



Common Law Marriages in Quebec

July 1994

LL File No. 1994-1916
LRA-D-PUB-001089

This report is provided for reference purposes only.
It does not constitute legal advice and does not represent the official
opinion of the United States Government. The information provided
reflects research undertaken as of the date of writing.
It has not been updated.

COMMON LAW MARRIAGES IN QUEBEC

Although persons living together in Quebec often claim to have a "common law marriage," the laws of their province do not appear to allow for the contracting of a valid marriage through cohabitation or some form of an informal ceremony. In Canada, the question of whether a particular marriage is valid is determined by the law of the province in which it was purportedly contracted. In Quebec, the question of whether a particular marriage is valid must be answered by referring to the Civil Code and related provincial statutes. These laws are based on legal principles derived from French civil law rather than English common law. The courts of Quebec would have no more authority to recognize two persons living together in that province to have entered into a marriage at common law than the courts of Ontario or any of the other eight common law provinces would have to recognize two persons living there to have entered into a marriage under civil law.

In a treatise published in 1990, an authority on Quebec marriage law wrote that "unmarried cohabitees are not considered as spouses under [Quebec] law."¹ Elsewhere in this same publication, the author cited Quebec as an example of a province that gives certain cohabitees rights to receive compensation under worker's compensation and criminal injuries legislation, but not under the local fatal accidents law. Quebec was also shown to be a province that does not grant cohabitees the right to claim support or certain future donations of property.²

Following the publication of the treatise cited above, Quebec first adopted a new Civil Code and then brought it into force on January 1, 1994. Despite the fact that one of the main purposes of this revision was to modernize many facets of the law respecting personal status, the new Code did not expand the concept of marriage. In fact, article 365 of this statute provides that "[m]arriage shall be contracted openly, in the presence of two witnesses, before a competent officiant."³

¹Marlene Cano, *Cohabitation: The Law in Canada*, at 5.5.

² *Id.* at 5.5 and 9.7.

³ 1991 Q.S. ch. 64.

Cohabitation has become quite common in the Province of Quebec. Recognizing this fact, the provincial government has taken steps to give cohabitees limited legal rights. These entitlements under human rights legislation, collective bargaining agreements, and entitlement programs have expanded in recent years. However, no Quebec law purports to generally place cohabitees in the same relation to one another as are persons who have complied with Quebec's marriage laws.

Prepared by Stephen F. Clarke
Senior Legal Specialist
American-British Law Division
Law Library of Congress
July 1994