



CHAPTER 98

An Act to amend the Civil Code

[Assented to, the 12th of April, 1938]

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

- 1.** Article 1298a of the Civil Code, as enacted by the C. C., art. 1298a, am. act 21 George V, chapter 101, section 17, is amended by inserting therein, after the word: "action", in the fourth line thereof, the words: "for an alimentary pension or".
- 2.** Article 2040 of the said Code is replaced by the following: Id., art. 2040, replaced.

"2040. Conventional hypothec cannot be granted otherwise than by acts in authentic form *en minute*." Conventional hypothec.
- 3.** Article 2041 of the said Code is repealed C. C., art. 2041, repealed.
- 4.** Article 2081 of the said Code is amended: Id., art. 2081, am.

a. By replacing the period at the end of paragraph 8 thereof by a semi-colon;

b. By adding thereto, after the said paragraph 8 thereof, the following paragraph:

"9. By the legal extinction of the right in the cases mentioned in article 2081a." Extinction.
- 5.** The said Code is amended by adding thereto, after article 2081 thereof, the following article: C. C., art. 2081a, added.

"2081a. Registered privileges and hypothecs become extinct thirty years from the date of the registration of the act constituting them, giving them effect or renewing registered privileges and hypothecs.

them, unless such registration has been renewed before the expiration of such delay.

Application restricted.

This provision shall not apply to the privileges or hypothecs guaranteeing emphyteutic rents or dues, nor to constituted ground rents, nor to rents substituted for seigniorial rights.

How renewal effected.

The renewal of such registration is effected in the manner provided in article 2131.

Registration replacing renewal.

However, registration, entered in the index to immovables prior or subsequent to the 12th of April, 1938, of an act in which a person has acknowledged his indebtedness or assumed payment of a debt shall take the place of such renewal of registration."

C. C., art. 2147a, am.

6. Article 2147a of the said Code, as contained in article 5839 of the Revised Statutes of Quebec, 1888, and as replaced by the act 52 Victoria, chapter 26, section 4, and as amended by the act 5 George V, chapter 75, section 3, is again amended by adding thereto, after the word: "*brevet.*", in the fifth line of the first paragraph thereof, the words: "However, the declarations mentioned in the fourth and fifth paragraphs of article 2098 must be made by act in authentic form *en minute*, except in the cases contemplated in the second paragraph of article 599a."

Id., art. 2148, am.

7. Article 2148 of the said Code is amended by adding thereto, after the word: "final", in the fourth line of the first paragraph thereof, the words: ", or on the fying of the application contemplated in article 2157b".

Id., art. 2151, am.

8. Article 2151 of the said Code is amended by replacing the last paragraph thereof by the following paragraphs:

Formalities re discharging of certain hypothec.

"The discharge of any hypothec securing a life-rent or life-usufruct is entered on the margin of the registration, upon production of the certificate of death of the person on whose life the rent or usufruct is created, accompanied by an affidavit identifying such person. Such affidavit may be received and certified by one of the functionaries mentioned in articles 2141, 2142, 2143 and 2144, as the case requires.

Idem.

When the person on whose life the rent or usufruct depends no longer appears at the place of his domicile or residence and no news of him has been had for at least five years and the payments of the rent or usufruct have not been made with respect to him during such period of time, the party applying for the discharge may obtain the same on fulfilling the following formalities. He must fyle a declaration under oath certifying to these facts and in addi-

tion that it is impossible for him to secure the certificate of death, and mentioning in such declaration the reasons for such impossibility, and fying a declaration by two disinterested persons testifying under oath to the death and identity of the person on whose life the rent or usufruct depended."

9. Article 2157*b* of the said Code, as enacted by the act 20 George V, chapter 101, section 1, and amended by the acts 22 George V, chapter 92, section 1, and 23 George V, chapter 104, section 3, is repealed and replaced by the following:

"**2157*b*.** The registration of any privilege and of any hypothec become extinct in virtue of article 2081*a* must be cancelled upon the fying of an application therefor, in authentic form *en minute*, made by any interested person."

10. Article 2261 of the said Code, as amended by the act 25-26 George V, chapter 97, section 2, is again amended by adding thereto, after paragraph 3 thereof, the following paragraph:

"4. For hotel or boarding-house charges."

11. Article 2262 of the said Code, as amended by the act 20 George V, chapter 98, section 2, is again amended:

a. By replacing the semi-colon at the end of paragraph 3 thereof by a period;

b. By striking out paragraph 4 thereof.

12. The provisions of article 2081*a* of the Civil Code, as enacted by section 5 of this act, shall apply to the privileges and hypothecs registered prior to as well as after the coming into force of this act, subject to the following provision.

With the exception of vendors' privileges and lenders' hypothecs, all other privileges and hypothecs, which are subject to the renewal of registration contemplated by the said article 2081*a* of the Civil Code and the registration whereof antedates the 1st of October, 1908, shall not become extinct by the application of the said article 2081*a* if their registration be renewed before the 1st of October, 1938, in conformity with the said article 2081*a* and with article 2131 of the Civil Code.

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

