

THE LEGAL SYSTEM OF QUÉBEC

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LEGAL SYSTEMS SERIES



THE LEGAL SYSTEM OF
QUÉBEC

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CAROLINA ACADEMIC PRESS
Durham, North Carolina



Association
Henri Capitant

LGDJ une marque de
Lextenso

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LGDJ: Lextenso 2017
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LIBRARY OF CONGRESS CATALOGING-IN-PUBLICATION DATA

Names: Levasseur, Alain A., editor. | Trahan, J. Randall, editor. |
Gruning, David W., 1951- editor.
Title: The legal system of Québec / edited by Alain A. Levasseur, J.
Randall Trahan, David Gruning.
Description: Durham, North Carolina : Carolina Academic Press, 2021. |
Series: Legal systems series
Identifiers: LCCN 2021013486 (print) | LCCN 2021013487 (ebook) |
ISBN9781531020279 (paperback) | ISBN 9781531020286 (ebook)
Subjects: LCSH: Law--Québec (Province) | Law--Québec (Province)--History. |
Justice, Administration of--Québec (Province)
Classification: LCC KEQ202 .L44 2021 (print) | LCC KEQ202 (ebook) |
DDC 349.714--dc23
LC record available at <https://lccn.loc.gov/2021013486>
LC ebook record available at <https://lccn.loc.gov/2021013487>

Carolina Academic Press
700 Kent Street
Durham, North Carolina 27701
Telephone (919) 489-7486
Fax (919) 493-5668
www.cap-press.com

Printed in the United States of America

THE SERIES

For over eighty years now, the Association Henri Capitant has endeavored to spread, update and promote the law of the European continent. Traditionally, it has done so with holding yearly international and national Journées (conferences), as well as other multilateral and bilateral meetings.

The many national Sections or Chapters of the Association have been urged to present, in concise books, the high points of their legal system. Though these books were originally written in French, they are now being translated into English so that they will be accessible to English-speaking audiences.

All the books translated into English follow the original French text as well as a standard format. In this way, the books expose the reader to the fundamental features and foundations of a variety of legal systems that make up what has become known as “continental law.”

In all English versions of the books, the editors have attempted to use, where appropriate, the same civil or continental law terminology, and to adopt as simple and straightforward an English language as possible. In other words, these books are meant to make accessible the legal systems of continental law countries, states or provinces to as large a readership as possible.

The guiding purpose behind this Series is to present a comparative law survey of a variety of legal systems in such a way that the reader will be able to cross the confining frontiers of his own legal

system to better understand it and to find in other legal systems reasons and grounds to modify and, possibly, to improve its own legal system.

[*Editors' note:* every book written in French is translated in the country of origin, be it in the Netherlands, Romania, France The Editors' task is to bring cohesion and uniformity to the English texts submitted to them.]

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PREFACE

It is a great pleasure for me to write the preface of this book on the Québec legal system. The collection is entitled “Library of the Henri Capitant Association” and is especially unique, both in terms of its content and its presentation.

In this respect, we must congratulate the Henri Capitant Association for coming up with the idea to make this Library available to researchers, students, lawyers and anyone else interested in the legal field. It contains a synthesis of basic legal information, providing access to cutting-edge information on the general state of positive law in the many member states of the Association.

The structure of each book is generally the same for all countries involved in the project, with minor adaptations where necessary. Each book undertakes the difficult task of presenting a condensed synthesis of the existing positive law in the country, while avoiding a detailed analysis of the case law and the doctrine. In this way, each volume aims to be easily accessible.

This unique Library will therefore facilitate access to a general information base, making legal tools available to encourage the exercise and debate of comparative law.

This book is devoted to the Québec legal system, and gathers contributions from a vast array of leading legal scholars. We acknowledge them for having successfully outlined various legal elements in a clear and accessible way.

« PREFACE »

These texts aim to increase awareness of the Québec legal system abroad and, perhaps, spark curiosity for its further study.

—*Jean-Louis Baudouin*

NOTE FROM THE DIRECTORS

As explained in the following pages, the Québec legal system is unique as it embodies both the civil and common law traditions within one province. It also guarantees Québec's membership within the Canadian federation. As such, choosing a title for this work was particularly difficult—the following pages deal with the law applicable in the province of Québec *and* Canadian law at once (the latter being most notably present in the chapters dedicated to the history of law, the sources of law, the constitutional framework and Canadian criminal law). Nonetheless, it seemed preferable to keep the title *The Legal System of Québec*, as that legal system will be the main systematic focus of this work.

