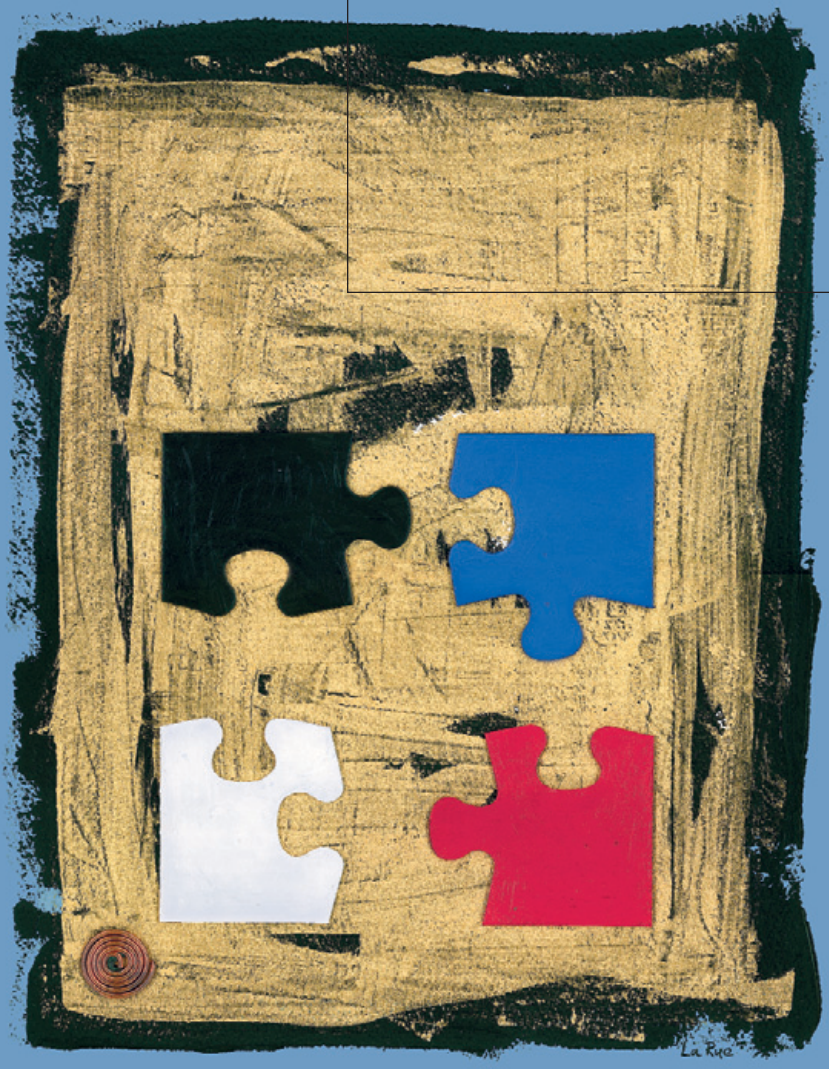
A JUDICIAL REFORM BASED ON THE NEEDS OF CITIZEN

APRIL 2005

COURT OF QUÉBEC

REPORT OF THE REFLECTION AND ORIENTATION COMMITTEE ON COURTS OF FIRST INSTANCE IN QUÉBEC



The illustration on the cover of this document is
a reproduction of a work by Mr. Justice Jean La Rue.
It represents the various stakeholders, namely,
the federal and provincial governments, the courts
and the Bar, which must work together
to form a coherent whole.

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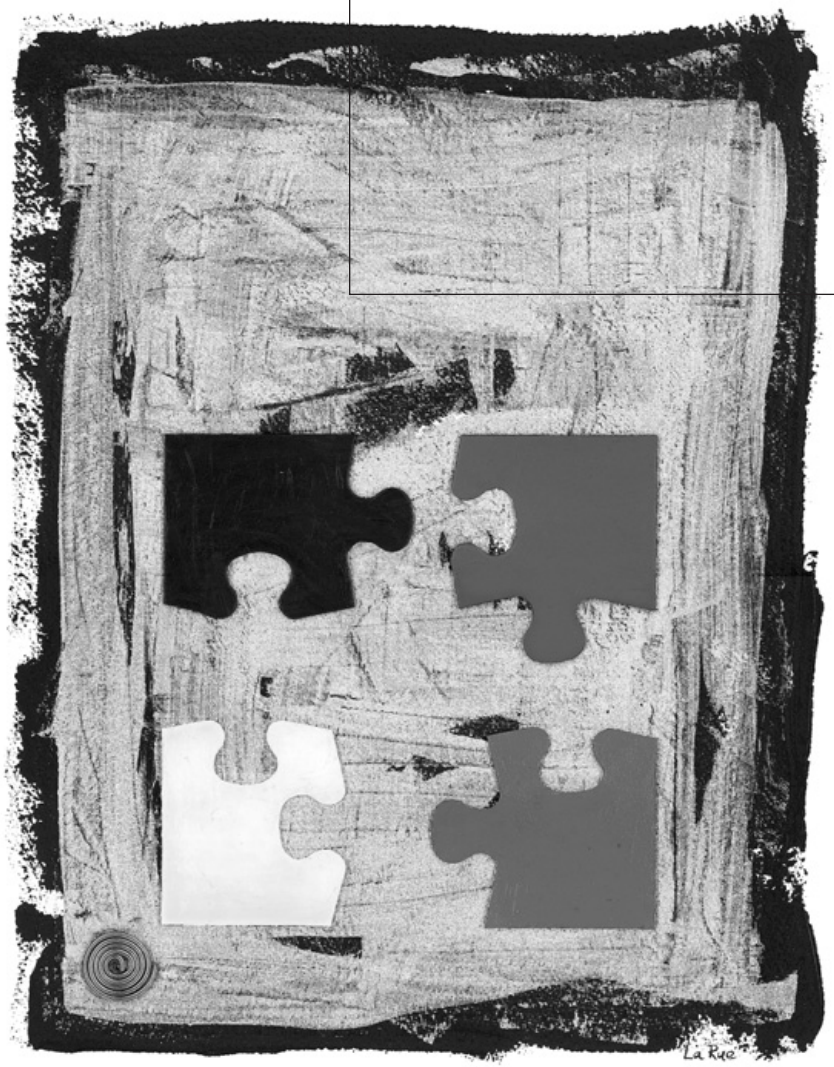

"We are approaching another pivotal moment in the evolution of the Provincial Court, a constitutional moment when our governments need to decide if the Provincial Court is a truly independent court of justice or merely an inferior court as existed in 1867. Our purpose is to encourage discussions to examine that fundamental question in a coherent way that could result in a practical plan of action to rationalize our court system. Unification has been viewed as the ultimate resolution of the question of the status of the Provincial Court, and while that initiative had developed considerable momentum a decade ago, and despite much political will, the initiative stalled....However, while court unification is an important topic in any such dialogue, the primary focus of such a dialogue should be on the rights of Canadians and on the Constitution. The question we pose is: does the current status of the Provincial Court provide Canadian citizens with the judicial system contemplated by the Constitution?"[1]

1 Gerald T.G. Seniuk and Noel Lyon, "The Supreme Court of Canada and the Provincial Court in Canada," (2000) 79 Can. Bar Rev. 77, p.3.

Québec City, April 2005

The Honourable Guy Gagnon
Chief Judge
Court of Québec

Dear Justice Gagnon,

As part of an exercise to evaluate the Court of Québec-a healthy exercise for any organization that wishes to maintain quality standards-we asked the following question in regard to the current judicial structure: Although the organization of courts of first instance in Québec has been amended periodically, does the existing organizational model adequately address citizens' needs? To answer this question, you created the Reflection and Orientation Committee on Courts of First Instance in January 2004.

It is with great pleasure that I present you with the Committee's report, which proposes, as its title indicates, "a judicial reform based on the needs of citizens."

As actors within the system and, especially, first-hand witnesses to the way it operates, we have taken a critical look at the current judicial structure.

In the Committee members' opinion, the integration of courts of first instance has become necessary and unavoidable, and is not only in the interest of judicial institutions, but also, and above all, of Québec society in general.

The current cost of judicial administration, the obvious need to make the system more effective, and the needless complexity arising from the presence of so many different authorities all argue for the integration of the Superior Court, the Court of Québec and the municipal courts using an approach based on the true needs of citizens.

The Committee members believe that, regardless of the angle from which the question is studied, the integration of courts of first instance offers only advantages to citizens, litigants, interested participants in the judicial process, judges, and governments alike.

The search for global solutions will be well under way when all concerned institutions sit at the same table to discuss this subject in a spirit of openness and genuine concern for citizens.

We hope that the ideas contained in this report will prompt concerted action on the part of all institutions that are in a position to make a difference.

Sincerely,

For the Committee
René de la Sablonnière
Senior Associate Chief Judge

The following persons participated in drafting this document, namely, the judges of the Court of Québec, during their annual meeting in Québec City on November 3, 4 and 5, 2004, and the members of the Committee:

JUDGES OF THE COURT OF QUÉBEC

Mr Justice Maurice Abud
Mr Justice Pierre E. Audet
Mr Justice Rémi Bouchard
Mr Justice Claude C. Boulanger
Mr Justice Claude Chicoine
Mr Justice André Cloutier
Mr Justice Hubert Couture
Mr Justice René de la Sablonnière
Mr Justice Gabriel de Pokomandy
Mr Justice Maurice Galarneau
Mrs Justice Paule Gaumond
Mr Justice Jean-François Gosselin
Mr Justice Jacques Lachapelle
Mr Justice Guy Lecompte
Mrs Justice Michèle Lefebvre
Mrs Justice Céline Pelletier
Mr Justice Michel A. Pinsonnault
Mrs Justice Viviane Primeau
Mr Justice Denis Saulnier
Mr Justice Michel Simard
Mrs Justice Huguette St-Louis
Mr Justice Alain Turgeon

MEMBERS OF THE BAR

M[e] François Boulianne
M[e] Renée Desrosiers de Lanauze
M[e] Renée Gingras
M[e] Michel Laferrière
M[e] Jean Latulippe
M[e] Simon Turmel

AN INTEGRATED COURT OF FIRST INSTANCE IN QUÉBEC

FOREWORD

The Québec judicial system has undergone significant changes in recent decades. The creation of the Court of Québec, the establishment of the Administrative Tribunal of Quebec, the reform of the *Code of Civil Procedure* in the wake of the overhaul of the *Civil Code* and the restructuring of municipal courts are all illustrations of this realignment. Other proposed changes remain to be implemented, namely, the creation of a family court and, perhaps even more fundamentally, the creation of a unified court of first instance.

For quite some time now, the organization of trial courts has prompted reflection and reports. To mention only a few, there was the Prévost Report in 1970, the working paper put out by Law Reform Commission of Canada in 1974, the report on the proceedings of the *Sommet de la justice* in 1992, the Seniuk and Lyon study on provincial courts in 2000 and the Ferland Report on the civil procedure review in 2001.[2]

Federal Bill C-**22**,[3] one of whose aims was to promote the creation of unified family courts, died on the order paper following the dissolution of Parliament on May 23, 2004. This bill nonetheless triggered reflection on what impact its adoption would have had and encouraged discussion amongst the judges of the Court of Québec on the need to rethink the current organization of the judicial system of the courts of first instance. Two other parallel initiatives are currently under way, one dealing with judicial organization in the municipal field and the other with the territorial organization of judicial services-both launched by the Ministère de la Justice du Québec.

In early 2004, the Chief Judge of the Court of Québec created a working committee whose mandate was to examine the functioning of the judicial system of first instance and to propose reforms. This document describes the judicial system of first instance, studies the proposal for a unified family court (UFC) and raises certain problems with respect to the organization and operation of municipal courts. Lastly, it proposes a new and modern structure for courts of first instance which is closer to citizens, more accessible, more efficient, better understood by the litigant and more cost-effective.

2 To facilitate the reading of the text, references are cited in full in the bibliography at the end of the document.

3 *Act to amend the Divorce Act*, the *Family Orders and Agreements Enforcement Assistance Act*, the *Garnishment, Attachment and Pension Diversion Act* and the *Judges Act and to amend other Acts in consequence*, Bill C-22 (2nd reading), 2nd Session, 37th Parliament (Can).

HISTORICAL BACKGROUND

A STRUCTURE FOCUSED ON JUDICIAL REVIEW

The judicial system of original jurisdiction in Québec is currently made up of three courts operating in tandem. The Superior Court, whose judges are appointed by the federal government, has full and general jurisdiction over all matters, except those specifically conferred upon other courts by law. The Court of Québec, whose judges are appointed by the provincial government, has a general jurisdiction which is broad but restricted to areas explicitly provided for by law. Lastly, Québec's municipal courts network chiefly hears cases involving offences perpetrated in the criminal and municipal regulatory field.

The organization of trial courts, as we know it today in Canada, is both the product of constitutional choices made in 1867 and of constant adaptation to changes in the political, social and economic climate of the country.[4] It involves a centralized approach whose roots lie in the British model of judicial organization.

THE BRITISH MODEL

Originally, the authorities who framed the Constitution wished to ensure, in a very large country with an uneven level of development among the various provinces, the supremacy and development of a strong centralized judicial system, capable of guaranteeing the uniform application of the rule of law while maintaining

4 Carl Baar, *One Trial Court: Possibilities and Limitations* (Ottawa: Canadian Judicial Council, 1991), p.1:

"We see the courts, pre-eminently among our public institutions, as steeped in tradition and conservatism. This view reflects our understanding of an institution that predates our own political system, and whose form and appearance reflect its origins and development in medieval times. Courts characteristically display a set of formalized relationships, with distinctive titles, apparel and physical settings that identify both the hierarchical relations among the participants and the common obligations that set them apart from the rest of the community.

Yet within the past 25 years, the ways our courts are organized have fundamentally changed. These changes in court organization contrast with the continuing appearance of stability and tradition. As a result, the public is largely unaware of how different our courts are from what they were a generation ago.

It is time to take stock of the changes the courts have undergone, and consider in light of that stocktaking a new generation of proposals that are emerging from governments, law reform bodies and members of the judiciary themselves."

5 On this question, see Peter W. Hogg, *Constitutional Law of Canada* (Toronto: Carswell, 2003 update), p. 7-2; the Supreme Court of Canada also commented on this subject in *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island*, [1997] 3 S.C.R. 3, para. 106:

"The historical origins of the protection of judicial independence in the United Kingdom, and thus in the Canadian Constitution, can be traced to the Act of Settlement of 1701. As we said in Valente, supra, at p. 693, that Act was the "historical inspiration" for the judicature provisions of the *Constitution Act, 1867*. Admittedly, the Act only extends protection to judges of the English superior courts. However, our Constitution has evolved over time. In the same way that our understanding of rights and freedoms has grown, such that they have now been expressly entrenched through the enactment of the *Constitution Act, 1982*, so too has judicial independence grown into a principle that now extends to all courts, not just the superior courts of this country."

For a description of the organization of the English judicial system, see Penny Darbyshire, *English Legal System in a Nutshell*, 3rd ed. (London: Sweet & Maxwell, 1995).

close ties with its English roots.[5] To that end, the British tradition of a court of original jurisdiction, playing a leading role in the establishment and enforcement of the law[6] and the review of decisions handed down by other types of tribunals, was imported. Such a tribunal enjoys the best status and guarantees of independence vis-à-vis the political authorities. It is made up of a limited number of judges, working mainly in large urban centres. To function, however, the model must be supported by a network of courts whose jurisdiction and status are more limited, but which can ensure broader territorial coverage. All these other so-called "inferior" courts are subject to the superintending powers and review of the court of original jurisdiction. Initially, these lower courts, which were made up of non-legal professionals,[7] did not have the status of a court of record and were heavily dependent upon local authorities.[8]

THE CANADIAN MODEL

The wording of section 96[9] of the Constitution Act, 1867[10] entrenched the integration of this model in Canada. It provides that the federal government shall appoint the judges of the superior courts and the district or county courts. The Canadian model also includes a third level of jurisdiction, consisting of magistrate's courts and justices of the peace. In most Canadian provinces, judicial responsibilities thus became shared after Confederation between these three types of courts.

Between 1969 and 1991, all the provinces did away with district and county courts, leaving only superior courts. In conjunction with this repeal, most of the provinces considerably expanded the scope of jurisdiction of provincial courts, while incorporating therein that of magistrate's courts. These significant changes in the organization of Canadian judicial tribunals reflect the shift away from the British-inspired model dating back to 1867.[11]

THE EXPANSION OF PROVINCIAL COURTS IN QUÉBEC

Judicial organization evolved in a slightly different manner in the Province of Québec, which never had a district or a county court. However, it did have a circuit court, which was considered a superior court and was presided over by judges of the Superior Court.[12] From the outset, the Superior Court in Québec had a much broader stature than in the other provinces. It provided, on a regional scale, judicial services which, in the other provinces, befell district or county courts. Furthermore, in Québec, provincial courts developed at a much faster pace and in a more significant fashion than in any other province.

6 In *MacMillan Bloedel Ltd. v. Simpson*, [1995] 4 S.C.R. 725, para. 37, Chief Justice Antonio Lamer wrote:

"In the constitutional arrangements passed on to us by the British and recognized by the preamble to the *Constitution Act, 1867*, the provincial superior courts are the foundation of the rule of law itself...."

7 Gerald T.G. Seniuk and Noel Lyon, *supra*, Note 1, p. 17:

"For example, the *inferior* tribunals of 1867 required the supervision of legally trained persons. This supervisory role belonged to the *superior* court, whereas professional judges supervised the work of the lay Justices of the Peace and Magistrates. At that time, Justices of the Peace, and the early magistrates were more closely identified with law enforcement than with judicial supervision. The legally trained judiciary in the *superior* courts supervised the work of these legally untrained officers by means of judicial review and prerogative writs. This reflected the huge difference in legal ability between the *superior* and *inferior* courts in 1867."

8 Even though the Privy Council in London expressed concerns, in *Martineau & Sons v. Montreal*, [1932] A.C. 113, 120 and *Toronto v. York*, [1938] A.C. 415, 426, about the possible influence of local authorities on lower court judges, Peter Hogg is far from convinced that these concerns were well founded. Peter Hogg, *supra*, Note 4, p. 7-4.

"Why should the federal government make appointments to the provinces' higher courts? The answer that has become conventional is that s. 96 reinforces judicial independence by insulating the judges from local pressures. But this explanation, although enthusiastically endorsed by the Privy council, is not particularly convincing. There is no reason to suppose that judges appointed by the provinces would be less competent or independent than judges appointed by the federal government."

9 In *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island*, [1997] 3 S.C.R. 3., para. 88, Justice Lamer commented on the evolution of the interpretation of section 96:

"Section 96 seems to do no more than confer the power to appoint judges of the superior, district, and county courts. It is a staffing provision, and is once again a subtraction from the power of the provinces under s. 92(14). However, through a process of judicial interpretation, s. 96 has come to guarantee the core jurisdiction of the courts which come within the scope of that provision. In the past, this development has often been expressed as a logical inference from the express terms of s. 96. Assuming that the goal of s. 96 was the creation of "a unitary judicial system", that goal would have been undermined 'if a province could pass legislation creating a tribunal, appoint members thereto, and then confer on the tribunal the jurisdiction of the superior courts': *Re Residential Tenancies Act, 1979*, [1981] 1 S.C.R. 714, at p. 728. However, as I recently confirmed, s. 96 restricts not only the legislative competence of provincial legislatures, but of Parliament as well: *MacMillan Bloedel, supra*. The rationale for the provision has also shifted, away from the protection of national unity, to the maintenance of the rule of law through the protection of the judicial role."

10 *Constitution Act, 1867* (U.K.), 30 & 31 Vict., c. 3, reprinted in R.S.C. 1985, Appendix II, No. 5.

In 1952, the Circuit Court was abolished and its jurisdiction transferred to the Provincial Court.[13] Today, the Court of Québec is the most important provincial court in the country. There is no other court of like status with a similar stature in any of the common law countries. Lastly, Québec has a network of municipal courts, an institution found nowhere else in Canada.

THE COURT OF QUÉBEC TODAY

Over the past 17 years, the Court of Québec has undergone significant developments. Created in 1988, it was born of the unification of the Provincial Court, the Court of the Sessions of the Peace, the Youth Court and the Expropriation Tribunal.[14] Today, it hears nearly 80% of all civil proceedings, with the exception of family matters and certain other matters reserved unto the Superior Court. It should be noted that, for over 30 years now, the small claims division alone has generated numerous legal proceedings, reflecting the interest of the general public in a readily accessible, low-cost judicial system. The lack of formality in small claims courts and the very active role played by the presiding judge rapidly became key to their success. The Court of Québec also hears close to 98% of all criminal and penal cases, save for those brought before the municipal courts. In matters of youth law, it hears all cases pertaining to protection, adoption and young offenders, with the exception of trials by jury, thus fulfilling a mission similar to that of the Superior Court in regard to family law. Lastly, in administrative matters, some 20 or more statutes provide for an automatic right of appeal or an appeal with leave before the Court or one of its judges. As a result of these developments, the mission of the Court of Québec and that of the Superior Court have become fundamentally the same, namely, the interpretation and enforcement of the law in Québec.

11 Gerald T.G. Seniuk and Noel Lyon, *supra*, Note 1, p. 8 explain that the concept of *inferior* court as we know it today is totally different from the concept that prevailed in the early days of Confederation:

"The institutional root of this court is the *inferior* court as it was in 1867. But the Provincial Court of today is quite different from those courts, both in the qualifications of its judges and in its jurisdiction. The criminal jurisdiction of the court has increased greatly in the past 30 years. Its jurisdiction bears no resemblance to the jurisdiction of an *inferior* court in 1867. Furthermore, the court system has also changed significantly since those years. For example, the original three-tiered court structure has been reduced to a two-tiered structure. And finally, with the inception of *The Charter of Rights and Freedoms*, the Provincial Court has a greater constitutional role than could ever have been envisioned in 1867. Thus, the Provincial Court has an historic and systemic context."

This change in the organization of judicial tribunals also raises questions about the relevance of maintaining a distinction between categories of tribunals. Gerald T.G. Seniuk and Noel Lyon, *supra*, Note 1, p. 4:

"The Provincial Court is a unique court, and its uniqueness raises a number of questions about its status. It is a new court in our constitutional history, and it does not easily fit its assigned constitutional status as an *inferior* court. But neither is it a *superior* court. If the Provincial Court is neither functionally an *inferior* or constitutionally a *superior* court, then in which of these two categories should it belong?"

12 Although the Supreme Court recognized, in *Séminaire de Chicoutimi v. Attorney General and Minister of Justice of the Province of Québec and The City of Chicoutimi*, [1973] S.C.R. 681, that the Circuit Court was one of the courts referred to in section 96, the question of whether it should be considered a *superior* court has never been officially clarified and is more a matter of theory than of substance, as Jacques Deslauriers explained in "La Cour provinciale et l'art. 96 de l'A.A.N.B.," (1977) 18 C. de D. 881:

"It can thus be noted that the use of the words district, circuit or county in the application of section 96 is a matter of terminology rather than of substance. In the Province of Québec, the Circuit Court exercised a jurisdiction similar to that of county courts subject to section 96 in the other provinces. In any case, the judges that presided over the Circuit Court were appointed by the federal government." [Free translation]

13 The events surrounding the abolition of the Circuit Court and the transfer of its jurisdiction are described as follows by Ignace-J. Deslauriers and Paul Robitaille in "Histoire des tribunaux et de la magistrature du Québec: les Cours de Magistrat 1867 à 1965, la Cour Provinciale 1965 à 1981 et leurs juges," *Bulletin no 44*, Comité général des juges de la Cour supérieure, 1981, p. 6:

"The real origin of today's Provincial Court can be traced back to a statute adopted in 1945 (9 Geo. VI, c. 19). Pursuant to this statute, the Circuit Court was replaced by the Magistrate's Court, not only in the province but also in Montréal.

The Circuit Court continued to exist for a few more years, even though, in practice, its jurisdiction had been suspended and its judges had ceased to sit. However, in 1952, the Circuit Court was finally abolished and its jurisdiction transferred in full to the Magistrate's Court, in both the province and Montréal. We know that the expression "Magistrate's Court" was later replaced by "Provincial Court", but, in reality, this amounted to nothing more than a change in name." [Free translation]

14 *Act to amend the Courts of Justice Act and other legislation to establish the Court of Québec*, S.Q. 1988, c. 21.

STATUS OF THE COURTS

14

Before discussing the problems that stem from the organization of courts of first instance in Québec, it is important to describe the current state of the various courts.

THE SUPERIOR COURT

The Superior Court consists of 144 judges, to whose ranks can be added up to 111 supernumerary judges. It sits in 43 courthouses or service outlets on a permanent basis and serves 5 service outlets on a periodical basis. This institution is concentrated mainly in the county seats of the judicial districts.

THE COURT OF QUÉBEC

The Court of Québec consist of up to 270 judges. It sits, on a permanent basis, in 58 courthouses or service outlets and, on a periodical basis, in 42 service outlets. Since 1974, a travelling court formed of judges of the Court of Québec has served more than 20 or so Cree and Inuit communities in James Bay and Nunavik. The Court of Québec also serves other remote communities on the North Shore.

MUNICIPAL COURTS

Québec is the only Canadian province with a municipal court network, although certain Canadian cities also have at their disposal justices of the peace, vested, however, with a more limited jurisdiction. Since 2002, all municipal courts and municipal judges have been subject to a single statute, namely, the *Act respecting municipal courts*.[15]

There are presently 88 municipal courts in Québec. Their respective importance, in terms of case load and jurisdictional responsibility, varies widely. Municipal courts are independent courts of record with both civil and criminal jurisdiction. They all fall within the purview of an associate chief judge of the Court of Québec appointed to oversee them.[16] Although their jurisdiction is simultaneously civil, criminal and penal, they mainly hear cases involving offences relating to criminal and municipal regulatory matters.

15 R.S.Q., c. C-72.01.

16 *Courts of Justice Act*, R.S.Q., c. T-16, s. 98, para. 3.

17 *Act to amend the Courts of Justice Act and other legislative provisions as regards the status of justices of the peace*, S.Q. 2004, c. 12.

18 R.S.Q., c. T-16.

19 In particular, they hear cases with respect to the statutes of Quebec and to federal statutes to which the *Code of Criminal Procedure* applies. They also have jurisdiction to hear cases pursuant to Part XXVII of the *Criminal Code* with respect to federal statutes other than the latter and the *Controlled Drugs and Substances Act*. In addition, they are authorized to issue warrants and telewarrants throughout the province.

PRESIDING JUSTICES OF THE PEACE

On June 30, 2004,[17] the *Courts of Justice Act*[18] was amended to create two categories of justices of the peace: presiding justices of the peace and administrative justices of the peace. The new presiding justices of the peace are appointed during good behaviour. They exercise their duties with the Court of Québec and fall under the authority of the chief judge of this court. Their jurisdiction extends to the entire territory of Québec.[19]

FEATURES COMMON TO COURTS OF FIRST INSTANCE

The Superior Court, the Court of Québec and the municipal courts all have the status of courts of record.[20] Among the features inherent in the status of a court of record, it is important to note the power of judges to punish for contempt of court *in facie*, the power to have their orders enforced[21] and immunity from prosecution for acts performed in the exercise of their duties. The judges of these courts as well as the presiding justices of the peace are appointed by the government from among lawyers who have been practicing their profession for at least 10 years. They are subject to a series of ethical principles enforceable by a judicial council.

20 Gerald T.G. Seniuk et Noel Lyon, *supra*, Note 1, p. 20, Note 80:

"The issue of whether a court is a court of record is a residue of unhistorical and unmeritorious distinctions that reflected a method the central royal courts used to assert the constitutional superiority of common law courts against other tribunals."

21 Karim Benyekhlef, "La notion de cour d'archives et les tribunaux administratifs," (1988) Vol. 22 No. 1 R.J.T., p. 61, 63 clarifies the historical basis of the concept of court of record:

"The concept of court of record is an historical notion linked to the infallibility of the king's memory. During the period when the king administered justice in person, it was assumed that 'the personal memory of the king about what he had previously done in his court was taken to be infallible and conclusive when any question arose.' This privilege was transmitted to royal judges when it was impossible for the king to administer justice in person, with the result that 'their personal recollections about previous decisions of their courts also became incontrovertible.'" [Free translation]

PROBLEMS INHERENT IN THE CURRENT JUDICIAL STRUCTURE

16

ARBITRARY DIVISION OF JURISDICTION AND COMPLEXITY OF REMEDIES

The current sharing of responsibilities between the Superior Court, the Court of Québec and the municipal courts does not always reflect a rational or functional principle of organization.

An example of irrationality might be, for instance, in criminal matters, the offence of murder which is excluded from the jurisdiction of the Court of Québec whereas one of its judges may declare a person to be a "dangerous offender", thereby permanently depriving this person of his or her liberty. Note that, in civil matters, the Court of Québec has jurisdiction to hear civil cases for amounts in dispute having a value of $70,000, but may not rule on a taking in payment of hypothecary property for a lesser debt when the property value exceeds this amount. Also, in civil matters, it may not amend a maintenance order, often for amounts which are relatively low, whereas, in matters of provincial taxation, it may decide on proceedings involving unlimited amounts. In youth matters, it may not decide on certain matters having a fundamental impact in matters of youth protection, which fall under the exclusive jurisdiction of the Court of Québec, for instance in matters of consent to care, legal guardianship, deprivation of an attribute of parental authority, separation from bed and board and the family residence, etc.

The current duality of jurisdiction between the Superior Court and the Court of Québec, especially in light of the compartmentalization and overlapping of jurisdiction which it requires, results in a useless complication of the remedies available to litigants.

THE IMPACT OF THE COMPARTMENTALIZATION OF JURISDICTION ON SERVICES DELIVERED ON A REGIONAL SCALE

The current compartmentalization of jurisdiction is especially detrimental to litigants outside urban areas. Currently, the Court of Québec and the municipal court network ensure broad territorial coverage, whereas the Superior Court mainly serves the county seats of judicial districts. Since each judge is restricted to his or her own jurisdiction, he or she may not be of assistance to a judge of another jurisdiction if need be.

22 In *Dr Q v. College of Physicians and Surgeons of British Columbia*, [2003] 1 S.C.R. 226, para. 21, the Chief Justice of the Supreme Court confirms that henceforth, both judges sitting on judicial review and those hearing a statutory appeal must be considered reviewing judges, which implies, in both cases, the importance of using a pragmatic and functional approach:

"The term 'judicial review' embraces review of administrative decisions by way of both application for judicial review and statutory rights of appeal. In every case where a statute delegates power to an administrative decision-maker, the reviewing judge must begin by determining the standard of review on the pragmatic and functional approach."

23 This perception is one of the results of the use of the terms "superior" and "inferior". The Law Reform Commission of Canada, on page 14 of its Working Paper no. 59 entitled "Toward a Unified Criminal Court," (Ottawa: 1989), wrote that there is simply no argument establishing that a one court is superior to another:

"There is certainly no empirical evidence that County Court judges are superior in any way to Provincial Court judges, nor that Supreme Court judges are more competent than all the others. What is troubling, however, is that various characteristics of the respective court levels could lead to a public perception that a judicial hierarchy based on competence to try criminal cases does indeed exist." The *Conférence des juges du Québec*, on page 40 of its brief presented at the *Sommet de la justice* (Québec: February 1992), agreed:

"Nonetheless, the very designation of one court in relation to another gives litigants the impression that the members of one court are superior to the members of another. They may this conclude that there are two kinds of justice. Such a perception is harmful to the entire judicial system." [Free translation]

24 See, in particular, Gerald T.G. Seniuk and Noel Lyon, *supra*, Note 1, p.5; Noel Lyon, "Provincial Courts and the Administration of Justice," Provincial Judges' Journal, vol. 3, no. 3, 1979, p. 3.

This gives rise to situations where a judge of one jurisdiction, sitting alone in a remote area, is unable to hear a case, which may be of an urgent nature, for the sole reason that he or she does not have the authority to do so. As a result, the litigant is very often required to wait for the arrival of a judge having the appropriate jurisdictional authority to hear his or her case.

RELEVANCE OF THE SUPERINTENDING POWER OF THE SUPERIOR COURT

Originally, the superintending and review power of superior courts could be justified, in particular to ensure the review of judicial decisions made by tribunals presided over by persons lacking legal training. The judges of the Court of Québec today have the same professional qualifications as the judges of the Superior Court. Furthermore, when a judge of the Court of Québec hears the appeal of a decision of a tribunal or a jurisdictional body, he or she is required to apply the standards of review of a court sitting in a judicial review or appellate capacity.[22] In such circumstances, one may question the relevance of maintaining, in its current form, the superintending and review power of the Superior Court. Experience has shown that judicial review is very often used as a delaying tactic or appeal mechanism rather than a veritable judicial review for excess of jurisdiction.

HOW THE JUSTICE SYSTEM IS PERCEIVED BY THE LITIGANT

Some observers argue that a system with multiple trial jurisdictions runs the risk of drifting towards a two-tiered system of justice or, at least, of fostering such a perception among litigants.[23] Even if justice is rendered with the same degree of professionalism, these distinctions may give rise to questions by litigants regarding equal access to justice.[24] For instance, the threshold of jurisdiction in civil matters is currently set by an arbitrary decision of the legislator, even though there is not necessarily a direct nexus between the monetary value of a proceeding and the complexity of the questions raised.

MULTIPLE JURISDICTIONS IN FAMILY MATTERS

Issues relating to adoption, youth protection, filiation, legal guardianship and child custody fall within two different jurisdictions, and overlapping and compartmentalization of jurisdictions abound. The Court of Québec has exclusive jurisdiction in matters of youth protection whereas the Superior Court, as a result of its jurisdiction in matters of divorce and separation, deals with custody and interim orders. The Court of Québec has exclusive jurisdiction in matters of adoption whereas the Superior Court has jurisdiction in respect of any other proceeding related to filiation (acknowledgement of parenthood, deprivation of parental authority, legal guardianship, and emancipation). These issues are inextricably linked and it would be preferable if they were dealt with by the same jurisdiction, both with a view to avoid conflicting judgments and to avoid a fragmented, deferred and quite expensive solution to the litigant's family problem.[25] In addition to these problems, let us mention the situation of a child who is the victim of a criminal act perpetrated by a parent, in which case the criminal aspect may be dealt with before the Superior Court or before the Court of Québec sitting in a criminal capacity, as the case may be. To add to the complexity, the municipal courts also have criminal jurisdiction with respect to youths between 14 and 17 years of age.

SUPPORT AND MAINTENANCE

The Court of Québec has jurisdiction in order to ensure child protection but may not rule on support payments. Conversely, the Superior Court, which has jurisdiction to determine support payments and the custody of a child, may not rule on the measures necessary to ensure that child's protection.

25 The Law Reform Commission of Canada, on page 8 of its Working Paper no. 1 entitled "The Family Court" (Ottawa: 1974), wrote:

"By forcing parties to go to different courts in relation different facets of a single problem, the process denies any one court the opportunity to view the problem as a whole. As a result no one person sees all the evidence, and remedies may be granted which are not the best."

The Civil Code Revision Office, Committee on the Family Court, on page 25 of its Report on the Family Court (Montréal: Éd. off. du Québec, 1975), wrote:

"Such fragmentation of jurisdictions in family matters results in numerous disadvantages for litigants, including uncertainty, wasted time and money, a plethora of procedures and possibilities of conflicting rulings, all of which are sources of worry and frustration. For the sitting judge, it is difficult and often downright impossible to consider the family problem as a whole and come up with a comprehensive settlement." [Free translation]

More recently, the Civil Procedure Review Committee, on page 68 of its report entitled "Rapport sur la révision de la procédure civile - Une nouvelle culture judiciaire" (Bibliothèque nationale du Québec: 2001), wrote:

"Not only does this fragmentation prevent the reaching of a single settlement for a family dispute as part of one hearing, but it is also likely to entail conflicting rulings. Furthermore, an array of hearings and experts' reports on the same situation result in extra time and costs. Ongoing and effective collaboration between the Superior Court and the Court of Québec has nonetheless helped reduce and mitigate the problems experienced by citizens involved simultaneously in disputes that fall within the jurisdiction of different courts." [Free translation]

MULTIPLE EXPERTS' REPORTS

Experts' reports are often essential, mainly where the issues at hand are complex or technical. Particularly in family matters, both the Superior Court and the Court of Québec require the preparation of psychosocial and psychological assessments. This forces the parties (the parents and the children) to undergo various evaluations resulting in significant costs to them, a procedure which is often perceived to be abusive.

DELAYING TACTICS

When it comes to civil procedure, the remand mechanisms based on the monetary jurisdiction of the Court of Québec may result in delaying tactics. The remand from one court to another, among others, means that a litigant will lose his or her priority and results in significant delays, not to mention out-of-court and court costs relating to the transfer of these cases. For example, a proceeding scheduled for hearing before the Court of Québec, and in respect of which the parties have been waiting for quite some time to be scheduled on the hearing docket, may be transferred to the Superior Court because the defendant has filed a counterclaim for an amount exceeding the jurisdiction of the Court of Québec. This application may be filed after a long wait and just prior to proceeding with the hearing. Hence, the timelines start anew before the new jurisdiction which is the Superior Court.[26]

MULTIPLE REMEDIES AVAILABLE IN MATTERS OF PROTECTION OF THE PERSON, TREATMENT AND INTEGRITY

Litigants nowadays have available to them three fora when it comes to issues relating to residential care and consent to treatment. The Superior Court has jurisdiction to authorize the care, the Court of Québec to decide on residential care and psychiatric assessment, and the Administrative Tribunal of Quebec to evaluate the need for extending the custody ordered by a judge of the Court of Québec. In many a case, the litigant therefore has to appear before several jurisdictions in order to obtain a complete solution to his problem.

ALLOCATION OF RESOURCES

The duality of trial jurisdictions currently requires two separate judicial administrations, namely two Chief Justices, two Associate Chief Justices, two teams of Associate Chief Justices and two teams of coordinating judges, not to mention the presiding judges, judges responsible of the municipal courts and the infrastructures necessary in order to organize those courts. The coordination and planning of human resources allocated to the administration of justice is becoming more difficult because there is no unified management of courts of first instance. This necessarily results in exorbitant costs and needless duplication of some of the services provided. In this respect, the basic verdict is unanimous: the limited resources of the State could be allocated to the administration of justice in a more rational, efficient and functional manner.

THE DUPLICATION AND COMPARTMENTALIZATION OF JURISDICTION IN CRIMINAL MATTERS

Duplication and compartmentalization of jurisdiction occur far less frequently in criminal matters than in civil and in youth matters. The Court of Québec has the broadest criminal jurisdiction in Canada. Only offences provided for in Section 469 of the *Criminal Code* fall within the exclusive jurisdiction of the Superior Court.

REMEDIES GRANTED UNDER THE CANADIAN CHARTER

Even though the Court of Québec may grant a remedy pursuant to section 24 of the *Canadian Charter of Rights and Freedoms* [27] or render a statute inoperative, it does not have jurisdiction to declare a statute void.[28]

THE ORGANIZATION OF THE MUNICIPAL COURT SYSTEM

The reorganization of the trial court system also encompasses the network of municipal courts. However, the future of the latter and their place within the judicial organization of courts of first instance are already being studied by a working committee created in May 2004 by the Minister of Justice. This committee includes representatives of associations and groups in the municipal sector, legal professionals from the Ministère de la Justice

26 These tactics are a major cause of delays in the judicial system. On this topic, see Yves-Marie Morissette, "Les lenteurs de la justice considérées sous un angle qui les avantage," (1987) 33 McGill Law Review, 137.

27 Part I of the *Constitution Act*, 1982, being Schedule B to the *Canada Act*, 1982 (U.K.), 1982, c. 11.

28 Despite this, in the *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island, supra*, Note 9, para. 126, the Supreme Court recognized the role of courts that do not have the status of a superior court:

"The point I want to make first is that the institutional role demanded of the judiciary under our Constitution is a role which we now expect of provincial court judges. I am well aware that provincial courts are creatures of statute, and that their existence is not required by the Constitution. However, there is no doubt that these statutory courts play a critical role in enforcing the provisions and protecting the values of the Constitution."

du Québec and municipal judges, and its findings and recommendations are expected to be published in the spring of 2005. However, without waiting for the tabling of the committee's report, there are already grounds for drawing attention to particular aspects of the current organization and operation of municipal courts.[29]

THE STATUS OF MUNICIPAL JUDGES

Municipal courts are presided over by municipal judges whose status varies depending on whether they discharge their duties exclusively, or on a full-time or part-time basis. The 22 judges of the municipal courts of Montreal, Laval and Québec City discharge their duties exclusively, and possess the same status as judges of the Court of Québec. There are also full-time judges who, essentially, discharge their duties exclusively, and part-time judges who carry out their professional activities both as attorneys and as judges.

DUALITY OF JURISDICTION AND DISPARITY OF TREATMENT

The current coexistence of the Court of Québec and municipal courts as well as their duality of jurisdiction are also grounds for disparity in the treatment of criminal offences. This duality may sometimes give the impression that a citizen does not receive the same treatment for an offence of the same nature. It is particularly evident in procedural aspects, due to the almost total lack of plea bargaining, or during sentencing, since, in most cases, a municipal judge does not have pre-sentence reports at his or her disposal.

NON-APPLICATION OF PROGRAMS EXCLUDING RESORT TO THE COURT SYSTEM

As part of the memorandum of understanding reached with the Attorney General in 1985, approximately a hundred municipalities undertook to apply a program for non-judicial treatment of certain criminal offences committed by adults. Of the 88 municipal courts that currently exist, some thirty of them exercise jurisdiction pursuant to Part XXVII of the *Criminal Code*. However, not all of them apply the programs excluding resort to the court system, although the judges of the Court of Québec do. This means that two citizens having perpetrated the same offence may be treated differently, depending on whether they are tried before a court that applies these programs or a forum that is subject to the regular judicial process. This results in a clear disparity for citizens who do not have access to the more favourable program (absence of a criminal record), for the simple reason that they are not tried in a court that applies it.

TRANSFER OF FILES DEALING WITH CRIMINAL OFFENCES

The volume of criminal cases dealt with before the municipal courts other than in Montreal, Laval and Québec City is constantly on the decline and represents a low percentage of all provincial cases. Furthermore, for several years now, certain municipalities have no longer handled cases pursuant to Part XXVII of the *Criminal Code*. In July 2004, the City of Longueuil ceased exercising its jurisdiction in criminal matters, and the City of Laval has announced its intention to do the same. Already, starting in the year 2000, the City of Sherbrooke had abandoned its jurisdiction with respect to Part XXVII and terminated the agreement reached with the Attorney General of Québec.

Such trends are not desirable, because they mean more uncertainty for litigants and do a disservice to the administration of justice.

Incidentally, the advent of presiding justices of the peace, who answer to the Chief Justice of the Court of Québec, is an effective means of ensuring the sustainability of the processes at hand. This should be considered as a potential solution within a broader assessment of Québec's judicial structure.

29 The Court of Québec has already reflected on the problems facing municipal courts in two reports entitled "Comité de réflexion des juges de la Cour du Québec sur les juridictions concurrentielles" and "Comité de travail sur les matières criminelle et municipale".

THE PENDING REFORM IN FAMILY MATTERS:
THE UNIFIED FAMILY COURT (UFC)

THE PENDING REFORM

For some thirty years, a consensus has been reached in the social, professional and judicial fields as to the advisability of integrating spheres of jurisdiction in family matters. As early as 1970, the Prévost Report noted the negative impact of the duality of jurisdiction exercised at that time by the Superior Court and the Social Welfare Court. In 1974 and 1975, the Law Reform Commission of Canada, the Civil Code Revision Office Committee on the Family Court and the Minister of Justice of Québec, in his White Paper entitled Livre blanc sur la justice contemporaine, criticized the duplication of jurisdiction and recommended various integration scenarios. In 1981, the Morin Report explicitly recommended to the Minister of Justice of Québec the creation, in family matters, of a single, independent jurisdiction, made up of judges appointed exclusively by the provincial government. At the Sommet de la justice in 1992, the Justice Minister undertook to discuss with the federal government constitutional problems related to the establishment of a unified family court. Finally, in 2001, the Ferland Committee, was asked to make recommendations in view of the modernization of the Code of Civil Procedure, also recommended that a unified family court having jurisdiction over all family matters be created in Québec.

Bill C-22, tabled on December 10, 2002 in the House of Commons (but which died on the order paper upon dissolution of the House the day before the elections), specifically sought to promote the creation of unified family courts throughout Canada.[30]

Since reform of the judicial structure in family matters is always a topical issue and because it may profoundly modify the current organization of trial courts, the best solution must be sought.

30 The bill provides, in particular, for the increase in the number of judges appointed by the federal government who may be assigned to unified family courts.

HYPOTHESES

AN INDEPENDENT FAMILY COURT The first proposal involves an independent or autonomous family court divided into two sections, one made up of judges of the Court of Québec who would exercise the jurisdiction currently conferred upon this court, and the other section consisting of judges of the Superior Court who would continue to exercise their current jurisdiction. Even if in practice this solution appears to be an interesting compromise, it does however pose a certain number of problems. It would certainly enable the creation of a specialized institution made up of expert judges, and facilitate the concentration of specialized community and professional support services; However, it would not allow to achieve all the results expected by a complete unification of the courts, since the judges would not have general criminal or civil jurisdiction. In addition, the physical investment necessary to create such a court and the specific budgetary appropriations required for its operation represent significant obstacles to the its establishment. The creation of an independent family court would create yet another tribunal in Québec, which runs counter to the philosophy and principles underlying the creation of the Court of Québec and to the currently prevailing trend toward the unification of first instance trial courts.

A FAMILY COURT WITHIN THE COURT OF QUÉBEC Another proposal put forth would consist in creating a family court within the Court of Québec. According to this hypothesis, the legislator would grant to the Court of Québec a certain number of powers that are not vested in the Superior Court. This solution would in no way resolve the problem of multiple jurisdictions and would maintain a certain degree of fragmentation.

A FAMILY COURT WITHIN THE SUPERIOR COURT The solution put forth by the Ferland Committee would involve creating a unified family court within the Superior Court. This solution has the advantage of a lack of constitutional constraints to the integration of these jurisdictions. This Court would be made up of judges of the Superior Court as well as of judges of the Court of Québec. An administrative agreement between the Québec and Canadian governments would allow for the judges designated by the Québec government to be appointed by the federal government to exercise the same functions as the judges of the Superior Court. This proposal has some advantages but does not do away with certain inconvenients (multiple jurisdictions, fragmentation) that an overall unification would eradicate.

A JUDICIAL ORGANIZATION THAT PUT CITIZENS FIRST

The current structure of the judicial system of original jurisdiction, which involves three jurisdictions working in tandem, is largely due to constitutional choices made in 1867.[31] However, profound changes have taken place since, on the political, social and economical level.

The grounds underlying the court structure based on the English model no longer exist. Although useful in the past, this system is riddled with multiple disadvantages and operational problems that affect the quality of the judicial services rendered to the litigant.

Furthermore, although there is broad consensus that the integration of courts is called for in family matters, nothing prevents this solution from being considered for all matters. In 1992, at the *Sommet de la justice*, the *Conférence des juges du Québec* commented favourably on the unification of trial courts. Two years before, the Attorney General of Ontario and all his provincial counterparts stated, publicly and unanimously, their position in favour of full unification.[32] The Law Reform Commission of Canada has been recommending this solution since 1974 in family matters, and since 1989 in criminal matters.

Today's hierarchically-based organization of the judicial system of original jurisdiction must give way to a simplified judicial system, accessible throughout the territory, the main objective of which is to respond to the needs of the litigants.[33]

31 Law Reform Commission of Canada, *supra*, Note 23, p.9:

"The Canadian court system bears the characteristics and scars of its distinctive history and evolution. Despite change, the system remains cast in the mould of the nineteenth century. Further, it is fragmented by the often opposing demands of a federal system. The result is a multiplicity of trial courts and a consequent inability to centralize and rationalize administration and management."

32 Carl Baar, *supra*, Note 4, p. 12:

"After June 1990, however, when the provincial attorneys general endorsed in principle complete unification of the trial courts, the second scenario became the stated goal of the next generation of structural reform in the courts. Complete unification would move yet another long step away from the English model, but would also break fundamentally with the existing Canadian model - eliminating the two levels of trial courts and with them the distinction between federally-appointed and provincially-appointed judges."

33 This same type of judicial system was suggested by the American Bar Association on page 3 of its Standards Relating to Court Organization (Chicago, 1990):

"The aims of court organization can be most fully realized in a court system that is unified in its structure and administration, staffed by competent judges, judicial officers, administrators and other personnel, and that has uniform rules and policies, clear lines of administrative authority, and a sufficient unified budget.

The structure of the court system should be simple, consisting of a trial court and an appellate court, each having divisions and departments as needed. The trial court should have jurisdiction of all cases and proceedings and direct responsibility and control over all court operations and personnel essential to their management. It should have, where appropriate, specialized procedures and divisions to accommodate the various types of criminal, civil, and family matters within its jurisdiction, including court-annexed alternative dispute resolution (ADR) processes. The judicial functions of the trial court should be performed by a single class of judges, assisted by legally trained judicial officers." [...]

THE WINNING SOLUTION:

AN INTEGRATED COURT OF FIRST INSTANCE

An integrated court of first instance is the best solution. Through administrative agreements reached by the various levels of government, it could be achieved by integrating the judges and judicial activities of the Superior Court, the Court of Québec and the municipal courts.

ADVANTAGES

FOR LITIGANTS, TAXPAYERS AND CITIZENS

ONE-STOP SERVICE The primary benefit resulting from an integration of trial courts in Québec, for the litigant, would be the creation of a one-stop service outlet. With such a tribunal in existence, there would only be one access point into the system, thus spelling the end of the prevailing uncertainty as to the determination of the forum where proceedings are to be instituted.

FULL JURISDICTION The integration of tribunals would entail sole jurisdiction, insofar as every judge of a court has jurisdiction in respect of any matter that may come before the court, wherever the matter may arise throughout the territory. All the service outlets would be served by judges having full jurisdiction, namely those of the Superior Court, the Court of Québec and the municipal courts.

SIMPLIFICATION OF THE PROCEDURE AND MEANS OF REDRESS The means of redress would be more easily identifiable, resulting in better accessibility on the part of litigants, especially those representing themselves.

TERRITORIAL COVERAGE AND ACCESSIBILITY OF JUSTICE The integration of courts would allow for an increase in the number of judges having jurisdiction at every service outlet and facilitate the assignment process, since the physical jurisdiction of the judges would extend to all trial matters. One of the essential objectives underlying the creation of the Court of Québec in 1988 was to ensure greater mobility of the judges by allowing for their assignment to all divisions. Integration ensures the full implementation of this objective by making all trial judges in Québec available to discharge a common task. It also allows citizens greater access to court services in locations where the Superior Court does not sit, thereby reducing travel costs that would formerly have been paid either by the litigant or the witnesses, or by the Crown prosecutor. All the services currently offered by the Superior Court would therefore be accessible in all regions, including those served solely by the Court of Québec and vice versa.

ADVANTAGES

BETTER COOPERATION BETWEEN THE ACTING JUDGES In the event of a single trial court, all the judges of this court would have jurisdiction to hear any proceedings brought before them. In the future, it will no longer be possible, due to the lack of required jurisdiction, for a judge who is overloaded not to be able to count on the assistance of a colleague who is less busy. On the basis of this principle, fewer judges would be required at each location.

REDUCTION OF DELAYS In civil matters, integration would put an end to time-consuming transfers out-of-court based on the amount at issue. In criminal and penal matters, it would accelerate the process while avoiding, or at least limiting, the making of artificial elections which are then followed by re-elections before the initial court and which have a delaying effect. In those regions served by travelling judges, it would eliminate delays involved in waiting for a judge having the requisite jurisdiction. In family and youth matters, integration would stamp out delays currently caused by awaiting the decisions of another court. (Indeed, current practice requires the Superior Court to stay the family law case where proceedings in matters of youth protection are pending, so as to avoid conflicting judgments and to obtain a better sense of direction before judging on the merits).

REDUCTION OF THE NUMBER OF PROCEDURES A unified court of first instance would allow for a reduction in the number of procedures required in order to obtain justice, since all motions relating to a case would be heard before the same judge. The litigant would be required to commence fewer proceedings, and therefore would have fewer costs to bear. The reduction of the number of procedures necessary in order to settle a case would also promote a more comprehensive approach instead of a more fragmented one. In certain types of cases, litigants may then benefit from an overall treatment of the aspects of his or her case, which results in gains when it comes to delays but also in the handing down of a better-quality decision.

REDUCTION OF COSTS As far as the litigant is concerned, court costs, and especially out-of-court costs, would be reduced by the abridgement of delays and the elimination of fruitless litigation and transfers of cases between courts that result from concurrent and compartmentalized jurisdictions.

STABILITY AND DEVELOPMENT OF THE LAW Integration would avoid the development of contradictory case law between the two currently existing courts and reduce the occurrence of judicial review.

STREAMLINING OF THE RULES OF PRACTICE, PROCEDURE AND EVIDENCE The integration of trial courts would have a positive effect on the rules of practice, procedure and evidence by making them uniform.[34] One single body of rules of practice not only facilitates the preparation of the litigants wishing to represent themselves, but also that of the attorneys.

34 The American Bar Association, *supra*, Note 33, p. 14, underlined the importance of uniform rules of practice:

"At the same time, the value of uniform rules is very great. They establish standards of fairness and efficiency to which all may look. They are guidelines for the judges, directives and authorizations for auxiliary court personnel, and authoritative references for the lawyers. They are a check on favoritism, corruption, and local prejudice. Their formulation involves deliberations in which all relevant interests, objectives, and constraints should be taken into account."

FOR THE JUDICIARY

MANAGEMENT AND ADMINISTRATION OF THE COURTS

From the viewpoint of the administration of justice, a unified court under the authority of a single chief justice would allow for uniformity in management and administration practices. Integration would allow for a more balanced distribution of judges among the regions and, as a result, the implementation of more efficient and uniform management policies that better meet citizens' needs. It would also eliminate the duplication of judges in positions of authority, simplify administration and reduce the number of support personnel and related costs.

ASSIGNMENTS At each service outlet, integration would result in an increase of the number of judges having jurisdiction in respect of every case. The rotation process would benefit from the fact that the personal jurisdiction of the judges extends to all trial matters. Unification confers upon judges greater managerial flexibility, enabling them to respond to needs as they arise. Finally, it would means less travelling for judges, thereby reducing travel and accommodation costs accordingly.

POOLING OF RESOURCES ON SPECIFIC CASES Integration can create solutions to several administrative problems caused by an insufficient number of judges. Such is the case, for example, in criminal matters, where the case load has increased due to certain large-scale police operations. Because there are not enough judges to respond to the increased demand, those cases have been spread out over a longer period of time. A single court of first instance would allow for the creation of a large criminal and penal division in which each judge would have jurisdiction to hear any type of proceeding and therefore meet any occasional demands of such a nature.

SPECIALIZATION OF SERVICES Integration allows for a better use of judges' professional skills, since it allows for the choice of a larger number of candidates among judges with the professional skills needed for the settlement of certain types of cases, for instance in matters relating to taxation law, municipal law, banking law or corporate/commercial law. Integration may even allow for the achievement, in certain matters, such as in corporate/commercial law or in administrative law, of a critical mass of cases, thereby justifying the creation of specialized divisions. An integrated court with more than 400 judges would facilitate the creation of more specialized divisions, where necessary.

ADMINISTRATIVE AUTONOMY The increase in stature of the court could help it attain administrative autonomy, thereby reinforcing its institutional independence.[35]

SUPERINTENDING POWER The integration of courts would put an end to the current review process of the decisions of the Court of Québec, since all the judges would belong to the same court.[36]

SUSTAINABILITY AND DEVELOPMENT OF ADMINISTRATIVE LAW The integration of the courts would put an end to the friction caused by the coexistence of the administrative appeal to the Court of Québec and judicial review before the Superior Court.

COURT OF QUÉBEC The acting judges of the Court of Québec would inherit all the current jurisdiction of the judges of the Superior Court. Hence, integration would allow them to make optimal use of their time in the various service outlets and handle all cases which are currently required to be heard by judges sitting on different courts, with the attendant consequences on delays, and therefore for litigants.

SUPERIOR COURT The main advantage of the integration of the judges of the Superior Court into a unified Court would no doubt be the diversification of their activity. Québec litigants would benefit from all the knowledge and jurisdiction of Superior Court judges in matters that are currently assigned to the Court of Québec, for example, the appeal of decisions handed down by administrative tribunals.

35 Friedland, M.L., *A Place Apart: Judicial Independence and Accountability in Canada* (Ottawa: Canadian Judicial Council, 1995), p. 181:

"In contrast with the federal courts, all provincial and territorial courts are now run by the attorney general's departments. Many judges, lawyers, and government officials expressed to me a desire find a better solution. They recognize the awkwardness of the existing situation."

36 In this regard, the current tendency of common-law countries is to replace the review procedure with various appeal procedures.

ADVANTAGES

FOR THE QUÉBEC GOVERNMENT

NUMBER OF POSITIONS TO BE FILLED The budgets dedicated to the compensation of judges would be reduced considerably since, all jurisdictions being considered, the total number of judges would likely decline. There would be fewer proceedings, less time wasted and a better use of resources outside urban areas, hence savings for the provincial government.

RELATIONS BETWEEN THE EXECUTIVE AND THE JUDICIARY Integration would facilitate coordination, cooperation and between the judicial and executive powers, since the Minister of Justice would have only one institution to deal with in matters of management of courts of first instance. In this regard, integration would be all the more pertinent in a context of full administrative autonomy.

BETTER ALLOCATION OF PERSONNEL ACCORDING TO CASE LOAD The pooling of personnel would facilitate the adjustment of the number of judges to specific regional needs and, generally, a better allocation of judges according to the number of cases to be heard.

MOBILITY OF JUDGES One of the essential objectives underlying the creation of the Court of Québec in 1988 was to ensure greater mobility on the part of the judges, allowing them to be assigned to all divisions. Integration of the courts would ensure the full implementation of this goal. A better allocation of judges is possible for the regions.

POOLING OF HUMAN AND PHYSICAL RESOURCES Integration of the courts would allow for the pooling of physical and human resources. Economies of scale can be anticipated with respect to capital property and secretarial and research services.

THE BUDGET It is conceivable that integration could facilitate the budgetary appropriation process, since there would be only one institution. Greater transparency in resource allocation according to the various fields of judicial activity could certainly help achieve a better balance between the legislative responsibilities of the federal and provincial governments.

FOR THE FEDERAL GOVERNMENT

BETTER TERRITORIAL COVERAGE The federal Department of Justice would also benefit, since Canadian legislation could be applied in all service outlets without additional costs. For example, in family matters, litigants might in future be heard in all locations currently served by the Court of Québec.

MORE UNIFORM MANAGEMENT Coordination and administrative procedures would be uniform, since there would only be one court.

CONCLUSION

The suggested model for an integrated court may be summarily described as follows: one single court of first instance would have jurisdiction for all matters currently divided between the Superior Court, the Court of Québec and the municipal courts. This court would have the constitutional status of a superior court, it would be the court of original general jurisdiction in Québec and it would result from the integration of these three courts.

The members of the Committee are aware that a major judicial reform cannot be advocated without serious deliberation, and this also applies to the integration of courts of first instance. The integration of the courts that resulted in the current Court of Québec sets a positive precedent.[37]

If deliberations are to be undertaken, the Committee members would like to see them proceed swiftly so as not to hamper integration. The federal and provincial justice ministers, the judges who are members of the institutions affected by the project and the Bars are certainly capable of perceiving the extent of the resulting advantages at all levels.

If, as a society, we were to design a justice system in this day and age, it would be interesting to ask ourselves:

- whether we would set up a superior court, a provincial court and municipal courts;
- whether we would decide not to grant the same jurisdiction to the judges that preside over these courts, with the attendant consequences;
- whether we would decide to create additional structures.

In short, if we had to do it over again, would we do the same thing? In a sense, to ask the question is to give the answer.

37 For a detailed enumeration of the advantages and effects resulting from the creation of the Court of Québec further to the integration of the four tribunals, see the conference given by Madam Justice Huguette St-Louis in Saskatoon on May 16, 2002, entitled "La réforme des tribunaux de première instance au Québec."

APPENDIX

SUPPLEMENT

AN INTEGRATED COURT OF FIRST INSTANCE IN QUÉBEC

HISTORICAL MILESTONES

1793	*Judicature Act, 34* Geo. III, c. 6.	**Creation** of several courts for Lower Canada: Court of King's Bench (superior trial court in civil and criminal matters) (Québec City and Montreal). Provincial Courts (Trois-Rivières and Gaspé). Circuit Courts. Courts of the Sessions of the Peace. Court of Oyer and Terminer and general gaol delivery. Provincial Court of Appeal (abolished in 1849).
1840	*An Ordinance to establish new Territorial Divisions of Lower Canada, and to alter and amend the Judicature Act, and to provide for better and more efficient administration of Justice throughout this Province,* 4 Vict., c. 45.	The Court of Queen's Bench is authorized to hear certain appeals previously within the jurisdiction of the Governor and his Council.
1843	*An Act to provide for the Summary Trial of Small Causes in Lower Canada,* 7 Vict., c. 16, 17, 18 and 19	**Re-establishment** of the dual civil jurisdiction of the Court of Queen's Bench in first instance. Exclusive jurisdiction for suits and actions exceeding the sum of **20 pounds**, which jurisdiction is concurrent with the Circuit Courts established in Québec City, Montreal, Trois-Rivières and St-François. The Superior Court had jurisdiction to hear appeals from decisions of lower courts. **Creation** of a Court of Appeals made up of all the judges of the Court of Queen's Bench of which 4 Justices formed a quorum and holding terms in Québec City and Montreal. **Creation** of a Provincial Court having primary jurisdiction over all suits and actions purely personal or relating solely to movable property resulting from a contract or quasi-contract, and not exceeding the amount of **25 dollars**.
1849	12 Vict., c. 37 and 38.	**Creation** of the Superior Court of Québec replacing the Court of Queen's Bench as a court of first instance in civil matters in respect of suits and actions exceeding **$200**. The Court of Queen's Bench became a court of appeal in civil and criminal matters, but remained the court of first instance in criminal matters. **Amendment** of the Circuit Court which was granted appellate jurisdiction with respect to decisions of the Superior Court.

1857	20 Vict., c. 44.	**Reorganization** of the Superior Court establishing a system whereby one judge could hold court and abolishing the office of the Circuit Court judge. **Designation** of the judges of the Superior Court to preside over the Circuit Court. **Establishment** of County Circuit Courts.
1864	27-28 Vict. c. 39.	**Establishment** of a Court of Review sitting in benches made up of three judges, as a division of the Superior Court, for the districts of Québec City and Montreal.
1867	*British North America Act*	**Constitutionalization** of the status of the Superior Court. **Devolution** to the Provinces of jurisdiction in matters of administration of justice.
1869	*An Act respecting District Magistrates in this Province*, 32 Vict., c. 23	**Establishment** of the District Magistrate's Court upon which is conferred, in civil matters, the jurisdiction of the Commissioner's Courts. **Granting** to this court of jurisdiction with respect to: • the recovery of tithes • the recovery of school and municipal taxes • the recovery of amounts due under the Agricultural Abuses Act • the recovery of sums due to the Province. This court is the ancestor of the Court of Québec. The establishment of this court was held to be constitutional by the Privy Council in London in R. v. Horner (1876), 2 Steph. Dig. 450; 2 Cart. 317.
1875	*The Supreme Court and Exchequer Court Act*, 38 Vict., c. 11.	**Establishment** of the Supreme Court of Canada.
1888	Passage of *An Act to amend the Act respecting District Magistrates*, (1888) 51-52 Vict., c. 20.	**Provides for** the replacement of the Circuit Court, sitting for the District of Montreal, by the District Magistrate's Court of Montreal. **Disavowal** of the Act by the federal government, which disagreed with provincially appointed judges replacing judges it had the authority to appoint. **Establishment** of the Superior Court of Review (abolished in 1920).
1897	Revision of the *Code of Civil Procedure of Lower Canada*	**Granting** to the District Magistrate's Court of jurisdiction in matters of: • real suits • suits arising from a lease **Increase** of the maximum monetary jurisdiction of this Court, depending on the location, to **$99** or **$50**.
1908	8 Ed. VII, c. 36. *An Act respecting the Court of the Sessions of the Peace*, 8 Ed. VII, c. 42.	The chief justice of the Court of King's Bench is the chief justice of the Province. **Establishment** of the Court of the Sessions of the Peace. This court had jurisdiction in criminal matters and penal statutory matters for all criminal acts and offences, except for: • felonies such as murder and treason • trials by jury
1920	*An Act respecting the Organization and Competence of Courts of Civil Jurisdiction, and the Procedure in Certain Cases*, 10 Geo. V, c. 79.	**Transfer** of the jurisdiction of first instance of the Court of King's Bench in criminal matters to the Superior Court. **Abolition** of the Court of Review. **Devolution** to the Superior Court of appellate jurisdiction in matters of summary criminal procedure.

1921	*An Act to amend the Code of Civil Procedure respecting the District Magistrate's Court*, 11 Geo. V, c. 100.	**Increase** of the civil jurisdiction of the Magistrate's Court to **$99.99**
1922	*An Act to amend the Revised Statutes, 1909, respecting District Magistrates*, 12 Geo. V, c. 64. *An Act to amend the Code of Civil Procedure respecting the Jurisdiction of the Circuit and Magistrate's Court*, 12 Geo. V, c. 94.	**Reorganization** of the Magistrates' Court. The jurisdiction exercised by the Circuit Court was transferred to the Magistrates' Court, except for the District of Montreal. **Suspension** of the jurisdiction of the Circuit Court in districts or counties where the Magistrate's Court was regularly established.
1933	*An Act to amend the Courts of Justice Act respecting the Superior Court*, 23 Geo. V, c. 64 *An Act to amend the Courts of Justice Act respecting the Circuit Court of the District of Montreal*, 23 Geo. 5, c. 66	Statutes providing for the transfer of the judges of the Circuit Court to the Superior Court and abolition of the Circuit Court, to be replaced by the District Magistrate's Court. These statutes were never proclaimed and never came into force.
1945	*An Act to amend the Courts of Justice Act respecting the Circuit Court of Montreal and the Magistrate's Court*, 9 Geo. VI, c. 19 R.S.Q. 1941, c. 15	**Suspension** of the jurisdiction of the Circuit Court for the District of Montreal and transfer of this jurisdiction to the District Magistrate's Court of Montreal.
1946	*An Act respecting the jurisdiction of the District Magistrate's Court*, 10 Geo. VI, c. 53. Armand Mathieu, Esq.	**Increase** of the civil jurisdiction of the District Magistrates' Court to **$200**. **Published**, in the *Revue du Barreau*, an article promoting a Unified Family Court.
1947	Decision of the Privy Council	**Abolition** of appeals to the Privy Council in civil matters.
1952	*An Act to amend the Code of Civil Procedure*, S.Q. 1952-53, c. 18	**Abolition** of the Circuit Court. The District Magistrate's Court became the Magistrate's Court. According to Jacques Deslauriers, "The year 1952 theoretically marked a new starting point from which the evolution of the Magistrate's Court since 1922 would accelerate dramatically to reach the current [1977] stature of the Provincial Court." [Free translation] See Bibliography.
1956	Royal Commission of Inquiry on Constitutional Problems	**Opined** that the appointment of provincial judges by the federal government was inconsistent with federalism.
1961	*Report to Hon. A. Kelso Roberts, Q.C., M.P.P., Attorney General of Ontario, of certain Studies of the Jurisdiction of County and District Courts and Related Matters* (Silk Report)	**Recommended** increasing the jurisdiction of the County Court, in order to reduce the workload of the High Court of Justice, from **$4,000** to **$10,000**. **Recommended** the implementation of an exchange system enabling the assignment of judges according to workload. The report represented a significant step towards the creation of a single court of first instance of the kind contemplated in section 96 of the *BNA Act*.
1964	Coming into force of *An Act respecting the Magistrate's Court*	**Increase** of the civil jurisdiction of the Magistrates' Court from **$200** to **$500.** **Confirmation** of the constitutionality of this increase by the Supreme Court which, however, did not rule per se on the constitutionality of the general jurisdictional powers, rights and privileges. *Reference re Magistrate's Court of Quebec*, [1965] S.C.R. 772.

1966	*An Act to amend the Courts of Justice Act*, S.Q. 1965, c. 17.	**Conversion** of the Magistrate's Court into the Provincial Court.
	New *Code of Civil Procedure*, S.Q. 1965, c. 80.	**Increase** of civil jurisdiction from **$500** to **$1,000**.
1969	*An Act to amend the Code of Civil Procedure*,S.Q. 1969, c. 81.	**Increase** of the civil jurisdiction of the Provincial Court from **$1,000** to **$3,000.**
	Federal Parliament	**Rejected** the legislative amendments to the unification of section 96-type courts in British Columbia.
1970	*Crime, Justice and Society* (Prévost Report)	Already in 1970, this report identified the negative repercussions of the dual jurisdiction then exercised by the Superior Court and the Social Welfare Court in family matters.
1971		**Establishment** of the Federal Court, successor to the Exchequer Court.
	Rapport du groupe de travail sur les tribunaux administratifs (Dussault Report)	**Proposed** the consolidation and reform of administrative tribunals.
	An Act to promote access to justice, S.Q. 1971, c. 86.	**Establishment** of the small claims division of the Provincial Court.
1972	*An Act to amend the Code of Civil Procedure*, S.Q. 1972, c. 70.	**Introduction** of a provision providing for the referral to the Superior Court of files initially submitted to the Provincial Court but in respect of which an amendment caused the amount at issue to exceed its jurisdictional threshold.
1973	S.Q. 1973, c. 43.	**Establishment** of the Tribunal des professions (Professional Court).
1974	S.Q. 1974, c. 11.	The Court of Queen's Bench becomes the Court of Appeal of Québec.
	Law Reform Commission of Canada, *The Family Court, Working Paper no. 1*	**Criticized** overlapping jurisdiction in family matters. **Recommended** the establishment of a family court having exclusive jurisdiction. **Considered** that all appropriate measures, including constitutional amendments, ought to be taken to this end. **Recommended** the adoption of a specific procedure in family matters.
1975	Report of the Civil Code Revision Office	**Conducted** an extensive study of the practical, legal and constitutional implications of a single jurisdiction in family matters. **Recommended** that a Unified Family Court be created in the Province of Québec with exclusive jurisdiction in all family matters. **Recommended** that judges appointed to the UFC be judges specialized in family matters. **Recommended** that rules of procedure in family matters be adapted. **Recommended** that the UFC include two administrative sections: a civil section and a penal section, the former being exercised by judges of the Superior Court and the latter by judges of the Court of Québec (Social Welfare Court). **Recommended** that the UFC be assisted by specialized family assistance services.

1975	*La justice contemporaine* (Choquette Report)	**Conducted** an extensive study on the constitutional implications of the provincial administration of courts. **Recommended** that remedies with respect to the powers of supervision and review of the Superior Court be simplified, made systematic and unified. **Recommended** the unification of provincial courts and the creation within the Unified Court (Court of Québec) of specialized divisions. **Recommended** that judges have jurisdiction for all divisions. **Recommended** maintenance of the principle of a single court. **Recommended** the creation of an administrative division. **Recommended** that the allocation of jurisdiction between the Superior Court and the Youth and Family Division be studied in order to avoid jurisdictional conflicts in family matters. **Recommended** that all criminal offences with respect to the family fall under the jurisdiction of the Court of Québec. **Recommended** that the family divisions of the Superior Court and the Court of Québec be housed in neighbouring premises.
1978	*An Act to amend the Code of Civil Procedure*, S.Q. 1978, c. 8	**Introduction** of a provision reserving class actions for the exclusive jurisdiction of the Superior Court.
1979	*An Act to amend the Code of Civil Procedure*, S.Q. 1979, c. 37	**Increase** of the civil jurisdiction of the Provincial Court from **$3,000** to **$6,000**.
	An Act to establish the Régie du logement and to amend the Civil Code and other legislation, S.Q. 1979, c. 48.	**Establishment** of the *Régie du logement*. The head of jurisdiction granted to the Provincial Court with respect to suits arising from a lease, but which specifically relates to residential leases, was granted to an administrative body.
	Report of a committee of the Deputy Minister of Justice with respect to the creation of a Unified Family Court	**Analyzed** the very notion of family law. **Took cognizance** of the constitutional amendments put forth at a constitutional conference of first ministers.
	Agreement between the government of Québec and the federal government. Debates of the National Assembly 88-89, p. 2093.	**Granting** to the government of Québec of full jurisdiction in matters of divorce. The change in government at the federal level apparently led to the cancellation of the agreement.
1980	Meeting of the Standing Committee of Ministers on the Constitution Jean Chrétien, then Minister of Justice of Canada	**Declared**: "We are amenable to continuing to support the proposal to confer upon provinces that so wish jurisdiction with respect to grounds for divorce. The federal *Divorce Act* would continue to apply in those provinces that prefer not interested to legislate in this field. In our view, this action is justified since private law differs from one province to the next and since the desire of certain provinces to exercise this authority must be respected. The Constitution must reflect this diversity." [Free translation]
	Internal document of the federal government (Kirby Memorandum)	During the negotiations surrounding the patriation of the Canadian Constitution, 9 provinces out of 10 recommended the repeal of section 96 of the *BNA Act*.
	Publication by the American Bar Association of *Justice Standards Relating to Court Organization and Administration*	**Recommended** the creation of unified family courts.

1981	*Rapport du Groupe de travail sur la création et l'organisation d'un Tribunal de la famille au Québec* (Morin Report)	**Recommended** the creation of a Family Division within an existing court. **Recommended** that this division be created as a division of the Provincial Court. **Recommended** that the Youth Court be incorporated into the Provincial Court. **Considered** that no distinction should exist between the civil, criminal/penal, family and youth divisions of the Family Division and that all services should be provided, including mediation, conciliation, probation, expertise, etc.
1982	*An Act to amend the Code of Civil Procedure*, S.Q. 1982, c. 58.	**Increase** of the civil jurisdiction of the Provincial Court from **$6,000** to **$10,000**. **Introduction** of a provision for the referral to the Provincial Court of files initially submitted to the Superior Court, but in respect of which an amendment made the amount at issue insufficient to fall within its jurisdiction.
1983	Supreme Court: *McEvoy v. New-Brunswick (Attorney General)* [1983] 1 S.C.R. 704.	**Ruled** that the federal Parliament could not impinge upon the safeguards provided by section 96.
1984	*An Act to amend the Code of Civil Procedure and other legislation*, S.Q. 1984, c. 26.	**Increase** of the civil jurisdiction of the Provincial Court from **$10,000** to **$15,000**. **Introduction** of a provision for the referral to the Provincial Court of files initially submitted to the Superior Court but in respect of which an amendment made the amount at issue insufficient to fall within its jurisdiction.
	Publication by Peter H. Russell of *Constitutional Reform of the Judicial Branch: Symbolic vs. Operational Consideration*	**Criticized** the symbolic hierarchy enshrining the segregation between superior court justices and lower court justices. **Recommended** the establishment of a separate family court.
1985	Herbert Marx, justice critic for the official opposition at the National Assembly, *L'avenir de la justice au Québec*, p. 82.	**Recommended** entrusting the appointment of all judges to the Québec government.
1987	*Rapport du Comité sur la révision de la Loi sur les tribunaux judiciaries* (Brazeau Report)	**Noted** the weakness of the judicial system caused by an excessive number of courts. **Criticized** the confusion caused by this situation for litigants. **Considered** it necessary that the administration of the judicial system be as efficient as possible. **Recommended** the unification of the Provincial Court, the Court of the Sessions of the Peace and the Youth Court. **Proposed** transitional measures to ensure that this recommendation was duly followed up on.
	Rapport du groupe de travail sur les tribunaux administratifs (Ouellet Report)	**Criticized** the lack of uniformity and coherence in matters of administrative justice.
	Publication by Peter H. Russell of *The Judiciary in Canada*	**Referred** to family courts as specifically "modern" institutions born of the 20th century. **Traces** the history of the judiciary in Canada.

1987	Report of the Ontario Courts Inquiry (Zuber Report)	**Recommended** that there should be a unified family court which should form part of the Provincial Court system as well as amendment of the Constitution, if need be. **Established** the fundamental principles with respect to the structure and management of the courts. The courts are: • a necessary part of society; • a social service. Courts must: • be accessible to the public; • exhibit timeliness; • attract the best people.
1988	Coming into force of *An Act to amend the Courts of Justice Act and other legislation to establish the Court of Québec*, S.Q. 1988, c. 21. Debates of the National Assembly 88-89, p. 2093.	**Establishment** of the Court of Québec, structured into four divisions: Civil Division, Criminal and Penal Division, Youth Division and Expropriation Division. The Provincial Court, the Court of the Sessions of the Peace and the Youth Court were thus integrated into a single court. Upon tabling of the bill, the Minister of Justice indicated, among others, that the purposes of the legislation were the following: • To follow up on the unification proposal set out in the White Paper. • To reduce the scattering of jurisdictions. • To promote the mobility and versatility of judges. • To adapt the justice system to the needs of litigants. • To simplify the administration of justice.
1989	*An Act to amend the Charter of Human Rights and Freedoms concerning the Commission and establishing the Tribunal des droits de la personne*, S.Q. 1989, c. 51.	**Establishment** of the Human Rights Tribunal, presided over by a judge of the Court of Québec.
	Law Reform Commission of Canada, *Toward a Unified Criminal Court, Working Paper no. 59*	**Advocated** the unification of criminal trial courts.
1990	Barreau du Québec, *Rapport du Comité du Barreau sur le fonctionnement des tribunaux judiciaires* (Gilbert Report)	**Proposed** a two-pronged appeal system.
	Publication by the American Bar Association of its *Standards Relating to Court Organization*	**Standard 1.10**: the judicial system must be based on a simple structure: a trial court and a court of appeal, each having the necessary divisions and sections. **Standard 1.12**: the trial court should only have one level and one class of judges.
	Government of Ontario	**Proposed** the unification of all courts of first instance. In June 1990, during a national meeting, the provincial justice ministers unanimously approved the principle of unification.
1991	Canadian Judicial Council (Baar Report)	**Conducted** an empirical and comparative study in Canada and in the United States of the various court unification proposals. **Noted** the disappearance of the English model of judicial organization and the emergence of a Canadian model. **Stated** that the current trend in matters of court reform was also that advocated by the American Bar Association.

1991	*Rapport du Groupe de travail sur l'accessibilité à la justice* (MacDonald Report)	**Criticized** the high costs of access to courts and legal services. **Recommended** greater transparency of existing legislation. **Recommended** the simplification of lawsuits brought before the courts.
1992	*Sommet de la Justice*	**Criticized** a two-tiered system of justice which fosters the notion, among the public and the stakeholders, that there are two kinds of justice.
	Conférence des juges du Québec	**Underlined** some of the advantages arising from unification. **Suggested** that a study be conducted as to the conditions for unification of courts and that it be entrusted to a committee made up of the Judiciary, the Bar, representatives of the Ministère de la Justice du Québec and representatives from the public.
	Québec Minister of Justice	**Acknowledged** the importance of having a unified court in family matters and willingness to discuss constitutional problems with the federal government in order to establish such a court. **Stated** that he wished to closely examine the issue of unification of all courts of first instance based on criteria of quality, humanization and access to justice.
1995	*An Act to amend the Code of Civil Procedure and the Act respecting municipal courts*, S.Q. 1995, c. 2.	**Increase** of the civil jurisdiction of the Court of Québec from **$15,000** to **$30,000**.
1996	*Rapport du Comité sur la rémunération des juges de la Cour du Québec et des cours municipales*	**Emphasized** that the Court of Québec, within Canada, occupies a place which the legislator intended to be strong and unique, much stronger than in all the other provinces. **Underscored** the dominant role played by the Youth Division with respect to judicial responsibilities relating to youth.
	Canadian Bar Association *Systems of Civil Justice Task Force Report*	**Advocated** the establishment, within each province or territory, of a unified court of first instance with specialized divisions.
1997	*An Act to amend the Courts of Justice Act*, S.Q. 1997, c. 76	The number of justices of the Court of Québec was limited to 270.
	Supreme Court *Reference re Remuneration of Judges of the Provincial Court of Prince Edward Island* [1997] 3 S.C.R. 3.	**Relied on** unwritten constitutional principles in order to better understand the structural values underlying explicit provisions of the Constitution. **Recognized** the role played by courts not contemplated by section 96 in enforcing the provisions and protecting the values of the Constitution. **Recognized** the institutional independence of courts not contemplated by section 96.
1998	Barreau du Québec *Rapport sur la justice civile*	**Advocated** greater administrative and budgetary autonomy for the courts. **Recommended** the creation of a judicial case management system.
	Coming into force of *An Act respecting administrative justice*, R.S.Q., c. J-3	**Reorganization** of the administrative and appellate jurisdictions of the Court of Québec.
1999	*Rapport de la Commission nationale sur les finances et la fiscalité locales*	**Recommended** that jurisdiction with respect to small claims be granted to municipal courts.

2000	Seniuk and Lyon, "The Supreme Court of Canada and the Provincial Court in Canada." (2000) 79 *Can. Bar Rev.* 77-119.	**Considered** that the time had come for the Canadian governments to decide whether the provincial courts were "wholly independent" courts or if they were to remain lower courts. **Considered** that the time had come to re-examine the court structure in general. **Criticized** the risk of development of a two-tiered justice system biased in favour of the wealthiest citizens. **Concluded** that unification of the courts was the only way of eliminating the constitutional ambiguity of a two-tiered justice system.
	Rapport du Comité de réflexion des juges de la Cour du Québec sur les juridictions concurrentielles (Provost Report)	**Recommended** that the municipal courts be incorporated into the Court of Québec and that municipal judges be grouped in a separate division. **Recommended** that an entity be created within the Court of Québec encompassing all administrative matters. **Recommended** that the advantages, disadvantages and feasibility of establishing a unified family court be assessed.
2001	The Chief Justice of the Court of Québec, on behalf of the Court, appearing before the Code of Civil Procedure Revision Committee	**Advocated** the repeal of the supervisory and review powers of the Superior Court over the Court of Québec.
	Rapport du Comité de révision de la procédure civile (Ferland Report)	**Recommended** grouping and refocusing the supervisory and review powers of the Superior Court and renaming them "judicial supervisory remedy." **Recommended** granting concurrent jurisdiction with respect to psychiatric care governed by sections 26 to 31 of the *Civil Code*. **Recommended** the creation of a unified family court. **Recommended** that the power of courts to issue safeguard orders at any time and in respect of any matter be clarified.
2002	*Rapport du Comité des juges de la Cour du Québec sur les matières civiles, administratives et d'appel*	**Recommended** that a study be conducted with respect to the current constitutional jurisdiction of the Court of Québec and additional matters which could be entrusted to it as well as the concurrent jurisdiction which it could exercise with the Superior Court. **Recommended** a broadening of the jurisdiction granted to the Court of Québec with respect to: • the pecuniary value of suits • arbitration • non-litigious proceedings • hypothecary remedies **Recommended** the continuation of the study undertaken by researchers Seniuk and Lyon with respect to the necessity and usefulness of the supervisory and review powers of the Superior Court over the Court of Québec. **Recommended** that the Conseil de la magistrature (judicial council) entrust an in-depth examination of the unification of courts of first instance to constitutional and organizational experts. **Recommended** that a division with respect to administrative and appellate matters be created within the Civil Division of the Court of Québec and that it be made up of judges assigned on a voluntary basis.

2002	Federal *Child-centered Family Justice Strategy*	**Announced** the government's intention to modernize the family justice system based on the following three objectives: • improvement of family judicial services; • reform of family legislation, including the concepts of custody, access and the interests of the child and the alimony collection system; • expansion of unified family courts.
	Bill C-22	**Tabling** for first reading, by the federal government, of an omnibus bill intended to promote the establishment of a UFC. **Request** made to provincial governments to develop proposals with a view to the expansion or creation of a UFC.
	An Act to reform the Code of Civil Procedure, S.Q. 2002, c. 7.	**Increase** of the civil jurisdiction of the Court of Québec from **$30,000** to **$70,000**.
	Office of the Chief Justice of the Court of Québec	**Establishment** of a new administrative unit for the Court of Québec.
2003	Gerald T.G. Seniuk, John Borrows	**Proposed** in *The House of Justice: A Single Trial Court*, a unified court system with jurisdiction over all matters in all provinces.

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