information regarding names of the individuals, dates slaves were set free, physical descriptions, and circumstances regarding emancipation.
- **Centre County, Prothonotary**
  - **Birth Returns for Negroes and Mulattoes, 1803-1820.** [Images] Unarranged. A record of slaves born in Centre County. Information includes the name of the slave and slave owner; his occupation of slave owner and township. One document records: "One male mulatto child named Peter, born on the twenty second of March one thousand eight hundred and three," signed by owner James Rankin. The document further states "Chester County, Pennsylvania: Before me

Richard Miles, Esquire, Clerk of the Court of General Quarter Session at the Peace of Said County appeared James Rankin of Potters Township, farmer, being duly sworn according to law deposith and saith that on the twenty second day of March one thousand eight hundred and three his negroe wench named Sall was delivered of a male mulatto child he calls by the name of Peter."



For Jeremiah Diehl for Daniel Diehl

Henry Reily

Saml Fahnestock's County Bond

Jacob Myers

John Haines

Joseph L Shoch
per Samuel L Shoch

James McElvain
per John McElvain

Daniel Ehler
per J. Kuhn

Names of Negroes Mulattoes	When born	Sexes	When Entered
Joe	July 15th 1801	Male	Entd 25th May 1801
Betty Mulattoe	January 1. 1802.	female	" March 15. 1802
Nelly black	April 14. 1803	female	July 14th 1803
Liviah Mulattoe	May 10th 1804	female	October 10th 1804
Peter black	Dec. 29th 1806	male	April 21st 1807
Jesse mulatto	Aug. 7th 1809	male	Oct. 27th 1809
Jenny black	Nov. 3th 1811	female	December 6th 1811
Mades Mulatto	Jan 7th 1813	male	April 8th 1813
Irena Mulattoe	March 3. 1820	female	Aug. 9th 1820

Le gouvernement du Canada annonce la nomination d'une protonotaire de la Cour fédérale

De : Ministère de la Justice Canada

Communiqué de presse

Le 19 décembre 2017 – Ottawa (Ontario) – Ministère de la Justice Canada

L'honorable Jody Wilson-Raybould, ministre de la Justice et procureur général du Canada, a annoncé aujourd'hui que **Kathleen Marie Ring**, avocate générale au ministère de la Justice du Canada, est nommée protonotaire de la Cour fédérale. Elle remplace monsieur le juge R.R. Lafrenière, qui a été nommé juge de la Cour fédérale le 8 juin 2017.

Biographie

Avant sa nomination, madame la protonotaire Kathleen Marie Ring était avocate générale au ministère de la Justice du Canada à Vancouver, où elle exerçait principalement dans les domaines du droit des Autochtones et des recours collectifs.

La protonotaire Ring est titulaire d'un diplôme en droit avec mention de l'Université de la Saskatchewan, obtenu en 1984. Elle a été reçue au Barreau de la Saskatchewan en 1985 et au Barreau de la Colombie-Britannique en 1992.

La protonotaire Ring a commencé sa carrière juridique à Saskatoon en 1984, au sein du cabinet Gauley & Company (maintenant McDougall Gauley), où elle s'est engagée dans la pratique générale du contentieux des affaires civiles. En 1993, elle a été conseillère juridique à la Commission des droits de la personne de la Saskatchewan. Elle s'est jointe au ministère de la Justice en 1994, et elle a comparu comme avocate représentant le procureur général du Canada dans diverses affaires complexes concernant le droit des Autochtones, le droit administratif et le droit constitutionnel. Elle a comparu devant des tribunaux de première instance et d'appel ainsi que plusieurs commissions et tribunaux.

La protonotaire Ring a été représentante du ministère de la Justice au sein du Comité de liaison du Barreau autochtone de la Cour fédérale, de sa mise sur pied en 2005 jusqu'à 2013, et elle a participé à l'élaboration des Lignes directrices sur la pratique en matière de litiges intéressant les Autochtones de la Cour fédérale. Elle a également coprésidé le groupe de pratique devant les cours fédérales du ministère de la Justice à Vancouver. Elle a souvent présenté des exposés à des conférences juridiques et à des activités de formation en cours d'emploi et elle est l'auteure du chapitre « The Crown as a Fiduciary » dans l'ouvrage *Government Liability: Law and Practice*.

Faits en bref

- L'annonce d'aujourd'hui porte à 100 le nombre de nominations judiciaires effectuées cette année, ce qui constitue le nombre le plus élevé de nominations judiciaires faites en une année par un ministre de la Justice au cours de la dernière décennie.
- Parmi les personnes nommées, la moitié sont des femmes, quatre sont Autochtones et seize se sont autoidentifiées comme étant membres d'une minorité visible, LGBTQ2 ou vivant avec un handicap.

- Les protonotaires sont des fonctionnaires de la Cour fédérale. Ils ont compétence sur un certain nombre de questions procédurales et de fond, comme le prévoient les *Règles des Cours fédérales*.
- Leurs fonctions comprennent généralement la gestion des instances, l'instruction des requêtes interlocutoires et les médiations. Ils peuvent aussi présider des procès à l'égard de réclamations de 50 000 $ ou moins.
- À l’heure actuelle, les protonotaires sont établis dans les grands centres du pays (Vancouver, Toronto, Ottawa et Montréal), où ils président chacune des séances hebdomadaires d'audition des requêtes par la Cour. Ils sont aussi appelés à se déplacer partout au pays, selon les besoins.

Personnes-ressources

Pour de plus amples renseignements, les médias peuvent communiquer avec :

Kathleen Davis

Conseillère aux communications et aux affaires parlementaires

Cabinet de la ministre de la Justice

613-992-4621

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Ministère de la Justice Canada

613-957-4207

media@justice.gc.ca

Recherche d'information connexe par mot-clés: LW Droit | Ministère de la Justice Canada | Canada | Justice | grand public | communiqués de presse

Date de modification :
2017-12-19

Government of Canada announces Federal Court prothonotary appointment

From: Department of Justice Canada

News release

May 4, 2018 – Ottawa, Ontario – Department of Justice Canada

The Honourable Jody Wilson-Raybould, Minister of Justice and Attorney General of Canada, today announced that **Alexandra Steele**, a lawyer with ROBIC LLP, is appointed a prothonotary of the Federal Court, effective May 15, 2018. She replaces Prothonotary Richard Morneau, who has elected to retire effective May 15, 2018.

Biography

Prior to her nomination, **Madam Prothonotary Alexandra Steele** was an attorney with the firm of ROBIC LLP in Montreal, where she practiced in the area of intellectual property law.

Prothonotary Steele received her law degree in 1997 from the University of Montreal and was admitted to the Quebec Bar in 1998. After initially engaging in the practice of family law, she joined ROBIC LLP in 2001, where she specialized in litigation involving patents, trademarks, copyright, industrial designs and unfair competition. She has appeared before both the trial and

appellate levels of the Quebec Courts and the Federal Courts, as well as before the Copyright Board. She also became an accredited civil and commercial law mediator with the Quebec Bar in 2014.

Prothonotary Steele has been active with numerous professional organisations in Canada and abroad. She was notably a member of Council of the Intellectual Property Institute of Canada (IPIC) and chaired the National Intellectual Property Section of the Canadian Bar Association. She was also one of the original members of the Federal Court IP Users Group, as well as a member of the Liaison Committee of the Montreal Bar with the Federal Court of Appeal and the Federal Court.

Fluently bilingual, Prothonotary Steele has been a frequent presenter at legal conferences on intellectual property law and advocacy. She has published several articles, including for the *Développements récents* and the *Cahiers de propriété intellectuelle* collections, as well as authored and co-authored chapters in *JurisClasseur Québec – Propriété intellectuelle*, *Intellectual Property Litigation: Forms and Precedents* and *Canadian Patent Law Benchbook*.

Quick Facts

- Prothonotaries are judicial officers of the Federal Court. They have jurisdiction over a number of procedural and substantive matters, as provided in the *Federal Courts Rules*.
- Their duties generally include case management, interlocutory motion hearings, and mediations. They can also conduct trials for claims of $50,000 or less.
- Currently, prothonotaries reside in major centres across the country – in Vancouver, Toronto, Ottawa, and Montreal – where they preside over each of the Court's weekly motions courts. They also travel across the country as required.

- In 2017, the Minister of Justice made 100 appointments and elevations – the most a Minister of Justice has made in one year in at least two decades. Of these appointees, half are women, four are Indigenous, and 16 have self-identified as a member of a visible minority population, LGBTQ2, or a person with a disability.
- The Government of Canada is committed to promoting access to justice for all Canadians. To improve outcomes for Canadian families, Budget 2018 proposes $77.2 million over four years to support the expansion of unified family courts, beginning in 2019-2020. This investment in the family justice system will create 39 new judicial positions in Alberta, Ontario, Nova Scotia, and Newfoundland and Labrador.
- In addition, Budget 2018 proposes funding for a further seven judicial positions in Saskatchewan and Ontario, at a cost of $17.1 million over five years.
- The funding outlined in Budget 2018 comes on top of resources allocated under Budget 2017, which created 28 new judicial positions across the country.
- Additionally, the Government will ensure that a robust process remains in place to allow Canadians to voice their concerns and submit complaints about judicial conduct to the Canadian Judicial Council and the Office of the Commissioner for Federal Judicial Affairs. This investment of $6 million over two years, beginning in 2018-2019, will support the judicial discipline process through which allegations of judicial misconduct are investigated.

Contacts

For more information, media may contact:

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Search for related information by keyword: LW Law | Department of Justice Canada | Canada | Justice | general public | news releases

Date modified:
2018-05-04

Le gouvernement du Canada annonce la nomination d'une protonotaire de la Cour fédérale

De : Ministère de la Justice Canada

Communiqué de presse

Le 4 mai 2018 – Ottawa (Ontario) – Ministère de la Justice Canada

L'honorable Jody Wilson-Raybould, ministre de la Justice et procureur général du Canada, a annoncé aujourd'hui qu'**Alexandra Steele**, avocate au sein du cabinet ROBIC s.e.n.c.r.l., est nommée protonotaire de la Cour fédérale à compter du 15 mai 2018. Elle remplace monsieur le protonotaire Richard Morneau, qui a choisi de prendre sa retraite le 15 mai 2018.

Biographie

Avant sa nomination, **madame la protonotaire Alexandra Steele** était avocate au sein du cabinet ROBIC à Montréal, où elle exerçait dans le domaine du droit de la propriété intellectuelle.

La protonotaire Steele est titulaire d'un baccalauréat en droit de l'Université de Montréal, obtenu en 1997, et elle a été admise au Barreau du Québec en 1998. Après avoir débuté sa carrière dans le domaine du droit familial, elle s'est jointe à ROBIC en 2001, où elle s'est spécialisée dans le contentieux en matière de brevets, de marques de commerce, de droit d'auteur, de design

industriel et de concurrence déloyale. Elle a comparu devant les tribunaux de première instance et d'appel du Québec et des cours fédérales, ainsi que devant la Commission du droit d'auteur. Depuis 2014, elle est également médiatrice accréditée par le Barreau du Québec en matière civile et commerciale.

La protonotaire Steele a œuvré auprès de nombreuses associations professionnelles au Canada et à l'étranger. Elle a notamment été membre du conseil de l'Institut de la Propriété Intellectuelle du Canada (IPIC) et présidente de la section nationale de la propriété intellectuelle de l'Association du Barreau canadien. Elle était également l'une des membres d'origine du Comité des utilisateurs de la propriété intellectuelle de la Cour fédérale et elle a été membre du Comité de liaison de la Cour fédérale d'appel et de la Cour fédérale du Barreau de Montréal.

Parfaitement bilingue, la protonotaire Steele a souvent présenté des exposés lors de conférences juridiques sur le droit et la pratique de la propriété intellectuelle. Elle a également publié plusieurs articles, notamment pour les collections *Développements récents* et *Cahiers de propriété intellectuelle*, en plus d'être l'auteure et la coauteure de chapitres de *JurisClasseur Québec – Propriété intellectuelle*, *Intellectual Property Litigation: Forms and Precedents* et *Canadian Patent Law Benchbook*.

Faits en bref

- Les protonotaires sont des fonctionnaires de la Cour fédérale. Ils ont compétence sur un certain nombre de questions procédurales et de fond, comme le prévoient les *Règles des Cours fédérales*.
- Leurs fonctions comprennent généralement la gestion des instances, l'instruction des requêtes interlocutoires et les médiations. Ils peuvent aussi présider des procès à l'égard de réclamations de 50 000 $ ou moins.

- À l’heure actuelle, les protonotaires sont établis dans les grands centres du pays (Vancouver, Toronto, Ottawa et Montréal), où ils président chacune des séances hebdomadaires d'audition des requêtes par la Cour. Ils sont aussi appelés à se déplacer partout au pays, selon les besoins.
- En 2017, la ministre de la Justice a procédé à 100 nominations et promotions, ce qui en fait le nombre le plus élevé de nominations à la magistrature faites en une année par un ministre de la Justice depuis au moins deux décennies. Parmi les personnes nommées, la moitié sont des femmes, quatre sont des Autochtones et seize se sont auto-identifiées comme étant membres d’une minorité visible, LGBTQ2 ou vivant avec un handicap.
- Le gouvernement du Canada est déterminé à favoriser l’accès à la justice pour tous les Canadiens. Afin d’améliorer les résultats pour les familles canadiennes, le budget de 2018 propose 77,2 millions de dollars sur quatre ans pour appuyer l’élargissement des tribunaux unifiés de la famille à compter de 2019-2020. Cet investissement dans le système de justice familiale créera 39 nouveaux postes de juges en Alberta, en Ontario, en Nouvelle-Écosse et à Terre-Neuve-et-Labrador.
- De plus, le budget de 2018 propose de financer sept autres postes de juges en Saskatchewan et en Ontario, ce qui coûtera 17,1 millions de dollars sur cinq ans.
- Le financement décrit dans le budget de 2018 s’ajoute aux ressources allouées dans le cadre du budget de 2017, qui ont créé 28 nouveaux postes de juges partout au pays.
- De plus, le gouvernement fera en sorte qu’un processus rigoureux reste en place de manière à permettre aux Canadiens de faire connaître leurs préoccupations et de déposer des plaintes à propos de la conduite d’un juge auprès du Conseil canadien de la magistrature et du Commissariat à la magistrature fédérale. Cet investissement de 6 millions de dollars sur

deux ans à compter de 2018-2019, soutiendra le processus disciplinaire applicable aux juges au cours duquel les allégations d’inconduite judiciaire font l’objet d’une enquête.

Personnes-ressources

Pour de plus amples renseignements, les médias peuvent communiquer avec :

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Recherche d'information connexe par mot-clés: LW Droit | Ministère de la Justice Canada | Canada | Justice | grand public | communiqués de presse

Date de modification :
2018-05-04

Federal Court		Cour fédérale

September 3, 2009

NOTICE TO THE PARTIES AND THE PROFESSION

ADDRESSING JUDICIAL OFFICERS IN COURT

It has been noted that at times confusion arises among the parties and the profession as to how to correctly address a Prothonotary of the Federal Court.

The Federal Court has recommended that the name of the office be changed from Prothonotary to Associate Judge to promote clarity and access to justice.

As an interim measure, counsel and litigants may refer to Prothonotaries as "Your Honour" or as "Mr. Prothonotary" or "Madam Prothonotary" along with the family name of the prothonotary.

Judges of the Federal Court may continue to be addressed as "Justice", "Mr. Justice" or "Madam Justice" along with the family name of the judge.

"Allan Lutfy"
Chief Justice

Judicature Act

CHAPTER 240 OF THE REVISED STATUTES, 1989

as amended by

1989, c. 20, s. 1; 1992, c. 16, ss. 30-68; 1996, c. 23, ss. 10, 11;
1997 (2nd Sess.), c. 5; 1998, c. 12, ss. 3-10; 2000, c. 28, s. 55;
2003 (2nd Sess.), c. 1, s. 26; 2008, c. 60; 2009, c. 17; 2019, c. 17

Published by Authority of the Speaker of the House of Assembly
Halifax

TRIALS AND PROCEDURES

Single judge in Supreme Court and power to decide or reserve decision

33 **(1)** Every proceeding in the Supreme Court and all business arising out of the same shall be heard, determined and disposed of before a single judge.

(2) In all such proceedings any judge sitting in court shall be deemed to constitute the Supreme Court.

(3) A judge of the Supreme Court shall decide questions coming properly before him, but may reserve any proceeding or any point in any proceeding for the consideration of the Court of Appeal. R.S., c. 240, s. 33; 1992, c. 16, s. 55.

Trials and procedure

34 Subject to rules of Court, the trials and procedure in all cases, whether of a legal or equitable nature, shall be as nearly as possible the same and the following provisions shall apply:

(a) in civil proceedings, unless the parties in person or by their counsel or solicitors consent to a trial of the issues of fact or the assessment or inquiry of damages without a jury, the issues of fact shall be tried with a jury in the following cases:

(i) where the proceeding is an action for libel, slander, criminal conversation, seduction, malicious arrest, malicious prosecution or false imprisonment,

(ii) where either of the parties in a proceeding requires the issues of fact to be tried or the damages to be assessed or inquired of with a jury and files with the prothonotary and leaves with the other party or his solicitor a notice to that effect at least sixty days before the first day of the sittings at which the issues are to be tried or the damages assessed or inquired of, except that, upon an application to the Supreme Court or to a judge made before the trial or by the direction of the judge at the trial, such issues may be tried or such damages assessed or inquired of by a judge without a jury, notwithstanding such notice,

(iii) where the judge at the trial in his discretion directs that the issues of fact shall be tried or the damages assessed or inquired of with a jury;

(b) in all other cases the issues of fact or the assessment or inquiry of damages in civil proceedings shall be tried, heard and determined and judgment given by a judge without a jury;

(c) if in any proceeding both legal and equitable issues are raised, they shall be heard and determined at the same time, unless the Supreme Court or a judge, or the judge at the trial, otherwise directs or unless under the foregoing provisions of this Section either of the parties requires that the legal issues of fact be tried with a jury;

(d) upon the hearing of any proceeding, the presiding judge may, of his own motion or by consent of the parties, reserve judgment until a future day, not later than six months from the day of reserving judgment, and his judgment whenever given shall be considered as if given at the time of the hearing and shall be filed with the prothonotary of the Supreme Court for the county in which the hearing was tried, who shall immediately give notice in writing to the parties to the cause or their respective solicitors that such judgment has been filed, and each of the parties shall have and exercise, within twenty days, or within such further time as the Supreme Court may order, from the service of such notice, all such rights as he possessed or might have exercised if judgment had been given on the hearing of the proceeding;

(e) upon any trial with a jury of any proceeding except a proceeding for libel, the jury shall, if so directed by the judge, give a special verdict, and if not so directed may give either a general or a special verdict;

(f) upon a trial with a jury of any proceeding, except a proceeding for libel, slander, criminal conversation, seduction, malicious arrest, malicious prosecution or false imprisonment,

(i) the judge, instead of directing the jury to give either a general or a special verdict, may direct the jury to answer any questions of fact raised by the issues,

(ii) such questions may be stated to them by the judge, and counsel may require the judge to direct the jury to answer any other questions raised by the issues or necessary to be answered by the jury in order to obtain a complete determination of all matters involved in the proceeding,

(iii) the jury shall answer such questions and shall not give any verdict and the judge shall give a judgment in the proceeding not inconsistent with the answers of the jury to such questions,

(iv) if the judge refuses to direct the jury to answer any questions which counsel requires him to submit to them, such refusal may be used as a ground for a new trial. R.S., c. 240, s. 34; 1992, c. 16, s. 56.

Assessor to assist Court

35 (1) Subject to the Rules, the Court may, in any proceeding in which it deems it expedient, call in the aid of one or more assessors specially qualified and try and hear such proceeding wholly or in part with the assistance of such assessor or assessors.

(2) The remuneration, if any, to be paid by any party to such assessor shall be determined by the Court. R.S., c. 240, s. 35.

Interpretation of Sections 35B to 35H

35A In Sections 35B to 35H,

(b) reasonable attempts have been made to notify the persons or the trade union affected by the application. R.S., c. 240, s. 44; 1992, c. 16, s. 64.

Exemption from seizure under execution

45 **(1)** The following articles are exempt from seizure under execution:

(a) the wearing apparel and household furnishings and furniture which are reasonably necessary for the debtor and his family;

(b) all fuel and food reasonably necessary for the ordinary use of the family;

(c) all grain and other seeds, and all cattle, hogs, fowl, sheep and other livestock which are reasonably necessary for the domestic use of the debtor and his family;

(d) all medical and health aids reasonably necessary for the debtor and his family;

(e) such farm equipment, fishing nets, tools and implements of, or other chattels, as are used in the debtor's chief occupation, not exceeding in aggregate value the sum determined by the Governor in Council;

(f) one motor vehicle not exceeding in aggregate value the sum of three thousand dollars or such sum as may be determined by the Governor in Council.

(2) For greater certainty, subsection (1) does not affect the rights of a person secured by a duly filed agreement for hire, lease, chattel, conditional sale or charge, other than a floating charge, on a chattel to secure the payment of money or the performance of an obligation and acting pursuant to that agreement, lease, contract, conditional sale or charge, other than a floating charge, on a chattel to secure the payment of money or the performance of an obligation.

(3) The Governor in Council may make regulations determining the aggregate value of chattels used in the debtor's chief occupation and of the motor vehicle actually used in the course of and required for the debtor's full-time occupation, which are exempt from seizure pursuant to this Section.

(4) The exercise by the Governor in Council of the authority contained in subsection (3) shall be regulations within the meaning of the *Regulations Act*. R.S., c. 240, s. 45.

Interpretation of Sections 45B to 45E

45A In Sections 45B to 45E,

(a) "clerk of the court" means

(i) for the Supreme Court, the prothonotary,

(ii) for the Supreme Court (Family Division), a court officer, or

(iii) for the Court of Appeal, the Registrar;

(b) "court" means the Supreme Court or the Court of Appeal. 2009, c. 17, s. 1.

Order against proceeding without leave

45B (1) Where a court is satisfied that a person has habitually, persistently and without reasonable grounds, started a vexatious proceeding or conducted a proceeding in a vexatious manner in the court, the court may make an order restraining the person from

(a) starting a further proceeding on the person's own behalf or on behalf of another person;

(b) continuing to conduct a proceeding,

without leave of the court.

(2) The court may make the order apply to a spokesperson or agent of a party or to any other person specified by the court who in the opinion of the court is associated with the person against whom the order is made.

(3) Notice of a motion for an order under subsection (1) or (2) must be given to the Minister of Justice and Attorney General, except when the Minister is a party to the proceeding in respect of which the motion is made.

(4) A motion for an order under subsection (1) or (2) may be made by the party against whom the vexatious litigation has been started or conducted, a clerk of the court or, with leave of the court, any other person.

(5) An order may not be made against counsel of record or a lawyer who substitutes for counsel of record. 2009, c. 17, s. 1.

Appeal

45C A person against whom an order has been made under subsection (1) or (2) of Section 45B by the Supreme Court or a judge of the Court of Appeal may appeal the order to the Court of Appeal. 2009, c. 17, s. 1.

Leave to start or continue proceeding

45D (1) A person against whom an order has been made under subsection (1) or (2) of Section 45B may make a motion for leave to start or continue a proceeding and, where a court is satisfied that the proceeding is not an abuse of process and is based on reasonable grounds, the court may grant leave on such terms as the court determines.

power is expressly excluded with respect to such Act or any provision thereof. R.S., c. 240, s. 49.

Extension of time

50 Where an enactment authorizes an appeal to the Supreme Court or the Court of Appeal and prescribes a time period during which

(a) the appeal is to be commenced;

(b) an application for leave to appeal is to be made;

(c) a notice is to be given; or

(d) any other procedural step preliminary to the appeal is to be taken,

the judges of the Court may make rules respecting extension of the time period, notwithstanding that the time period has expired. R.S., c. 240, s. 50; 1992, c. 16, s. 66.

Tabling of rules

51 All rules made in pursuance of this Act shall be laid before the House of Assembly within twenty days next after the same are made, if the Legislature is then sitting, or, if the Legislature is not then sitting, within twenty days after the meeting of the Legislature next after such rules are made, and, if an address praying that any such rules may be cancelled is presented to the Lieutenant Governor by the Assembly within thirty days during which the Legislature has been sitting next after such rules are laid before it, the Governor in Council may thereupon, by order in council, annul the same and the rules so annulled shall thenceforth become void and of no effect but without prejudice to the validity of any proceeding which in the meantime has been taken under the same. R.S., c. 240, s. 51.

GENERAL PROVISIONS

Officers of Court directed by Rules

52 Subject to any order in that behalf, the business to be performed in the Court or in the chambers of any judge thereof, other than that performed by the judges, shall be distributed among the several officers attached to the Court, in such manner as is directed by the Rules and the officers shall perform such duties in relation to the business as is directed by the Rules and subject to such Rules, all officers respectively shall continue to perform the same duties, as nearly as may be, and in the same manner, as before this Act came into force. R.S., c. 240, s. 52.

Referees

53 Subject to the Rules, the prothonotaries and clerks of the Crown shall be official referees for the trial of such questions as are directed to be tried by such officer and the Governor in Council may, if necessary, appoint additional official referees. R.S., c. 240, s. 53; 1992, c. 16, s. 67.

Ottawa asks court to ignore experts' affidavits

MARK HUME
VANCOUVER
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The federal government yesterday tried to block the evidence of several witnesses - including that offered by renowned fisheries scientists who recently worked as consultants to Ottawa - in a case that questions the Conservatives' commitment to the Species At Risk Act.

By rejecting experts whom it recently regarded as top environmental advisers, describing them as biased and irrelevant, Ottawa is trying to head off a sweeping legal review of endangered-species recovery plans drafted under SARA.

In an application, Marja Bulmer, a lawyer for the Department of Justice, asked the Federal Court of Canada to strike affidavits filed by Ecojustice on behalf of three environmental groups that are seeking a judicial review of a recovery strategy for a tiny, endangered minnow known as the Nooksack dace.

Found in Canada in only a handful of streams in British Columbia, the Nooksack dace is facing extinction as its habitat is steadily being eroded by development in the Fraser Valley.

Ecojustice filed affidavits that allege the Ministry of Fisheries and Oceans deliberately did not identify critical habitat in the Nooksack dace plan, even though biologists know exactly where that habitat is.

It claims the government, which must come up with recovery plans for approximately 200 endangered species in Canada, has fallen into a pattern of drafting strategies that effectively do nothing because they do not identify critical habitat.

Among the affidavits challenged was one filed by Mike Pearson, a consulting biologist in B.C. who specializes in the management of species at risk and who was hired by Fisheries and Oceans to help draft the Nooksack dace recovery plan.

Also objected to were affidavits by Eric Taylor, a professor of zoology at the University of British Columbia, where he is curator of one of the largest fish collections in Canada, and Don McPhail, a professor emeritus from UBC whose definitive book, *The Freshwater Fishes of British Columbia*, is based on 40 years of field research. Dr. McPhail was also a member of the government's Nooksack Dace Recovery Team.

"I agree with Mike Pearson when he states that that the Recovery Team were able to identify the quantity and location of critical habitat needed for survival of the Nooksack dace," Dr. McPhail states in his affidavit.

"I also agree with Mike Pearson ... when he says that what DFO has done with the Final Recovery Strategy for the Nooksack dace in Canada is to remove the specific delineation of critical habitat (specific location and map), leaving only a description of attributes of critical habitat. That is, they describe what critical habitat looks like but not where it is."

But Ms. Bulmer told the court that all or parts of the affidavits should be struck "on the basis that they contain clearly irrelevant or otherwise inadmissible evidence."

She said the affidavits are biased, and so broad in scope the government would be forced to do exhaustive work - interviewing officials across Canada and reviewing masses of documents - in order to reply to all the claims.

"Most of the evidence sought to be excluded relates to various other decisions of federal decision-makers; the government's general track record in the protection of species at risk; statements about the status of species in Canada and globally; and the affiants' personal views, interpretation and speculation about various provisions and purposes of SARA," Ms. Bulmer states in a written argument.

Ms. Bulmer said that if allowed to stand, the affidavits could force Federal Court to conduct a far-reaching review of government policy that would be better suited to a royal commission.

But Roger Lafrenière, prothonotary (chief clerk) of the Federal Court, stressed the need to allow a judge to hear a wealth of information. He ruled the bulk of the material could stand.

"The applicants want to put as much information before the court as they can in what they view as a precedent-setting case," he said.

Mr. Lafrenière said, however, it was clear some of the material in the affidavits was too broadly cast, and he asked Ms. Bulmer and Devon Page, the lawyer for Ecojustice, to see whether they could agree on trimming the material.

After a short break, the two lawyers agreed to remove some paragraphs.

Mr. Page said "statements of opinion were edited out, but the bulk of the material stays in."

A date has not yet been set for the full hearing.

PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

JUDICATURE ACT

PLEASE NOTE

This document, prepared by the ***Legislative Counsel Office***, is an office consolidation of this Act, current to March 1, 2021. It is intended for information and reference purposes only.

This document is ***not*** the official version of the Act. The Act and the amendments as printed under the authority of the Queen's Printer for the province should be consulted to determine the authoritative statement of the law.

For more information concerning the history of this Act, please see the ***Table of Public Acts*** on the Prince Edward Island Government web site (www.princeedwardisland.ca).

If you find any errors or omissions in this consolidation, please contact:

Legislative Counsel Office
Tel: (902) 368-4292
Email: legislation@gov.pe.ca

Referral to a panel

(3) A single judge of the Court of Appeal may, instead of hearing and deciding an application or motion in the Court of Appeal, refer the application or motion to a panel of the Court of Appeal.

Decision of single judge may be appealed

(4) A decision made by a single judge of the Court of Appeal under subsection (2) may be appealed to a panel of the Court of Appeal who may dismiss the appeal or set aside or vary the decision of the single judge.

Presiding judge

(5) Where the Chief Justice of Prince Edward Island is not on a panel of the Court of Appeal, the senior judge on the panel from the Court of Appeal who is present and able to act shall preside. *2008,c.20,s.6.*

7. Reference to Appeal Division

(1) The Lieutenant Governor in Council may refer any question to the Court of Appeal for hearing and consideration.

Opinion of court

(2) The Court of Appeal shall certify its opinion on the question to the Lieutenant Governor in Council, accompanied by a statement of the reasons therefor, and any judge who differs from the opinion may in like manner certify his or her opinion and reasons.

Submissions by Minister of Justice and Public Safety and Attorney General

(3) On the hearing of the question, the Minister of Justice and Public Safety and Attorney General of Prince Edward Island is entitled to make submissions to the Court of Appeal.

Notification of Attorney General of PEI

(4) Where a question referred under this section relates to the constitutional validity or constitutional applicability of an Act of Parliament or the Legislative Assembly, or of a regulation or bylaw made thereunder, the Attorney General of Canada shall be notified and is entitled to make submissions to the Court of Appeal.

Notice

(5) The Court of Appeal may direct that any person interested, or any one or more persons as representatives of a class of persons interested, in a question referred under this section be notified of the hearing to be held in respect of the question and be entitled to make submissions to the Court of Appeal on the question.

Appointment of counsel

(6) Where any person interested in a question referred under this section, or a representative of a class of persons interested, is not represented by legal counsel, the Court of Appeal may request the Minister of Justice and Public Safety and Attorney General of Prince Edward Island to appoint legal counsel to argue on behalf of the person or class interested, and the reasonable expenses thereof shall be paid out of the Operating Fund.

Appeal

(7) The opinion of the Court of Appeal upon a question is deemed to be an order of the Court of Appeal, and an appeal shall lie therefrom as from an order in an action. *2008,c.20,s.7; 2010,c.14,s.3; 2012,c.17,s.2; 2015,c.28,s.3.*

TABLES DE CONCORDANCE

Notes explicatives :
Code civil du Québec : C.c.Q.
Règlement de la Cour du Québec : R.C.Q.
Règlement de procédure civile (Cour supérieure) : R.p.c. (C.S.)
Règlement de procédure en matière familiale (Cour supérieure) : R.p.m.f. (C.S.)
Règles de la Cour d'appel du Québec en matière civile : R.C.a.Q.m.c.

Nouveau Code – Code antérieur

Nouveau Code	Code antérieur
8	22, 23, 24
9	4.1, 4.3, 234, 235
10	5, 468
11	13 ; 2 R.p.c. (C.S.) ; 3, 4 R.C.Q.
12	13, 815.4
13	13
14	14, 15 ; 20 R.C.a.Q.m.c. ; 38 R.p.c. (C.S.) ; 12 R.C.Q.
15	13, 815.4
16	13, 815.4 ; 3 R.p.c. (C.S.) ; 19 R.C.Q.
17	5
18	4.1, 4.2
19	4.1
21	302
22	417, 418
23	56, 59
24	16, 17, 299
25	2, 20
26	45.2 R.p.c. (C.S.)
27	20.1
29	25
30	26, 26.0.1, 26.1, 27
31	29, 511
33	31, 751, 1000
34	33, 94.2, 100
35	34, 67
36	35, 36
37	36.1
38	36.2
39	940.2

Nouveau Code	Code antérieur
40	30
41	68, 73, 75
42	68, 73, 801, 804, 805, 809
43	69
44	70.2, 872, 877, 884.1
45	70, 70.1
46	74, 809, 887, 892
47	71, 71.1
48	75.0.1
49	46
50	815, 815.1, 863.1, 863.2
51	54.1
52	54.2
53	54.3
54	54.4
55	54.5
56	54.6, 478
57	49
58	50, 761
59	53
60	52, 53
61	53.1, 54
62	51, 52, 54, 761
63	47
64	47, 48, 48.1
65	48, 48.1
66	4
67	4, 44
68	4, 19, 38
69	4, 40

Nouveau Code	Code antérieur
70	41, 45
71	39, 41
72	44.1, 45, 814.1
73	774, 808, 863, 865, 865.6
74	42, 44.1, 863
76	95, 96
77	95, 96, 98
78	95.1
79	97, 98, 99, 492
80	94.9, 94.10
81	94.2, 100
82	6, 11, 12
83	7, 8
84	9
85	55
86	62
87	59, 61, 1049
88	61, 959
89	59
90	394.1, 878.1
91	59
92	56
93	59, 60, 115
94	115
95	111.1
96	94.1, 94.3
97	116
98	118
99	76, 77, 111
100	111.1
101	88
102	85, 86, 87
103	112
105	4 par. 4, 91, 92, 93
106	93.1, 754.1, 835.3
107	78, 112, 113, 148
108	83, 331.9
109	128, 146.1
110	146.1, 146.2, 146.3
111	141, 142
112	138, 139, 495

Nouveau Code	Code antérieur
113	82.1
114	82.1
115	126
116	123, 124, 125, 138
117	120, 122
118	122
119	144, 145
120	138, 144, 145
121	115, 135, 135.1, 877, 884.1
122	127
123	135.1, 779
124	123, 134
125	129, 130, 132, 132.1
126	94.4
127	132, 133
128	63, 123
130	140
131	140, 146
132	146.1
133	82.1, 146.0.1
134	146.0.1, 146.0.2
135	138
136	139
137	139
138	139, 146
139	123
140	79, 114, 124
141	110
142	453
143	66, 67, 111, 448
144	66
145	119
146	119
148	151.1
149	151.1
150	151.2, 151.3, 151.7
151	151.1
153	151.6, 151.8
154	151.5, 151.6, 151.8
155	151.9
157	151.11, 151.12, 151.13

Nouveau Code	Code antérieur
158	151.6
159	151.7
160	394.1, 394.2
161	151.14, 151.15
162	151.16
163	151.16, 151.17, 151.19, 151.21
164	151.17, 151.18, 151.20
165	151.22, 151.23
166	151.5, 159, 184
167	163, 164
168	165, 166, 167
169	168, 169
170	172, 175, 183
171	175.1, 175.2, 175.3
172	172
173	110.1, 274, 274.3
174	274.1, 274.2
175	192
176	192
177	110.1, 274.3
178	278
179	279
180	94.6, 94.7, 193
181	194
182	196
183	197
184	208, 211, 216
185	209, 210, 211
186	210
187	211
188	217
189	219, 220
190	222
191	243, 244, 245, 247
192	248, 250, 251, 252
194	249, 253
195	253.1
196	254
197	255, 256
198	257
199	116

Nouveau Code	Code antérieur
200	258, 259
201	236, 237, 242
202	234
203	235
204	237, 239
205	238, 239, 240, 241
206	199, 262
207	200, 206, 262, 263
208	204, 205
209	452
210	67, 270, 271, 272
211	273.1, 273.2
212	273
213	151.10, 262, 263, 264
214	264.1
215	189, 190, 191
216	189.1
217	151.10, 457, 458
218	459, 460
219	461
220	151.10
221	396.2, 397, 398, 405
222	93
223	396, 405, 406, 407, 408, 410
224	409, 412
225	411, 413
226	397, 398
227	395, 398.1, 398.2
228	395, 396.3
229	396.1
230	396.4
233	422
234	414, 415, 416, 422
236	419, 420
237	417, 418, 424
238	421, 423
239	421
240	413.1
241	423
242	399
243	399

Nouveau Code	Code antérieur
244	399
245	400
246	331.3
247	331.2
248	331.4
249	331.5, 331.6
250	331.7
251	402
252	331.8
253	438, 440
254	439, 441
255	442, 446
256	444, 445
258	223
259	223.1, 224
260	228, 230
261	232, 233
262	89
263	90
264	403
265	288, 289, 291
266	285, 286
267	290
268	292
269	280, 283
270	281, 297
271	281, 321
272	302, 303
273	281.1
274	284
275	322
276	295
277	298, 299, 304
279	294, 396
280	306, 314, 315, 318
281	310
282	307
283	308
285	309
286	311, 312
287	312

Nouveau Code	Code antérieur
288	313
289	316, 317
290	394.3
291	394.4, 394.5
292	294.1
293	402.1
294	423
295	404
296	287, 426, 429, 432, 434, 435
297	395
298	305
299	296
300	324
301	325, 326, 327, 328, 329, 330, 331
302	862
303	862, 885, 886
304	863.8
305	863.6
306	862
307	885, 897, 898
308	862, 863
309	863.1, 878.3, 879, 884.4, 907
310	863, 863.2
312	863.4
313	135.1, 863.5, 876.2, 877.0.1, 887.1
315	878.1
316	863.6, 878.1
317	863.8, 890
318	863.7, 863.9, 890
319	863.11, 890
320	863.9, 863.10
321	471
322	594 C.c.Q.
323	463
324	465, 467, 983
325	465
326	464, 465, 466
327	466
328	469
329	469.1
330	777

Nouveau Code	Code antérieur
331	897, 902, 903
332	470
333	476
334	471, 472, 474
335	473, 474
336	817.2, 863.3, 883, 884.6
337	471
338	475, 520
340	477, 478.1
341	167, 323, 460, 477
343	479, 481
344	480
345	483
346	482
347	484
348	487, 488
349	489, 490
350	485, 486, 489
351	492
352	495
353	494, 495.2, 496
354	498, 784, 859
355	497, 523.1
356	496
357	494, 495.2
358	499
359	500
360	494
361	494, 760, 783, 784, 859
362	494
363	494, 510.1, 523
364	497, 501
365	501 ; 28 R.C.a.Q.m.c.
366	501
367	508.2, 508.3, 508.4
368	507.0.1
369	508.5
370	507, 507.0.1
371	66 R.C.a.Q.m.c.
372	507
373	503, 503.1, 504.1, 505, 505.1

Nouveau Code	Code antérieur
374	507.0.1
376	503.1, 505 ; 48, 49, 54, 55 R.C.a.Q.m.c.
377	496.1 ; 33 R.C.a.Q.m.c.
378	509, 509.1
379	502
380	509
381	508.1
382	508.1, 508.4
383	507.1, 512, 784, 859
384	80 R.C.a.Q.m.c.
385	83, 84 R.C.a.Q.m.c.
386	508.1, 513, 515
387	516, 522
388	517, 518
389	519
390	522, 522.1
391	780, 878, 884.4, 884.8
392	780, 878, 884.4, 884.8
393	776, 779, 864, 876.2, 877, 877.0.1, 884.1, 884.7, 886
394	876.2, 877.0.1, 877.0.2, 884.1, 884.7, 886
395	776
396	779
397	781, 782, 783
398	851, 852
399	852
400	855
402	858, 860
403	864.2
404	877, 877.0.1, 884.1, 884.6, 884.7
405	873, 874
406	877.1
407	828, 829
408	830, 831, 833
409	813
410	813.4
411	813.9
413	26, 27, 28, 29, 30 R.p.m.f. (C.S.)
414	813.10
415	815.5
416	20 R.p.m.f. (C.S.)

Nouveau Code	Code antérieur
417	814.3, 814.10
418	814.6
419	814.4, 814.5
420	815.2.1
421	815.2.1
422	815.2.1
423	815.2.2
424	814.14, 815.2.1
425	32, 33, 36 R.p.m.f. (C.S.)
426	35, 36 R.p.m.f. (C.S.)
428	38 R.p.m.f. (C.S.)
429	36 R.p.m.f. (C.S.)
430	822, 822.1
431	822.4
432	823, 823.1
433	823.3
434	823.2, 824
435	824.1
436	825
437	825.1
438	825.3
439	825.5
440	825.4
441	825.2
442	825.6, 825.7
443	825.8
444	825.9, 827.5
445	825.10, 825.11
446	825.12
447	825.13
448	825.14
449	827.7
450	827.6
451	826, 826.1
452	826.3 ; 607 C.c.Q.
453	817
454	822.2, 822.3
455	817.1
456	817.2
457	817.3
458	819, 819.1, 819.2, 819.3, 819.4

Nouveau Code	Code antérieur
459	888
460	889
461	890
462	891
463	892, 893 ; 615 C.c.Q.
464	894
465	895
466	896
467	804
468	805, 806
469	787, 788
470	789
472	790
473	791
474	794
475	793
476	809, 810, 811
477	812.1
480	796
481	797
482	799
483	800, 803
484	866
485	867, 868, 869
486	870, 871
487	871.1, 871.2
488	871.3
489	56, 57, 58
492	65, 152, 153
493	813.4.1
494	137, 138
495	198.1, 484.1
496	136
497	282, 284
499	426, 428, 430
500	429, 431
501	432
502	433
503	436, 437
507	785
508	786

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Nouveau Code	Code antérieur
509	751, 756, 759
510	752, 753, 753.1
511	752, 755, 757
512	753.1, 756
513	758
514	760
515	761
516	734.1, 737, 740
517	734
518	733
519	734.0.1
520	735, 736
521	740
522	738
523	739
524	742, 743
525	744
526	745, 750
527	885
529	33, 835.1, 838, 844, 846
530	834.1, 834.2, 835, 836
531	834.1
532	838, 840
533	841
534	842
535	843
536	953
537	954
538	955
539	956
540	976, 978, 982
541	957
542	959
543	960
544	958, 961, 962
545	962, 963
546	964
547	965
548	967
549	968
550	968

Nouveau Code	Code antérieur
551	969
552	970
553	971
554	972, 980
555	980
556	973
557	974
558	975
559	976
560	977, 979, 981
561	978
562	983
563	985
564	984
565	986, 994
566	991, 992, 994
567	993
568	989, 990
569	996
570	997
571	999, 1048
572	1001, 1004
573	1050.2
574	1002
575	1003
576	1004, 1005
578	1010
579	1006, 1046
580	1007, 1008
581	1045, 1046
582	1047
583	1011
584	1012, 1051
585	1014, 1016
586	1017, 1018
587	1019, 1020, 1021
588	1022, 1026
589	1015, 1023, 1024
590	1025
591	1027, 1030
592	1028

Nouveau Code	Code antérieur
595	1031, 1032
596	1031, 1033
597	1034, 1036
598	1035
599	1030, 1038
600	1039
601	1040
602	1041, 1042
603	1043
604	1044
605	151.16
609	151.17, 151.18, 151.20
611	151.17
612	151.19
616	827.2
617	814.7
619	827.2, 827.3, 827.4
620	944.10
622	940, 940.1, 940.3
623	940.4
624	941, 942.8
625	941.1, 941.2
626	942, 942.1
627	942.2, 942.3, 942.4
628	942.5
629	942.6
630	941.3, 942.7
631	940.5, 944
632	943, 943.1, 943.2, 944.1, 944.7
633	944.2, 944.3, 944.4, 944.6, 944.9
634	944.8
635	944.5
636	944.11
642	945.1, 945.2, 945.3, 945.4
643	945.5, 945.6, 945.7, 945.8
644	945
645	946, 946.1, 946.2, 946.3, 946.6
646	946.4, 946.5
648	947, 947.1, 947.2, 947.3, 947.4
649	940.6
651	944.10

Nouveau Code	Code antérieur
652	948, 949, 949.1, 951.2
653	950, 951.1
654	951
656	562, 568, 986
657	579, 817.4
659	563, 564, 576, 991, 992
660	547, 548
661	547, 549, 550
664	653, 654
665	652, 657, 657.1, 657.2
666	655, 655.1, 656.1
667	656
668	659
669	659.0.1
670	650, 659
671	540
672	525
673	525, 526, 527, 528, 529, 531
674	530
675	532, 533, 535
676	534
677	536, 537, 538
678	539
680	565, 580, 589, 660, 662
681	555, 573, 580.1, 580.2
682	640
684	546.1
685	610.5
686	561, 582
688	543, 544, 651
689	545, 632
690	557, 560
691	558, 559
692	565
694	552, 553
696	553
697	553.1
698	553
699	651
700	553.2
701	552

Éditions Yvon Blais, une société Thomson Reuters.

Nouveau Code	Code antérieur
702	569, 572
703	569
704	581
705	663, 665
706	571
707	590, 592, 664
708	592.2
710	672, 739
711	625, 630, 635
712	626, 632, 637, 638
713	641, 650, 651
714	649
715	639
716	636
717	634
718	641.2
719	640.1, 641.1
720	659.5, 659.6, 659.7
721	659.8, 659.9
723	617, 618
724	619
725	619.1
726	619.2
731	583, 583.1, 583.2, 583.3
732	667
733	583, 584, 608, 609
734	585
735	596, 597, 604, 627, 640.2, 641.3, 674, 675, 676, 677, 678
736	598, 627, 640.2, 679
737	599, 679
738	599
739	680
740	681

Nouveau Code	Code antérieur
741	603
742	910.1 ; 2791, 2793 C.c.Q.
743	579
745	575
746	572, 574
747	610.1
748	594, 670, 671
749	592.3, 594, 594.1, 670
751	673
752	579
753	899
754	594, 610.2, 610.3, 610.4, 670, 900
755	621
758	697
759	611.1, 696, 696.1
760	612, 698, 699, 700
761	670, 687.1
762	613, 614
763	701, 711, 908
764	723
765	910.1
766	546, 604, 615, 616, 616.1, 679, 712, 713, 714, 715, 719, 720, 724
767	716, 717, 718, 910.1
768	721, 722
769	910.2
770	616.1, 724, 725, 910.2
771	613, 614, 910, 910.3
772	647
773	643
774	644
775	645
776	647

Code antérieur – Nouveau Code

Code antérieur	Nouveau Code
2	25
4	66, 67, 68, 69
4 par. 4	115
4.1	9, 18, 19
4.2	18
4.3	9
5	10, 17
6	82
7	83
8	83
9	84
11	82
12	82
13	11, 12, 13, 15, 16
14	14
15	14
16	24
17	24
19	68
20	25
20.1	27
22	8
23	8
24	8
25	29
26	30
26.0.1	30
26.1	30
27	30
29	31
30	40
31	33
33	34, 529
34	35
35	36
36	36
36.1	37
36.2	38
38	68
39	71
40	69

Code antérieur	Nouveau Code
41	70, 71
42	74
44	67
44.1	72, 74
45	70, 72
46	49
47	63, 64
48	64, 65
48.1	64, 65
49	57
50	58
51	62
52	60, 62
53	59, 60
53.1	61
54	61, 62
54.1	51
54.2	52
54.3	53
54.4	54
54.5	55
54.6	56
55	85
56	23, 92, 489
57	489
58	489
59	23, 87, 89, 91, 93
60	93
61	87, 88
62	86
63	128
65	492
66	143, 144
67	35, 143, 210
68	41, 42
69	43
70	45
70.1	45
70.2	44
71	47
71.1	47

Éditions Yvon Blais, une société Thomson Reuters.

Code antérieur	Nouveau Code
73	41, 42
74	46
75	41
75.0.1	48
76	99
77	99
78	107
79	140
82.1	113, 114, 133
83	108
85	102
86	102
87	102
88	101
89	262
90	263
91	105
92	105
93	105, 222
93.1	106
94.1	96
94.2	34, 81
94.3	96
94.4	126
94.6	180
94.7	180
94.9	80
94.10	80
95	76, 77
95.1	78
96	76, 77
97	79
98	77, 79
99	79
100	34, 81
110	141
110.1	173, 177
111	99, 143
111.1	95, 100
112	103, 107
113	107
114	140
115	93, 94, 121

Code antérieur	Nouveau Code
116	97, 199
118	98
119	145, 146
120	117
122	117, 118
123	116, 124, 128, 139
124	116, 140
125	116
126	115
127	122
128	109
129	125
130	125
132	125, 127
132.1	125
133	127
134	124
135	121
135.1	121, 123, 313
136	496
137	494
138	112, 116, 120, 135, 494
139	112, 136, 137, 138
140	130, 131
141	111
142	111
144	119, 120
145	119, 120
146	131, 138
146.0.1	133, 134
146.0.2	134
146.1	109, 110, 132
146.2	110
146.3	110
148	107
151.1	148, 149, 151
151.2	150
151.3	150
151.5	154, 166
151.6	153, 154, 158
151.7	150, 159
151.8	153, 154
151.9	155

Éditions Yvon Blais, une société Thomson Reuters.

Code antérieur	Nouveau Code
151.10	213, 217, 220
151.11	157
151.12	157
151.13	157
151.14	161
151.15	161
151.16	162, 163, 605
151.17	163, 164, 609, 611
151.18	164, 609
151.19	163, 612
151.20	164, 609
151.21	163
151.22	165
151.23	165
152	492
153	492
159	166
163	167
164	167
165	168
166	168
167	168, 341
168	169
169	169
172	170, 172
175	170
175.1	171
175.2	171
175.3	171
183	170
184	166
189	215
189.1	216
190	215
191	215
192	175, 176
193	180
194	181
196	182
197	183
198.1	495
199	206
200	207

Code antérieur	Nouveau Code
204	208
205	208
206	207
208	184
209	185
210	185, 186
211	184, 185, 187
216	184
217	188
219	189
220	189
222	190
223	258
223.1	259
224	259
228	260
230	260
232	261
233	261
234	9, 202
235	9, 203
236	201
237	201, 204
238	205
239	204, 205
240	205
241	205
242	201
243	191
244	191
245	191
247	191
248	192
249	194
250	192
251	192
252	192
253	194
253.1	195
254	196
255	197
256	197
257	198

Code antérieur	Nouveau Code
258	200
259	200
262	206, 207, 213
263	207, 213
264	213
264.1	214
270	210
271	210
272	210
273	212
273.1	211
273.2	211
274	173
274.1	174
274.2	174
274.3	173, 177
278	178
279	179
280	269
281	270, 271
281.1	273
282	497
283	269
284	274, 497
285	266
286	266
287	296
288	265
289	265
290	267
291	265
292	268
294	279
294.1	292
295	276
296	299
297	270
298	277
299	24, 277
302	21, 272
303	272
304	277
305	298

Code antérieur	Nouveau Code
306	280
307	282
308	283
309	285
310	281
311	286
312	286, 287
313	288
314	280
315	280
316	289
317	289
318	280
321	271
322	275
323	341
324	300
325	301
326	301
327	301
328	301
329	301
330	301
331	301
331.2	247
331.3	246
331.4	248
331.5	249
331.6	249
331.7	250
331.8	252
331.9	108
394.1	90, 160
394.2	160
394.3	290
394.4	291
394.5	291
395	227, 228, 297
396	223, 279
396.1	229
396.2	221
396.3	228
396.4	230

Code antérieur	Nouveau Code
397	221, 226
398	221, 226
398.1	227
398.2	227
399	242, 243, 244
400	245
402	251
402.1	293
403	264
404	295
405	221, 223
406	223
407	223
408	223
409	224
410	223
411	225
412	224
413	225
413.1	240
414	234
415	234
416	234
417	22, 237
418	22, 237
419	236
420	236
421	238, 239
422	233, 234
423	238, 241, 294
424	237
426	296, 499
428	499
429	296, 500
430	499
431	500
432	296, 501
433	502
434	296
435	296
436	503
437	503
438	253

Code antérieur	Nouveau Code
439	254
440	253
441	254
442	255
444	256
445	256
446	255
448	143
452	209
453	142
457	217
458	217
459	218
460	218, 341
461	219
463	323
464	326
465	324, 325, 326
466	326, 327
467	324
468	10
469	328
469.1	329
470	332
471	321, 334, 337
472	334
473	335
474	334, 335
475	338
476	333
477	340, 341
478	56
478.1	340
479	343
480	344
481	343
482	346
483	345
484	347
484.1	495
485	350
486	350
487	348

Code antérieur	Nouveau Code
488	348
489	349, 350
490	349
492	79, 351
494	353, 357, 360, 361, 362, 363
495	112, 352
495.2	353, 357
496	353, 356
496.1	377
497	355, 364
498	354
499	358
500	359
501	364, 365, 366
502	379
503	373
503.1	376
504.1	373
505	373, 376
505.1	373
507	370, 372
507.0.1	368, 370, 374
507.1	383
508.1	381, 382, 386
508.2	367
508.3	367
508.4	367, 382
508.5	369
509	378, 380
509.1	378
510.1	363
511	31
512	383
513	386
515	386
516	387
517	388
518	388
519	389
520	338
522	387, 390
522.1	390
523	363

Code antérieur	Nouveau Code
523.1	355
525	672, 673
526	673
527	673
528	673
529	673
530	674
531	673
532	675
533	675
534	676
535	675
536	677
537	677
538	677
539	678
540	671
543	688
544	688
545	689
546	766
546.1	684
547	660, 661
548	660
549	661
550	661
552	694, 701
553	694, 696, 698
553.1	697
553.2	700
555	681
557	690
558	691
559	691
560	690
561	686
562	656
563	659
564	659
565	680, 692
568	656
569	702, 703
571	706

Code antérieur	Nouveau Code
572	702, 746
573	681
574	746
575	745
576	659
579	657, 743, 752
580	680
580.1	681
580.2	681
581	704
582	686
583	731, 733
583.1	731
583.2	731
583.3	731
584	733
585	734
589	680
590	707
592	707
592.2	708
592.3	749
594	748, 749, 754
594.1	749
596	735
597	735
598	736
599	737, 738
603	741
604	735, 766
608	733
609	733
610.1	747
610.2	754
610.3	754
610.4	754
610.5	685
611.1	759
612	760
613	762, 771
614	762, 771
615	766
616	766

Code antérieur	Nouveau Code
616.1	766, 770
617	723
618	723
619	724
619.1	725
619.2	726
621	755
625	711
626	712
627	735, 736
630	711
632	689, 712
634	717
635	711
636	716
637	712
638	712
639	715
640	682
640.1	719
640.2	735, 736
641	713
641.1	719
641.2	718
641.3	735
643	773
644	774
645	775
647	772, 776
649	714
650	670, 713
651	688, 699, 713
652	665
653	664
654	664
655	666
655.1	666
656	667
656.1	666
657	665
657.1	665
657.2	665
659	668, 670

Code antérieur	Nouveau Code
659.0.1	669
659.5	720
659.6	720
659.7	720
659.8	721
659.9	721
660	680
662	680
663	705
664	707
665	705
667	732
670	748, 749, 754, 761
671	748
672	710
673	751
674	735
675	735
676	735
677	735
678	735
679	736, 737, 766
680	739
681	740
687.1	761
696	759
696.1	759
697	758
698	760
699	760
700	760
701	763
711	763
712	766
713	766
714	766
715	766
716	767
717	767
718	767
719	766
720	766
721	768

Code antérieur	Nouveau Code
722	768
723	764
724	766, 770
725	770
733	518
734	517
734.0.1	519
734.1	516
735	520
736	520
737	516
738	522
739	523, 710
740	516, 521
742	524
743	524
744	525
745	526
750	526
751	33, 509
752	510, 511
753	510
753.1	510, 512
754.1	106
755	511
756	509, 512
757	511
758	513
759	509
760	361, 514
761	58, 62, 515
774	73
776	393, 395
777	330
779	123, 393, 396
780	391, 392
781	397
782	397
783	361, 397
784	354, 361, 383
785	507
786	508
787	469

Code antérieur	Nouveau Code
788	469
789	470
790	472
791	473
793	475
794	474
796	480
797	481
799	482
800	483
801	42
803	483
804	42, 467
805	42, 468
806	468
808	73
809	42, 46, 476
810	476
811	476
812.1	477
813	409
813.4	410
813.4.1	493
813.9	411
813.10	414
814.1	72
814.3	417
814.4	419
814.5	419
814.6	418
814.7	617
814.10	417
814.14	424
815	50
815.1	50
815.2.1	420, 421, 422, 424
815.2.2	423
815.4	12, 15, 16
815.5	415
817	453
817.1	455
817.2	336, 456
817.3	457

Code antérieur	Nouveau Code
817.4	657
819	458
819.1	458
819.2	458
819.3	458
819.4	458
822	430
822.1	430
822.2	454
822.3	454
822.4	431
823	432
823.1	432
823.2	434
823.3	433
824	434
824.1	435
825	436
825.1	437
825.2	441
825.3	438
825.4	440
825.5	439
825.6	442
825.7	442
825.8	443
825.9	444
825.10	445
825.11	445
825.12	446
825.13	447
825.14	448
826	451
826.1	451
826.3	452
827.2	619
827.3	619
827.4	619
827.5	444
827.6	450
827.7	449
828	407
829	407

Code antérieur	Nouveau Code
830	408
831	408
833	408
834.1	530, 531
834.2	530
835	530
835.1	529
835.3	106
836	530
838	529, 532
840	532
841	533
842	534
843	535
844	529
846	529
851	398
852	398, 399
855	400
858	402
859	354, 361, 383
860	402
862	302, 303, 306, 308
863	73, 74, 75, 308, 310
863.1	50, 309
863.2	50, 310
863.3	336
863.4	312
863.5	313
863.6	305, 316
863.7	318
863.8	304, 317
863.9	318, 320
863.10	320
863.11	319
864	393
864.2	403
865	73
865.6	73
866	484
867	485
868	485
869	485

Code antérieur	Nouveau Code
870	486
871	486
871.1	487
871.2	487
871.3	488
872	44
873	405
874	405
876.2	313, 393, 394
877	44, 121, 393, 404
877.0.1	313, 393, 394, 404
877.0.2	394
877.1	406
878	391, 392
878.1	90, 315, 316
878.3	309
879	309
883	336
884.1	44, 121, 393, 394, 404
884.4	309, 391, 392
884.6	336, 404
884.7	393, 394, 404
884.8	391, 392
885	303, 307, 527
886	303, 393, 394
887	46
887.1	313
888	459
889	460
890	317, 318, 319, 461
891	462
892	46, 463
894	464
895	465
896	466
897	307, 331
898	307
899	753
900	754
902	331
903	331
907	309
908	763

Code antérieur	Nouveau Code
910	771
910.1	742, 765, 767
910.2	769, 770
910.3	771
940	622
940.1	622
940.2	39
940.3	622
940.4	623
940.5	631
940.6	649
941	624
941.1	625
941.2	625
941.3	630
942	626
942.1	626
942.2	627
942.3	627
942.4	627
942.5	628
942.6	629
942.7	630
942.8	624
943	632
943.1	632
943.2	632
944	631
944.1	632
944.2	633
944.3	633
944.4	633
944.5	635
944.6	633
944.7	632
944.8	634
944.9	633
944.10	620, 651
944.11	636
945	644
945.1	642
945.2	642
945.3	642

Code antérieur	Nouveau Code
945.4	642
945.5	643
945.6	643
945.7	643
945.8	643
946	645
946.1	645
946.2	645
946.3	645
946.4	646
946.5	646
946.6	645
947	648
947.1	648
947.2	648
947.3	648
947.4	648
948	652
949	652
949.1	652
950	653
951	654
951.1	653
951.2	652
953	536
954	537
955	538
956	539
957	541
958	544
959	88, 542
960	543
961	544
962	544, 545
963	545
964	546
965	547
967	548
968	549, 550
969	551
970	552
971	553
972	554

Code antérieur	Nouveau Code
973	556
974	557
975	558
976	540, 559
977	560
978	540, 561
979	560
980	554, 555
981	560
982	540
983	324, 562
984	564
985	563
986	565, 656
989	568
990	568
991	566, 659
992	566, 659
993	567
994	565, 566
996	569
997	570
999	571
1000	33
1001	572
1002	574
1003	575
1004	572, 576
1005	576
1006	579
1007	580
1008	580
1010	578
1011	583
1012	584
1014	585

Code antérieur	Nouveau Code
1015	589
1016	585
1017	586
1018	586
1019	587
1020	587
1021	587
1022	588
1023	589
1024	589
1025	590
1026	588
1027	591
1028	592
1030	591, 599
1031	595, 596
1032	595
1033	596
1034	597
1035	598
1036	597
1038	599
1039	600
1040	601
1041	602
1042	602
1043	603
1044	604
1045	581
1046	579, 581
1047	582
1048	571
1049	87
1050.2	573
1051	584

Québec Code of Civil Procedure

- Current section of the Act of the Code of Civil Procedure C-25.01 is at the start.
- Under each is the previous version, are the section from the previous version (C-25).
- After the previous version line, is the complete version of the old sections
- All of the changes introduced in 1992 were made by the Statutes du Québec, Chapter 57 : https://heinonline.org/HOL/Page?handle=hein.psc/stapqueb0129&id=837&collection=psc

Section 70

70. Powers of court clerks. Court clerks and special clerks only exercise the jurisdiction expressly assigned to them by law. In matters within their jurisdiction, they have the powers of the judges or the court.

Referral to a judge or the court. If they consider that the interests of justice so require, they may refer any matter submitted to them to a judge or to the court.

Code of Civil Procedure, CQLR, c. C-25.01, Art. 70 (En vigueur au : January 1, 2016)

Previous version : section 41, 45

41. The clerk has the competence of a judge in chambers:
1° in cases where the law expressly so declares;
2° when the judge is absent or unable to act and delay might result in the loss of a right or cause serious harm.

In matters within his jurisdiction, the clerk has the same powers as the judge.

[1965 (1st sess.), c. 80, a. 41; 1992, c. 57, s. 186, 420]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art.41(1)(2))

45. The clerk or the assistant clerk may refer to the judge or to the court any matter submitted to him, if he considers that the interests of justice so require.

In the case of an application referred to in the second paragraph of article 44.1, the special clerk may refer the application to the judge or the court if he considers that the agreement between the parties does not provide sufficient protection for the interests of the children or that a party's consent was obtained under duress. He may, to evaluate the agreement or the consent of the parties, summon and hear the parties, even separately, in the presence of their attorneys, if any.

[1965 (1st sess.), c. 80, a. 45; 1975, c. 83, s. 6; 1992, c. 57, s. 420; 1997, c. 42, s. 3]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art. 45 (En vigueur au : September 1, 1997)

Section 71

71. Absence or unability of the judge. If the judge is absent or unable to act and any delay could result in the loss of a right or cause serious prejudice, the court clerk may exercise the jurisdiction of the judge.

Exceptions. However, the court clerk cannot decide an incidental application, issue an order for police assistance or authorize a seizure before judgment unless no judge or special clerk is present in the district; nor may the court clerk decide an application for a stay unless it is impossible to reach a judge in another district or the on-call judge designated by the chief justice or chief judge.

Exceptions. In addition to applications expressly excluded from the jurisdiction of court clerks, the court clerk may in no case decide an application relating to personal integrity, status or capacity, authorize the seizure of property on a debtor's person or decide an application for judicial review or an application for an injunction.

Code of Civil Procedure, CQLR, c. C-25.01, Art. 71 (En vigueur au : January 1, 2016)

Previous version : section 39, 41

39. Where in a district there is no judge or the judge is unable to act, the matters provided for in articles 485, 489, 733, 734.0.1, 734.1, 753 and 834.1 may be presented to a judge of another district by any means of communication available to the judge.

[1965 (1st sess.), c. 80, a. 39; 1968, c. 84, s. 1; 1986, c. 55, s. 1; 1996, c. 5, s. 3; 2002, c. 54, s. 1]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art. 39 (En vigueur au : January 1, 2003

41. The clerk has the competence of a judge in chambers:
1° in cases where the law expressly so declares;
2° when the judge is absent or unable to act and delay might result in the loss of a right or cause serious harm.

In matters within his jurisdiction, the clerk has the same powers as the judge.

[1965 (1st sess.), c. 80, a. 41; 1992, c. 57, s. 186, 420]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art.41(1)(2))

Section 72

72. Special clerk. The special clerk may rule on any application, contested or not, whose subject matter is the referral of the originating application to the court having territorial jurisdiction in a case described in article 43, security for costs, the calling of a witness, except in the cases described in article 497, the disclosure, production or rejection of exhibits, the examination or copying of an access-restricted document, or the physical, mental or psychosocial assessment of a person, the joinder of proceedings, amendments to pleadings or particulars to clarify pleadings or a substitution of lawyer and on any application for relief from default or to cease representing. In the course of a proceeding or of execution, the special clerk may rule on any pleading, but only with the parties' consent in the case of a contested pleading.

Special clerk's powers. The special clerk may homologate any agreement between the parties that provides a complete settlement of a child custody or support matter and, in order to evaluate the agreement or assess the consent of the parties, may convene the parties and hear them, even separately, in the presence of their lawyer. If the special clerk considers that the agreement does not sufficiently protect the children's interests or that consent was obtained under duress, the case is referred to a judge or to the court.

Homologation of an agreement. An agreement homologated by the special clerk has the same force and effect as a judgment.

Application. Applications that are within the jurisdiction of the special clerk are presented directly to the special clerk and, unless contested, are decided on the face of the record.

Code of Civil Procedure, CQLR, c. C-25.01, Art. 72 (En vigueur au : January 1, 2021)

Previous version : section 44.1, 45, 814.1

44.1. The special clerk rules, in particular:

- 1° on any motion, contested or not, for joinder of actions, security, summons of a witness under article 282, communication, filing or dismissal of exhibits, medical examination, particulars, amendment, modification of an agreement under article 151.2, substitution of attorney, appointment of a practitioner or relief from default, or to cease representing, and
- 2° on any other interlocutory or incidental proceeding, contested or not but, if contested, with the consent of the parties.

The special clerk may, in the case of applications relating to child custody or obligations of support, homologate any agreement effecting a complete settlement of the matter. Once homologated, such agreements have the same effect and binding force as a judgment of the Superior Court.

In all cases, the decision may be revised by the judge in accordance with the formalities provided in article 42.

[1975, c. 83, s. 5; 1976, c. 9, s. 54; 1977, c. 73, s. 4; 1992, c. 57, s. 420; 1994, c. 28, s. 1; 1997, c. 42, s. 2; 2002, c. 7, s. 6]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art.44.1(1)(2))

45. The clerk or the assistant clerk may refer to the judge or to the court any matter submitted to him, if he considers that the interests of justice so require.

In the case of an application referred to in the second paragraph of article 44.1, the special clerk may refer the application to the judge or the court if he considers that the agreement between the parties does not provide sufficient protection for the interests of the children or that a party's consent was obtained under duress. He may, to evaluate the agreement or the consent of the parties, summon and hear the parties, even separately, in the presence of their attorneys, if any.

[1965 (1st sess.), c. 80, a. 45; 1975, c. 83, s. 6; 1992, c. 57, s. 420; 1997, c. 42, s. 3]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art. 45 (En vigueur au : September 1, 1997)

814. (*Repealed*).
[1965 (1st sess.), c. 80, a. 814; 1969, c. 81, s. 20; 1982, c. 17, s. 29; 2002, c. 7, s. 129]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art. 814 (En vigueur au : January 1, 2003)

Section 73

73. Non-contentious proceeding. In a non-contentious proceeding, the jurisdiction of the court may be exercised by the special clerk.

Exceptions. However, the special clerk cannot decide applications concerning personal integrity or status, absence or a judicial declaration of death or, in family matters, joint applications on a draft agreement; nor may the special clerk decide applications for the review of a decision of the registrar of civil status or relating to the publication of rights or the reconstitution of an authentic act or public register.

Code of Civil Procedure, CQLR, c. C-25.01, Art. 73 (En vigueur au : January 1, 2016)

Previous version : section 774, 808, 863, 865, 865.6

774. Applications relating to the integrity of the person may in no case be heard by the clerk or by the special clerk. Where applicable, applications are accompanied with the advice of the tutorship council and of at least one expert concerning the person named in the application.

[1965 (1st sess.), c. 80, a. 774; 1973, c. 38, s. 88; 1992, c. 57, s. 367; 2002, c. 7, s. 108]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art. 774 (En vigueur au : January 1, 2003)

808. Applications made under this chapter may in no case be heard by the clerk.

[1965 (1st sess.), c. 80, a. 808; 1992, c. 57, s. 367]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art. 808 (En vigueur au : January 1, 1994)

863. Failing an express provision to the contrary, applications are presented to the judge or to the clerk.

The decisions of the clerk may be reviewed by the judge on an application served within 10 days. In cases excluded from the competence of the clerk, applications are presented to the judge.

However, an application that is contested is presented to the court. In urgent cases, the judge or the clerk may shorten the time limits prescribed in this Book.

[1965 (1st sess.), c. 80, a. 863; 1992, c. 57, s. 395]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art. 863 (En vigueur au : January 1, 1994)

865. Applications made under this chapter may in no case be heard by the clerk.

[1965 (1st sess.), c. 80, a. 865; 1992, c. 57, s. 396]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art. 865 (En vigueur au : January 1, 1994)

865.6. Applications made under this chapter, except applications for the institution of tutorship to an absentee, may in no case be heard by the clerk.

[1992, c. 57, s. 397]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art. 865.6 (En vigueur au : January 1, 1994)

Section 74

74. Decision review. Decisions of the court clerk other than administrative decisions and decisions of the special clerk, except judgments rendered by default following the defendant's failure to answer the summons, attend the case management conference or defend on the merits, may, on an application, be reviewed by a judge in chambers or by the court. The same applies to decisions of the appellate clerk, which may be reviewed by an appellate judge.

Application for review. The application for review must state the grounds on which it is based, be notified to the other parties and filed with the court office within 10 days after the date of the decision concerned. If the decision is quashed, matters are restored to their former state.

Code of Civil Procedure, CQLR, c. C-25.01, Art. 74 (En vigueur au : January 1, 2016

Previous version : section 42, 44.1, 863

42. In the cases provided for by paragraph 2 of article 41 and by articles 583.1, 584, 644 and 659.5, the decision of the clerk may be revised by the judge or the court, upon a demand setting out the grounds relied on, served upon the adverse party and filed at the office of the court within 10 days from the date of the decision attacked.

If the decision is quashed, matters are restored to the state where they were before it was rendered.

[1965 (1st sess.), c. 80, a. 42; 1977, c. 73, s. 2; 1980, c. 21, s. 1; 1987, c. 63, s. 2; 1992, c. 57, s. 420]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art. 42 (En vigueur au : January 1, 1994)

44.1. The special clerk rules, in particular:

- 1° on any motion, contested or not, for joinder of actions, security, summons of a witness under article 282, communication, filing or dismissal of exhibits, medical examination, particulars, amendment, modification of an agreement under article 151.2, substitution of attorney, appointment of a practitioner or relief from default, or to cease representing, and

- 2° on any other interlocutory or incidental proceeding, contested or not but, if contested, with the consent of the parties.

The special clerk may, in the case of applications relating to child custody or obligations of support, homologate any agreement effecting a complete settlement of the matter. Once homologated, such agreements have the same effect and binding force as a judgment of the Superior Court.

In all cases, the decision may be revised by the judge in accordance with the formalities provided in article 42.

[1975, c. 83, s. 5; 1976, c. 9, s. 54; 1977, c. 73, s. 4; 1992, c. 57, s. 420; 1994, c. 28, s. 1; 1997, c. 42, s. 2; 2002, c. 7, s. 6]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art.44.1(1)(2))

863. Failing an express provision to the contrary, applications are presented to the judge or to the clerk.

The decisions of the clerk may be reviewed by the judge on an application served within 10 days. In cases excluded from the competence of the clerk, applications are presented to the judge.

However, an application that is contested is presented to the court. In urgent cases, the judge or the clerk may shorten the time limits prescribed in this Book.

[1965 (1st sess.), c. 80, a. 863; 1992, c. 57, s. 395]
Code of Civil Procedure (Replaced), CQLR, c. C-25, Art. 863 (En vigueur au : January 1, 1994)

Code de procédure civile du Québec

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- All of the changes introduced in 1992 were made by the Lois du Québec, Chapter 57 (PDF File): https://www.bibliotheque.assnat.qc.ca/DepotNumerique_v2/AffichageFichier.aspx?idf=85968

Section 70

70. Pouvoirs des greffiers. Les greffiers et les greffiers spéciaux n'exercent que la compétence que la loi leur attribue expressément. Dans ces matières, ils sont investis des pouvoirs du juge ou du tribunal.

Pouvoirs des greffiers. Ils peuvent, s'ils considèrent que l'intérêt de la justice l'exige, déférer une affaire qui leur est soumise au juge ou au tribunal.
Code de procédure civile, RLRQ, c. C-25.01, Art.70) (En vigueur au : 1 janvier 2016)

Previous version : section 41, 45

41. Le greffier a la compétence du juge:
1° dans les cas où la loi le déclare expressément;
2° lorsque le juge est absent ou empêché d'agir et qu'un retard risquerait d'entraîner la perte d'un droit ou de causer un préjudice sérieux.

Dans les matières qui sont de sa compétence, le greffier a les mêmes pouvoirs que le juge.

[1965 (1re sess.), c. 80, art. 41; 1992, c. 57, art. 186; 420; 421; 1999, c. 40, art. 56]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art.41(1)(2))

45. Le greffier ou le greffier adjoint peut déférer au juge ou au tribunal toute affaire qui lui est soumise, s'il estime que l'intérêt de la justice le requiert.

Dans le cas d'une demande visée au deuxième alinéa de l'article 44.1, le greffier spécial défère la demande au juge ou au tribunal s'il estime que l'entente des parties ne préserve pas suffisamment l'intérêt des enfants ou que le consentement de celles-ci a été donné sous la contrainte. Il peut, pour apprécier l'entente ou le consentement des parties, convoquer et entendre celles-ci, même séparément, en présence de leurs procureurs le cas échéant.

[1965 (1re sess.), c. 80, art. 45; 1975, c. 83, art. 6; 1992, c. 57, art. 420; 1997, c. 42, art. 3]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art. 45 (En vigueur au : 1 septembre 1997)

Section 71

71. Absence du juge. Dans les cas où le juge est absent ou empêché d'agir et qu'un retard risque d'entraîner la perte d'un droit ou de causer un préjudice sérieux, le greffier peut exercer la compétence du juge.

Exceptions. Toutefois, il ne peut décider d'un incident, rendre une ordonnance d'assistance policière ou autoriser une saisie avant jugement que si aucun juge ni aucun greffier spécial n'est présent dans le district; il ne peut non plus décider des demandes de sursis que s'il est dans l'impossibilité de joindre un juge d'un autre district ou le juge désigné par le juge en chef pour assurer la garde.

Exceptions. Outre les demandes qui sont expressément exclues de sa compétence, il ne peut en aucun cas décider d'une demande en matière d'intégrité, d'état ou de capacité, ou autoriser la saisie d'un bien sur la personne d'un débiteur ou décider d'un pourvoi en contrôle judiciaire ou d'une demande en matière d'injonction.
Code de procédure civile, RLRQ, c. C-25.01, Art. 71 (En vigueur au : 1 janvier 2016)

Previous version : section 39, 41

39. Lorsqu'il y a absence de juge dans un district ou lorsque le juge est empêché d'agir, les demandes prévues aux articles 485, 489, 733, 734.0.1, 734.1, 753, ainsi que celle prévue à l'article 834.1, peuvent être présentées à un juge d'un autre district par tout mode de communication que ce juge est en mesure d'accepter.

[1965 (1re sess.), c. 80, art. 39; 1968, c. 84, art. 1; 1986, c. 55, art. 1; 1992, c. 57, art. 185; 1996, c. 5, art. 3; 2002, c. 54, art. 1]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art. 39 (En vigueur au : 1 janvier 2003)

41. Le greffier a la compétence du juge:
1° dans les cas où la loi le déclare expressément;
2° lorsque le juge est absent ou empêché d'agir et qu'un retard risquerait d'entraîner la perte d'un droit ou de causer un préjudice sérieux.

Dans les matières qui sont de sa compétence, le greffier a les mêmes pouvoirs que le juge.

[1965 (1re sess.), c. 80, art. 41; 1992, c. 57, art. 186; 420; 421; 1999, c. 40, art. 56]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art.41(1)(2))

Section 72

72. Greffier spécial. Le greffier spécial peut statuer sur toute demande, contestée ou non, ayant pour objet le renvoi de la demande introductive d'instance devant le tribunal territorialement compétent dans les cas visés par l'article 43, la sûreté pour frais, la convocation d'un témoin, sauf dans les cas visés à l'article 497, la communication, la production ou le rejet de pièces, la consultation ou la copie d'un document auquel l'accès est restreint, un examen sur l'état physique, mental ou psychosocial d'une personne, la jonction de demandes, des précisions ou des modifications à un acte de procédure, la substitution d'avocat, ainsi que toute demande pour être relevé du défaut ou pour cesser d'occuper. Il peut statuer sur tout acte de procédure en cours d'instance ou d'exécution, mais, si celui-ci est contesté, il ne peut agir qu'avec l'accord des parties.

Pouvoirs. En matière de garde d'enfants ou d'obligations alimentaires, il peut homologuer toute entente entre les parties portant règlement complet de ces questions et il peut, pour apprécier l'entente ou le consentement des parties, les convoquer et les entendre, même séparément, en présence de leur avocat. S'il estime que l'entente ne préserve pas suffisamment l'intérêt des enfants ou que le consentement a été donné sous la contrainte, il défère le dossier à un juge ou au tribunal.

Homologation d'une entente. Lorsque le greffier spécial homologue une entente, celle-ci acquiert la même force exécutoire qu'un jugement.

Modalités. Les demandes qui sont de la compétence du greffier spécial lui sont présentées directement et, à moins d'être contestées, sont décidées sur le vu du dossier.
Code de procédure civile, RLRQ, c. C-25.01, Art. 72 (En vigueur au : 1 janvier 2021)

Previous version : section 44.1, 45, 814.1

44.1. Le greffier spécial statue notamment sur:

- 1° toute demande, contestée ou non, pour réunion d'actions, cautionnement, assignation d'un témoin en vertu de l'article 282, communication, production ou rejet de pièces, examen médical, précisions, amendement, modification d'une entente en vertu de l'article 151.2, substitution de procureur, nomination d'un praticien et pour être relevé du défaut ou pour cesser d'occuper; et sur

- 2° toute autre procédure interlocutoire ou incidente, non contestée ou contestée mais, dans ce dernier cas, avec l'accord des parties.

Le greffier spécial peut, lorsqu'il s'agit de demandes relatives à la garde d'enfants ou à des obligations alimentaires, homologuer toute entente entre les parties portant règlement complet de ces questions. L'entente homologuée a le même effet et la même force exécutoire qu'un jugement de la Cour supérieure.

Dans tous les cas, la décision peut être révisée par le juge en suivant les formalités prévues par l'article 42.

[1975, c. 83, art. 5; 1976, c. 9, art. 54; 1977, c. 73, art. 4; 1992, c. 57, art. 420; 1994, c. 28, art. 1; 1997, c. 42, art. 2; 2002, c. 7, art. 6]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art.44.1(1)(2))

45. Le greffier ou le greffier adjoint peut déférer au juge ou au tribunal toute affaire qui lui est soumise, s'il estime que l'intérêt de la justice le requiert.

Dans le cas d'une demande visée au deuxième alinéa de l'article 44.1, le greffier spécial défère la demande au juge ou au tribunal s'il estime que l'entente des parties ne préserve pas suffisamment l'intérêt des enfants ou que le consentement de celles-ci a été donné sous la contrainte. Il peut, pour apprécier l'entente ou le consentement des parties, convoquer et entendre celles-ci, même séparément, en présence de leurs procureurs le cas échéant.

[1965 (1re sess.), c. 80, art. 45; 1975, c. 83, art. 6; 1992, c. 57, art. 420; 1997, c. 42, art. 3]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art. 45 (En vigueur au : 1 septembre 1997)

814.1. Les demandes qui, en vertu du deuxième alinéa de l'article 44.1, sont de la compétence du greffier spécial lui sont présentées directement et ne requièrent pas d'audition.

[1982, c. 17, art. 29; 1992, c. 57, art. 420; 1997, c. 42, art. 6; 2002, c. 7, art. 131]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art. 814.1 (En vigueur au : 1 janvier 2003)

Section 73

73. Procédure non contentieuse. Dans une procédure non contentieuse, la compétence du tribunal peut être exercée par le greffier spécial.

Exceptions. Cependant, le greffier spécial ne peut décider des demandes qui concernent l'intégrité ou l'état d'une personne, l'absence ou la déclaration judiciaire de décès ni, en matière familiale, des demandes conjointes sur projet d'accord; il ne peut non plus décider des demandes visant à faire réviser une décision du directeur de l'état civil ou relatives à la publicité des droits ou à la reconstitution d'un acte authentique ou d'un registre public.
Code de procédure civile, RLRQ, c. C-25.01, Art. 73 (En vigueur au : 1 janvier 2016)

Previous version : section 774, 808, 863, 865, 865.6

774. Les demandes relatives à l'intégrité de la personne ne peuvent en aucun cas être entendues par le greffier ni par le greffier spécial. Il y est joint, le cas échéant, l'avis du conseil de tutelle et d'au moins un expert concernant la personne visée par la demande.

[1965 (1re sess.), c. 80, art. 774; 1973, c. 38, art. 88 (abrogé); 1992, c. 57, art. 367; 2002, c. 7, art. 108]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art. 774 (En vigueur au : 1 janvier 2003)

808. Les demandes prévues dans ce chapitre ne peuvent en aucun cas être entendues par le greffier.

[1965 (1re sess.), c. 80, art. 808; 1992, c. 57, art. 367]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art. 808 (En vigueur au : 1 janvier 1994)

863. À moins d'une disposition expresse au contraire, les demandes sont présentées au juge ou au greffier.

Les décisions du greffier peuvent être révisées par le juge sur demande signifiée dans les 10 jours. Dans les cas où la compétence du greffier est exclue, les demandes sont présentées au juge.

Toutefois, lorsqu'une demande est contestée, elle est présentée au tribunal. Dans les cas d'urgence, le juge ou le greffier peut toujours abréger les délais prévus au présent Livre.

[1965 (1re sess.), c. 80, art. 863; 1992, c. 57, art. 395]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art. 863 (En vigueur au : 1 janvier 1994)

865. Les demandes prévues dans ce chapitre ne peuvent en aucun cas être entendues par le greffier.

[1965 (1re sess.), c. 80, art. 865; 1992, c. 57, art. 396]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art. 865 (En vigueur au : 1 janvier 1994)

865.6. Les demandes prévues dans le présent chapitre ne peuvent en aucun cas être entendues par le greffier, à l'exception de la demande d'ouverture d'une tutelle à l'absent.

[1992, c. 57, art. 397]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art. 865.6 (En vigueur au : 1 janvier 1994)

Section 74

74. Révision d'une décision. Les décisions du greffier autres qu'administratives et celles du greffier spécial, à l'exception des jugements rendus par défaut faute pour le défendeur de répondre à l'assignation, de participer à la conférence de gestion ou de contester au fond, peuvent, sur demande, être révisées par un juge en son cabinet ou par le tribunal. Il en est de même des décisions du greffier de la Cour d'appel, lesquelles peuvent être révisées par un juge d'appel.

Demande de révision. La demande de révision doit énoncer les moyens sur lesquels elle se fonde, être notifiée aux autres parties et déposée au greffe dans les 10 jours de la date de la décision attaquée. Si la décision est infirmée, les choses sont remises dans leur état antérieur.

Code de procédure civile, RLRQ, c. C-25.01, Art. 74 (En vigueur au : 1 janvier 2016)

Previous version : section 42, 44.1, 863

42. Dans les cas prévus par le paragraphe 2 de l'article 41 et par les articles 583.1, 584, 644 et 659.5, la décision du greffier peut être révisée par le juge ou le tribunal, sur demande énonçant les moyens invoqués, signifiée à la partie adverse et produite au greffe dans les 10 jours de la date de la décision attaquée.

Si la décision est infirmée, les choses sont remises en l'état où elles étaient avant qu'elle ne fût rendue.

[1965 (1re sess.), c. 80, art. 42; 1977, c. 73, art. 2; 1980, c. 21, art. 1; 1987, c. 63, art. 2; 1992, c. 57, art. 420]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art. 42 (En vigueur au : 1 janvier 1994)

44.1. Le greffier spécial statue notamment sur:

- 1° toute demande, contestée ou non, pour réunion d'actions, cautionnement, assignation d'un témoin en vertu de l'article 282, communication, production ou rejet de pièces, examen médical, précisions, amendement, modification d'une entente en vertu de l'article 151.2, substitution de procureur, nomination d'un praticien et pour être relevé du défaut ou pour cesser d'occuper; et sur

- 2° toute autre procédure interlocutoire ou incidente, non contestée ou contestée mais, dans ce dernier cas, avec l'accord des parties.

Le greffier spécial peut, lorsqu'il s'agit de demandes relatives à la garde d'enfants ou à des obligations alimentaires, homologuer toute entente entre les parties portant règlement complet de ces questions. L'entente homologuée a le même effet et la même force exécutoire qu'un jugement de la Cour supérieure.

Dans tous les cas, la décision peut être révisée par le juge en suivant les formalités prévues par l'article 42.

[1975, c. 83, art. 5; 1976, c. 9, art. 54; 1977, c. 73, art. 4; 1992, c. 57, art. 420; 1994, c. 28, art. 1; 1997, c. 42, art. 2; 2002, c. 7, art. 6]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art.44.1(1)(2))

863. À moins d'une disposition expresse au contraire, les demandes sont présentées au juge ou au greffier.

Les décisions du greffier peuvent être révisées par le juge sur demande signifiée dans les 10 jours. Dans les cas où la compétence du greffier est exclue, les demandes sont présentées au juge.

Toutefois, lorsqu'une demande est contestée, elle est présentée au tribunal. Dans les cas d'urgence, le juge ou le greffier peut toujours abréger les délais prévus au présent Livre.

[1965 (1re sess.), c. 80, art. 863; 1992, c. 57, art. 395]
Code de procédure civile (Remplacé), RLRQ, c. C-25, Art. 863 (En vigueur au : 1 janvier 1994)

Revised Statutes of Québec 1977

Chapter C-25

CODE OF CIVIL PROCEDURE

BOOK I

GENERAL PROVISIONS

TITLE I

INTRODUCTORY PROVISIONS

1. Notwithstanding any contrary provision of any general law on special act, imprisonment in civil matters is abolished, except in cases of contempt of court.

1965 (1st sess.), c. 80, a. 1 (*part*); 1966, c. 21, s. 1.

2. The rules of procedure in this Code are intended to render effective the substantive law and to ensure that it is carried out; and failing a provision to the contrary, failure to observe the rules which are not of public order can only affect a proceeding if the defect has not been remedied when it was possible to do so. The provisions of this Code must be interpreted the one by the other, and, so far as possible, in such a way as to facilitate rather than to delay or to end prematurely the normal advancement of cases.

1965 (1st sess.), c. 80, a. 2.

3. In the case of a difference between the French and English texts of any provision of this Code, the text most consistent with the former law must prevail, unless the provision changes the former law, in which case the text most consistent with the intention of the article in accordance with the ordinary rules of legal interpretation shall prevail.

1965 (1st sess.), c. 80, a. 3.

4. In this Code, unless the context otherwise requires, the following words mean:

(*a*) "Code of Civil Procedure", or "Code of Procedure": this Code;

(*b*) "Revised Statutes": the Revised Statutes of Québec;

(*c*) "other provinces of Canada": the Provinces of Canada other than Québec, and those territories not organized into provinces;

(*d*) "chief justice": the chief justice, the senior associate chief justice or the associate chief justice, depending upon the district where the term is applicable;

(*e*) "a judge" or "judge in chambers": a judge acting as such in his office, as opposed to the judge presiding over a sitting of the court, who is ordinarily called "the presiding judge", "the trial judge", or "the court";

(*f*) "prothonotary": not only the prothonotary of the Superior Court, but also the clerk of any other court to which the provision is applicable;

(*g*) "office of the court": the office of the prothonotary or of the clerk of any court to which the provision is applicable;

(*h*) "affidavit": a written statement supported by the oath of the deponent or by his solemn affirmation in cases in which it is authorized by article 299, administered and attested by any person authorized by law to administer oaths;

(*i*) "case ready for judgment": a case in which the trial has been completed and which has been taken under advisement;

(*j*) "stenography": stenography properly so called or stenotypography;

(*k*) "special prothonotary": the prothonotary or the deputy prothonotary appointed by order in council, with the consent of the chief justice of the court, to exercise, in addition to his other functions, the attributions attached to such capacity.

Moreover, the declaratory and interpretative provisions of article 17 of the Civil Code and sections 38 to 61 of the Interpretation Act (chapter I-16) are deemed to be part of this Code, and the words, terms and expressions there defined are taken in the sense there indicated, unless there is a formal text to the contrary or the context otherwise requires.

1965 (1st sess.), c. 80, a. 4; 1975, c. 83, s. 1; 1977, c. 73, s. 1.

5. No judicial demand can be adjudicated upon unless the party against whom it is made has been heard or duly summoned.

1965 (1st sess.), c. 80, a. 5.

6. The following are non-juridical days:

(*a*) Sundays;

(*b*) The 1st of January;

(*c*) Good Friday;

(*d*) Easter Monday;

(*e*) The 24th of June, St. John the Baptist's Day, or the 25th of June when the 24th is a Sunday;

(*f*) The 1st of July, the anniversary of Confederation, or the 2nd of July when the 1st is a Sunday;

(*g*) The first Monday of September, Labour Day;

(*h*) The 25th of December;

(*i*) The day fixed by proclamation of the Governor-General for the celebration of the birthday of the Sovereign;

(*j*) Any other day fixed by proclamation of the Gouvernement as a public holiday or as a day of thanksgiving.

1965 (1st sess.), c. 80, a. 6.

7. If the date fixed for doing anything falls on a non-juridical day, such thing may validly be done on the next following juridical day.

1965 (1st sess.), c. 80, a. 7.

8. In computing any delay fixed by this Code or any of its provisions, including the delays for appeal:

(1) the day which marks the start of the delay is not counted, but the terminal day is counted;

(2) non-juridical days are counted; but when the last day is a non-juridical day, the delay is extended to the next following juridical day;

(3) Saturday is considered a non-juridical day, as are the 2nd of January and the 26th of December.

1965 (1st sess.), c. 80, a. 8.

9. A judge may, upon such conditions as he considers just, extend any delay which is not declared mandatory or relieve a party from the consequences of his failure to respect such delay.

1965 (1st sess.), c. 80, a. 9.

10. The place, time and duration of the terms and sittings of the courts are determined in accordance with the provisions of the Courts of Justice Act.

The court may shorten or extend a term or adjourn it to a later date.

In the absence of the judge who should preside over the court, the prothonotary may adjourn the court to another day of the term or to any later date indicated by the judge.

1965 (1st sess.), c. 80, a. 10.

Lois refondues du Québec 1977

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Chapitre C-25

CODE DE PROCÉDURE CIVILE

LIVRE I
DISPOSITIONS GÉNÉRALES

TITRE I
DISPOSITIONS INTRODUCTIVES

1. Nonobstant toute disposition contraire d'une loi générale ou spéciale, l'emprisonnement est supprimé en matière civile, sauf le cas d'outrage au tribunal.

1965 (1re sess.), c. 80, a. 1 (*partie*); 1966, c. 21, a. 1.

2. Les règles de procédure édictées par ce code sont destinées à faire apparaître le droit et en assurer la sanction; et à moins d'une disposition contraire, l'inobservation de celles qui ne sont pas d'ordre public ne pourra affecter le sort d'une demande que s'il n'y a pas été remédié alors qu'il était possible de le faire. Ces dispositions doivent s'interpréter les unes par les autres et, autant que possible, de manière à faciliter la marche normale des procès, plutôt qu'à la retarder ou à y mettre fin prématurément.

1965 (1re sess.), c. 80, a. 2.

3. Dans le cas de divergence entre les textes français et anglais de quelque disposition du présent code, le texte qui se rapproche le plus de la loi ancienne doit prévaloir, à moins que la disposition ne modifie la loi ancienne; en ce dernier cas, le texte qui exprime le mieux l'intention de l'article, dégagée d'après les règles ordinaires d'interprétation, doit prévaloir.

1965 (1re sess.), c. 80, a. 3.

4. Dans le présent code, les expressions et termes suivants désignent, à moins que le contexte ne s'y oppose:

a) «Code de procédure civile» ou «Code de procédure»: le présent code;

b) «Lois refondues»: les Lois refondues du Québec;

c) «autres provinces du Canada»: les provinces du Canada autres que le Québec, ainsi que les territoires non organisés en province;

d) «juge en chef»: le juge en chef, le juge en chef associé ou le juge en chef adjoint, selon le district où la disposition est applicable;

e) «un juge» ou «juge en chambre»: un juge exerçant en son cabinet, par opposition à celui qui préside une séance du tribunal, lequel est désigné d'ordinaire par les mots «président du tribunal», «juge du procès» ou «tribunal»;

f) «protonotaire»: non seulement le protonotaire de la Cour supérieure, mais aussi le greffier d'une autre cour à laquelle la disposition est applicable;

g) «greffe»: le bureau du protonotaire ou du greffier de toute cour à laquelle la disposition est applicable;

h) «affidavit»: une déclaration écrite appuyée du serment du déclarant ou de son affirmation solennelle dans le cas où elle est autorisée par l'article 299, reçue et attestée par toute personne autorisée par la loi à recevoir un serment;

i) «cause en état»: une cause dont l'instruction est terminée et qui a été prise en délibéré;

j) «sténographie»: la sténographie proprement dite ou la sténotypie;

k) «protonotaire spécial»: le protonotaire ou le protonotaire adjoint nommés par arrêté en conseil, avec l'assentiment du juge en chef du tribunal, pour exercer, en plus de leurs autres fonctions, les attributions rattachées à ce titre.

De plus, les dispositions déclaratoires et interprétatives de l'article 17 du Code civil et des articles 38 à 61 de la Loi d'interprétation (chapitre I-16) sont réputées faire partie du présent code, et les mots, termes et expressions qui y sont définis sont pris dans le sens indiqué, à moins d'un texte formel au contraire, ou que le contexte ne s'y oppose.

1965 (1re sess.), c. 80, a. 4; 1975, c. 83, a. 1; 1977, c. 73, a. 1.

5. Il ne peut être prononcé sur une demande en justice sans que la partie contre laquelle elle est formée n'ait été entendue ou dûment appelée.

1965 (1re sess.), c. 80, a. 5.

6. Sont jours non juridiques:

a) les dimanches;

b) le 1er janvier;

c) le Vendredi-saint;

d) le lundi de Pâques;

e) le 24 juin, fête de la Saint-Jean-Baptiste, ou le 25 juin si le 24 tombe un dimanche;

f) le 1er juillet, anniversaire de la Confédération, ou le 2 juillet si le 1er tombe un dimanche;

g) le premier lundi de septembre, fête du Travail;

h) le 25 décembre;

i) le jour fixé par proclamation du gouverneur-général pour marquer l'anniversaire de naissance du Souverain;

j) tout autre jour fixé par proclamation du gouvernement comme jour de fête publique ou d'action de grâces.

1965 (1re sess.), c. 80, a. 6.

7. Si la date fixée pour faire une chose tombe un jour non juridique, la chose peut être valablement faite le premier jour juridique qui suit.

1965 (1re sess.), c. 80, a. 7.

8. Dans la computation de tout délai fixé par ce code, ou imparti en vertu de quelqu'une de ses dispositions, y compris un délai d'appel:

1. le jour qui marque le point de départ n'est pas compté, mais celui de l'échéance l'est;

2. les jours non juridiques sont comptés; mais lorsque le dernier jour est non juridique, le délai est prorogé au premier jour juridique suivant;

3. le samedi est assimilé à un jour non juridique, de même que le 2 janvier et le 26 décembre.

1965 (1re sess.), c. 80, a. 8.

9. Un juge peut, aux conditions qu'il estime justes, proroger tout délai qui n'est pas dit de rigueur, ou relever une partie des conséquences de son défaut de le respecter.

1965 (1re sess.), c. 80, a. 9.

10. Le lieu, le temps et la durée des sessions et séances des tribunaux sont déterminés conformément aux dispositions de la Loi sur les tribunaux judiciaires.

Le tribunal peut abréger une session, la prolonger, ou la fixer à une date ultérieure par ajournement.

En l'absence du juge qui devrait présider le tribunal, le protonotaire peut prononcer l'ajournement à un autre jour de la session ou à toute autre date ultérieure indiquée par le juge.

1965 (1re sess.), c. 80, a. 10.

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This document has official status.

chapter C-25.01

CODE OF CIVIL PROCEDURE

PRELIMINARY PROVISION

This Code establishes the principles of civil justice and, together with the Civil Code and in harmony with the Charter of human rights and freedoms (chapter C-12) and the general principles of law, governs procedure applicable to private dispute prevention and resolution processes when not otherwise determined by the parties, procedure before the courts as well as procedure for the execution of judgments and for judicial sales.

This Code is designed to provide, in the public interest, means to prevent and resolve disputes and avoid litigation through appropriate, efficient and fair-minded processes that encourage the persons involved to play an active role. It is also designed to ensure the accessibility, quality and promptness of civil justice, the fair, simple, proportionate and economical application of procedural rules, the exercise of the parties' rights in a spirit of co-operation and balance, and respect for those involved in the administration of justice.

This Code must be interpreted and applied as a whole, in keeping with civil law tradition. The rules it sets out are to be interpreted in the light of the specific provisions it contains or of those of the law, and in the matters it deals with, the Code compensates for the silence of the other laws if the context so admits.

I.N. 2016-12-01.

Court offices perform their functions in accordance with this Code, the regulations of the court, the directives of the chief justice or chief judge and those of the Deputy Minister of Justice, and within the technological environment in place to support the business of the courts.

2014, c. 1, a. 66.

67. Court clerks are in charge of the court office to which they are assigned and exercise the powers conferred on them by law. They may, with the consent of the Minister of Justice or a person designated by the latter, choose deputy court clerks, who are authorized to exercise those powers. Court clerks are assisted by the personnel needed to carry out their functions and run the court office. They may designate a person from among that personnel to perform, in their place or the deputy court clerks' place, acts that do not require the exercise of a jurisdictional or discretionary power.

In addition, the Minister, by order and with the consent of the chief justice or chief judge, may appoint special clerks to exercise, for the court, the adjudicative functions assigned to special clerks by law. Special clerks, by virtue of their office, may exercise the powers of court clerks.

2014, c. 1, a. 67.

CHAPTER V

POWERS OF COURTS, JUDGES AND COURT CLERKS

68. The jurisdiction and powers conferred on the Court of Appeal are exercised by the Court, its judges or the court clerk, as provided in this Code, particularly in Title IV of Book IV, which governs appeals.

The jurisdiction and powers conferred on the courts of first instance are also conferred on the judges appointed to those courts. The courts, when holding hearings, are vested with all the powers conferred by law on judges.

A measure which, under this Code, may be taken by the chief justice or chief judge may also, if warranted, be taken by the associate or assistant chief justice or chief judge, according to the division of responsibilities that prevails at the court, or by another judge designated by any of them.

2014, c. 1, a. 68.

69. In first instance, judges sit in court to hear and try an application.

Judges, in chambers or in another place serving as chambers, may meet parties to take case management measures and try and decide applications that require immediate intervention or do not require the presentation of evidence, such as incidental applications, applications proceeding by default, non-contentious applications, and applications relating to temporary injunctions, seizures before judgment or execution matters. In all such cases and in all cases where judges are permitted by law to exercise their powers in chambers or such other places, minutes of the meeting must be drawn up.

On their own initiative or on an application, judges may refer to the court any matter submitted to them in chambers or in another place serving as chambers.

2014, c. 1, a. 69.

70. Court clerks and special clerks only exercise the jurisdiction expressly assigned to them by law. In matters within their jurisdiction, they have the powers of the judges or the court.

If they consider that the interests of justice so require, they may refer any matter submitted to them to a judge or to the court.

2014, c. 1, a. 70.

71. If the judge is absent or unable to act and any delay could result in the loss of a right or cause serious prejudice, the court clerk may exercise the jurisdiction of the judge.

However, the court clerk cannot decide an incidental application, issue an order for police assistance or authorize a seizure before judgment unless no judge or special clerk is present in the district; nor may the court clerk decide an application for a stay unless it is impossible to reach a judge in another district or the on-call judge designated by the chief justice or chief judge.

In addition to applications expressly excluded from the jurisdiction of court clerks, the court clerk may in no case decide an application relating to personal integrity, status or capacity, authorize the seizure of property on a debtor's person or decide an application for judicial review or an application for an injunction.

2014, c. 1, a. 71.

72. The special clerk may rule on any application, contested or not, whose subject matter is the referral of the originating application to the court having territorial jurisdiction in a case described in article 43, security for costs, the calling of a witness, the disclosure, production or rejection of exhibits, the examination or copying of an access-restricted document, or the physical, mental or psychosocial assessment of a person, the joinder of proceedings, amendments to pleadings or particulars to clarify pleadings or a substitution of lawyer and on any application for relief from default or to cease representing. In the course of a proceeding or of execution, the special clerk may rule on any pleading, but only with the parties' consent in the case of a contested pleading.

The special clerk may homologate any agreement between the parties that provides a complete settlement of a child custody or support matter and, in order to evaluate the agreement or assess the consent of the parties, may convene the parties and hear them, even separately, in the presence of their lawyer. If the special clerk considers that the agreement does not sufficiently protect the children's interests or that consent was obtained under duress, the case is referred to a judge or to the court.

An agreement homologated by the special clerk has the same force and effect as a judgment.

Applications that are within the jurisdiction of the special clerk are presented directly to the special clerk and, unless contested, are decided on the face of the record.

2014, c. 1, a. 72.

73. In a non-contentious proceeding, the jurisdiction of the court may be exercised by the special clerk.

However, the special clerk cannot decide applications concerning personal integrity or status, absence or a judicial declaration of death or, in family matters, joint applications on a draft agreement; nor may the special clerk decide applications for the review of a decision of the registrar of civil status or relating to the publication of rights or the reconstitution of an authentic act or public register.

2014, c. 1, a. 73.

74. Decisions of the court clerk other than administrative decisions and decisions of the special clerk, except judgments rendered by default following the defendant's failure to answer the summons, attend the case management conference or defend on the merits, may, on an application, be reviewed by a judge in chambers or by the court. The same applies to decisions of the appellate clerk, which may be reviewed by an appellate judge.

The application for review must state the grounds on which it is based, be notified to the other parties and filed with the court office within 10 days after the date of the decision concerned. If the decision is quashed, matters are restored to their former state.

2014, c. 1, a. 74.