



CHAPTER 70

An Act to amend the Code of Civil Procedure

[Assented to, the 22nd of June, 1940]

HIS MAJESTY, with the advice and consent of the Legislative Council and of the Legislative Assembly of Quebec, enacts as follows:

1. Article 15 of the Code of Civil Procedure, as C. C. P., art. amended by the acts 62 Victoria, chapter 52, section 1; ^{15, am.} 9 Edward VII, chapter 73, section 2; 1 George V, (1910), chapter 42, section 1; 5 George V, chapter 51, section 2; 5 George V, chapter 81, section 1; 14 George V, chapter 42, section 2; 19 George V, chapter 85, section 6; 23 George V, chapter 112, section 1; 24 George V, chapter 76, section 1; 1 Edward VIII (2nd Session), chapter 41, section 1, and 3 George VI, chapter 9, section 17, is again amended by adding thereto, after paragraph 15 thereof, the following paragraph:

“16. Expropriation proceedings.”.

Expropriation.

2. Article 35 of the said Code is replaced by the following: C. C. P., art. 35, replaced.

“**35.** Whenever the sheriff is interested personally in any suit or action, any writ or other proceeding, which ought to be executed or served by him, must be executed or served by the deputy-sheriff.”. Sheriff interested in suit, etc.

3. Article 36 of the said Code is repealed.

C. C. P., art. 36, repealed.

4. Article 142 of the said Code is replaced by the following: Id., art. 142, replaced.

Service upon
corporate
body.

"142. Service upon a body corporate is made upon a reasonable person in charge of its head office, of a business office in the Province, or of the office of its agent in the district where the cause of action has arisen."

C. C. P., art.
314, am.

5. Article 314 of the said Code, as amended by the acts 3 Edward VII, chapter 53, section 1, and 6 Edward VII, chapter 38, section 2, is again amended by replacing paragraph 4 thereof, by the following paragraph:

Husband and
wife.

"4. Husband or wife against each other. Nevertheless, if consorts are separate as to property, they may be heard the one against the other in relation to the origin and administration of property belonging to the one or the other. The default of a party to examine his consort in his favour cannot be invoked against him."

C. C. P., art.
697, am.

6. Article 697 of the said Code, as amended by the acts 1 George V (1910), chapter 42, section 5; 25-26 George V, chapter 102, section 1, and 3 George VI, chapter 96, section 6, is again amended by adding thereto, after the word: "him", at the end of the first paragraph thereof, the words: ", if he has notified the creditor thereof".

Id., art. 697*a*,
am.

7. Article 697*a* of the said Code, as enacted by section 7 of the act 3 George VI, chapter 96, is amended by adding thereto, after paragraph *c* thereof, the following:

Notice.

"d. has given to such creditor or to his attorney notice of the production of the declaration contemplated in paragraph *a*."

C. C. P., art.
697*i*, added.

8. The said Code is amended by inserting therein, after article 697*h* thereof, as enacted by section 7 of the act 3 George VI, chapter 96, the following article:

Procedure
where salary
cannot be
seized.

"697*i*. If a debtor receives a salary which cannot be seized by way of seizure by garnishment, the judge may, upon the petition of a creditor with an executory judgment, order such debtor to conform to article 697*a*, as if his salary were seizable in the proportion fixed under paragraph 11 of article 599.

Notice given
to debtor,
etc.

Notice of three days must be given of the presentation of the petition, and the order rendered thereon must be served upon the debtor; the failure of the

latter to conform to such order shall render the provisions of article 834 applicable to him.”.

9. Article 760 of the said Code is amended by adding thereto, at the end thereof, the following paragraph: C. C. P., art. 760, am.

“Such deed of sale shall be evidenced by three copies, of which the first shall be delivered to the purchaser, the second shall be transmitted to the prothonotary with the return of the writ, and the third shall be kept in the archives of the sheriff.” Deed of sale evidenced by three copies.

10. Article 1215*c* of the said Code, as enacted by the act 25-26 George V, chapter 105, section 1, is amended by replacing the words: “praying that he be permitted to furnish a pledge instead of the security in virtue of article 1215*a*, or to be excused from furnishing any security in virtue of article 1215*b*”, in the fourth, fifth, and sixth lines, by the words: “in accordance with article 1215*a* or article 1215*b*”. C. C. P., art. 1215*c*, am.

11. Section III of chapter LXVII, comprising articles 1318 and 1319, is repealed. Id., arts. 1318 and 1319, repealed.

12. This act shall come into force on the day of its sanction. Coming into force.

