



## Québec's duct tape justice system

OPINION

« I have practised law in Québec since 1982. People inevitably ask if I have seen a lot of change over the last 40 years...»



My answer is yes, in the real world everything has changed. At the Palais de justice de Montréal, where I practise law- nothing has changed. This is abnormal and shameful considering the civic importance of our Palais de justice.

### Think I am exaggerating? Think again !

In 1982 if I needed a copy of a procès-verbal, the document evidencing what happened in your case on a given date, I had to fill out the blue form, wait a month, go back to the Palais de justice de Montréal and pick up the document. This is what I still do in 2023;

In 1982, if I wanted to listen to testimony or a judge's order that occurred in a court room on a given date, I had to fill out a yellow form, wait two weeks and return to the Palais de Justice to retrieve a cassette tape (that became a CD in the 1990's). Still doing this in 2023.

In 1982, to access remotely the plumeitif, the summary index of what is happening in a court file, private practice lawyers and the public had to pay fees to a Crown corporation for the right to access this information, information created with taxpayer money. We are still paying for this today. In 1982 when I appeared in court on behalf of an accused, the prosecutor rolled into the courtroom with a shopping cart full of files and would give me a sack of disclosure paper. Still using those shopping carts today.

Ridiculous when you consider that the prosecutor receives that information digitally from the police- and then prints it for me. In every other aspect of our lives, we have embraced innovation, including information technology and artificial intelligence to make things happen faster and cheaper. The walls of 1 Notre Dame east remain impervious to this influence. The administration of justice in Québec remains tethered to archaic technology and addicted to expensive paper, essentially keeping us in the Victorian age.

Over the last 40 years governments have engaged in ambitious legislative initiatives, creating an explosion of rights. As every lawyer knows, rights get litigated in court and this leads to an increase in the courts' workload. Similarly, when our governments decide to get "tough on crime", when prosecutors adopt "zero tolerance" non-negotiable directives that preclude credible plea bargaining, it is hardly unusual that the accused have become less inclined to plead guilty and more cases go to trial.

When the Federal government passes procedural and evidentiary reforms intended to protect privacy rights of victims of sexual assault, the prosecution and defence of these crimes becomes more complicated and these cases take longer to get resolved by our courts. When the government creates a new division of the Court of Québec specializing in sexual assault and conjugal violence cases and engages in a publicity campaign encouraging victims to come forward, obviously there will be a significant increase in the volume of these complicated cases to be handled by our courts.



## Québec's duct tape justice system... Continued

OPINION

Governments have passed legislation and adopted policies that clearly generate more litigation but has failed to finance the judicial infrastructure to allow these rights to be realized.

Our government expects the Palais de justice of the 1980's to get more work done with under paid support staff who must use ancient technology to get their work done.

This culture of mediocrity reserved for the Palais de justice has not happened by accident. It is a political choice.

Consider the legal infrastructure our government has provided notaries as opposed to lawyers.

Some twenty years ago, our government boldly embraced the emerging information technology. Seeing the sheer foolishness of paying millions of dollars every year to store paper and other inefficiencies pertaining to handling paper it digitalized every deed that was ever registered in what we used to call the registry office.

Millions of deeds, some dating back to the 1800's, were sent into cyberspace. To repeat, this was done some 20 years ago.

Our government is capable of bold and decisive action- when it wants to.

The registry office with all its paper, shelves and filing cabinets became a thing of the past, liberating millions of square feet of expensive government office space that could be used for more productive purposes.

The notarial practice of 2023 is paperless and bears no resemblance to the notarial practice of 1982.

I am practicing law in 2023 exactly as I did when I started practicing law in 1982.

### Why the difference?

Public policy and the expenditure of public funds is driven by choices based on what the government perceives to be important.

Real estate, commercial transactions and business are important.

The rights of ordinary people and the litigation of those rights in court are not Yes- it's that simple.

When it comes to justice, our government continues to choose to fund mediocrity instead of innovation.

Quebec is one of the richest societies on the planet, yet it continues to provide the governed with an archaic and underfunded justice system.

***We deserve better !***

RALPH MASTROMONACO  
[www.mastromonaco.ca](http://www.mastromonaco.ca)