

THE QUEBEC COURT OF APPEAL

Serving the Cause of Justice



GREFFE DE LA PAIX
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Cour d'appel du Québec



A WORD FROM THE CHIEF JUSTICE

Welcome to the Quebec Court of Appeal! The Court has been serving the cause of justice for over 175 years – since its creation in 1849. Although Quebec society has undergone profound changes over time, the Court has always adapted to the new realities and has stood by its commitment to provide accessible and impartial justice of the highest quality.

I am very proud of how far we've come, and I am convinced that the Court is well prepared for the challenges that lie ahead. Quebecers can count on a strong, modern and forward-looking Court of Appeal.

In the following pages, you'll learn more about how the Court functions and you'll discover a little bit about its history and the role it has played in the development of Quebec law. On behalf of myself and all of my colleagues, I hope you enjoy your reading!



MANON SAVARD
Chief Justice of Quebec

The Court of Appeal is the highest court in Quebec. Each year, it renders final decisions in hundreds of cases from all over the province.

JUDGING THE TRIAL

The Court of Appeal is not the first level of court to rule on a dispute. A case is appealed when a party believes that a judgment which has already been rendered contains an error.

But this certainly doesn't mean that everything starts again from scratch! Barring special circumstances, the Court does not hear witnesses, and it considers only the evidence presented at trial. The person who is dissatisfied with the first judgment (the appellant) tries to convince the Court that the trial judge made a mistake when applying the law or misunderstood the evidence, while the other party (the respondent) tries to show that the first judgment contains no errors.

WIDE RANGE OF CASES

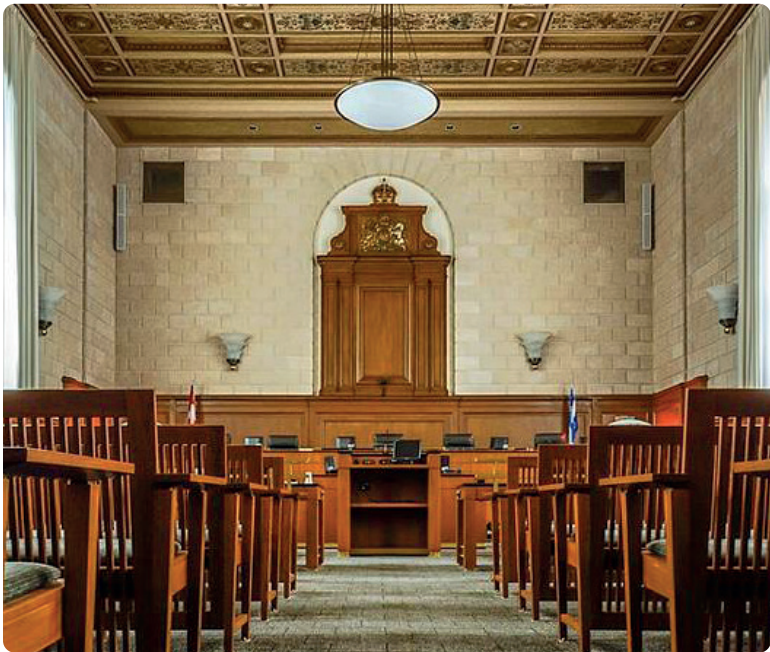
The Court of Appeal hears cases in many areas of the law, including criminal law, civil law, family law and administrative law.

Not all judgments can be reviewed on appeal, however. Some cases require the Court's permission before they can be appealed. Others, such as judgments rendered by the Small Claims Division of the Court of Québec, cannot be appealed.

RULING AS A PANEL OF THREE

As a general rule, Court of Appeal cases are decided by a panel of three judges. Cases do not have to be decided unanimously. In the event of disagreement, the majority prevails. The judge who disagrees with his or her colleagues explains why, in what is known as a “dissent”.

In some exceptional cases, an appeal may be decided by more than three judges.



Louis-Hippolyte Lafontaine Courtroom

A LITTLE BIT OF HISTORY

The Court of Appeal was created by legislation adopted in May 1849. It sat for the first time in its history on January 7, 1850, in Quebec City. At that time, it was known as the "Court of Queen's Bench" and consisted of only four judges. It wasn't until 1974 that the Court officially took on its current name of "Court of Appeal".



Court of Appeal hearing in 1932

Since its creation, the Court has sat in Montreal and in Quebec City. Its judges travel from one location to the other to hear cases that come from all over Quebec.

The Court has changed a great deal since 1849: the number of judges, the presence of women, the number of cases heard each year, the rules of procedure, and the tools used.

Yet, at its core, today's Court of Appeal remains fundamentally the same as it was in 1849. Its original mission – serving the cause of justice – has not changed. To this day, it remains a pillar of the rule of law in Quebec.

DID YOU KNOW THAT...?

- Judges may serve until the age of 75.
- As of 2025, the Court of Appeal is composed of a Chief Justice, 22 judges and 7 “supernumerary” judges – i.e., judges who are eligible for retirement but have decided to continue their judicial duties with a lighter load.
- The Court of Appeal offers the possibility of settling a dispute amicably.
- In French, a decision rendered by a panel of the Court of Appeal is called an “arrêt”.
- Court of Appeal decisions can be appealed to the Supreme Court of Canada, which is located in Ottawa, but the Supreme Court hears only about ten cases from Quebec each year.

COURT OF APPEAL JUDGMENTS: REFLECTING THE EVOLUTION OF QUEBEC SOCIETY

Since its creation in 1849, the Court of Appeal has maintained a dialogue with Quebec society. And it is through its judgments that it expresses itself. Reading a Court judgment from a given period is therefore a bit like looking at a snapshot of society at that time.

For example, in the 1916 *Langstaff* case, the Court concluded that women did not have the right to become lawyers. And in 1938, in *York Corporation*, the Court upheld a tavern owner's right to exclude a Black person from his establishment.

These judgments belong to another era and raise eyebrows when viewed through a modern lens. But the Court has also often been a driving force for change in a variety of areas. There are too many examples to list in this booklet, but a few are presented in the following pages.

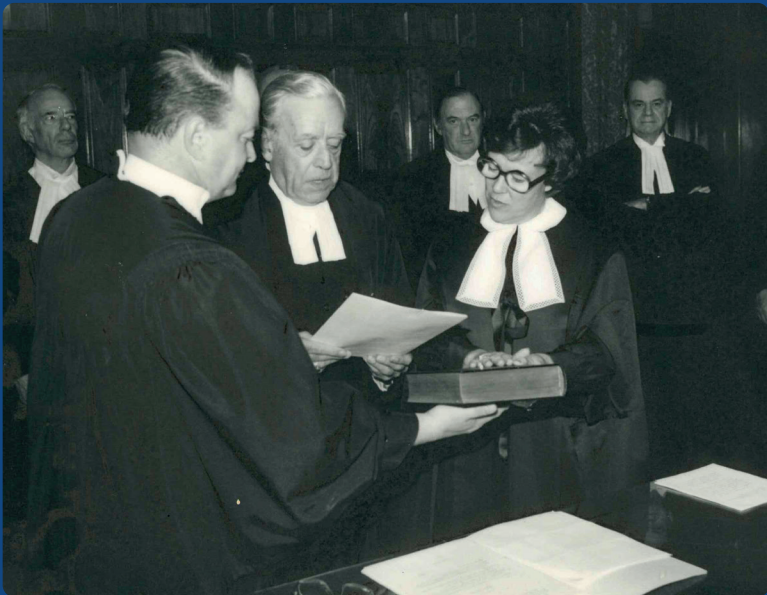
References: *Langstaff v. Bar of Quebec*, (1916) 25 B.R. 11.

York Corporation v. Christie, (1938) Q.R. 65 K.B. 104.



THE ROLE OF WOMEN AT THE COURT

- **In 1979**, the Honourable Claire L'Heureux-Dubé was the first woman appointed to the Quebec Court of Appeal. She was also the first French-speaking woman to sit on the Supreme Court of Canada, having been appointed **in 1987**.
- **In 1991**, for the first time, an appeal was heard by a panel of judges composed exclusively of women.
- **In 2011**, the Honourable Nicole Duval Hesler was appointed Chief Justice of Quebec. She is the first woman to have held this position.



Swearing-in of the Honourable Claire L'Heureux-Dubé, 1979

FREEDOM OF EXPRESSION

Quebec law recognizes freedom of expression but places certain limits on it, which the Court is sometimes called upon to clarify.

For example, in the 1914 *Ortenberg* case, the Court found that statements made by a certain Plamondon at a conference held in Quebec City were anti-Semitic and discriminatory. At that time, only 75 Jewish families lived in the city. In this context, the Court held that Plamondon's anti-Semitic remarks had had an impact on all members of the Jewish community, thereby giving each of its members a legal recourse.

Conversely, in a 1979 case, several religious groups sought an injunction to prohibit the presentation of the feminist play *Les fées ont soif*. The plaintiffs had alleged serious moral, spiritual, human and cultural injury and irreparable harm, both to themselves and to society in general. The Court dismissed their claims, and the play continued to be performed throughout the province.

References: *Ortenberg v. Plamondon*, [1915] 24 B.R. 69.

Jeunes Canadiens pour une civilisation chrétienne c. Fondation du théâtre du Nouveau-Monde, J.E. 1979-1028.



THE CHILD’S INTEREST

The *Civil Code of Québec* sets out an important family law principle: every decision concerning a child must be made in light of the child’s interest and while respecting his or her rights. The Court is sometimes called upon to clarify the scope of what is meant by “the interest of the child”.

A case in point is the 2012 decision in *Adoption — 1445*. It involved the adoption of a child born as a result of a surrogacy agreement. The Court allowed the child’s adoption, even though the law at the time did not recognize this type of agreement. The Court emphatically pointed out that in such a context, it is the child’s best interests that come first, not the circumstances of his or her birth.

This case was decided a full decade ahead of the recent family law reform, which now allows surrogacy and provides a framework for such arrangements.

Reference: *Adoption — 1445*, 2014 QCCA 1162.



RELATIONS BETWEEN NEIGHBOURS

Having neighbours often means having to show a certain degree of tolerance. But what happens when the inconvenience caused by neighbours exceeds the threshold of what is tolerable?

In the 1973 *Katz* case, the construction of a residential building on a parcel of land located in Montreal had led to the deterioration of a neighbouring house, to the point that the family living there had had to vacate the premises. The Court concluded that while being a property owner certainly allows full enjoyment of one's land, it also entails the obligation not to harm one's neighbour.

This case paved the way for the legal regime that governs neighbourhood disturbances and that is now recognized in the *Civil Code of Québec*.

Reference : *Katz c. Reitz*, [1973] C.A. 230.



THE DEFINITION OF AUTOMOBILE ACCIDENT

In Quebec, anyone who suffers an automobile accident is entitled to compensation from the state. In some situations, it is difficult to determine whether there has been an “automobile accident” within the meaning of the law.

This was the case in the 1992 decision in *Productions Pram*. During filming that took a tragic turn, a cameraman was seriously injured while on the job. He had been riding in a moving car to film an oncoming low-flying plane, but the plane had hit the vehicle.

The Court of Appeal concluded that this was indeed an automobile accident within the meaning of the *Automobile Insurance Act*. In so doing, it confirmed that public compensation schemes must be given a broad scope because of their social character.

Reference: *Productions Pram inc. c. Lemay*, [1992] R.J.Q. 1738.



ABORIGINAL LAW

In the 19th century, Catholicism had a strong influence over Quebec society. Despite this context, in the 1869 *Johnstone* case, the Court confirmed the validity of a marriage between a woman from the Cree Nation and a non-Indigenous Quebecer. The marriage had been celebrated on Indigenous territory in the Northwest, in accordance with Indigenous customs.

Validating the marriage also meant validating the protections that flowed from it, such as the matrimonial regime, all for the benefit of the child born of this union.

Reference: *Johnstone v. Connolly*, (1869) R.J.R.Q. 266 (B.R.).

MEGACASES

The Court of Appeal sometimes hears “megacases” involving thousands of individuals. This may occur in class actions, such as those that were brought against tobacco companies. In 2019, in a major judgment, the Court of Appeal condemned three cigarette companies to pay several billion dollars in compensation to tobacco victims.

The pyrrhotite matter is another example of a megacase. In this dispute, hundreds of buildings in the Trois-Rivières area had deteriorated prematurely because their concrete foundations contained pyrrhotite. This was not a class action, but rather hundreds of separate cases that were grouped together to make them easier to manage. The Court’s main judgment was rendered in 2020.

References: *Imperial Tobacco Canada ltée c. Conseil québécois sur le tabac et la santé*, 2019 QCCA 358.

SNC-Lavalin inc. (Terratech inc. et SNC-Lavalin Environnement inc.) c. Deguise, 2020 QCCA 495.





**This booklet was prepared to mark the
175th anniversary of the Quebec Court of Appeal.**

The Court thanks the Barreau de Montréal for its
contribution to the layout of this document.



Barreau de
Montréal



Justices of the Court of Appeal in October 2024
(Absent: Justices Beaupré, Hogue and Lavallée)