Researching Quebec Law

Mtre Katarina Daniels
Liaison Librarian
Nahum Gelber Law Library, McGill University
Outline

1. Quebec, a mixed jurisdiction
   • Common law vs civil law
   • Historical background
2. Civil code
3. Legal education
4. Docket research
5. Example (LIVE!)

Photo by Enrique Hoyos from Pexels
Quebec’s hybrid legal system

Common Law

• See: s.91 Constitution Act, 1867
  • Public law*
  • Includes residuary powers

Civil Law

• See: s.92 Constitution Act, 1867
  • Private law*
  • S.92(13): “property and civil rights in the province”
  • s.92(16): “all matters of a merely local or private nature in the province”
Quebec’s hybrid legal system

[29] After analysis and with respect for any opinion to the contrary, the Court shares the view of the Honourable Clément Gascon (now a Justice of the Supreme Court of Canada) that a motion for nonsuit may be filed as part of a trial for civil contempt of court governed by articles 57 to 62 C.C.P. Gascon J. has furthermore showed prescience, since it has been possible since June 2009 for a motion for nonsuit in civil contempt of court to be based on article 51 and following of the C.C.P.

[30] Thus, in Montréal (Ville de) c. Syndicat des cols bleus regroupés de Montréal (SCFP), section locale 301, 2006 QCCS 5692, Gascon J. provided the following summary of the law governing a motion for nonsuit as part of a civil contempt of court charge:

McKenzie v Ball, 2019 QCCS 741
Quebec’s hybrid legal system


This chart is for illustration purposes only. It does not represent the complete judicial system in Quebec. The arrows point to the courts responsible for appeals of decisions of the lower courts.
Quebec’s hybrid legal system
Historical background

• 1664: Custom of Paris
• 1763: Treaty of Paris
• 1774: Quebec Act
• 1867: BNA Act (now, Constitution Act, 1867)

“A View of the Taking of Quebec”, 13 September 1759. Library and Archives Canada/C-1078
Published by Laurie and Whittle, 1759 this engraving shows the three stages of the Battle of the Plains of Abraham: the British disembarking, scaling the cliff and the battle.
Civil Code

PRELIMINARY PROVISION

The Civil Code of Québec, in harmony with the Charter of human rights and freedoms (chapter C-12) and the general principles of law, governs persons, relations between persons, and property. The Civil Code comprises a body of rules which, in all matters within the letter, spirit or object of its provisions, lays down the jus commune, expressly or by implication. In these matters, the Code is the foundation of all other laws, although other laws may complement the Code or make exceptions to it.
Civil Code

Civil Code of Lower Canada (1866)
1. Persons
2. Property and its Different Modifications
3. Means of Acquiring and Owning Property
4. Commercial Law

Civil Code of Quebec (1994)
1. Persons
2. The Family
3. Successions
4. Property
5. Obligations
6. Prior Claims and Hypothecs
7. Evidence
8. Prescription
9. Publication of Rights
10. Private International Law
Article 1459
A person having parental authority is bound to make reparation for injury caused to another by the act, omission or fault of a minor under his authority, unless he proves that he himself did not commit any fault with regard to the custody, supervision or education of the minor.

1991, c. 64, s. 1459; I.N. 2014-05-01; I.N. 2015-11-01; 2016, c. 4, s. 179
Legal education

• Quebec law schools leading to a degree in civil law
  • Laval, Montréal, UQAM, Sherbrooke = French
    • + UOttawa
  • McGill = bilingual

• Quebec law schools leading to a degree in common law
  • McGill

• Followed by Bar School and a stage to pass the Bar
• Notarial law = Master’s program
Docket research

• Available via SOQUIJ ($)
• Only the docket; no other court documents available
• For all other court documents, consult the court directly.
*A brief note on « French »

- Influence of French on English legal terminology
- Recent push to reclaim French legal terminology
  - Affidavit vs déclaration sous serment
  - Requête introductive d’instance vs demande introductive d’instance
Live example - CAIJ

- Participants’ choice:
  - Commercial Law
  - Consumer Protection
  - Contract Law
  - Corporate Law
  - Employment/ Labour Law
  - Family Law
  - Professional Law
  - Tort Law
MERCI !
THANK YOU!

katarina.daniels@mcgill.ca
@katarinadaniels