



Name of Publication

Nom de la publication

Date

Toronto Globe & Mail

1

APR 30 1975

Choquette proposes sweeping changes in court system, constitutional division

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QUEBEC — Justice Minister Jerome Choquette tabled a white paper in the National Assembly yesterday, calling for wide-ranging modifications to Quebec's judicial system and a renegotiation of jurisdiction between the federal and provincial Governments.

If the reforms proposed in the white paper are to be accomplished, Mr. Choquette said, the constitution must be changed to strike a new equilibrium between federal and provincial jurisdiction.

The paper called for more control over the competence of judges, and served notice that Quebec intends to ask Ottawa to review its criteria for granting bail and paroles. As it stands, Mr. Choquette said, the bail regulations are

imprecise and lead to varying interpretations.

"On the other hand, the Parole Board frees individuals who are dangerous and have served only a small part of their sentences. We intend to ask the board to review its criteria in such a way that the authority of courts and judges will be respected and the public not exposed to undue danger."

As for the other matters Mr. Choquette intends to bring up with the federal Government, they will have to wait until the laborious process of constitutional revision gets under way once again.

The recommendations, which apply solely to Quebec's existing jurisdiction, include amalgamation of courts under provincial jurisdiction into a single Quebec Court and the elimination of

the system whereby judges are appointed directly by the Government.

By establishing a judiciary council to select future judges, the Government hopes to eliminate the frequent charge that Governments tend to appoint judges on the basis of their contribution to the party in power.

At the same time, the paper recommends a tightening up of controls over judges who are appointed for life. The establishment of a professional-standards committee to oversee the work of judges has been suggested, along with a permanent instruction centre for judges and judges-to-be.

The standards committee—three judges, one lawyer and a layman—would be appointed by the Government, which in turn would be bound to accept the committee's decisions.

The committee could recommend outright firing, temporary suspension or a simple reprimand. It could also recommend that a given judge undergo a period of retraining or additional training at the instruction centre.

The only limit on the committee's power is that its verdicts could be appealed before the Court of Appeal.

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This over-all court would be subdivided into departments: civil, criminal and penal, family and juvenile, administrative.

The Court of Appeal and the Superior Court, over which jurisdiction is shared by the federal and provincial Governments, would be maintained.

"The white paper is the most extensive and complete such work ever published in Canada," Mr. Choquette said. "It seeks to make justice in Quebec more social, more accessible, less formal, less political and more diversified."

Nevertheless, it fails to make any recommendations relating to the sweeping powers of search, seizure and compulsion of witnesses held by the province's coroners and fire commissioners, powers which have been assailed as flagrant abuses of the traditions of due process.

The paper did, however, suggest new measures to speed up the handling of individual cases, a juvenile protection board, adoption of a law guaranteeing protection of individuals' private lives and new regulations allowing people to have access to their police files to ensure they contain no errors.

Another proposal is that the Justice Department be streamlined by taking work off its hands that could be handled by other departments. The Civil Protection Bureau, for instance, would be transferred to the Premier's Office, the Rental Control Board to the Municipal

Affairs Department, and the Liquor Permits Control Board to the Department of Financial Institutions.

Another sore spot in the province's judicial system in recent years has been its relationship with organized labor. Unions complain that management can use court injunctions as strike-breaking tools.

The white paper suggests that the courts give special consideration to injunctions wherever they apply to a labor conflict, and recommends more use be made of a system whereby such cases can be turned over to the province's Labor Tribunal.

Other proposals in the white paper include:

- Abolition of juries in civil cases;

- Redistribution of judicial districts to make them conform to new population patterns and transportation facilities;

- Doubling of pay for witnesses and a new system to compensate victims of crimes and judicial errors;

- A system of gearing fines to an individual's resources.

In the area of federal-provincial jurisdiction, Mr. Choquette said he is concerned about the fact that the federal courts can turn cases over to the provincial courts as often as they feel the need. In this way the federal courts can lighten their work loads without regard to the load on provincial courts and without compensating the Quebec Government for the service.

This also ties in with Quebec's claim that the federal Government owes it millions of dollars in compensation for operating its own provincial police force, a claim the federal Government has repeatedly rejected over the past two years.