

chapter P-15

SUMMARY CONVICTIONS ACT

*Chapter P-15 is replaced by the Code of Penal Procedure (chapter C-25.1). (1987, c. 96, a. 374; 1990, c. 4, s. 11).
1987, c. 96, a. 374; 1990, c. 4, s. 11.*

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SCHEDULE A

SCHEDULE B

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REPEAL SCHEDULE

DIVISION I

DECLARATORY AND INTERPRETATIVE PROVISIONS

1. *In this Act, unless the context otherwise requires, the expression:*

(1) *“territorial division” means any judicial district, electoral district, county municipality, city, town, village municipality, parish municipality, township municipality or other judicial division or place;*

(2) *“court” in the provisions of Part II of this Act relating to appeal, or to the stating or signing of a case, means and includes the Superior Court;*

(3) *“district” or “electoral district” includes any territorial or judicial division or place in and for which there is such justice of the peace, officer or house of detention as is mentioned in the context;*

(4) *“house of detention”, for the purposes of this Act, means any place, other than a penitentiary, in which persons charged with offences are usually kept and detained in custody and, in the case of a person under 18 years of age, a reception centre in which such person is placed in custody;*

(5) *“justices of the peace” includes also, for the purposes of this Act, judges of the Court of Québec and municipal judges.*

The expression “parents” has the same meaning as in the Youth Protection Act (chapter P-34.1) and the expression “reception centre” has the same meaning as in the Act respecting health services and social services (chapter S-5).

R. S. 1964, c. 35, s. 1; 1969, c. 21, s. 35; 1970, c. 11, s. 1; 1974, c. 11, s. 2; 1984, c. 4, s. 65; 1988, c. 21, s. 111.

1.1. *The provisions of this Act which relate to persons under 18 years of age apply to any person who commits an offence before having reached that age, for the prosecution of that offence.*

1984, c. 4, s. 66.

DIVISION II

APPLICATION OF THE ACT

2. (1) *This Act shall apply:*

(a) *To every general or special Act or law of Québec, coming into force after 21 March 1922, which enacts a penalty or authorizes the issuing of an order for the payment of a sum of money, or for any other object, upon summary proceeding;*

(b) *To any general or special Act or law of Québec and to every regulation or by-law passed thereunder, in force on 21 March 1922, in which it is enacted that any prosecution for a penalty, fine or imprisonment, incurred for contravention of any provision thereof, or the obtaining of an order for the payment of a sum of money, or for any other object, be made in a summary way or by summary conviction;*

(c) *To every general or special Act or law of Québec, in force on 21 March 1922, in which there is no provision for the prosecution for penalties, fines or imprisonment for contravention of any of the provisions thereof or of those of the regulations or by-laws enacted thereunder, or for the issuing of an order for the payment of a sum of money, or for any other object;*

(d) *To every general or special Act or law of Québec, in force on 21 March 1922, in which it is enacted that the procedure governing the prosecution for penalties, fines or imprisonment for contravention of any provisions thereof or of the regulations or by-laws enacted thereunder, or the obtaining of orders for the payment of a sum of money or for any other object, is that prescribed by Part XVIII of the Criminal Code*

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(Revised Statutes of Canada, 1985, chapter C-46) or by any Act or law previous thereto for which the said Part XVIII has been substituted.

(2) Nevertheless, if a statute in force on 21 March 1922, contains derogations from Part XVIII of the Criminal Code or from the Acts or laws previous thereto and for which such Part XVIII was substituted, such derogations, if they are also derogations from this Act, shall continue in force, and apply, notwithstanding the provisions of this Act.

R. S. 1964, c. 35, s. 2; 1975, c. 11, s. 1.

2.1. *No natural person under 14 years of age who contravenes an Act or a regulation of Québec may be prosecuted for that offence.*

1984, c. 4, s. 67.

PART I

DIVISION I

JURISDICTION

3. *Every complaint or information shall be heard, tried, determined and adjudged by one justice of the peace unless the Act or law upon which such complaint or information is framed or any other Act or law in that behalf directs that the complaint or information be heard, tried, determined and adjudged by two or more justices of the peace.*

Notwithstanding the foregoing, a judge of the Court of Québec has exclusive jurisdiction where the defendant is a person under 18 years of age.

R. S. 1964, c. 35, s. 3; 1984, c. 4, s. 68; 1988, c. 21, s. 112.

4. *The complaint or information shall be heard, tried, determined and adjudged by the justice of the peace for the territorial division where the matter of the complaint or information arose, and in such territorial division.*

R. S. 1964, c. 35, s. 4.

5. (1) *Any one justice of the peace may receive the information or complaint and grant a summons or warrant thereon, against the accused, and issue his summons or warrant to compel the attendance of witnesses for either party, and do other preliminary acts and matters necessary to the hearing, even if by the statute it is provided that the information or complaint shall be heard and determined by two or more justices of the peace.*

(2) *One justice of the peace may also do the necessary acts after a case has been heard and determined.*

(3) *It shall not be necessary for the justice of the peace who acts before or after the hearing to be the justice or one of the justices by whom the case is to be or has been heard and determined.*

(4) *If it is required by any act or law that an information or complaint shall be heard and determined by two or more justices of the peace, or that a conviction or order shall be made by two or more justices of the peace, such justices shall be present and acting together during the whole of the hearing and determination of the case.*

R. S. 1964, c. 35, s. 5; 1982, c. 32, s. 1.

6. Any judge of the Court of Québec or municipal judge, appointed for any territorial division, and any magistrate authorized to perform acts usually required to be done by two or more justices of the peace, may do alone whatever is authorized by an Act of Québec to be done by any two or more justices of the peace.

R. S. 1964, c. 35, s. 6; 1965 (1st sess.), c. 17, s. 2; 1984, c. 4, s. 69; 1988, c. 21, s. 113.

DIVISION II

SPECIAL JURISDICTION

7. For the purposes of this act,—

(1) where the offence is committed in or upon any water; or upon any bridge, between two or more territorial divisions, such offence may be considered as having been committed in either of such divisions;

(2) where the offence is committed on the boundary of two or more territorial divisions, or within the distance of 500 m from any such boundary, or is begun within one such division and completed within another; such offence may be considered as having been committed in any one of such divisions;

(3) where the offence is committed on any person, or in respect of any property, in or upon any vehicle employed in a journey, or on board any vessel employed on any navigable river; canal or other inland navigation, the person accused shall be considered as having committed such offence in any territorial division through which such vehicle or vessel passed in the course of the journey or voyage during which the offence was committed; and where the centre or other part of the road, or any navigable river; canal or other inland navigation, along which the vehicle or vessel passed in the course of such journey or voyage, is the boundary of two or more territorial divisions, the person accused of having committed the offence may be considered as having committed it in any one of such divisions;

(4) An offence committed in an aircraft during a flight is deemed committed either in the territorial division in which the flight began, or in that in which it terminated, or in any division over which the aircraft flew during such flight.

R. S. 1964, c. 35, s. 7; 1970, c. 11, s. 2; 1984, c. 47, s. 213.

DIVISION III

SEARCH WARRANTS

8. Any justice of the peace who is satisfied by information upon oath, as in the form 1, that there is reasonable ground for believing that there is in any building, receptacle, or place,—

(1) anything upon or in respect of which any offence punishable on summary conviction under this act has been or is suspected to have been committed; or,

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

(3) anything which there is reasonable ground to believe is intended to be used for the purpose of committing any such offence,—

may at any time issue a warrant under his hand authorizing a constable or any other person, named therein, to search such building, receptacle or place, for any such thing, and to seize and carry it before the justice of the peace issuing the warrant, or some other justice of the peace for the same territorial division, to be by him dealt with according to law.

R. S. 1964, c. 35, s. 8.

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9. *A search warrant shall not be executed before seven hours or after twenty hours, or on a non-judicial day, except under a written authorization of the justice of the peace who signed it.*

Every search warrant, whether executed or not, must be returned not later than the fifteenth day following the date on which it was issued.

Such warrant may be as in Form 2.

R. S. 1964, c. 35, s. 9; 1970, c. 11, s. 3.

9.1. *A person entrusted with the enforcement of an Act may exercise the powers conferred on him under section 8 without a warrant only if the conditions for obtaining the warrant exist and if, owing to exigent circumstances, the delay necessary to obtain the warrant may result in danger, in particular, to human health or to the safety of persons or property or in the disappearance, destruction or loss of evidence.*

1986, c. 95, s. 224.

10. *The clerk, or any other person designated by the justice of the peace upon an application made to him in writing, shall have custody of the thing seized under a search warrant. However, where a seizure is made under section 9.1, the seizer shall have custody of the thing seized until it is produced as evidence in judicial proceedings or until it is disposed of according to law.*

The justice of the peace may, upon such conditions as he fixes, allow any interested person to examine the thing seized.

R. S. 1964, c. 35, s. 10; 1970, c. 11, s. 3; 1986, c. 95, s. 225.

11. (1) *A thing seized under section 8 or section 9.1 shall not be detained for a period of more than 90 days unless a complaint following the seizure is made before the expiry of such 90 days period. The justice of the peace may, however, order that the period of detention be extended for not more than 90 days.*

(2) *If no complaint is made before the expiry of the period above contemplated or as soon the necessity of detaining the thing seized ceases, the justice of the peace must, upon an application therefor to him in writing, order that the thing be returned to the person entitled thereto or, as the case may be, order it to be forfeited. If no application is made within the ensuing 24 months, the thing seized shall be forfeited pleno jure.*

(3) *An order for the disposal or forfeiture of the thing seized shall be executory only 30 days after the date when such order was made.*

R. S. 1964, c. 35, s. 11; 1970, c. 11, s. 3; 1986, c. 95, s. 226.

DIVISION IV

INFORMATION AND COMPLAINT

12. (1) *Every complaint must be made in writing and, if the issue of a warrant is required, must be supported by oath.*

(2) *A single complaint may charge several offences; each offence charged must be set out in a separate count.*

(3) *Any person may make a complaint unless the law constituting the offence requires a special authorization.*

(4) *When an offence is continuous, such continuation shall constitute a separate offence day by day.*

(5) When a defendant is liable to separate penalties according to whether the offence is a first offence or a subsequent offence, the complaint must not contain any reference indicating whether the proceedings are instituted for a first or a subsequent offence.

R. S. 1964, c. 35, s. 12; 1970, c. 11, s. 4; 1986, c. 95, s. 227.

13. *(1) The complaint or information must be based upon reasonable and probable cause, and must be brought,*

(a) before a justice of the peace, and must allege that some person has committed or is suspected of having committed, within the limits over which such justice has jurisdiction, any offence or act for which he is liable by law, on summary conviction, to be imprisoned, fined or otherwise punished; or

(b) before any such justice of the peace, and be relative to any matter respecting which the complainant is authorized by law to exact the payment of money or to obtain any other order.

(2) The complaint or information on reasonable or probable cause may, notwithstanding the provisions of subsection 1 of this section, be brought before a justice of the peace of the territorial division in which the accused is or is suspected of being, if such complaint or information alleges that the latter has committed or is suspected of having committed, within the limits of any other territorial jurisdiction of a justice of the peace, an offence,

(a) which renders him liable upon summary conviction, to imprisonment, fine or any other penalty; or

(b) relating to any other matter respecting which the complainant is authorized by law to exact the payment of a sum of money or to obtain any other order.

In either the one or the other of such cases, notwithstanding section 4, the case may be heard, tried, determined and adjudged by the justice of the peace or any other justice of the peace for the territorial division where the person is arrested or served, if the latter consents thereto in writing; if not, the justice shall note on the back of the warrant or of the summons the refusal of the accused to submit to trial before him, and the case shall be then heard, tried, determined and adjudged in the territorial division mentioned in section 4; and the justice shall issue for such purpose, as well for the transfer of the record as for the appearance of the accused, including therein admission to bail or his committal to a house of detention in the last-mentioned division, such orders as he deems necessary.

(3) Such information or complaint may be as in form 3.

R. S. 1964, c. 35, s. 13; 1969, c. 21, s. 35.

14. *A complaint shall be made only within the delays prescribed by the Penal Actions Act (chapter A-5).*

1970, c. 11, s. 5.

DIVISION V

SUMMONS OR WARRANT

15. *(1) Upon receiving any such complaint or information, the justice of the peace shall hear and consider the allegations of the complainant, and, if the justice consider it desirable or necessary, the evidence of any witness or witnesses; and, if the justice be of opinion that a case for so doing is made out, he shall issue a summons, or warrant, as the case may be, in the manner hereinafter provided.*

(2) The justice of the peace shall, in connection with such hearing, have the same power of procuring the attendance of witnesses and of compelling them to testify as that with respect to the summoning and appearance of witnesses at the trial.

(3) The evidence of witnesses, if any, at such hearing, shall be given upon oath.

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(4) Such justice of the peace shall not refuse to issue such summons or warrant only because the alleged offence is one for which an offender may be arrested without warrant.

R. S. 1964, c. 35, s. 14.

16. *(1) Every summons issued by a justice of the peace under this act shall be directed to the accused, and shall require him to appear at a time and place to be therein mentioned.*

(2) Such summons may be as in form 4.

(3) No summons shall be signed in blank.

(4) Service of a summons upon a physical person shall be made by mailing a copy to the person for whom it is intended, at the last known address of his residence or place of business, by registered or certified mail with an acknowledgement of receipt or notice of delivery.

(5) Service is deemed to have been made on the date on which the acknowledgement of receipt or notice of delivery was signed by the person for whom it is intended or any reasonable person living at his residence or in charge of his place of business.

(6) Except in the case of a parking offence, a copy of any summons issued to a person under 18 years of age is served on his parents. Subsections 4 and 5 apply to the service.

R. S. 1964, c. 35, s. 15; 1970, c. 11, s. 6; 1972, c. 12, s. 1; 1975, c. 83, s. 84, s. 85; 1984, c. 4, s. 70.

17. *Service of a summons upon a corporation shall be made by mailing a copy to the corporation at its head office, at its business office in Québec or at the office of its agent in the territorial division where the offence has been committed, by registered or certified mail with an acknowledgement of receipt or notice of delivery.*

Service is deemed to have been made on the date on which the acknowledgement of receipt or notice of delivery was signed by a reasonable person in charge of the office.

A corporation shall appear by attorney or by one of its officers generally or specially authorized.

R. S. 1964, c. 35, s. 16; 1970, c. 11, s. 7; 1972, c. 12, s. 2; 1975, c. 83, s. 84, s. 85.

18. *The justice of the peace may authorize a different mode of service, if the circumstances so require.*

1970, c. 11, s. 7.

19. *Whenever a warrant is issued in the first instance against a person charged with an offence punishable under the provisions of this act, the justice of the peace issuing it shall furnish a copy or copies thereof; one of such copies shall be given to the person arrested at the time of such arrest.*

R. S. 1964, c. 35, s. 17.

20. *(1) The warrant issued by a justice of the peace for the apprehension of the person against whom an information or complaint has been laid, as provided in section 13, may be as in form 5.*

(2) No such warrant shall be signed in blank.

R. S. 1964, c. 35, s. 18.

21. *(1) Every warrant shall be signed by the justice or justices of the peace issuing the same, and may be directed either to any constable by name, or to such constable and all other constables within the territorial jurisdiction of the justice or justices of the peace issuing it, or generally to all constables within such jurisdiction, or to all other persons authorized by any act or law to execute it.*

(2) *The warrant shall state shortly the offence for which it is issued, and shall name or otherwise describe the accused; and it shall order the officer or officers to whom it is directed to apprehend the accused and bring him before the justice or justices of the peace issuing the warrant, or before some other justice or other justices of the peace having jurisdiction to hear, try, determine and adjudge the charge contained in the information or complaint, to be further dealt with according to law.*

(3) *It shall not be necessary to make such warrant returnable at any particular time, but the same shall remain in force until it is executed.*

(4) *The fact that a summons has been issued shall not prevent any justice of the peace from issuing a warrant at any time before or after the time mentioned in the summons for the appearance of the accused.*

(5) *In case the service of the summons has been proved and the accused does not appear, or when it appears that the summons cannot be served, a warrant as in form 6 may issue.*

R. S. 1964, c. 35, s. 19.

22. *The warrant shall be executory throughout the province of Québec.*

R. S. 1964, c. 35, s. 20; 1970, c. 11, s. 8.

23. *Every warrant may be issued and executed on a non-judicial day.*

R. S. 1964, c. 35, s. 21; 1970, c. 11, s. 8.

23.1. *A person under 18 years of age who is arrested in execution of a warrant of arrest is required to be entrusted to the custody of the director of youth protection until the person's appearance.*

Notification of parents.

The director of youth protection shall place the person so arrested in a reception centre and notify his parents without delay of the place where he is, of the time and place at which he is to appear and of the proceedings of which he is the object.

1984, c. 4, s. 71.

DIVISION VI

PROCURING ATTENDANCE OF WITNESSES

24. (1) *If it appear to the justice of the peace that any person being or residing within Québec is likely to give material evidence either for the prosecution or for the accused, he may issue a summons under his hand, requiring such person to appear before him at a time and place mentioned therein, to give evidence and to bring with him any documents in his possession or under his control relating thereto.*

The powers attributed to a justice of the peace by this subsection may, at the chief place of the district, be exercised by the clerk of the peace.

(2) *Such summons may be as in form 7.*

(3) *The copies of such summons may be certified by the clerk of the justice of the peace.*

R. S. 1964, c. 35, s. 22.

25. *Subsections 4 and 5 of section 16 and section 18 shall apply to the service of a summons of this kind.*

R. S. 1964, c. 35, s. 23; 1970, c. 11, s. 9.

26. (1) *If any one to whom such last-mentioned summons is directed does not appear at the time and place appointed thereby, and no just excuse is offered for such non-appearance, then, after verbal proof, upon oath or affirmation, by the person who has made the service, or on the production of his affidavit attesting that such summons has been served as aforesaid, or that the person to whom the summons is directed is keeping out of the way to avoid service, and if the justice of the peace, before whom such person ought to have appeared, be satisfied by proof on oath that such person is likely to give material evidence, he may issue a warrant, under his hand, to bring such person at a time and place, to be therein mentioned, to testify before him or any other justice of the peace.*

(2) *The warrant may be as in form 8.*

(3) *Sections 22 and 23 shall apply to the execution of such warrant.*

R. S. 1964, c. 35, s. 24; 1970, c. 11, s. 10.

27. (1) *If any person summoned as a witness be brought before a justice of the peace on a warrant issued in consequence of refusal to obey the summons, such person may be detained on such warrant before the justice of the peace who issued the summons, or before any other justice of the peace in and for the same territorial division, who shall then be there, or in a house of detention, or any other place of confinement, or in the custody of the person having him in charge, with a view to secure his presence as a witness on the day fixed for the trial; or, in the discretion of the justice of the peace, released on recognizance, with or without sureties, conditioned for his appearance to give evidence as therein mentioned, and to answer as for contempt for his default in not attending upon the said summons.*

(2) *The justice may, in a summary manner, examine into and dispose of the charge of contempt brought against such person, who, if found guilty, shall be liable to a fine of not more than \$20, or to imprisonment in a house of detention, for a term of not more than one month, or to both such fine and imprisonment. He may also be ordered to pay the costs determined by regulation.*

(3) *The conviction under this section may be as in form 9.*

R. S. 1964, c. 35, s. 25; 1969, c. 21, s. 35; 1982, c. 32, s. 2.

28. (1) *If the justice of the peace be satisfied by evidence on oath that any person within Québec, likely to give material evidence either for the prosecution or for the defence, will not attend to give evidence without being compelled so to do, then instead of issuing a summons, he may issue a warrant for such person in the first instance.*

(2) *If such person is confined in a house of detention, the justice of the peace may issue a warrant ordering the sheriff or the director general of the reception centre, as the case may be, to bring such person to enforce his appearance before him or before any other justice of the peace, at the time and at the place indicated, to give evidence.*

(3) *Sections 22 and 23 shall apply to the execution of such warrant.*

R. S. 1964, c. 35, s. 26; 1969, c. 21, s. 35; 1970, c. 11, s. 11; 1982, c. 32, s. 3; 1984, c. 4, s. 72.

28.1. *Section 23.1 applies, mutatis mutandis, in the case of a person under 18 years of age against whom a warrant of arrest has been issued.*

1984, c. 4, s. 73.

DIVISION VII

TRIAL

29. *The room or place in which the justice of the peace sits to hear and try any complaint or information shall be deemed an open and public court, to which the public generally may have access so far as the same can conveniently contain them.*

Nevertheless, the justice of the peace may order a hearing in camera, in the interest of morality or public order.

R. S. 1964, c. 35, s. 27; 1986, c. 95, s. 228.

29.1. *A justice of the peace may proceed against a person under 18 years of age notwithstanding the absence of the notice contemplated in subsection 6 of section 16 or that contemplated in section 23.1, or adjourn the hearing on such conditions as he may determine and order that notice thereof be given to the parents.*

1984, c. 4, s. 74.

30. (1) *The person against whom the complaint is made or information laid shall be admitted to make his full answer and defence thereto, and to have the witnesses examined and cross-examined personally, or by counsel on his behalf.*

(2) *The complainant or informant shall be at liberty to conduct the prosecution upon the complaint or information, and to examine and cross-examine the witnesses, personally or by counsel on his behalf.*

R. S. 1964, c. 35, s. 28.

31. *Where an offence is ascertained by a peace officer or by a person entrusted with supervising the application of a statute of Québec or a regulation made thereunder, the justice of the peace may accept, in lieu of evidence of the person who ascertained the offence, a report signed by such person in the form approved by the Government. However, the accused may require such person to attend the hearing but the justice of the peace, if he finds the accused guilty, may condemn him to pay additional costs in an amount which he shall fix if he is of opinion that the submission of the report alone would have been sufficient.*

1972, c. 12, s. 3.

32. (1) *The justice of the peace before whom a witness appears may examine such witness upon oath.*

(2) *Such justice of the peace shall have full power and authority to administer the oath to witnesses.*

R. S. 1964, c. 35, s. 29.

33. (1) *Any exception, exemption, restriction, excuse or limitation, whether it does or does not accompany the description of the offence in the enactment creating the offence, may be proved by the defendant or the accused, but need not be specified or negatived in the information or complaint, and whether it be or be not so specified or negatived, no proof in relation to the matter so specified or negatived shall be required on the part of the informant or complainant.*

(2) *Whenever it appears that the accused has done any act or been guilty of any omission in respect of which, were he not duly licensed, he would be liable to some penalty, it shall be incumbent upon the accused to prove that he is duly licensed.*

R. S. 1964, c. 35, s. 30.

34. *If the accused does not appear at the time and place fixed in the summons, and if it appears to the satisfaction of the justice of the peace that the summons was duly served a reasonable time before the time*

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appointed for appearance, such justice of the peace may proceed, by default to appear, to hear and determine the case in the absence of the accused as fully and effectually as if the accused had personally appeared; or the justice of the peace may, if he thinks fit, issue his warrant as provided by sections 20 and 21, and adjourn the hearing of the complaint or information until the accused is apprehended.

R. S. 1964, c. 35, s. 31; 1965 (1st sess.), c. 80, a. 1.

35. *If, upon the day and at the place so appointed, the accused appears voluntarily in obedience to the summons in that behalf served upon him, or is brought before the justice of the peace by virtue of a warrant, and if the complainant or informant, having had due notice, does not appear personally or by counsel, the justice of the peace shall dismiss the complaint or information, unless for any reason he thinks proper to adjourn the hearing of the same until some other day, upon such conditions as he thinks fit.*

R. S. 1964, c. 35, s. 32.

36. *If both parties appear, either personally or by their respective counsel, before the justice of the peace who is to hear and determine the complaint or information, such justice shall proceed to hear and determine the same.*

R. S. 1964, c. 35, s. 33.

37. (1) *If the accused be personally present at the hearing, the substance of the information or complaint shall be stated to him, and he shall be asked if he has any cause to show why he should not be convicted, or why an order should not be made against him, as the case may be.*

(2) *If the accused thereupon admits the truth of the information or complaint, and shows no sufficient cause why he should not be convicted, or why an order should not be made against him, as the case may be, the justice present at the hearing shall convict him or make an order against him accordingly.*

R. S. 1964, c. 35, s. 34; 1970, c. 11, s. 12.

38. (1) *If the accused does not admit the truth of the information or complaint, the justice of the peace shall proceed to inquire into the charge, and for the purposes of such inquiry shall hear the evidence of witnesses both for the complainant and accused in the manner hereinafter provided.*

(2) *The evidence of the said witnesses shall be given upon oath, and in the presence of the accused, or, if he be absent, in the presence of his counsel.*

R. S. 1964, c. 35, s. 35.

39. *The depositions shall not be taken down in writing; nevertheless, they shall be so taken down, if the Attorney General or his representative requires it, and, in such case, the costs occasioned thereby shall not be taxable.*

On the application of the prosecution or of the defence, the justice of the peace may cause the depositions to be taken down in writing, by stenography or in any other manner authorized by the Government, if the party applying therefor assumes the costs thereof, and such costs shall not be taxable.

The depositions need not be signed by the witnesses; it shall suffice if they be signed by the justice of the peace or if their correctness be attested by the stenographer under the oath he is obliged to take before taking down such depositions.

Whenever the depositions are taken down by an official court stenographer, duly sworn in as such, it shall not be necessary for him to be sworn in again in each case, and the attestation that he has been sworn in, in his said quality, shall suffice.

The depositions and stenographer's oath may be taken in accordance with form 11.

R. S. 1964, c. 35, s. 36; 1970, c. 11, s. 13.

40. *After the evidence of the witnesses for the complainant has been taken, the defence may call its own witnesses and, if necessary, the complainant may adduce evidence in rebuttal.*

The defendant shall make his address first unless he has not made a defence; the justice of the peace may allow a reply.

R. S. 1964, c. 35, s. 37; 1970, c. 11, s. 14.

41. *The justice of the peace may reserve his final decision on any question raised during the trial and when such decision is rendered it shall be deemed to have been rendered at the time when the question was raised.*

R. S. 1964, c. 35, s. 38; 1970, c. 11, s. 14.

42. *Nothing contained in this act shall prevent any prosecutor from giving in evidence an admission or confession, or other statement, made at any time by the person accused or charged, which by law would be admissible as evidence against him.*

Any fact may be admitted to dispense with proof thereof.

R. S. 1964, c. 35, s. 39; 1970, c. 11, s. 15.

43. (1) *Whenever any person appearing, either in obedience to a summons or by virtue of a warrant, or being present and being required by the justice of the peace to give evidence, refuses to be sworn in, or, having been sworn in, refuses to answer such questions as are put to him, or refuses or neglects to produce any document he is ordered to produce, without in any such case offering any just excuse for such refusal, such justice of the peace may adjourn the proceedings for a period not exceeding eight clear days, and may at the same time, by warrant as in form 12, commit the person so refusing to a house of detention, unless he sooner consents to obey the orders of the justice of the peace.*

(2) *If such person, upon being brought up upon such adjourned hearing, again refuses to obey the orders of the justice of the peace, the latter, if he sees fit, may again adjourn the proceedings, and commit him for the like period, and so again from time to time until such person consents to obey his orders.*

(3) *Nothing in this section shall prevent such justice of the peace from disposing of the case in the meantime, according to any other sufficient evidence given before him.*

R. S. 1964, c. 35, s. 40; 1969, c. 21, s. 35.

44. *Part I of the Canada Evidence Act (Revised Statutes of Canada, 1985, chapter C-5) shall apply to every proceeding under this Act relating to the prosecution of any offence upon information.*

R. S. 1964, c. 35, s. 41.

45. (1) *Before or during the hearing upon any information or complaint the justice of the peace may, in his discretion, adjourn the hearing of the case.*

(2) *If, at the time and place to which the hearing or further hearing is adjourned, either or both of the parties do not appear, personally or by his or their counsel respectively, before the justice of the peace or such other justices of the peace as shall then be there, the justice of the peace who is there may proceed to the hearing or further hearing as if the party or parties were present.*

(3) *If the prosecutor or complainant does not appear, the justice of the peace may dismiss the information, with or without costs, as to him seems fit.*

(4) *Whenever any justice of the peace adjourns the hearing of any case, he may suffer the accused to go at large or may commit him to the house of detention within the territorial division for which such justice of the peace is then acting, or to such other safe custody as such justice of the peace thinks fit, or may discharge the accused upon his recognizance, with or without sureties at the discretion of such justice of the peace, conditioned for his appearance at the time and place to which such hearing or further hearing is adjourned.*

(5) *The remand of the accused may be as in form 13, and the recognizance of bail, in lieu of or after a remand, may be as in form 14.*

(6) *Whenever any accused who is discharged upon recognizance, or allowed to go at large, does not appear in person at the time mentioned in the recognizance or to which the hearing or further hearing is adjourned, the justice of the peace must comply with the provisions of section 68 and may issue a warrant for his apprehension, subject, in every instance, to the right of the justice of the peace to proceed according to subsection 2 of this section.*

R. S. 1964, c. 35, s. 42; 1969, c. 21, s. 35; 1970, c. 11, s. 16.

DIVISION VIII

ADJUDICATION

46. *The justice of the peace, having heard what each party has to say, and the witnesses and evidence adduced, shall consider the whole matter; and, unless otherwise provided, determine the same and convict or make an order against the accused, or dismiss the information or complaint, as the case may be.*

R. S. 1964, c. 35, s. 43.

46.1. *In no case may an accused who pleads guilty to or is convicted of an offence be imposed a greater punishment by reason of a previous conviction unless the prosecutor notified the accused before he made his plea that a greater punishment would be sought by reason of the previous conviction.*

Proof of a previous conviction and of the transmission of the notice is incumbent upon the prosecutor; and shall not be brought forth before the accused pleads guilty or is convicted.

1986, c. 95, s. 229.

47. *It shall be sufficient to mention in the memorandum, under the signature of the clerk, the judgment rendered by the justice of the peace.*

The memorandum shall be drawn up according to a form approved by the Government.

R. S. 1964, c. 35, s. 44; 1970, c. 11, s. 17; 1981, c. 14, s. 38.

48. *A certificate of the justice of the peace or of the clerk attesting to the dismissal of a complaint against a defendant or to his conviction shall constitute a bar to any subsequent complaint charging the same defendant with the same offence on the same date.*

Such certificate may be as in Form 15.

R. S. 1964, c. 35, s. 45; 1970, c. 11, s. 17.

49. *Whenever a judge of the Court of Québec who has heard a case is unable, on account of sickness, absence or any other reason, to himself deliver judgment, he may transmit his judgment in writing, duly certified by him, to the proper clerk, with instructions to register such judgment, and, on request, to disclose or communicate it to the parties or their attorneys, on the day fixed by him for the purpose.*

The clerk, on receipt of such written judgment and of the instructions which accompany it, must comply with such instructions. The judgment thus registered shall have the same effect as if it were delivered by the judge at the trial.

R. S. 1964, c. 35, s. 46; 1965 (1st sess.), c. 17, s. 2; 1981, c. 14, s. 39; 1988, c. 21, s. 114.

50. *(Repealed).*

R. S. 1964, c. 35, s. 47; 1982, c. 32, s. 5.

51. *In every case of a summary conviction, or of an order made by a justice of the peace, the latter may order that the defendant pay to the collector contemplated in section 57 the costs determined by regulation; those costs are recoverable in the same manner as the fine.*

The collector shall remit part of the costs to the prosecutor who has borne expenses related to the prosecution to the extent prescribed by regulation.

If the justice of the peace dismisses the complaint or information, he may order the prosecutor to pay the defendant the costs determined by regulation. The order is executory, on application of the party entitled to the costs, as in the case of a judgment rendered in a civil matter by the Superior Court or the Court of Québec, according to the amount involved, in compliance with the provisions of the Code of Civil Procedure (chapter C-25) relating to the execution of judgments.

R. S. 1964, c. 35, s. 48; 1982, c. 32, s. 6; 1988, c. 21, s. 66.

52. *(Repealed).*

R. S. 1964, c. 35, s. 49; 1982, c. 32, s. 7.

53. *(Repealed).*

R. S. 1964, c. 35, s. 50; 1970, c. 11, s. 18; 1982, c. 32, s. 7.

54. *(Repealed).*

1970, c. 11, s. 19; 1982, c. 32, s. 7.

55. *If in his judgment the justice of the peace orders the payment of a sum of money, he shall fix a time for payment of not less than thirty days from the date of the decision, unless the defendant waives it. He shall not at that time make any order for recovery of the sum.*

This section applies, subject to sections 56 and 56.1, notwithstanding any inconsistent provision of a general law or special Act.

R. S. 1964, c. 35, s. 51; 1969, c. 21, s. 35; 1970, c. 11, s. 20; 1982, c. 32, s. 8.

56. *If the justice of the peace has reasonable cause to believe the defendant will abscond, he may order that, failing immediate payment, the defendant be imprisoned for such time as he may fix in accordance with section 63.10.*

Sections 63.11 and 63.12 apply, where such is the case.

R. S. 1964, c. 35, s. 52; 1982, c. 32, s. 8.

56.1. *A judge or a clerk of a municipal court which has not been designated in an order contemplated in section 64 may, in adjudging payment of a fine against a defendant, order that, failing payment forthwith or within such time as he may fix, the property of the defendant be seized or that he be imprisoned.*

Notwithstanding any inconsistent provision of a general law or special Act, the term of imprisonment is established under section 63.10.

1982, c. 32, s. 8.

DIVISION IX

ENFORCING ADJUDICATION

§ 1. — General provisions

1982, c. 32, s. 9.

57. In this division,

(a) “fine” comprises every sum of money that a person may be sentenced or required to pay, including costs;

(b) “justice of the peace” means the justice of the peace who pronounced judgment or any other justice of the peace of the same jurisdiction;

(c) “collector” means the person designated as such by the Minister of Justice.

R. S. 1964, c. 35, s. 53; 1982, c. 32, s. 9.

58. The collector sends forthwith to the defendant notice of the judgment and, as the case may be, a demand to pay the fine within the time indicated.

R. S. 1964, c. 35, s. 54; 1982, c. 32, s. 9.

59. The collector may come to an agreement with the defendant and grant him, on request, an extension of time, if an examination of his financial situation leads him to believe that the defendant can afford to pay the fine but that an extension of time is justified under the circumstances. The collector may also come to an agreement with the defendant to receive deferred payments of such amounts, at such intervals and for such time as they agree in writing.

R. S. 1964, c. 35, s. 56; 1969, c. 21, s. 35; 1982, c. 32, s. 9.

60. At the expiry of the time limit granted by the justice of the peace or of the agreement provided for in section 59, or where the defendant does not comply with the terms of such an agreement, the collector, if he deems it expedient, may proceed with the seizure.

R. S. 1964, c. 35, s. 57; 1982, c. 32, s. 9.

61. A judgment is executed as a judgment rendered in a civil matter, and the rules relating to the civil execution of judgments apply, except those provided for in Book VIII of the Code of Civil Procedure (chapter C-25), subject to the following exceptions:

(a) the collector of the court of the place where judgment was made is charged with the execution thereof and acts as seizing creditor;

(b) the service of a writ of seizure by garnishment may be made by registered or certified mail;

(c) notwithstanding the first paragraph of article 589 and the first paragraph of article 662 of the Code of Civil Procedure, where the collector acts as seizing creditor, no advances to cover the costs of custody or the disbursements rendered necessary by the execution may be required from the seizing officer.

Subject to section 64.1, the seizure proceedings emanate from the Court of Québec and from the Superior Court according to the amounts involved.

R. S. 1964, c. 35, s. 58; 1969, c. 21, s. 35; 1982, c. 32, s. 9; 1988, c. 21, s. 66.

62. *However, the collector must, before proceeding with a seizure of property, ask, verbally and ex parte, a justice of the peace to authorize the seizure. The justice to whom the request is made must then*

(a) authorize the collector to proceed forthwith with the seizure; or,

(b) under exceptional circumstances, where he considers that it is in the best interest of justice, authorize the collector to proceed with the seizure but only if the defendant refuses or fails to do compensatory work.

R. S. 1964, c. 35, s. 59; 1969, c. 21, s. 35; 1982, c. 32, s. 9.

63. *If, apart from the case provided for in paragraph b of section 62, the collector ascertains or believes that seizure does not or will not permit recovery of the fine, he may, according to the availability of the compensatory work programs, offer the defendant the option to pay the fine by means of such work in accordance with Schedule A.*

R. S. 1964, c. 35, s. 60; 1969, c. 21, s. 35; 1982, c. 32, s. 9.

63.1. *The collector shall determine the nature of the compensatory work that the defendant may agree to carry out.*

The collector shall, if the defendant is a person under 18 years of age, entrust the determination of the nature of the compensatory work and the supervision of its carrying out to the director of youth protection having jurisdiction in the place where the person is domiciled.

The agreement to carry out compensatory work is recorded in writing.

1982, c. 32, s. 9; 1984, c. 4, s. 75.

63.2. *The defendant who agrees to execute compensatory work may thus pay more than one fine due at the time of the agreement. In that case, the amounts of the fines due are added up to determine the duration of the compensatory work.*

1982, c. 32, s. 9.

63.3. *In no case may the defendant agree to carry out more than 500 compensatory work units of a duration of three hours' work each.*

The carrying out of compensatory work corresponding to the maximum provided for in the first paragraph enables the defendant to pay all the fines due at the time of the agreement, whatever their amounts.

1982, c. 32, s. 9.

63.4. *The compensatory work contemplated in an agreement must be completed within twelve months thereof, unless the fine is more than \$10 000, in which case it must be completed within two years of the agreement.*

The collector shall send a report to a justice of the peace on the execution of the work once it is completed. On the signing of the report by the justice of the peace, the defendant is released from the payment of the amount of the fine.

1982, c. 32, s. 9.

63.5. *The Labour Code (chapter C-27), the Act respecting collective agreement decrees (chapter D-2), the Act respecting labour standards (chapter N-1.1), the Public Service Act (chapter F-3.1.1), the Act respecting labour relations, vocational training and manpower management in the construction industry (chapter R-20), the Act respecting building contractors vocational qualifications (chapter Q-1) and the Act respecting manpower vocational training and qualification (chapter F-5) do not apply to a person who executes compensating work under this division.*

1982, c. 32, s. 9; 1983, c. 55, s. 161; 1986, c. 89, s. 50.

63.6. *(Repealed).*

1982, c. 32, s. 9; 1985, c. 6, s. 507.

63.7. *Notwithstanding section 6 of the Act respecting occupational health and safety (chapter S-2.1), only sections 12 to 48 and paragraph 11 of section 51 of the said Act apply to a person who executes compensatory work.*

For the carrying out of the said Act,

(a) the Government is deemed to be the employer of that person;

(b) the contribution of the employer is established according to the standards applied under the said Act by the Commission de la santé et de la sécurité du travail.

1982, c. 32, s. 9.

63.8. *Where it has been impossible to offer compensatory work or where the defendant refuses or fails to do such work, the collector; if the fine has not been paid, may present a verbal application to a justice of the peace in order that imprisonment be then prescribed.*

The collector shall, before presenting the application, notify the defendant of the nature of the application and of the time and place it will be presented. The justice of the peace may, however, hear the application against the defendant if it has been impossible to notify him despite reasonable efforts to do so and the collector proves that the defendant cannot be found or is eluding justice.

The collector shall, if the defendant is a person under 18 years of age, notify the person's parents of his intention to present an application in accordance with this section. Subsections 4 and 5 of section 16 and section 29.1 apply, mutatis mutandis, to the notice.

1982, c. 32, s. 9; 1984, c. 4, s. 76; 1986, c. 95, s. 230.

63.9. *The justice of the peace orders imprisonment where he considers that the measures provided for in this division to recover the fine do not permit full recovery of the fine due.*

1982, c. 32, s. 9.

63.10. *Notwithstanding any inconsistent provision of a general law or special Act, the justice of the peace fixes, for each conviction, in accordance with Schedule A the term of imprisonment for failure to pay the fine then due.*

However, in no case may the total term of imprisonment for the same offence exceed two years less one day.

1982, c. 32, s. 9.

63.11. *Each sentence of imprisonment for failure to pay the fine, where there is more than one, must be served consecutively.*

1982, c. 32, s. 9.

63.12. *Where under an Act a defendant is sentenced both to imprisonment and to the payment of a fine, a justice of the peace must, where the measures provided for the recovery of the fine have failed and imprisonment for failure to pay the fine is imposed, order that imprisonment begin at the expiry of the term of imprisonment imposed as punishment for the offence.*

1982, c. 32, s. 9.

63.13. *The justice of the peace who orders imprisonment of a defendant shall issue a warrant in accordance with Form 22 or 22.1, as the case may be.*

1982, c. 32, s. 9.

63.14. *A warrant of commitment issued while a defendant is already imprisoned in a house of detention or a penitentiary must be given forthwith to the director of the house of detention where the defendant is detained. If the defendant is a person under 18 years of age, a copy of the warrant is required to be remitted to the director of youth protection without delay.*

The justice of the peace who issues the warrant may order that imprisonment for the new conviction be served consecutively to any other period of imprisonment. However, the justice must order that imprisonment for failure to pay the fine be served consecutively if it is proved to him that imprisonment currently being served has itself been imposed for failure to pay a fine.

1982, c. 32, s. 9; 1984, c. 4, s. 77.

63.15. *The person who, in executing the warrant of commitment issued under this Act or any other Act, arrests the person mentioned or described in the warrant, must convey him to the house of detention indicated therein and deliver him, together with the warrant to the director of the house of detention. The latter then gives the person thus delivering the prisoner into his custody, a receipt setting forth the state and condition of the prisoner when so delivered.*

The receipt is drawn up as in Form 25.

If the person contemplated in the warrant of commitment is a person under 18 years of age, he must be handed over with the warrant to the director of youth protection.

1982, c. 32, s. 9; 1984, c. 4, s. 78.

63.16. *The person responsible for the execution of a warrant of commitment or a writ of seizure who receives the amount mentioned therein and the costs of execution, must suspend forthwith the execution thereof and give the amount to the collector.*

The director of the house of detention who receives, after a person's imprisonment, the amount mentioned in the warrant of commitment and the costs of execution of the warrant must discharge the person if he is not kept for any other matter, and give forthwith the sum received to the collector.

1982, c. 32, s. 9.

63.17. *Where a defendant has agreed to do compensatory work and wishes to pay part of the fine, the period of the compensatory work must be reduced by the number of compensatory work units corresponding to the amount paid.*

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However, where the fine is greater than the amount corresponding to 500 compensatory work units, the duration of the work may be reduced only where the portion of the fine exceeding that amount has been paid.

1982, c. 32, s. 9; 1982, c. 58, s. 60.

63.18. *The defendant who wishes to pay the fine after the beginning of the compensatory work may do so by giving the amount of the fine to the collector of the place where the agreement was entered into, after deducting the amount of money corresponding to the work done.*

1982, c. 32, s. 9.

63.19. *Where a person is or must be imprisoned for failure to pay a fine and part of the fine is paid, the term of imprisonment must be reduced by the number of days corresponding to the amount paid.*

However, where the fine for the same offence is more than the amount corresponding to two years less one day, the term of imprisonment may be reduced only where the portion of the fine exceeding that amount has been paid.

1982, c. 32, s. 9.

63.20. *Where the defendant has not paid the fine at the expiry of the time indicated under section 58 or granted under section 59 or where, at the expiry of such time, although he had undertaken to do compensatory work, the defendant has failed to honour his undertaking, the collector shall notify the Société de l'assurance automobile du Québec of that fact, in the case of an offence under the Highway Safety Code (chapter C-24.2) or a traffic by-law passed by a municipality designated in an order contemplated in section 64, other than a parking infraction.*

The fact that the collector gives the notice does not prevent him from resorting to other measures provided for in this subdivision.

1986, c. 58, s. 72; 1986, c. 91, s. 655; 1990, c. 19, s. 11.

63.21. *The collector, if he has given a notice under section 63.20, shall notify the Société de l'assurance automobile du Québec without delay if the fine has been acquitted as a result of a payment or seizure or if the defendant has been released from payment under the second paragraph of section 63.4 or has served the term of imprisonment ordered for failure to pay.*

1986, c. 58, s. 72; 1990, c. 19, s. 11.

§ 2. — Provisions applicable to municipal courts

1982, c. 32, s. 9.

64. *The Government designates by order the municipal courts to which, notwithstanding any inconsistent provision of a general law or special Act, subdivision 1 must apply.*

Such an order comes into force on the day of its publication or on any later date fixed therein; it then applies to cases pending in first instance.

1970, c. 11, s. 22; 1982, c. 32, s. 9.

64.1. *Where judgment is pronounced by a judge or a clerk of a municipal court, the seizure proceedings emanate from the latter and the court has jurisdiction to hear and decide on every matter relating to the carrying out thereof.*

1982, c. 32, s. 9.

64.2. *The director of the house of detention or the person in charge of the compensatory work programs may, notwithstanding a warrant of commitment issued by a judge or a clerk of a municipal court contemplated in section 56.1, offer the defendant, according to the availability of the compensatory work programs, to pay the fine then due by means of such work, in accordance with Schedule A.*

Where the defendant agrees thereto, sections 63.1 to 63.7, 63.17 and 63.18 apply, and the person who offered the work then acts as collector for the purposes of those sections.

If the defendant refuses or fails to do the compensatory work he has agreed to do, a justice of the peace, on a motion made verbally and ex parte, may issue a new warrant of imprisonment, and sections 63.13 to 63.19 apply.

1982, c. 32, s. 9; 1982, c. 58, s. 61.

DIVISION X

DEFECTS AND OBJECTIONS

65. (1) *No information, complaint, warrant, conviction or other proceeding under this act shall be deemed objectionable or insufficient on any of the following grounds, that is to say:*

- (a) That it does not contain the name of the person injured, or intended or attempted to be injured; or*
- (b) That it does not state who is the owner of any property therein mentioned; or*
- (c) That it does not specify the means by which the offence was committed; or*
- (d) That it does not name or describe with precision any person or thing.*

(2) The justice of the peace may, if satisfied that it is necessary for a fair trial, order that particulars further describing such means, person, place or thing be furnished by the prosecutor.

(3) The description of any offence in the words of the enactment creating the offence, or any similar words, shall be sufficient.

R. S. 1964, c. 35, s. 61.

66. (1) *No objection shall be allowed to any information, complaint, summons or warrant for any defect therein, in substance or in form, or for any variance between such information, complaint, summons or warrant and the evidence adduced on the part of the informant or complainant, or for any variance between such information or complaint and the summons or warrant at the hearing upon such information or complaint.*

(2) Any variance between the information and the evidence adduced in support thereof, as to the time at which such offence or act is alleged to have been committed, shall not be deemed material if it be proved that such information was, in fact, laid within the time limited by law for laying the same.

(3) Any variance between the information and the evidence adduced in support thereof, as to the place in which the offence or act is alleged to have been committed, shall not be deemed material if the offence or act be proved to have been committed within the jurisdiction of the justice of the peace by whom the information is heard and determined or before the justice of the peace having jurisdiction by virtue of the consent given by the accused under section 13.

(4) If any such variance, or any other variance between the information, complaint, summons or warrant, and the evidence adduced in support thereof, or between the information or complaint and the summons or warrant, appears to the justice of the peace present and acting at the hearing to be such that the defendant

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has been thereby deceived or misled, the justice of the peace may, upon such terms as he thinks fit, allow the necessary amendments and adjourn the hearing of the case to some future day.

R. S. 1964, c. 35, s. 62.

67. *No information, summons, conviction, order or other proceeding shall be held to charge two offences, or shall be held to be uncertain on account of its stating the offence to have been committed in different modes, or in respect of one or other of several sections, either conjunctively or disjunctively.*

R. S. 1964, c. 35, s. 63.

DIVISION XI

RECOGNIZANCES AND WARRANTS OF DELIVERANCE

68. *(1) Whenever a person gives security by or is discharged upon recognizance and does not afterwards appear in person at the time and place mentioned in the recognizance, or whenever the conditions or any of them in any recognizance entered into by an applicant to whom a case stated by a justice under this act has been delivered, have not been complied with, the justice of the peace who took the recognizance, or any justice of the peace who is then present, having certified upon the back of the recognizance the non-appearance of the person or the non-compliance with the condition, as the case may be, shall transmit such recognizance to be proceeded with in conformity with the provisions of the Criminal Cases Recognizance Act (Chapter C-7).*

(2) Such certificate shall be prima facie evidence of such non-appearance or non-compliance.

(3) Such certificate may be as in form 26.

(4) Notwithstanding the foregoing provisions, whenever the security consists of a deposit of moneys, the justice of the peace may declare such moneys confiscated to the Crown and such confiscation shall take effect forthwith without other proceedings.

R. S. 1964, c. 35, s. 64.

69. *(1) Whenever any justice or justices of the peace admit to bail any person who is then in any house of detention charged with the offence for which he is so admitted to bail, such justice or justices shall send to or cause to be lodged with the keeper of such house of detention, a warrant of deliverance, under his or their hands, requiring the said keeper to discharge the person so admitted to bail if he be detained for no other offence; and upon such warrant of deliverance being delivered to or lodged with such keeper, he shall forthwith obey the same.*

(2) Such warrant of deliverance may be as in form 27.

R. S. 1964, c. 35, s. 65; 1969, c. 21, s. 35.

DIVISION XII

PUNISHMENT GENERALLY

70. *Whenever a person is declared to be guilty of an offence for which no penalty is provided in the Act constituting the offence, such person shall be liable to a fine not exceeding \$575 with or without costs.*

In such a case, no prosecution shall be commenced without the previous authorization of the Attorney General.

R. S. 1964, c. 35, s. 66; 1970, c. 11, s. 23; 1986, c. 58, s. 73.

71. *Whenever it is provided that the offender shall be liable to different degrees or kinds of punishment, the punishment to be inflicted shall, subject to the limitations contained in the enactment thereof, be in the discretion of the court or justice before which or whom the conviction takes place.*

R. S. 1964, c. 35, s. 67.

72. (1) *Whenever a fine or a penalty may be imposed for any offence, the amount of such fine or penalty shall, within such limits, if any, as are prescribed in that behalf, be in the discretion of the court or person passing sentence or convicting.*

(2) *The term of imprisonment in pursuance of any conviction shall, unless otherwise directed in the conviction, commence on and from the day of imprisonment following the conviction, but no time during which the convict is out on bail or during an escape shall be reckoned as part of the term of imprisonment to which he is condemned.*

R. S. 1964, c. 35, s. 68.

72.1. *Notwithstanding any general law or special Act, no person under 18 years of age may be fined more than \$100.*

1984, c. 4, s. 79.

DIVISION XIII

ORDER IN COURT

73. *Every judge of the Court of Québec shall have the same powers and authority to preserve order in courts held by him, and by the like ways and means as now by law are or may be exercised and used in like cases and for the like purposes by the Superior Court or by judges of such court, during the sittings thereof.*

R. S. 1964, c. 35, s. 69; 1965 (1st sess.), c. 17, s. 2; 1984, c. 4, s. 80; 1988, c. 21, s. 115.

74. *Every justice of the peace, whenever any resistance is offered to the execution of any summons, warrant of execution or other process issued by him, may enforce the due execution of the same by the means provided by the law for enforcing the execution of the process of the Superior Court in like cases.*

R. S. 1964, c. 35, s. 70.

DIVISION XIV

SPECIAL PROCEDURE

1982, c. 32, s. 10.

74.1. *Where a person in charge of the carrying out of the Act has reasonable cause to believe that an offender who is guilty of an offence against any Act will abscond, he may require security.*

The security is in the amount corresponding to the amount of the minimum fine and to that of the costs determined by regulation. If the Act contravened does not include any minimum fine, the amount of security is \$50 or the amount established by regulation.

1982, c. 32, s. 10.

74.2. *On receipt of the security, the person in charge of the carrying out of the Act gives him a summary notice.*

The summary notice indicates, in particular,

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- (a) *the surname, given name and address of the offender;*
- (b) *the nature, date, time and place of the offence;*
- (c) *the amount of the minimum fine, if any;*
- (d) *the amount of security given by the offender; and*
- (e) *all other information necessary for the carrying out of a particular Act.*

The notice orders the offender to appear before the competent court at the time and place indicated therein.

1982, c. 32, s. 10.

74.3. *The summary notice is a summons duly authorized and served, returnable on the date fixed therein.*

1982, c. 32, s. 10.

74.4. *A copy of the summary notice and the amount of security must be sent to the clerk of the court of the place of the offence within forty-eight hours from the issue of the notice.*

1982, c. 32, s. 10.

74.5. *If the offender refuses or is unable to give security, the person in charge of the carrying out of the Act may arrest him without a warrant. In that case, he must forthwith take him before a justice of the peace.*

1982, c. 32, s. 10.

74.6. *Where security has been given under section 74.1 and a conviction is pronounced or an order is made, the payment of the fine and costs is taken out of the security; the excess thereof is, as the case may be, remitted to the defendant. Where the complaint or information is dismissed, security is reimbursed to the defendant.*

1982, c. 32, s. 10.

74.7. *This section does not apply if the offender is under 18 years of age.*

1984, c. 4, s. 81.

PART II

DIVISION I

APPEAL

75. *In the cases provided for in section 2, any person who thinks himself aggrieved by any conviction, order or dismissal, the prosecutor or complainant, as well as the defendant or the accused, may appeal to the Superior Court, sitting in and for the district in which the conviction was pronounced or the order issued.*

R. S. 1964, c. 35, s. 72; 1974, c. 11, s. 2; 1975, c. 11, s. 3.

76. *Unless it be otherwise ordered in some special act,—*

(1) If a conviction or order be made more than fourteen days before the term of the court to which an appeal is given, such appeal shall be made to that term; but if the conviction or order be made within fourteen days of a term, the appeal shall be made to the second term next after such conviction or order;

SUMMARY CONVICTIONS

(2) *The appellant shall give notice of his intention to appeal by filing in the office of the clerk of the Crown a notice in writing setting forth with precision the conviction or order appealed against. The notice shall be served upon the respondent and the justice of the peace who pronounced the conviction or issued the order, and also upon such person or persons as a judge of the court shall direct. Such service shall be within ten days of the judgment pronouncing the conviction or the issuing of the order complained of, or within such further time, not exceeding twenty days, as such judge may see fit to fix either before or after the expiration of the said ten days;*

(3) *Any written proceeding required or authorized in this Part shall be served in the manner prescribed in the Code of Civil Procedure;*

(4) *Filing of the notice of appeal shall suspend the execution of judgment;*

(5) *A judge of the court may, upon motion, where the appeal appears to be dilatory or for any other special reason, order the appellant to furnish, within the delay he sets and under penalty of dismissal of the appeal, security in a specified amount to guarantee, in whole or in part, the payment of the costs of appeal and the amount of the condemnation, if the judgment is upheld;*

(6) *Paragraph 5 does not apply to the Attorney General;*

(7) *Subject to paragraph 5, where the appellant is sentenced to imprisonment and is in custody, a judge of the court shall, upon motion, liberate such person.*

R. S. 1964, c. 35, s. 73; 1975, c. 11, s. 4.

77. (1) *The court to which such appeal is made shall thereupon hear and determine the appeal and make such order therein, with or without costs to either party, including costs of the court below, as seems meet to the court; and, in case of the dismissal of the appeal of the defendant or accused, shall order and adjudge the appellant to be punished according to the conviction or to pay the amount adjudged by the order, and to pay such costs as are awarded, and shall, if necessary, issue process for enforcing the judgment of the court.*

(2) *In any case where security has been furnished as provided in paragraph 5 of section 76, if the conviction or order is affirmed, the court may order that the sum thereby adjudged to be paid, together with the costs of the conviction or order, and the costs of the appeal, shall be paid out of the money deposited, and that the residue, if any, shall be paid to the appellant; and if the conviction or order is quashed the court shall order the money to be repaid to the appellant.*

Such order of the court shall not be executory before the expiry of the delay of fifteen days provided for in section 110.

(3) *The court to which such appeal is made shall have power, if necessary, by order endorsed on the conviction or order, to adjourn the hearing of the appeal from one sitting to another, or others, of the said court.*

(4) *Whenever any conviction or order is quashed on appeal, the clerk of the Crown or other proper officer shall forthwith endorse on the conviction or order a memorandum that the same has been quashed.*

(5) *Whenever any copy or certificate of such conviction or order is made, a copy of such memorandum shall be added thereto, and shall, when certified under the hand of the clerk of the Crown, or of the officer having the custody of the same, be sufficient evidence, in all courts and for all purposes, that the conviction or order has been quashed.*

R. S. 1964, c. 35, s. 74; 1975, c. 11, s. 5.

78. (1) *When an appeal has been lodged in compliance with the requirements of this act, the court appealed to shall try the case and shall be the judge, as well of the facts as of the law.*

SUMMARY CONVICTIONS

(2) *Any of the parties to the appeal may call witnesses and adduce evidence, whether or not such witnesses were called or evidence adduced at the hearing before the justice of the peace, either as to the credibility of any witness or as to any other fact material to the inquiry.*

(3) *Any evidence taken at the hearing below, if it has been taken in writing and duly attested by the justice of the peace, may be read on such appeal, and shall have the like force and effect as if the witness were examined in the court appealed to, if that court is satisfied, by affidavit or otherwise, that the personal presence of the witness cannot be obtained by any reasonable efforts.*

R. S. 1964, c. 35, s. 75; 1975, c. 11, s. 6.

79. *In any case heard under the authority of this Part, the depositions are taken by stenography or recorded in such other manner as may be authorized by the Government.*

1975, c. 11, s. 7.

80. *The stenographer's notes are transcribed only when the judge so orders or in case of appeal; the cost of such transcription forms part of the costs of the case. In the first case, each party advances the cost of transcribing the depositions of his own witnesses; in the second case, all the costs of transcription are advanced by the appellant.*

1975, c. 11, s. 7.

81. *The third, fourth and fifth paragraphs of section 39 apply to this Part, mutatismutandis.*

1975, c. 11, s. 7.

82. *No judgment shall be given in favour of the appellant, if the appeal is based on an objection to any information, complaint or summons, or to any warrant to apprehend a defendant, issued upon any such information, complaint or summons, for any defect therein, in substance or in form, or for any variance between such information, complaint, summons or warrant and the evidence adduced in support thereof at the hearing of such information or complaint, unless it be proved before the court hearing the appeal that such objection was made before the justice of the peace who tried the case and by whom such conviction or judgment was pronounced or decision given, nor unless it be proved that notwithstanding it was shown to such justice that by such variance the person summoned and appearing or apprehended had been deceived or misled, such justice refused to adjourn the hearing of the case to some further day, as in this act provided.*

R. S. 1964, c. 35, s. 76.

83. (1) *In every case of appeal from a conviction or an order, the court to which such appeal is made shall, notwithstanding any defect in such conviction or order, and notwithstanding that the punishment imposed or the order made may be in excess of that which might lawfully have been imposed or made, hear and determine the information or complaint on which such conviction or order has been had or made, upon the merits, and may confirm, reverse or modify the conviction, or may make such other conviction or order as the court thinks just, and may by such order exercise any power which the justice of the peace, whose decision is appealed from, might have exercised, and may make such order as to costs to be paid by either party as it thinks fit.*

(2) *The conviction or order is returned before the court from which the appeal was made for execution in accordance with Part I.*

(3) *(Subsection repealed).*

R. S. 1964, c. 35, s. 77; 1975, c. 11, s. 8; 1982, c. 32, s. 11.

84. (1) *The court to which an appeal is made, upon proof of notice of the appeal to such court having been given to the person entitled thereto, whether such notice has been properly given or not, and though such appeal has not been afterwards prosecuted or entered, may, if such appeal has not been abandoned*

according to law, at the same sitting for which such notice was given, order to the party or parties receiving the same, to pay the costs of the appeal.

(2) (Subsection repealed).

R. S. 1964, c. 35, s. 78; 1982, c. 32, s. 12.

85. *(Repealed).*

R. S. 1964, c. 35, s. 79; 1982, c. 32, s. 13.

86. *(1) Every justice before whom any person is summarily tried shall, within five days of the receipt of notice of appeal, transmit the conviction or order to the court to which the appeal is taken, there to be kept by the proper officer among the records of the court until adjudication upon the appeal.*

(2) The conviction or order shall be presumed not to have been appealed against, until the contrary is shown.

(3) Upon any hearing of an information against any person for a subsequent offence, a copy of the conviction, certified by the proper officer of the court, or proved to be a true copy, shall be sufficient evidence to prove a conviction for the former offence.

(4) In any case where a conviction or an order must be enforced after appeal, the clerk of the Crown must return the conviction or order before the court from which the appeal was made with all the papers that had been sent to the court appealed to, excepting any notice of intention to appeal and recognizance.

R. S. 1964, c. 35, s. 80; 1975, c. 11, s. 9; 1982, c. 32, s. 14.

87. *(Repealed).*

R. S. 1964, c. 35, s. 81; 1982, c. 32, s. 15.

88. *If the costs are imposed on the offender, they are recovered in accordance with Part I.*

If the costs imposed on the prosecutor are not paid within the time prescribed, and if the prosecutor has not been bound by any recognizance conditioned to pay such costs, the court order is executory, on application of the person entitled to the costs, as a judgment of the Superior Court rendered in a civil matter, in accordance with the provisions of the Code of Civil Procedure (chapter C-25) relating to the execution of judgments.

R. S. 1964, c. 35, s. 82; 1969, c. 21, s. 35; 1982, c. 32, s. 16.

89. *An appellant may abandon his appeal by giving to the opposite party notice in writing of his intention six clear days before the term of the court appealed to, and thereupon the costs of the appeal shall be added to the sum, if any, adjudged against the appellant by the conviction or order, and the conviction or order shall be carried out, as if there had been no appeal.*

R. S. 1964, c. 35, s. 83; 1982, c. 32, s. 17.

DIVISION II

STATING A CASE

90. *Any person aggrieved, the prosecutor or complainant as well as the defendant or the accused, who, under section 75, is entitled to appeal from the decision rendered, and who desires to question such conviction, order, determination or other proceeding of a justice of the peace under this act, on the ground that it is erroneous in point of law, or is in excess of jurisdiction, may apply to such justice of the peace to state and sign a case setting forth the facts of the case and the grounds on which the proceeding is questioned, and, if the justice of the peace refuses to state the case, may apply to the Superior Court, sitting in and for the*

SUMMARY CONVICTIONS

district where the conviction was pronounced, the order issued or the proceeding made, for an order requiring the case to be stated.

R. S. 1964, c. 35, s. 84; 1974, c. 11, s. 2.

91. (1) *The application for the stating of a case shall be in writing and be addressed to the justice of the peace, and shall be presented within seven clear days from the date of the proceeding to be questioned.*

(2) *The case shall be stated within three months after the date of the judgment granting the application, provided the recognizance referred to in section 92 has been entered into.*

(3) *The applicant shall, within three days after receiving the stated case, transmit it to the court, first giving notice in writing of such appeal, with a copy of the case as signed and stated, to the other party to the proceeding which is questioned.*

R. S. 1964, c. 35, s. 85.

92. (1) *The appellant, at the time of making such application, and before a case is stated and delivered to him by the justice of the peace, shall enter into a recognizance before such justice of the peace or some other justice of the peace exercising the same jurisdiction, with or without surety or sureties, for such sum as to the justice seems meet, conditioned to prosecute his appeal without delay, and to submit to the judgment of the court and pay such costs as are awarded by the same.*

(2) *The appellant, if then in custody, shall be liberated upon the recognizance being further conditioned for his appearance before the same justice of the peace, or such other justice of the peace as is then sitting, within ten days after the judgment of the court has been given, to abide such judgment, unless the judgment appealed against is reversed.*

R. S. 1964, c. 35, s. 86.

93. (1) *Where, pending an application for the statement of a case, the justice of the peace dies or ceases to act, the applicant may, on notice to the other party or parties, apply to the court to state a case itself, and if a case is thereupon stated, it may be dealt with as if it had been duly stated by the said justice of the peace.*

(2) *Before any such case is stated by the court, the applicant shall enter into recognizance as provided by section 92.*

R. S. 1964, c. 35, s. 87.

94. *The justice of the peace shall not refuse to state a case unless the application appears to him to be based on frivolous grounds, and he shall in such case, on the request of the applicant, sign and deliver to him a certificate attesting such refusal; provided that the justice shall never refuse to state a case where the application is made to him by or under the direction of the Attorney General.*

R. S. 1964, c. 35, s. 88.

95. (1) *If the justice of the peace refuses to state a case, the applicant may, by petition, supported by affidavit, setting forth the facts forming the basis of his application, and alleging the refusal, apply to the court for a rule calling upon the justice of the peace, and also upon the respondent, to show cause why such case should not be stated; and such court may peremptorily order the justice of the peace to state the case or discharge the application, with or without payment of costs, as to the court seems meet.*

(2) *The justice of the peace, upon being served with such peremptory order, shall state a case, upon the appellant entering into such recognizance as hereinbefore provided.*

R. S. 1964, c. 35, s. 89.

96. (1) *The court to which a case is transmitted shall hear and determine the question or questions of law arising thereon, and shall thereupon affirm, reverse or modify the conviction, order or determination, or remit the matter to the justice of the peace with the opinion of the court thereon, and may make such other order in relation to the matter, and such orders as to costs, as to the court seems fit; and all such orders shall be executory upon all parties.*

(2) *No justice who states and delivers a case shall be liable to any costs in respect or by reason of such appeal against his determination.*

R. S. 1964, c. 35, s. 90; 1975, c. 11, s. 10.

97. (1) *The court for the opinion of which a case is stated shall have power, if it thinks fit, to cause the case to be sent back for amendment; and thereupon the same shall be amended accordingly, and judgment shall be delivered after it has been amended.*

(2) *The authority and jurisdiction of the court to which a case is stated may, subject to any rules and orders of court in relation thereto, be exercised by a judge of such court sitting in chambers, and as well in vacation as in term time.*

R. S. 1964, c. 35, s. 91.

98. *The decision on statement of the case is returned before the court from which the appeal was made for execution in accordance with Part I.*

R. S. 1964, c. 35, s. 92; 1982, c. 32, s. 18.

99. *No writ contemplated in articles 846 to 850 of the Code of Civil Procedure or other writ shall be required for the removal of any conviction, order or other determination in relation to which a case is stated for obtaining the judgment or determination of the court seized of such stated case.*

R. S. 1964, c. 35, s. 93; 1965 (1st sess.), c. 80, a. 1.

100. *Every person for whom a case is stated for the annulment or modification of a decision from which he is entitled to an appeal under section 75, shall be taken to have abandoned his said right of appeal for all legal purposes.*

R. S. 1964, c. 35, s. 94.

DIVISION III

GENERAL PROVISIONS RESPECTING APPEALS

101. *No conviction or order which has been affirmed, with or without modification in appeal, shall be thereafter quashed for want of form, or be removed into the Superior Court according to articles 846 to 850 of the Code of Civil Procedure; and no warrant or commitment shall be held void by reason of any defect therein, provided it is therein alleged that the defendant has been convicted, and there is a good and valid conviction to sustain the same.*

R. S. 1964, c. 35, s. 95; 1965 (1st sess.), c. 80, a. 1.

102. *No writ shall be allowed under articles 846 to 850 of the Code of Civil Procedure to remove any conviction or order had or made before any justice of the peace, if the defendant has already appealed from such conviction or order to any court to which an appeal from such conviction or order is authorized by law, or shall be allowed to remove any conviction or order made upon such appeal.*

R. S. 1964, c. 35, s. 96; 1965 (1st sess.), c. 80, a. 1.

103. (1) *No conviction or order made by any justice of the peace and no warrant for enforcing the same shall, on being removed as provided for in articles 846 to 850 of the Code of Civil Procedure, be held invalid for any irregularity, informality or insufficiency therein, if the tribunal or judge before which or whom the question is raised, upon taking communication of the record, is satisfied that an offence, of the nature described in the conviction, order or warrant, has been committed, over which such justice of the peace has jurisdiction, and that the punishment imposed is not in excess of that which might have been lawfully imposed for the said offence, provided that the tribunal or judge, where so satisfied, shall, even if the punishment imposed or the order made is in excess of that which might lawfully have been imposed or made, have the like powers in all respects to deal with the case as seems just, as are by section 83 conferred upon the court to which an appeal is taken under the provisions of section 75.*

(2) *Any statement which, under this act or otherwise, would be sufficient if contained in a conviction, shall also be sufficient if contained in an information, summons, order or warrant.*

R. S. 1964, c. 35, s. 97; 1965 (1st sess.), c. 80, a. 1.

104. (1) *The following matters, amongst others, shall be held to be within the provisions of section 103:*

(a) *The statement of the adjudication, or of any other matter or thing, in the past tense instead of in the present;*

(b) *The punishment imposed being less than the punishment by law assigned to the offence stated in the conviction or order, or to the offence which appears by the record to have been committed;*

(c) *The omission to negative circumstances, whether stated by way of exception or otherwise in the section of the act creating the offence or in another section of the same act, the existence of which would prevent the action complained of from being an offence under the said act.*

(2) *Nothing in this section contained shall be construed to restrict the generality of the wording of section 103.*

R. S. 1964, c. 35, s. 98.

105. (1) *No order, conviction or other proceeding shall be quashed or set aside, and no defendant or accused shall be discharged, by reason of any objection that evidence has not been given of a proclamation or order of the Government, or of any rules, regulations, or by-laws made by the Government under any act, or of the publication of such proclamation, order, rules, regulations or by-laws in the Gazette officielle du Québec.*

(2) *Such proclamation, order, rules, regulations and by-laws and the publication thereof shall be judicially noticed.*

R. S. 1964, c. 35, s. 99.

106. *Whenever it appears by any conviction, made by a justice of the peace, that the defendant or accused has appeared and pleaded, and the merits have been tried, and the said defendant or accused has not appealed against the conviction, where an appeal is allowed, or, if appealed against, the conviction has been affirmed, such conviction shall not afterwards be set aside or vacated in consequence of any defect of form whatsoever, but the construction shall be such a fair and liberal construction as the ends of justice in the case permit of.*

R. S. 1964, c. 35, s. 100.

107. *If an application is made to quash a conviction, order or other proceeding made or had by or before a justice of the peace, on the ground that such justice has exceeded his jurisdiction, the court or judge who renders judgment on such proceeding may, as a condition of quashing the conviction, order, if the court or judge thinks fit so to do, that no action shall be brought against the justice of the peace, by or before whom*

such conviction, order or other proceeding was made or had, or against any officer acting thereunder or under any warrant issued to enforce any such conviction or order.

R. S. 1964, c. 35, s. 101.

107.1. *Notwithstanding any inconsistent provision of a general law or special Act, the first paragraph of section 55, section 56 and section 56.1, in the case of an appeal from the decision of a judge or a clerk of a municipal court contemplated in this section, apply mutatis mutandis to the decision of the court appealed to.*

1982, c. 32, s. 19.

PART III

APPEALS TO THE COURT OF APPEAL

108. *An appeal lies to the Court of Appeal, with leave of that court or of a judge of that court, from any judgment of the Superior Court rendered under the authority of this act, if the party making the application shows a sufficient interest to warrant decision on a question of law only.*

1975, c. 11, s. 11.

109. *The appeal is brought before the Court of Appeal sitting at Montréal or at Québec, according to the place an appeal from a judgment in a civil matter would be instituted.*

1975, c. 11, s. 11.

110. *An application for leave to appeal must be presented by motion within fifteen days of the date of judgment or within any other delay, not exceeding thirty days, fixed by the Court of Appeal or a judge of that court, either before or after the said delay of fifteen days has expired.*

1975, c. 11, s. 11.

111. *The motion must be accompanied with a copy of the judgment and a notice specifying the date of presentation of the motion.*

1975, c. 11, s. 11.

112. *At least five days before the date of presentation, the motion must be served on the respondent and on his attorney, if any, and on the judge who rendered judgment.*

1975, c. 11, s. 11.

113. *Upon deciding on the motion for leave to appeal, the Court of Appeal shall decide the amount of the costs unless the appeal is authorized, in which case the Court shall award the costs only when judgment on the appeal is rendered.*

1975, c. 11, s. 11.

114. *If the motion is granted, the appeal must be brought within fifteen days of the judgment authorizing it.*

1975, c. 11, s. 11.

115. *The appeal is brought by filing at the office of the court that rendered the judgment appealed from a notice of appeal accompanied with a certified copy of the judgment authorizing it and evidence of service thereof on the respondent and on his attorney, if any.*

1975, c. 11, s. 11.

116. *The notice of appeal must contain the description of the parties, the name of the court that rendered the judgment and the date of such judgment.*

1975, c. 11, s. 11.

117. *Paragraphs 3 to 7 of section 76 apply mutatis mutandis to this Part.*

1975, c. 11, s. 11.

118. *The clerk of the court who receives the notice of appeal must transmit a copy to the Appeal Office. He must also, without delay, transmit to the Appeal Office the original record of the case with a list of the documents therein and a copy of the entries made in the registers.*

1975, c. 11, s. 11.

119. *Within ten days following the date the notice of appeal is served, the appellant and the respondent must file a written appearance at the Appeal Office.*

1975, c. 11, s. 11.

120. *Within thirty days following the filing of the notice of appeal, the appellant must file at the Appeal Office ten copies of a factum setting out his pretensions and serve two copies of such factum on the respondent. Such factum must contain the judgment appealed from and the notes filed by the judge, if any.*

1975, c. 11, s. 11.

121. *The appellant must also file, except if exempted from it by the Court of Appeal or a judge of that court, the transcription of the evidence gathered at the trial.*

1975, c. 11, s. 11.

122. *The respondent must, within fifteen days of the filing at the Appeal Office of the factum by the appellant, file at the Office ten copies of his own factum and serve two copies thereof on the appellant.*

1975, c. 11, s. 11.

123. *The Court of Appeal may request the judge who rendered the judgment appealed from to furnish, within the delay it fixes, a report on the case or on any matter connected therewith that it may specify.*

1975, c. 11, s. 11.

124. *The appellant may, before his case is heard, discontinue his appeal by filing at the Appeal Office a written discontinuance with evidence of service on the adverse party. The appellant shall then assume all costs of the appeal.*

1975, c. 11, s. 11.

125. *The Court of Appeal may make any order considered appropriate for the purposes of exercising its jurisdiction, ex officio or on motion of one of the parties.*

1975, c. 11, s. 11.

126. *On deciding the appeal, the Court of Appeal may:*

- (a) uphold the judgment appealed from;*
- (b) render any judgment that the lower court should have rendered; or*

(c) make any other order it considers appropriate.

1975, c. 11, s. 11.

127. *The Court of Appeal may decide as to the costs of the appeal and as to the costs in the lower courts.*

1975, c. 11, s. 11.

128. *The judgment of the Court of Appeal is returned before the court of first instance for execution in accordance with Part I.*

1975, c. 11, s. 11; 1982, c. 32, s. 20.

129. *The judges of the Court of Appeal in office or a majority of them may adopt the rules of practice considered necessary for the proper application of this Part.*

Such rules shall come into force on the date of their publication in the Gazette officielle du Québec.

1975, c. 11, s. 11.

130. *Section 107.1 applies to this Part.*

1982, c. 32, s. 21.

PART IV

REGULATIONS

1982, c. 32, s. 21.

131. *The Government may, by regulation,*

(a) determine the costs to which a party may be adjudged in first instance or in appeal;

(b) determine the costs which may be remitted to the prosecutor in accordance with the second paragraph of section 51;

(c) determine the costs which may be awarded to witnesses and the tariff of fees of every person in charge of the carrying out of this Act with respect to proceedings;

(d) fix, for the purposes of the security contemplated in section 74.1, the amount of the costs to be added to the amount of the minimum fine or, for each offence against an Act respecting which no minimum fine is provided, the amount of the security itself;

(e) fix the manner in which the defendant may meet the conditions of the security contemplated in section 74.1.

A regulation passed under this section comes into force on the date of its publication in the Gazette officielle du Québec or on any later date fixed therein.

1982, c. 32, s. 21.

132. *(This section ceased to have effect on 17 April 1987).*

1982, c. 21, s. 1; U. K., 1982, c. 11, Sch. B, Part I, s. 33.

SUMMARY CONVICTIONS

SCHEDULE A

Determination of the equivalence between the amount of the sums due, the term of imprisonment and the period of the compensatory work.

1. The term of imprisonment for every offence and the period of the compensatory work for every sum due at the time of the agreement are computed according to the following table:

<i>For the portion of the sums due between:</i>	<i>One day of imprisonment is equivalent to:</i>	<i>One compensatory work unit is equivalent to:</i>
<i>\$1 and \$5 000:</i>	<i>\$25</i>	<i>\$30</i>
<i>\$5 001 and \$10 000:</i>	<i>\$50</i>	<i>\$60</i>
<i>\$10 001 and \$15 000:</i>	<i>\$75</i>	<i>\$90</i>
<i>\$15 001 and \$20 000:</i>	<i>\$100</i>	<i>\$120</i>
<i>\$20 001 and \$25 000:</i>	<i>\$125</i>	<i>\$150</i>
<i>\$25 001 and \$30 000:</i>	<i>\$150</i>	<i>\$180</i>
<i>\$30 001 and \$35 000:</i>	<i>\$175</i>	<i>\$210</i>
<i>\$35 001 and \$40 000:</i>	<i>\$200</i>	<i>\$240</i>
<i>\$40 001 and \$45 000:</i>	<i>\$225</i>	<i>\$270</i>
<i>\$45 001 and \$50 000:</i>	<i>\$250</i>	<i>\$300</i>
<i>\$50 001 and over:</i>	<i>\$400</i>	<i>\$480</i>

2. Where the number of days or units for a portion is a fraction, it is rounded off to the next integer.

3. In computing the term of imprisonment, three days are added to the total obtained under sections 1 and 2.

1982, c. 32, s. 22; 1982, c. 58, s. 62.

SCHEDULE B

FORMS APPLICABLE TO PROCEEDINGS UNDER THE SUMMARY CONVICTIONS ACT

SUMMARY CONVICTIONS

1

(Section 8)

Information to obtain a Search Warrant

Canada,
Province of Québec,
District of

The information of A. B., of in the said district, (yeoman), taken this day of in the year one thousand nine hundred and before the undersigned, who says that (describe things to be searched for and offence in respect of which search is made), and that he has just and reasonable cause to suspect and suspects that the said goods and chattels, or some part of them, are concealed in the (dwelling-house, etc.) of C. D., of
.....
in the said district (here add the causes of suspicion, whatever they may be).

Wherefore (he) prays that a search warrant may be granted to him to search the (dwelling-house, etc.), of the said C. D., as aforesaid, for the said goods and chattels so stolen, taken and carried away as aforesaid (or as the case may be).

Sworn before me the day and year first above mentioned, at ..
.....
in the said district of

(Signature)

Justice of the Peace (or as the case may be)
for the district of

R. S. 1964, c. 35, form 1; 1982, c. 32, s. 23.

SUMMARY CONVICTIONS

2

(Section 9)

Search Warrant

Canada,
Province of Québec,
District of

To all or any of the constables and other peace officers in
the said district.

Whereas it appears on the oath of A. B., of,
that there is reason to suspect that (describe things to be
searched for and offence in respect of which search is made) are
concealed in
at

This is, therefore, to authorize and require you to enter
between the hours of (as the justice shall direct) into the said
premises, and to search for the said things, and to bring the
same before me or some other justice.

Dated at, in the said district of
..... this
day of, in the year one thousand nine hundred
and

(Signature)

Justice of the Peace (or as the case may be)
for the district of

To
of
.....
This warrant shall be returned not later than the
.....

R. S. 1964, c. 35, form 3; 1970, c. 11, s. 25.

SUMMARY CONVICTIONS

3

(Section 13)

Information and Complaint for an Offence

Canada,
Province of Québec,
District of

The information and complaint of C. D. of
.....
(yeoman), taken this day of, in
the year one thousand nine hundred and,
before the undersigned, who saith that (etc., stating the
offence).

Sworn before me, the day and year first above mentioned, at
.....

(Signature)

Justice of the Peace (or as the case may be)
for the district of

R. S. 1964, c. 35, form 4.

SUMMARY CONVICTIONS

4

(Section 16)

Summons to the Defendant upon an Information or Complaint

*Canada,
Province of Québec,
District of*

To A. B., of, (labourer).

*Whereas you have this day been charged before the undersigned, for that you on at
.....,
(etc., stating shortly the offence):*

*These are therefore to command you, in Her Majesty's name, to be and appear before (me) on, at
.....
hours, at, or before such other justice or justices of the peace for the same district of
.....,
as shall then be there, to answer to the said charge, and to be further dealt with according to law.*

Herein fail not.

Given under my hand, this day of, in the year one thousand nine hundred and, at, in the district aforesaid.

(Signature)

*Justice of the Peace (or as the case may be)
for the district of*

R. S. 1964, c. 35, form 5.

SUMMARY CONVICTIONS

5

(Section 20)

Warrant in the first instance to apprehend the Defendant

Canada,
Province of Québec,
District of

To all or any of the constables and other peace officers in the said district.

Whereas A. B., of, (labourer), has this day been charged before the undersigned, for that he, on, at, did (etc., stating shortly the offence).

These are, therefore, to command you, in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (me) or some other justice of the peace in and for the said district, to answer unto the said charge, and to be further dealt with according to law.

Given under my hand, this day of, in the year one thousand nine hundred and, at, in the district aforesaid.

(Signature)

Justice of the Peace (or as the case may be)
for the district of

R. S. 1964, c. 35, form 6.

SUMMARY CONVICTIONS

6

(Section 21)

Warrant when the Summons is disobeyed

Canada,
Province of Québec,
District of

To all or any of the constables and other peace officers for the said district.

Whereas on the day of, nineteen hundred and, A. B., of
.....
was charged before (me or us,) the undersigned, for that (etc., as in the summons); and whereas I (or he the said justice of the peace, or we or they the said justices of the peace) did then issue (my, our, or their) summons to the said A. B., commanding him, in Her Majesty's name, to be and appear before (me) on the day of, nineteen hundred and
.....
at hours, at,
or before such other justice or justices of the peace as shall then be there, to answer to the said charge and to be further dealt with according to law; and whereas the said A. B. has neglected to be or appear at the time and place appointed in and by the said summons, although it has now been proved to (me) upon oath that the said summons was duly served upon the said A. B. (or that it was impossible to serve the same):

These are therefore to command you in Her Majesty's name, forthwith to apprehend the said A. B., and to bring him before (me) or some other justice of the peace in and for the said district to answer the said charge, and to be further dealt with according to law.

Given under my hand this day of, in the year one thousand nine hundred and, at, in the district aforesaid.

(Signature)

Justice of the Peace (or as the case may be)
for the district of

R. S. 1964, c. 35, form 7.

SUMMARY CONVICTIONS

7

(Section 24)

Summons to a Witness

Canada,
Province of Québec,
District of

To E. F., (labourer):

Whereas information has been laid before the undersigned that
A. B. (etc., as in the summons or warrant against the accused),
and it has been made to appear to me that you are likely to give
material evidence for the prosecution (or for the accused);

These are therefore to require you to be and to appear before
me, on next, at
hours, at, or before such other justice
or justices of the peace of the said district, as shall then be
there, to testify what you know concerning the said charge so
made against the said A. B. as aforesaid.

Herein fall not.

Given under my hand this day of,
in the year one thousand nine hundred and
at, in the district aforesaid.

(Signature)

Justice of the Peace (or as the case may be)
for the district of

R. S. 1964, c. 35, form 9.

SUMMARY CONVICTIONS

8

(Section 26)

Warrant when a Witness has not obeyed the Summons or has evaded Service

Canada,
Province of Québec,
District of

To all or any of the constables and other peace officers in the said district.

Whereas information having been laid before
.....,
a justice of the peace, in and for the said district of
.....,
that A. B., (etc., as in the summons), and it having been made to appear to (me) upon oath that E. F., of
(labourer), was likely to give material evidence for (the prosecution or the defence), (I) duly issued (my) summons to the said E. F., requiring him to be and appear before (me) on
....., at
or before such other justice or justices of the peace for the said district, as shall then be there, to testify what he knows respecting the said charge so made against the said A. B., as aforesaid; and whereas proof has this day been made upon oath before (me) of such summons having been duly served upon the said E. F. (or of the said E. F. having evaded service thereof), and whereas the said E. F. has neglected to appear at the time and place appointed by the said summons, and no just excuse has been offered for such neglect:

These are therefore to command you to bring and have the said E. F. before (me) on at hours, at or before such other justice or justices of the peace for the said district, as shall then be there, to testify what he knows concerning the said charges so made against the said A. B. as aforesaid.

Given under my hand, this day of
in the year one thousand nine hundred and
at in the district aforesaid.

(Signature)

Justice of the Peace (or as the case may be)
for the district of

R. S. 1964, c. 35, form 10.

SUMMARY CONVICTIONS

9

(Section 27)

Conviction for Contempt

Canada,
Province of Québec,
District of

Be it remembered that on the day of,
in the year one thousand nine hundred and
.....,
in the district of, E. F. is convicted
before me, for that he, the said E. F., did not attend before
me to give evidence on the trial of a certain charge against
one A. B. of (state the offence), although duly summoned (or
bound by recognizance to appear and give evidence in that
behalf, as the case may be) but made default therein, and has
not shown before me any sufficient excuse for such default, and
I adjudge the said E. F., for his said offence, to be
imprisoned in the house of detention of the district of
.....at
.....
for the space of, there to be kept
(if a fine is also to be imposed, then proceed) and I also
adjudge that the said E. F. do forthwith pay, to and for the
use of Her Majesty, a fine of dollars, (or if a fine
alone is imposed, then the clause of imprisonment is to be
omitted).

Given under my hand at, in the
said district, the day and year first above mentioned.

(Signature)

Justice of the Peace (or as the case may be)
for the district of

R. S. 1964, c. 35, form 11; 1969, c. 21, s. 35; 1982, c. 32, s. 24.

SUMMARY CONVICTIONS

10

(Section 28)

Warrant for a Witness in the First Instance

*Canada,
Province of Québec,
District of*

*To all or any of the constables and other peace officers in the
said district.*

*Whereas information has been laid, before the undersigned,
that (etc., as in the summons); and it having been made to
appear to (me) upon oath, that E. F. of,
(labourer), is likely to give material evidence for the
prosecution (or for the defence), and that it is probable that
the said E. F. will not attend to give evidence unless compelled
to do so:*

*These are therefore to command you to bring and have the said
E. F., before (me) on, at hours,
at, or before such other justice or
justices of the peace for the same district as shall then be
there, to testify what he knows concerning the said charge so
made against the said A. B. as aforesaid.*

*Given under my hand, this day of,
in the year one thousand nine hundred and,
at, in the district aforesaid.*

(Signature)

*Justice of the Peace (or as the case may be)
for the district of*

R. S. 1964, c. 35, form 12.

SUMMARY CONVICTIONS

II

(Section 39)

Deposition of Witness

Canada,
Province of Québec,
District of

Deposition of A. B. (surname, name, age and occupation of the witness) taken before me, justice of the peace for the district of, or by the undersigned stenographer, duly sworn, on the day of, 19....., in the case of (name of the accused) accused of (state briefly the offence), after having been duly sworn, declares: (deposition of the witness, indicating whether the questions are put by the prosecution, by the defence or by the justice).

(Signature)

Justice of the Peace (or as the case may be)
for the district of

Stenographer's Oath

Canada,
Province of Québec,
District of

Before A. B., justice of the peace of the district of
.....
I, the undersigned, C. D., stenographer for the district of (name of the district) living (address of the stenographer) in the city (or other locality, as the case may be), in the said district, swear that I will faithfully and correctly take down by stenography the depositions of the witnesses who will be heard at the hearing held before A. B., justice of the peace of the district of, on the day of, one thousand nine hundred, in the case of
.....
and that the copies or transcriptions that I will furnish to the justice of the peace or to any other persons will be a true and exact copy of my stenographic notes. So help me God.

And I have signed,
C. D.

Sworn before me at
of the day of

SUMMARY CONVICTIONS

....., 19.....

(Signature)

Justice of the Peace (or as the case may be)
for the district of

R. S. 1964, c. 35, form 13.

12

(Section 43)

Warrant of Commitment of a Witness for Refusing to be Sworn or to Give Evidence

*Canada,
Province of Québec,
District of*

*To all or any of the constables and other peace officers in the said district, and to the keeper of the house of detention at
in the said district*

*Whereas A. B. was lately charged before,
a justice of the peace in and for the said district of
.....,
for that (etc., as in the summons); and it having been made to appear to (me) upon oath that E. F. of
was likely to give material evidence for the prosecution, (or for the defence), I duly issued my summons to the said E. F., requiring him to be and appear before me on, at
....., or before such other justice or justices of the peace for the said district as shall then be there, to testify what he knows concerning the said charge so made against the said A. B. as aforesaid; and the said E. F. now appearing before (me) (or being brought before (me) by virtue of a warrant in that behalf), to testify as aforesaid, and being required to make oath or affirmation as a witness in that behalf, now refuses so to do (or being duly sworn as a witness now refuses to answer certain questions concerning the premises which are new here put to him; and more particularly the following or refuses or neglects to produce certain documents which he is required to produce, to wit), without offering any just excuse for such refusal:*

*These are therefore to command you to take the said E. F. and to convey him to the house of detention at, in the district aforesaid, and there to deliver him to the keeper thereof, together with this precept: And I do hereby command you, the said keeper of the said house of detention, to receive the said E. F. into your custody in the said house of detention, and there keep him for the space of
..... days, for the said contempt, unless in the meantime he consents to be examined, and to answer concerning the premises; and for your so doing, this shall be your sufficient warrant.*

Given under my hand, this day of, in the year one thousand nine hundred and, at, in the district aforesaid.

(Signature)

SUMMARY CONVICTIONS

*Justice of the Peace (or as the case may be)
for the district of*

R. S. 1964, c. 35, form 14; 1969, c. 21, s. 35.

13

(Section 45)

Warrant Remanding a Prisoner

*Canada,
Province of Québec,
District of*

*To all or any of the constables and other peace officers in
the said district, and to the keeper of the house of detention
at
in the said district;*

*Whereas A. B. was this day charged before the undersigned for
that (etc., as in this warrant to apprehend), and it appears to
(me) to be necessary to remand the said A. B.:*

*These are therefore to command you, the said constables and
peace officers, or any of you, in Her Majesty's name, forthwith
to convey the said A. B. to the house of detention at
....., in the said district, and there to deliver
him to the keeper thereof, together with this precept: And I
hereby command you the said keeper to receive the said A. B.
into your custody in the said house of detention, and there
safely keep him until the day of
(instant) when I hereby command you to have him at
....., at hours of the same day,
before (me) or before such other justice or justices of the
peace for the said district as shall then be there, to answer
further to the said charge, and to be further dealt with
according to law, unless you shall be otherwise ordered in the
meantime.*

*Given under my hand, this day of
in the year, at
in the district aforesaid.*

(Signature)

*Justice of the Peace (or as the case may be)
for the district of*

R. S. 1964, c. 35, form 15; 1969, c. 21, s. 35.

SUMMARY CONVICTIONS

14

(Section 45)

Recognizance of Bail in lieu of or after a Remand

Canada,
Province of Québec,
District of

Be it remembered that on the day of,
in the year one thousand nine hundred and,
A. B., of, (labourer), L. M.,
of, (grocer), and N. O., of
.....,
(butcher), personally came before me, and severally
acknowledged themselves to owe to our Sovereign Lady the Queen,
the several sums following, that is to say: The said A. B.,
the sum of,
and the said L. M. and N. O., the sum of,
each, to be made and levied on their several goods and
chattels, lands and tenements respectively, to the use of our
said Lady the Queen, if he, the said A. B., fails in the
condition endorsed (or hereunder written).

A. B.,
L. M.,
N. O.

Taken and acknowledged before me, the day and year first
above mentioned, at, in the
district aforesaid.

(Signature)

Justice of the Peace (or as the case may be)
for the district of

Condition

The condition of the within (or above) written recognizance
is such that whereas the within bounded A. B. was this day (or
on
last past) charged before me for that (etc., as in the
warrant); and whereas the examination of the witnesses for the
prosecution in this behalf is adjourned until the day
of in the year one thousand nine hundred and ...
.....; if, therefore, the said A. B. appears before
me on the said
day of, at hours,
or before such other justice or justices of the peace for the
said district as shall then be there, to answer (further) to
the said charge, and to be further dealt with according to law,

SUMMARY CONVICTIONS

the said recognizance to be void, otherwise to stand in full force and effect.

R. S. 1964, c. 35, form 16.

15

(Section 48)

*Canada,
Province of Québec,
District of*

Certificate of Judgment

*I certify that on the (date of the judgment), A. B.
(defendant) was (convicted or not convicted) of the following
offence: (description of the offence).*

*Given at, on the
day of, 19.....*

*Signature of the
justice of the peace or clerk.*

R. S. 1964, c. 35, form 24; 1970, c. 11, s. 27.

16

(Repealed).

1982, c. 32, s. 25.

17

(Repealed).

1982, c. 32, s. 25.

18

(Repealed).

1982, c. 32, s. 25.

19

(Repealed).

1982, c. 32, s. 25.

20

(Repealed).

1982, c. 32, s. 25.

21

(Repealed).

1982, c. 32, s. 25.

(Section 63.13)

Warrant of commitment upon a conviction adjudging Imprisonment in the first instance

*Canada,
Province of Québec,
District of*

*To all or any of the constables and other peace officers of
.....,
and the keeper of the house of detention at*

*Whereas A. B., was this day convicted before the undersigned,
on the oath of, of,
.....,
and others, for that (stating the offence):*

*These are therefore to command you, the said constable or
peace officer or any of you, in Her Majesty's name, to take
the said,
and him to convey immediately to the house of detention for
the said district at, and there to
deliver him to the keeper thereof, together with this precept.*

*And I do hereby command you, the said keeper of the said
house of detention, to receive the said A. B., into your
custody in the said house of detention, and there to imprison
him for the term of,
or until he shall be otherwise discharged in due course of law;
and for so doing this shall be your sufficient warrant.*

*Given under my hand, this day of,
in the year one thousand nine hundred and,
at, in the district aforesaid.*

(Signature)

*Justice of the Peace (or as the case may be)
for the district of*

R. S. 1964, c. 35, form 31; 1969, c. 21, s. 35; 1982, c. 32, s. 26.

SUMMARY CONVICTIONS

22.1

(Section 63.13)

Warrant of commitment for failure to pay a fine

*Canada,
Province of Québec,
District of*

To all or any of the constables and other peace officers in the district of, and to the director of the house of detention of the said district at

Whereas A. B. from, was on convicted before J. S., justice of the peace for the district of, for (indicate the offence as in the conviction) and A. B. was adjudged, by reason of the offence, to pay (etc.... as in the conviction) and to pay also the sum of for costs.

Whereas, since that time, the measures taken to recover the fine have not allowed to fully recover it and the balance due amounts to

This is therefore to command you to take the said A. B. to the house of detention at, and there to deliver him to the director thereof together with this precept. And I do hereby command you, the director, to receive A. B. into your custody in the house of detention, and there to imprison him for the term of (if the sentence must be consecutive, it must be indicated accordingly) unless the fine were sooner paid; and for so doing, this shall be your sufficient warrant.

Given under my hand, this day of, in the year one thousand nine hundred and, at in the district aforesaid.

(Signature)

*Justice of the Peace
for the district of*

1982, c. 32, s. 27.

23

(Repealed).

1982, c. 32, s. 28.

24

(Repealed).

1982, c. 32, s. 28.

SUMMARY CONVICTIONS

25

(Section 63.15)

Director's receipt when a prisoner is delivered into his custody

I hereby certify that I have received from W. T., constable of the district of, the body of A. B., together with a warrant under the hand of J. S., Esquire, justice of the peace for the district of, and that A. B. was (describe here the prisoner's state and condition) at the time he was delivered into my custody.

(Date)

(Signature)

Director of the house
of detention of the
district of

R. S. 1964, c. 35, form 35; 1969, c. 21, s. 35; 1982, c. 32, s. 29.

26

(Section 68)

*Certificate of Non-appearance to be endorsed on the Defendant's
Recognizance*

*I hereby certify that the said A. B. has not appeared at the
time and place in this recognizance mentioned, but therein has
made default, by reason whereof the amount of the said
recognizance is forfeited.*

*Date at, this day
of, in the year one thousand nine hundred
and*

(Signature)

*Justice of the Peace (or as the case may be)
for the district of*

R. S. 1964, c. 35, form 36.

SUMMARY CONVICTIONS

27

(Section 69)

Warrant of Deliverance on Bail being given for a Prisoner

Canada,
Province of Québec,
District of

To the keeper of the house of detention of the said district
at

Whereas A. B., late of, (labourer),
has before me entered into his own recognizance, and found
sufficient sureties for his appearance before me on the
..... day of at
hours or before such other justice or justices of the peace for
the said district as shall be then and there present, to answer
(further) to the charge that (etc., as in the commitment), for
which he was taken and committed to your said house of
detention:

These are therefore to command you, that if the said A. B.
remains in your custody in the said house of detention for the
said cause, and for no other, you shall forthwith suffer him to
go at large.

Given under my hand, this day of,
in the year, at
in the district aforesaid.

(Signature)

Justice of the Peace (or as the case may be)
for the district of

R. S. 1964, c. 35, form 37; 1969, c. 21, s. 35.

28

(Repealed).

1982, c. 32, s. 30.

29

(Repealed).

1982, c. 32, s. 30.

30

(Repealed).

1982, c. 32, s. 30.

REPEAL SCHEDULE

In accordance with section 17 of the Act respecting the consolidation of the statutes (chapter R-3), chapter 35 of the Revised Statutes, 1964, in force on 31 December 1977, is repealed effective from the coming into force of chapter P-15 of the Revised Statutes.