

SECTION III

SUMMONING WITNESSES

280. The party who wishes a witness to testify may summon him by a writ of *subpoena* served at least five clear days before the appearance. However, the writ intended for a minister or a deputy minister of the government of Québec is served at least ten clear days before the appearance.

However, in cases of urgency, the judge or prothonotary may, by special order entered on the writ of *subpoena*, reduce the delay for service, but it cannot be made less than twelve hours before the time fixed for appearance.

281. A witness may be summoned to declare what he knows, to produce some document, or to do both.

282. Any person residing in the Province of Ontario may be compelled to appear as a witness, if the judge in chambers, the prothonotary or the assistant prothonotary designated in accordance with article 195, is satisfied that his presence is necessary and if there is not another action for the same cause pending in the Province of Ontario.

Such summons, however, can only be made upon a special order of the judge or the prothonotary written on the writ of subpoena which must be served in conformity with the law of Ontario, by a person of full age, who must make a return thereof under oath.

283. A person in prison can only be summoned on an order from the judge or prothonotary commanding the warden or gaoler, as the case may be, to bring him before the court to give evidence.

The judge may, in addition, condemn the person so arrested to pay, in whole or in part, the costs caused by his default.

A defaulting witness who resides in the Province of Ontario can only be punished by the court within whose jurisdiction he resides, upon a certificate of the court attesting his default.

SECTION V

EXAMINATION OF WITNESSES

293. In all cases here oral evidence is permitted, proof may be adduced by one witness; subject, however, to the provisions of article 301.

294. Except where otherwise provided, in any contested case the witnesses are examined in open court, the opposite party being present or duly notified.

Tny partry may demand that the witnesses testify outside each other's presence.

294a. The court may accept a medical report, or an employer's report on the state of the salary or other benefits of an employee, in lieu of the testimony of the physician or employer who signed it, provided the report has been filed previously in the office of the court, with notice and copy served upon the parties, not less than ten days before the date of the hearing.

If a party requests the presence of a physician or employer at the hearing, the court may condemn such party to the costs, and shall fix the amount thereof, if of the opinion that the filing of the report would have sufficed.

This section applies, *mutatis mutandis*, to the report of a financial institution on the state of the deposits and investments of a person, and to the report of a member of the Sûreté, of a municipal policeman or of a special constable, as defined in the Police Act (1968, chapter 17).

Relationship, connection by marriage and interest are objections only to the credibility of a witness.

296. A person afflicted with an infirmity which renders him unable to speak, or to hear and speak, may take the oath or solemnly affirm and testify, either by writing under his hand, or by signs with the aid of an interpreter.

297. The bailiff who served the writ of summons cannot testify to any facts or admissions which came to his knowledge after the issue of the writ, except in relation to the service itself.

298. Before testifying, the witness must declare his surname, given name, age, occupation and residence.

299. Saving the case provided for by article 301, no one may testify, under penalty of the nullity of his deposition, unless he has taken an oath to tell the truth, the wrole truth and nothing but the truth. However, if the witness objects to taking the oath because to do so would be contrary to his religious beliefs or because he has no religious belief, he must make the following solemn affirmation:

"I solemnly affirm that my evidence will be the truth, the whole truth and nothing but the truth."

A witness who is a Christian takes the oath either upon the Gospels, touching the book with his hand, or facing a crucifix with his hand raised; a witness of the Jewish religion upon the Old Testament; a witness of another religion according to the formalities prescribed by his religious belief, unless the judge sees some practical objection to his ding so, in which case the witness makes a solemn affirmation.

In all cases the judge must see that the form of the oath or solemn affirmation Québec Code of Civil Procedure.

Artículo 140. Service by mail is made by mailing a copy of the proceedings by registered or certified mail to the party at the last known address of his residence or place of business.

Such service is deemed to have been made on the date when the acknowledgment of receipt presented by the postman at the time of delivery was signed by the party himself or by one of the persons mentioned in article 123.

La fin de l'article 299.

In all cases the judge must see that the form of the oath or solemn affirmation is read to the witness in such a way as to be well understood by him.

300. A deposition is not null by the fact alone that the witness should have been sworn instead of being allowed to make the solemn affirmation, or *vice versa*.

301. A child who, in the opinion of the judge, does not understand the nature of the oath, may be permitted to testify without that formality, if the judge is of the opinion that he is sufficiently mature to be able to report the facts of which he had knowledge, and that he understands the duty to tell the truth. A judgment, however, cannot be based upon such testimony alone.

302. Any person present at the trial may be required to testify and is bound to answer as if he had been regularly summoned.

303. A witness who is present cannot refuse to testify under pretext that his travelling expenses have not been advanced to him.

304. Any person who refuses to take the oath or to make a solemn affirmation is deemed to refuse to testify.

305. To facilitate the examination of a witness, the judge may retain the services of an interpreter, whose remuneration forms part of the costs of the case, except in the judicial district of Abitibi, where such remuneration is at the expense of the Ministre de la justice if one of the parties benefits by the agreement contemplated in chapter 46 of the statutes of 1976.

306. The witness is examined by the party producing him or by his counsel. The questions must deal with the facts in issue only; they must not be put in such a way as to suggest the desired answer, unless the witness evidently attempts to elude a question or to favour another party, or unless, being himself a party who is questioning him.

307. A witness cannot be compelled to divulge any communication made to him or her by his or her consort during the marriage.

308. Similarly, government officials cannot be obliged to divulge what has been revealed to them in the exercise of their functions provided that the judge of the opinion, for reasons set out in the affidavit of the Minister or deputy minister to whom the witness is answerable, that the disclosure would be contrary to public order.

309. A witness cannot refuse to answer for the reason that his reply might end to incriminate him or to expose him to a legal proceeding of any kind; but if he objects on that ground, his reply cannot be used against him in any legal proceedings instituted under any law of this province.

310. A party cannot impeach the credit of a witness produced by himself, but he may prove by others the contrary of what such witness has stated, or, by leave of the court, he may prove that at another time he has made statements inconsistent with his present testimony, provided, in the latter case that the witness be first questioned upon the subject.

311. A witness who has in his possession any document touching the matter in issue is bound to produce it on demand. Except in the case of an authentic writing, he must allow copies, extracts or reproductions to be made which, when certified by the prothonotary, have the same probative effect as the original,

312. A judge may order a party to exhibit before the court or at any other convenient place and time, an object in his possession which witnesses are called upon to identify; if the party fails to obey such order, the identity of the object is held to be established against him.

A judge may also order a witness in possession of any object connected with the litigation to produce it.

313. A witness who, without valid reason, refuses to answer, is guilty of contempt of court, as is he who, having in his possession some object connected with the litigation refuses to produce it.

314. When a party has ceased examining a witness he has produced, any other party with opposing interests may cross-examine such witness on all the facts in issue and may also establish in any manner whatever grounds he may have for objecting to such witness.

315. A witness may be heard again by the party who produced him, either to be examined on new facts elicited by the cross-examination or to explain his answers to the questions put by another party.

316. If the examination of a witness cannot be completed on the day he appears, he is bound to attend on the next following judicial day, or on such other day as is indicated to him by the court and entered in the minutes of trial. His default renders him liable to the same penalties as for refusing to attend upon the subpoena.

317. A witness who withdraws without the permission of the court is subject to the same penalties as he who refuses to attend upon the subpoena.

318. The judge may ask the witness any question he deems useful according to the rules of evidence.

319. The testimony given by a party, on his own behalf or at the instance of another party, may serve as a commencement of proof in writing against him.

320. A deposition given at a former trial of the same action, or of another action founded in whole or in part upon the same cause of action, may be given in evidence if it is established that the witness who made it is dead, or is so ill as to be unable to be present, or is absent from the province, provided in all cases that the adverse party had a full opportunity to cross-examine.

321. The prothonotary must ask the witness if he requires taxation and if he does, the taxation is made according to the tariff fixed by the Lieutenant-Governor in Council.

322. A witness in favour of whom taxation has been made may execute for it, as under a judgment, against the party who summoned him.

323. A party cannot recover the costs of more than five witnesses heard upon the same fact, unless the judge orders otherwise.

SECTION VI

TAKING DEPOSITIONS OF WITNESSES

324. In any case susceptible of appeal *pleno jure*, the depositions are taken by stenography or recorded in such other manner as may be authorized by the Lieutenant-Governor in Council.

In any other case susceptible of appeal, the judge may order that such depositions be taken by stenography or so recorded.

325. The court may order that the stenographer's notes be read to the witness and, if necessary, that they be corrected in open court.

The stenographer must read out his notes whenever the judge so requires.

326. 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.

327. The stenographer certifies under his oath of office the correctness of his notes and of their transcription.

At the commencement of each deposition, he must mention the name of the judge presiding at the trial, the designation of the parties, the names, age, occupation and residence of the witness, and the fact of his having been sworn or having affirmed.

328. The stenographer must observe the rules of practice enacted to ensure the preservation of his notes.

329. The judge may with the consent of the parties, permit a deposition to be taken down in writing, either, word for word or in summary; the deposition thus taken is read to the witness, who signs it if he acknowledges it to be correct.

330. The person who takes down the depositions must note the objections of the parties, as well as the decisions thereon.

331. The admissions made orally by the parties must be noted by the judge or prothonotary. Such notes, signed by the person who has taken them, make proof of their contents as if they had been signed by the parties themselves.

BOOK FOUR

EXECUTION OF JUDGMENTS

TITLE ONE

VOLUNTARY EXECUTION

CHAPTER ONE

PUTTING IN SECURITY

525. Every judgment ordering security must fix the amount up to which the surety must be liable and the delay within which he shall be offered.

526. A notice mentioning the names, residence and occupation of the surety, and the date and hour when he will be offered at the office of the court, must be served on the opposite party.

527. A surety may be objected to if he has not the qualifications required by law, or if he is insufficient.

528. Whether objected to or not, the surety may be required to justify his sufficiency under oath and, except where the law requires only personal justification, he may, if objected to, be required to declare his real property and produce titles thereto.

529. The contestation takes place without written pleadings; it is decided summarily by the prothonotary upon documents and affidavits.

531. The rules of this chapter apply *mutatis mutandis* when the person ordered to furnish security avails himself of article 1963 of the Civil Code.

949. The arbitrators must deposit their award with the prothonotary of the court in which the arbitration took place, after having had a copy of it served upon the parties.

950. The award of arbitrators can only be executed under the authority of a court having jurisdiction, and upon motion for homologation to have the party condemned to execute it.

The court before which such suit is brought may examine into any grounds of nullity which affect the award or into any other questions of form which may prevent its being homologated; it cannot, however, enquire into the merits of the contestation.

951. An undertaking to arbitrate must be set out in writing.

When the dispute contemplated has arisen, the parties must execute a submission. If one of them refuses, and does not appoint an arbitrator, a judge of the court having jurisdiction makes such appointment and states the objects in dispute, unless the agreement itself otherwise provides.

1. *Rules of Practice of the Superior Court*

XI.—Suretyships

46. Security for costs may be replaced by the deposit in the office of the Court of a sum of money. The judge fixes and increases or decreases, if necessary, the amount thereof.

47. Articles 525 and following C.P. apply to all judicial suretyships.

XII.—Tariff of Fees for Commissioners and other officers

48. Under reserve of the second paragraph of article 47 C.P., the commissioners and other officers appointed by the Court shall be remunerated as follows:

for administering the oath	\$ 2.00
for deposit or report (when required)	\$ 10.00
for each day of attendance, including preparation of report	\$ 30.00

However, this attendance fee may be increased by the Judge according to the nature and importance of the case.

2. *Civil Code*

27. Aliens, although not resident in Lower Canada, may be sued in its courts for the fulfilment of obligations contracted by them even in foreign countries.

28. Any inhabitant of Lower Canada may be sued in its courts for the fulfilment of obligations contracted by him in foreign countries, even in favor of a foreigner.

3. *Of certain writings executed out of Lower Canada*

1220. The certificate of the secretary of any foreign state or of the executive government thereof, and the original documents and copies of documents hereinafter enumerated, executed out of Lower Canada, make *prima facie* proof of the contents thereof without any evidence being necessary of the seal or signature affixed to such original or copy, or of the authority of the officer granting the same, namely:

1. Exemplifications of any judgment or other judicial proceeding of any court out of Lower Canada, under the seal of such court, or under the signature of the officer having the legal custody of the record of such judgment or other judicial proceeding;

2. Exemplifications of any will executed out of Lower Canada under the seal of the court wherein the original will is of record, or under the signature of the judge or other officer having the legal custody of such will, and the probate of such will under the seal of the court;

3. Copies of the exemplification of such will and of the probate thereof certified by the prothonotary of any court in Lower Canada, in whose office the exemplification and probate have been recorded at the instance of an interested party and by the order of a judge of such court; such probate is also received as proof of the death of the testator;

4. Certificates of marriage, baptism or birth, and burial of persons out of Lower Canada, under the hand of the clergyman or public officer who officiated and extracts from any register of such marriage, baptism or birth, and burial, certified by the clergyman or public officer having the legal custody thereof;

5. Any power of attorney executed out of the Province of Quebec in the presence of one or more witnesses and authenticated before an ambassador, minister plenipotentiary, high commissioner, chargé d'affaires or consul of

Canada or of His Majesty, before an agent-general of the Province or before the mayor of the place or a notary or other public officer of the country where it bears date;

5a. Any power of attorney executed, in the presence of one or more witnesses, out of the Province of Quebec, in time of war, by a member of any of the armed forces and authenticated before a major or other officer of equivalent or higher rank;

6. The copy taken by a prothonotary or a clerk of a circuit court in Lower Canada of any power of attorney executed out of Lower Canada in the presence of one or more witnesses and authenticated before any mayor or other public officer of the country where it bears date, such copy being taken in a cause wherein the original is produced by a witness who refuses to part with it, and being certified and deposited in the same cause;

7. Copies duly certified by a notary in the Province of Quebec of all the writings and documents above enumerated which have been previously deposited with such notary;

The original powers of attorney mentioned in the preceding paragraphs numbers five and six, are held to be duly proved; but the truth of the exemplifications, probates, certificates or extracts, and the original powers of attorney mentioned in this article, may be denied and proof thereof be required in the manner provided in the Code of Civil Procedure.

8. In the county of Gaspé, any copy delivered by the prothonotary, of any power of attorney executed out of the Province of Quebec, in presence of one or more witnesses and authenticated before any mayor or other public officer of the country where it bears date, such copy being taken from the original deposited and kept in the office among the records of the Superior Court.

1938. The debtor who is bound to find a surety must offer one who as the capacity of contracting, who has sufficient property in Lower Canada to answer the obligation, and whose domicile is within the limits of Canada.

1939. The solvency of a surety is estimated only with regard to his real property; except in commercial matters, or when the debt is small, and in cases otherwise provided for by some special law.

Litigious immoveables are not taken into account.

1940. When the surety, in conventional or judicial suretyship, becomes insolvent, another must be found.

This rule admits of exception in the case only in which the surety was solely given in virtue of an agreement by which the creditor has required that a certain person should be the surety.

4. *Legal Aid Act (Québec)*

2. The expression “economically underprivileged person” means for the purposes of this act any person who in the opinion of the Commission or, as the case may be, of a legal aid corporation, lacks sufficient financial means to assert a right, obtain legal counsel or retain the services of an advocate or notary without depriving himself of the means of subsistence, according to the criteria established by regulation under subparagraph *a* of section 80.

The fact that a person is a recipient of social aid under the Social Aid Act (1969, chapter 63) for his ordinary needs is *prima facie* proof that he is an economically underprivileged person within the meaning of the preceding paragraph.

3. For the purposes of this act, the word “court” includes any body having a judicial or quasi-judicial jurisdiction.

DIVISION II

RIGHT TO LEGAL AID AND EFFECT OF LEGAL AID

4. An economically underprivileged person who can establish the probable existence of a right or, as the case may be, the need of legal service is entitled to receive legal aid under this act and the regulations.

5. A recipient is dispensed from payment of:

a) judicial fees and extrajudicial fees of an advocate or notarial fees for professional services to the recipient rendered under this act by the advocate or notary assigned to him;

b) notwithstanding any act inconsistent herewith, court costs, including those exigible by the government of Québec, and the duties a registrar collects under the Stamp Act (Revised Statutes, 1964, chapter 80);

c) fees of a bailiff or stenographer who acts as such on behalf of the recipient; and

d) fees of the experts who act for a recipient and are paid by the corporation in accordance with the conditions established by regulation.

6. The fees of an advocate or notary not in the employ of a corporation that has retained his services for a recipient shall be paid by that corporation in accordance with the tariff established by regulation.

7. The fees of a stenographer or bailiff who acts as such for a recipient shall be paid by the corporation granting legal aid to that recipient in accordance with the tariff established by the regulations.

8. A recipient who fails in the action is not exempt from condemnation to costs in favor of the adverse party or payment of them.

When costs are awarded against the adverse party of a recipient, and such adverse party is not a recipient, the costs are taxed as if there had been no legal aid.

9. The costs taxed in respect of interlocutory judgments rendered in a case where one party receives legal aid are exigible only at the same time as those awarded by the final judgment.

10. Legal aid may be granted at any stage of the case before the court of original jurisdiction or in appeal, before any court and for any proceeding, contentious or not; it extends to proceedings in execution.

62. Subject to the regulations, an economically underprivileged person who wishes to receive legal aid must make his application to the local corporation certified under this act or to the office nearest his residence.

63. The general manager shall, within the scope of the regulations grant legal aid to any economically underprivileged person establishing the probable existence of a right.

64. An application for legal aid must set forth the financial condition of the applicant and the basis of his claim, all the information determined in the regulations and any additional relevant information required by the corporation.

65. The general manager to whom an application is made shall within the shortest possible delay study the case of the applicant to decide if he is entitled to legal aid.

66. The general manager shall issue a certificate of qualification to each person to whom he agrees to grant legal aid and the recipient must send such certificate immediately, to his advocate or notary who shall file it in the record of the court or in the registration office. Such certificate is valid only for the period, dispute or proceeding determined by the general manager.

The appeal must, in all cases, notwithstanding the issue of a certificate respecting the dispute concerned, be the object of a new application for legal aid.

67. Before closely examining the record of an applicant, the general manager may issue a temporary certificate of qualification in urgent cases or appear in penal or criminal proceedings and subsequently issue, if need be, a certificate having retroactive effect.

68. Every applicant or recipient of legal aid shall notify without delay the corporation to which he has applied or which has issued him a certificate.

ate, of any change in his condition making inaccurate any information supplied by him to obtain legal aid.

69. The general manager shall refuse to issue a certificate of qualification aid to a person otherwise eligible when, because of the basis of his right and the amount in dispute, any advocate not employed by a corporation would agree to act as counsel and make, in accordance with subsection 3 of section 126 of the Bar Act (1966/1967, chapter 77), an express agreement respecting extrajudicial fees.

However, when such applicant fails in his action, legal aid may be given him retroactively; in this case, it must not cover the extrajudicial fees of his consul.

70. Legal aid may be refused, suspended or withdraw, as the case may be, with regard to any person otherwise eligible, hen such person, without sufficient reason:

a) neglects to provide the information or documents required to study his application;

b) neglects to comply with section 68;

c) refuses or neglects to exercise his legal rights and recourses:

d) refuses or neglects to cooperate with the advocate or notary rendering professional services for him, in the manner that is normal and customary between an advocate or notary and his cliente.

71. Legal aid must be suspended where the recipient ceases to be in the condition of an economically underprivileged person.

However, if such legal aid is necessary to ensure the full rehabilitation of the recipient contemplated in the preceding paragraph, it may be continued or merely diminished to the extent the corporation determines.

72. Legal aid may be diminished, suspended or withdrawn at any stage of proceedings.

Withdrawal ordered during a trial or after judgment requires the party to pay all the costs and fees from which he had been dispensed.

73. The geneal manager shall notify the applicant ir writing of the refusal, suspension or withdrawal of legal aid. Such notice must contain the reasons for the decision and the general manager shall send, if need be, a copy of it to the advocate or notary responsible for the file, who must inform the clerk of the court or registrar of it.

74. Any person who believes he was wronged because legal aid was refused him, withdrawn or suspended, may within fifteen days following the decision of the general manager, apply for review to the review committee established under paragraph *k* of section 22 of this act; such ap-

plication shall release the advocate and the general manager from their obligation of professional secrecy in respect of the review committee and its delegate in the performance of their duties; in case of urgency, such application shall have the effect of obliging the general manager to issue a temporary certificate.

75. Every interested party in a dispute or a case may contest the right of a person to legal aid, by making an application for that purpose to the general manager; an appeal shall lie to the review committee from the decision of the general manager within fifteen days of such decision.

Such contestation may relate only to the quality of an economically underprivileged person and must not relate to the probable existence of the right exercised by the recipient.

76. Subject to section 75, the written application for review or contestation must contain a summary statement of the reasons invoked and shall be sent by registered mail to the chairman of the Commission.

If need be, a copy of the application must be sent to the advocate or notary who is entrusted with rendering professional services to the recipient.

77. The review committee shall entrust an advocate delegated by it with the study of the record and obtain, if necessary, any additional information; the applicant or recipient and, if such be the case, the party contesting the right to legal aid, may, upon a notice of fifteen days, be heard before the review committee.

78. Following the report of the delegate and the hearing, if any, the review committee shall decide the application and inform forthwith the parties and the corporation of the final decision and of the reasons on which it is based.

79. The decision contemplated in section 78 shall be final and without appeal.

3. SPECIAL PROCEDURE ACT, R.S.Q. 1964 c. 22 as amended by S.Q. 1974 c. 11, artículo 34

DIVISION VII EVIDENCE TAKEN IN THE PROVINCE AT THE REQUEST OF A COURT OF ANOTHER BRITISH POSSESSION OR OF A FOREIGN COUNTRY

16. When, upon petition to that effect, it is shown to the Superior Court or to one of the judges thereof, charged with the administration of justice in the district, that a court of any other Province of Canada, or of any other British possession, or of a foreign country, before which any civil or commercial case is pending, desires to have the evidence of any party or witness

in the district, such court or judge may order that such party or witness may be examined under oath, either by means of question in writing or otherwise, before any person mentioned in the said order, and may summon, by the same or by a subsequent order, such party or witness to appear for examination, and may order him to produce any writing or document mentioned in the order, or any other writing or document relating to the matter, and which may be in his possession. R.S. 1941, c. 342, s. 16.

The same rules applies *mutatis mutandis* when an inquiry commission instituted by the Governor General in Council or by the Lieutenant Governor in Council of another province of Canada desires to have the evidence of a witness.

17. The commission for the examination of witnesses issued by the court or tribunal before which the case is pending or by the commission before which the hearing is held shall be sufficient proof in support of the petition.

18. The petition may not, however, be granted unless the petitioner furnishes a surety possessing all the qualities and the solvency required by articles 1938 and 1939 of the Civil Code, to secure the payment of the indemnity which may be due to the persons summoned to give evidence. R.S. 1941, c. 342, s. 18.

19. Such order shall be served on the party or the witness in the ordinary way, by delivering to him a copy certified by the prothonotary. The delay for service shall be that fixed by article 297 of the Code of Civil Procedure. R.S. 1941, c. 342, s. 19.

20. After the service of the order as well as of a notice fixing the day and place of the hearing, and signed by the person or one of the persons entrusted with the hearing of the evidence, and after the payment or the tender of a sum sufficient to defray his travelling expenses at the rate usually allowed by the court of the district, the person so summoned shall be bound to appear at the place, day and hour mentioned, and to reply to the questions put to him; and the provisions of articles 303 and 330 of the Code of Civil Procedure shall be applicable to him if he either fails to appear or, without valid reason, refuses to answer. R.S. 1941, c. 342, s. 20.

21. The examination must be held either at the court house or at some other place in the municipality in which the sittings of the court are held.

Nevertheless, if the party or the witness resides at a distance of more than one hundred miles from the place where the sittings of the court are held, the court or the judge may allow that he be examined in the locality where he resides. R.S. 1941, c. 342, s. 21.

22. The oath shall be administered by the person or one of the persons authorized to receive such evidence. R.S. 1941, c. 342, s. 22

23. Tre provisions of the Code of Civil Procedure respecting the competence of witnesses and the examination thereof, must be followed whenever it is possible to apply them to examinations held under this Division.

24. Any person so summoned to give evidence shall be entitled, for his expenses and loss of time, to his travelling expenses and the indemnity allowed to witnesses summoned to give evidence at a trial. R.S. 1941, c. 342, s. 24.

25. The costs of the witnesses shall be taxed by the prothonotary, and the taxation shall be executory against the surety fifteen days after the date of the examination. R.S. 1941, c. 342, s. 25.

26. The surety may obtain a discharge by depositing in the hands of the prothonotary the amount of the costs and indemnity due to the party or the witness, with, in addition, the duty payable upon judicial deposits. The amount so deposited shall be paid by the prothonotary to the person entitled thereto, upon production of the copy of the order which was served upon him. R.S. 1941, c. 342, c. 26.

27. The tariff of the Superior Court shall apply to every proceeding taken under this Division. R.S. 1941, c. 342, c. 27.

PROCEDIMIENTOS LEGALES EN ASUNTOS CIVILES Y COMERCIALES. INSTRUMENTOS EN VIGOR PARA CANADÁ

ALEMANIA. Canje de notas que extiende a Canadá a partir del 1o. de agosto de 1935 el convenio entre el Reino Unido y el Imperio Alemán respecto a procedimientos legales en asuntos civiles y comerciales firmado en Londres el 20 de marzo de 1928. Firmado en Ottawa y Berlín el 17 de mayo, julio 1o., noviembre 11 y 29 de 1935.

CTS 1935/11

Canje de notas entre Canadá y la República Federal de Alemania para que surta efecto el convenio entre el Reino Unidos y el Imperio Alemán respecto a procedimientos legales en asuntos civiles y comerciales firmado en Londres el 20 de marzo de 1928. Firmado en Bonn, el 30 de octubre de 1953.

CTS 1943/17

AUSTRIA. Canje de notas que extiende a Canadá a partir del 1o. de agosto de 1935, el Convenio entre el Reino Unido y Austria relativo a procedimientos legales en asuntos civiles y comerciales del 31 de marzo de 1931. Firmado en Ottawa y Viena, en mayo 17, julio 1 y 3, 1935.

CTS 1935/16

Canje de notas para que surta efecto respecto a Canadá el

- Convenio entre el Reino Unido y Austria acerca de los procedimientos legales en asuntos civiles y comerciales, firmado en Londres, el 31 de marzo de 1931. Firmado en Viena el 18 de enero de 1952. CTS 1952/3
- BÉLGICA.** Canje de notas entre Canadá y Bélgica que extiende a Canadá a partir del 17 de diciembre de 1928, el convenio respecto a procedimientos legales en asuntos civiles y comerciales, firmado en Londres el 21 de junio de 1922. Firmado en Londres el 17 de diciembre de 1928 y el 15 de enero de 1929. CTS 1928/16
- CHECOSLOVAQUIA.** Canje de notas que extiende a Canadá a partir del 21 de diciembre de 1928, el convenio del 11 de noviembre de 1924 entre el Reino Unido y Checoslovaquia respecto a procedimientos legales en asuntos civiles y comerciales. Firmado en Londres el 21 de diciembre de 1928 y el 10. de febrero de 1929. CTS 1928/17
- Canje de notas que extiende a Canadá a partir del 10. de junio de 1937, el convenio suplementario del 15 de febrero de 1935 al convenio del 11 de noviembre de 1924 entre el Reino Unido y Checoslovaquia relativo a procedimientos civiles y comerciales. Firmado en Praga el 10. y 7 de mayo de 1937. CTS 1937/5
- DINAMARCA.** Canje de notas que extiende a Canadá a partir del 10. de febrero de 1936, el convenio entre el Reino Unido, Dinamarca e Islandia respecto a procedimientos legales en asuntos civiles y comerciales, firmado en Londres el 29 de noviembre de 1932. Firmado en Ottawa y Copenhague el 9 de octubre de 1935 y el 10. y 7 de enero de 1936. CTS 1936/4
- ESPAÑA.** Canje de notas que extiende a Canadá a partir del 10. de agosto de 1935 el convenio entre el Reino Unido y España respecto a procedimientos legales en asuntos civiles y comerciales del 27 de junio de 1929. Firmado en Ottawa y Madrid en mayo 17, julio 1 y 7 de 1935. CTS 1935/12
- FINLANDIA.** Canje de notas entre Canadá y Finlandia que extiende a Canadá a partir del 10. de febrero de 1936, el convenio entre el Reino Unido y Finlandia respecto a procedimientos legales en asuntos civiles y comerciales firmado en Londres el 11 de agosto de 1933. Firmado en Ottawa y Helsinki, el 3 de enero de 1936. CTS 1936/5
- FRANCIA.** Canje de notas que extiende a Canadá a partir del 29 de noviembre de 1928, el Convenio entre Su Majestad

y Francia respecto a procedimientos legales en asuntos civiles y comerciales firmado en Londres el 2 de febrero de 1922. Firmado en París, el 29 de noviembre de 1928 y el 8 y 26 de febrero y el 11 de marzo de 1929.

CTS 1928/15

GRECIA. Canje de notas que extiende a Canadá a partir del 1o. de julio de 1938 el Convenio entre Su Majestad y su Majestad el Rey de Grecia respecto a procedimientos legales en asuntos civiles y comerciales de 27 de febrero de 1936. Firmado en Ottawa y Atenas, en marzo 31 y junio 1 y 4 de 1938.

CTS 1938/11

HUNGRÍA. Canje de notas que extiende a Canadá a partir del 1o. de abril de 1939, el convenio entre el Reino Unido y el Regente del Reino de Hungría respecto a procedimientos legales en asuntos civiles y comerciales del 25 de septiembre de 1935. Firmado en Budapest el 1o. y 23 de marzo de 1939.

CTS 1939/6

IRAK. Canje de notas que extiende a Canadá a partir del 1o. de julio de 1938, el convenio entre el Reino Unido e Irak respecto a procedimientos legales en asuntos civiles y comerciales del 25 de julio de 1935. Firmado en Bagdad, en marzo 31, junio 1 y 19 de 1938.

CTS 1938/12

ITALIA. Canje de notas que extiende a Canadá a partir del 1o. de agosto de 1935 el convenio entre el Reino Unido e Italia respecto a procedimientos legales en asuntos civiles y comerciales del 17 de diciembre de 1930. Firmado en Ottawa y Roma en mayo 17, julio 1 y 10 de 1935.

CTS 1935/14

NORUEGA. Canje de notas entre Canadá y Noruega que extiende a Canadá a partir del 1o. de agosto de 1935, el convenio del 30 de enero de 1931 entre el Reino Unido y Noruega respecto a procedimientos legales en asuntos civiles y comerciales. Firmado en Ottawa y Oslo en mayo 17, julio 1o. y 20 de 1935.

CTS 1935/15

PAÍSES BAJOS. Canje de notas entre Canadá y los Países Bajos que extiende a Canadá a partir del 1o. de febrero de 1936 el convenio entre el Reino Unido y los Países Bajos respecto a procedimientos legales en asuntos civiles y comerciales firmado en Londres el 31 de mayo de 1932. Firmado en Ottawa y en La Haya el 9 de octubre, el 1o. y 29 de noviembre de 1935.

CTS 1936/22

POLONIA. Canje de notas entre Canadá y Polonia que extiende a Canadá a partir del 1o. de agosto de 1935, el

Convenio entre el Reino Unido y Polonia respecto a procedimientos legales en asuntos civiles y comerciales del 26 de agosto de 1931. Firmado en Ottawa y Varsovia en mayo 17, julio 1o. y 23 de 1935.

CTS 1935/18

PORTUGAL. Canje de notas que extiende a Canadá a partir del 1o. de agosto de 1935, el convenio entre Su Majestad y el Presidente de la República de Portugal respecto a procedimientos legales en asuntos civiles y comerciales del 9 de julio de 1931. Firmado en Ottawa y Lisboa en mayo 17, julio 1 y 16 de 1935.

CTS 1935/17

SUECIA. Canje de notas que extiende a Canadá a partir del 1o. de agosto de 1935 el Convenio entre el Reino Unido y Suecia respecto a procedimientos legales en asuntos civiles y comerciales, firmado en Londres el 28 de agosto de 1930. Firmado en Ottawa y Estocolmo en mayo 17, julio 1o. y 8 de 1935.

CTS 1935/13

TURQUÍA. Canje de notas que extiende a Canadá a partir del 1o. de agosto de 1935 el convenio entre el Reino Unido y Turquía respecto a procedimientos legales en asuntos civiles y comerciales el 28 de noviembre de 1931. Firmado en Ottawa, Constantinopla y Ankara en mayo 17, julio 1o. y 9 de 1935.

CTS 1935/19

YUGOSLAVIA. Canje de notas que extiende a Canadá a partir del 1o. de febrero de 1939 el convenio entre el Reino Unido y Yugoslavia respecto a procedimientos legales en asuntos civiles y comerciales firmado en Londres el 27 de febrero de 1936. Firmado en Belgrado en diciembre 1o. y 27 de 1938.

CTS 1939/4

Ottawa, el 15 de febrero de 1973

ACUERDO ENTRE EL GOBIERNO DE CANADÁ Y EL GOBIERNO DE LA REPÚBLICA DE CUBA SOBRE EL DESVÍO DE AVIONES Y EMBARCACIONES Y OTROS DELITOS

El Gobierno del Canadá y el Gobierno de la República de Cuba, sobre bases de igualdad soberana, relaciones de amistad y cooperación recíproca, acuerdan lo siguiente:

ARTÍCULO 1

1. Toda persona que, de ahora en adelante, apresare, sustrajere, se apropiare o desviare de su ruta o actividades normales una nave aérea o marítima matriculada al amparo de las leyes de una de las partes y la llevar al territorio de la otra parte, se considerará que ha cometido un delito y, por consiguiente, será o bien devuelta a la parte de la matrícula de la nave afectada, para ser procesada por sus tribunales conforme a sus leyes, o bien sometida a los tribunales de la parte a cuyo territorio arribe para ser procesada de acuerdo con sus leyes por el delito de más severa sanción según las circunstancias y la gravedad de los hechos a que se refiere este artículo. Además, la parte a cuyo territorio arribe la nave tomará todas las medidas necesarias para facilitar sin demora la continuación del viaje de los pasajeros y tripulación inocentes del secuestro de la nave de que se trate, con sus pertenencias, así como el viaje de las propias naves con todas sus pertenencias, incluyendo todos los fondos obtenidos por extorsión u otros medios ilícitos, o la devolución de las mismas al territorio de la primera parte. Y, asimismo, todas las medidas para proteger la integridad física de las naves aéreas o marítimas con todas sus pertenencias incluyendo todos los fondos obtenidos por extorsión u otros medios ilícitos y la integridad física de los pasajeros y tripulación inocentes del secuestro y sus pertenencias, mientras se encuentre en su territorio como consecuencia de o en relación con los hechos a que se refiere este artículo.

2. En el caso de que los delitos arriba mencionados no estuvieren sancionados por la legislación existente en el país al cual arribaren las personas que los hubieren cometido, la parte correspondiente a ese país estará obligada, salvo en el caso de los delitos menores, a devolver a las personas que hayan ejecutado dichos actos, conforme a los procedimientos legales aplicables, al territorio de la otra parte para ser procesadas por sus tribunales conforme a sus leyes.

ARTÍCULO 2

Cada parte procesará con miras a castigar severamente conforme a sus leyes a toda persona que, de ahora en adelante, dentro del territorio de esta parte, conspire para promover, o promueva, o prepare, o dirija, o forme parte de una expedición que desde su territorio o cualquier otro lugar realice actos de violencia o depredación contra naves aéreas o marítimas de cualquier naturaleza y matrícula que procedan de o se dirijan al territorio de la otra parte

ARTÍCULO 3

Cada parte aplicará rigurosamente sus propias leyes con respecto a cualquier nacional de la otra parte, que procedente del territorio de la otra parte entre en su territorio, violando las leyes y los requisitos de inmigración, sanitarios, aduanales y similares, tanto nacionales como internacionales.

ARTÍCULO 4

La parte a cuyo territorio arribaren los autores de los hechos descritos en el Artículo Primero, podrán tomar en consideración cualesquiera circunstancias atenuantes o mitigantes en los casos en los cuales las personas responsables de los hechos se encuentren perseguidas por causas de carácter netamente político, en peligro real e inminente de muerte y sin ninguna otra alternativa viable para abandonar el país y siempre que no medie extorsión económica ni daños físicos a los tripulantes, pasajeros u otras personas en relación con el secuestro.

ARTÍCULO 5

1. Este Acuerdo puede ser modificado o ampliado por voluntad de las partes.
2. Este Acuerdo tendrá una vigencia de cinco años y podrá ser prorrogada por igual término por voluntad expresa de las partes.
3. En cualquier momento de su periodo de vigencia y mediante denuncia escrita formulada con seis meses de anticipación, una de las partes podrá comunicar a la otra su decisión de dar por terminado el Acuerdo.
4. Este Acuerdo entrará en vigor en la fecha de su firma.

Havana, October 3, 1979

Sir.

I have the honour to refer to discussions which have taken place recently between representatives of our two Governments concerning the Agreement between the Government of Canada and the Government of the Republic of Cuba on Hijacking of Aircraft and Vessels and other Offences signed at Ottawa on February 15, 1973 and which expired on February 14, 1978.

In light of these discussions, the Government of Canada now proposes the renewal of the Agreement referred to above for a term of five years commencing on February 15, 1978.

If the foregoing is acceptable to the Government of the Republic of Cuba, I have the honour to propose that this Note, which is authentic in English and French, and your reply to that effect shall constitute an Agreement between our two Governments to renew the Agreement on Hijacking of Aircraft and Vessels and other Offences for a term of five years, with effect from February 15, 1978. It is further proposed that the present Agreement shall enter into force on the date of your reply.

Accept, Sir, the assurances of my highest consideration.

Ambassador of Canada

H.E. Dr. René Anillo Capote
Minister of Foreign Affairs, a.i.
Havana

Ciudad de La Habana
3 de Octubre de 1979.

Señor Embajador:

Tengo el honor de acusar recibo a la amable Nota de fecha 3 de Octubre de 1979 que Vuestra Excelencia se ha dignado dirigirme y cuyo texto, que paso a transcribir a continuación, es del tenor siguiente:

“Tengo el honor de hacer referencia a las conversaciones que han tenido lugar recientemente entre representantes de nuestros respectivos Gobiernos con relación al Acuerdo suscrito entre el Gobierno del Canadá y el Gobierno de la República de Cuba sobre el Secuestro de Naves Aéreas y Marítimas y Otros Delitos firmado en Ottawa el 15 de febrero de 1973 y que expirara el 14 de febrero de 1978.

A la luz de estas conversaciones, el Gobierno del Canadá está proponiendo la renovación del referido Acuerdo por cinco años a partir del 15 de febrero de 1978.

Si lo anteriormente expuesto resulta aceptable a la República de Cuba, tengo el honor de proponer que la presente Nota, cuya versión original fue redactada en inglés y en francés, y la respuesta suya a ese efecto constituirán un Acuerdo entre nuestros dos Gobiernos para renovar el Acuerdo sobre el Secuestro de Naves Aéreas y Marítimas y Otros Delitos por cinco años para que surta efecto a partir del 15 de febrero de 1978. Se propone además que el presente Acuerdo entre en vigor en la fecha misma de su respuesta.

Ruégole acepte, Señor Ministro, las seguridades de mi más alta consideración.”

Al Excmo. Sr. Gary Richard Marman
Embajador Extraordinario y Plenipotenciario
Embajada del Canadá,
Ciudad de La Habana.

Me es grato significar a Vuestra Excelencia que mi Gobierno está conforme con el contenido de la Nota antes transcripta, quedando acordado, de conformidad con lo expresado en la misma y en el acápite 2) del Artículo V del Acuerdo, que la referida Nota y esta respuesta constituyen el Acuerdo de ambas Partes Contratantes para renovar a partir del día 15 de febrero de 1978 y por un término igual de cinco años el Acuerdo entre el Gobierno de la República de Cuba y el Gobierno del Canadá sobre el desvío de aviones y embarcaciones y otros delitos, suscrito en Ottawa, el día 15 de febrero de 1973, y que el presente Acuerdo entre en vigor en el día de hoy, 3 de Octubre de 1979.

Aprovecho la oportunidad para reiterar a Vuestra Excelencia el testimonio de mi más alta consideración.

René Anillo Capote
Ministro de Relaciones Exteriores a.i.

PROCEDIMIENTOS LEGALES EN ASUNTOS CIVILES Y COMERCIALES. INSTRUMENTOS EN VIGOR PARA CANADÁ

ALEMANIA. Canje de notas que extiende a Canadá a partir del 1o. de agosto de 1935 el convenio entre el Reino Unido y el Imperio Alemán respecto a procedimientos legales en asuntos civiles y comerciales firmado en Londres el 20 de marzo de 1928. Firmado en Ottawa y Berlín el 17 de mayo, julio 1o., noviembre 11 y 29 de 1935. CTS 1935/11

Canje de notas entre Canadá y la República Federal de Alemania para que surta efecto el convenio entre el Reino Unido y el Imperio Alemán respecto a procedimientos legales en asuntos civiles y comerciales firmado en Londres el 20 de marzo de 1928. Firmado en Bonn, el 30 de octubre de 1953. CTS 1943/17

AUSTRIA. Canje de notas que extiende a Canadá a partir del 1o. de agosto de 1935, el Convenio entre el Reino Unido y Austria relativo a procedimientos legales en asun-

tos civiles y comerciales del 31 de marzo de 1931. Firmado en Ottava y Viena, en mayo 17, julio 1 y 3, 1935.

CTS 1935/16

Canje de notas para que surta efecto respecto a Canadá el Convenio entre el Reino Unido y Austria acerca de los procedimientos legales en asuntos civiles y comerciales, firmado en Londres, el 31 de marzo de 1931. Firmado en Viena el 18 de enero de 1952.

CTS 1952/3

BÉLGICA. Canje de notas entre Canadá y Bélgica que extiende a Canadá a partir del 17 de diciembre de 1928, el convenio respecto a procedimientos legales en asuntos civiles y comerciales, firmado en Londres el 21 de junio de 1922. Firmado en Londres el 17 de diciembre de 1928 y el 15 de enero de 1929.

CTS 1928/16

CHECOSLOVAQUIA. Canje de notas que extiende a Canadá a partir del 21 de diciembre de 1928, el convenio del 11 de noviembre de 1924 entre el Reino Unido y Checoslovaquia respecto a procedimientos legales en asuntos civiles y comerciales. Firmado en Londres el 21 de diciembre de 1928 y el 10. de febrero de 1929.

CTS 1928/17

Canje de notas que extiende a Canadá a partir del 10. de junio de 1937, el convenio suplementario del 15 de febrero de 1935 al convenio del 11 de noviembre de 1924 entre el Reino Unido y Checoslovaquia relativo a procedimientos civiles y comerciales. Firmado en Praga el 10. y 7 de mayo de 1937.

CTS 1937/5

DINAMARCA. Canje de notas que extiende a Canadá a partir del 10. de febrero de 1936, el convenio entre el Reino Unido, Dinamarca e Islandia respecto a procedimientos legales en asuntos civiles y comerciales, firmado en Londres el 29 de noviembre de 1932. Firmado en Ottawa y Copenhague el 9 de octubre de 1935 y el 10. y 7 de enero de 1936.

CTS 1936/4

ESPAÑA. Canje de notas que extiende a Canadá a partir del 10. de agosto de 1935 el convenio entre el Reino Unido y España respecto a procedimientos legales en asuntos civiles y comerciales del 27 de junio de 1929. Firmado en Ottawa y Madrid en mayo 17, julio 1 y 7 de 1935.

CTS 1935/12

FINLANDIA. Canje de notas entre Canadá y Finlandia que extiende a Canadá a partir del 10. de febrero de 1936, el convenio entre el Reino Unido y Finlandia respecto a procedimientos legales en asuntos civiles y comerciales firmado

en Londres el 11 de agosto de 1933. Firmado en Ottawa y Helsinki, el 3 de enero de 1936.

CTS 1936/5

FRANCIA. Canje de notas que extiende a Canadá a partir del 29 de noviembre de 1928, el Convenio entre Su Majestad y Francia respecto a procedimientos legales en asuntos civiles y comerciales firmado en Londres el 2 de febrero de 1922. Firmado en París, el 29 de noviembre de 1928 y el 8 y 26 de febrero y el 11 de marzo de 1929.

CTS 1928/15

GRECIA. Canje de notas que extiende a Canadá a partir del 1o. de julio de 1938 el Convenio entre Su Majestad y su Majestad el Rey de Grecia respecto a procedimientos legales en asuntos civiles y comerciales del 27 de febrero de 1936. Firmado en Ottawa y Atenas, en marzo 31 y junio 1 y 4 de 1938.

CTS 1938/11

HUNGRÍA. Canje de notas que extiende a Canadá a partir del 1o. de abril de 1939, el convenio entre el Reino Unido y el Regente del Reino de Hungría respecto a procedimientos legales en asuntos civiles y comerciales del 25 de septiembre de 1935. Firmado en Budapest el 1o. y 23 de marzo de 1939.

CTS 1939/6

IRAK. Canje de notas que extiende a Canadá a partir del 1o. de julio de 1938, el convenio entre el Reino Unido e Irak respecto a procedimientos legales en asuntos civiles y comerciales del 25 de julio de 1935. Firmado en Bagdad, en marzo 31, julio 1 y 19 de 1938.

CTS 1938/12

ITALIA. Canje de notas que extiende a Canadá a partir del 1o. de agosto de 1935 el convenio entre el Reino Unido e Italia respecto a procedimientos legales en asuntos civiles y comerciales del 17 de diciembre de 1930. Firmado en Ottawa y Roma en mayo 17, julio 1 y 10 de 1935.

CTS 1935/14

NORUEGA. Canje de notas entre Canadá y Noruega que extiende a Canadá a partir del 1o. de agosto de 1935, el convenio del 30 de enero de 1931 entre el Reino Unido y Noruega respecto a procedimientos legales en asuntos civiles y comerciales. Firmado en Ottawa y Oslo en mayo 17, julio 1o. y 20 de 1935.

CTS 1935/15

PAÍSES BAJOS. Canje de notas entre Canadá y los Países Bajos que extiende a Canadá a partir del 1o. de febrero de 1936 el convenio entre el Reino Unido y los Países Bajos respecto a procedimientos legales en asuntos civiles y comerciales firmado en Londres el 31 de mayo de 1932.

Firmado en Ottawa y en La Haya el 9 de octubre, el 1o. y 29 de noviembre de 1935.

CTS 1936/2

POLONIA. Canje de notas entre Canadá y Polonia que extiende a Canadá a partir del 1o. de agosto de 1935, el Convenio entre el Reino Unido y Polonia respecto a procedimientos legales en asuntos civiles y comerciales del 26 de agosto de 1931. Firmado en Ottawa y Varsovia en mayo 17, julio 1o. y 23 de 1935.

CTS 1935/18

PORTUGAL. Canje de notas que extiende a Canadá a partir del 1o. de agosto de 1935, el convenio entre Su Majestad y el Presidente de la República de Portugal respecto a procedimientos legales en asuntos civiles y comerciales del 9 de julio de 1931. Firmado en Ottawa y Lisboa en mayo 17, julio 1 y 16 de 1935.

CTS 1935/17

SUECIA. Canje de notas que extiende a Canadá a partir del 1o. de agosto de 1935 el Convenio entre el Reino Unido y Suecia respecto a procedimientos legales en asuntos civiles y comerciales, firmado en Londres el 28 de agosto de 1930. Firmado en Ottawa y Estocolmo en mayo 17, julio 1o. y 8 de 1935

CTS 1935/13

TURQUÍA. Canje de notas que extiende a Canadá a partir del 1o. de agosto de 1935 el convenio entre el Reino Unido y Turquía respecto a procedimientos legales en asuntos civiles y comerciales el 28 de noviembre de 1931. Firmado en Ottawa, Constantinopla y Ankara en mayo 17, julio 1o. y 9 de 1935.

CTS 1935/19

YUGOSLAVIA. Canje de notas que extiende a Canadá a partir del 1o. de febrero de 1939 el convenio entre el Reino Unido y Yugoslavia respecto a procedimientos legales en asuntos civiles y comerciales firmado en Londres el 27 de febrero de 1936. Firmado en Belgrado en diciembre 1o. y 27 de 1938.

CTS 1939/4