



CHAPTER 101

An Act to amend the Civil Code and the Code of Civil Procedure respecting the civil rights of women

[Assented to, the 11th of March, 1931]

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

1. Article 65 of the Civil Code is amended by adding C. C., art. thereto, after paragraph 7 thereof, the following paragraph: 65. am.

“8. Whether the parties are married without a marriage contract; or, if they have entered into a marriage contract, the name and address of the notary before whom it was entered into.”

2. Article 176 of the said Code is amended by replacing the words: “matters of simple administration”, in the fourth line thereof, by the words: “the cases provided for in the last paragraph of article 177”. 176. am.

3. Article 177 of the said Code is amended by replacing the second paragraph thereof by the following: Id., art. 177, am.

“If, however, she be separate as to property, her civil capacity to act shall be determined by articles 210 and 1422, as the case may be.”

4. Article 180 of the said Code is replaced by the following: C. C., art. 180, replaced.

“**180.** If a husband be interdicted, or unable to make his will known within the requisite time, through absence or otherwise, the judge may authorize the wife, either to appear in judicial proceedings or to contract.”

C. C., art. 210, replaced. **5.** Article 210 of the said Code, as contained in article 5788 of the Revised Statutes, 1888, and as amended by the act 10 George V, chapter 77, section 1, is replaced by the following:

Effect of separation. **"210.** The separation confers upon the wife full civil capacity to act without the necessity of marital or judicial authorization."

C. C., art. 217, am. **6.** Article 217 of the said Code is amended by replacing the second paragraph thereof by the following:

In case of reunion. **"By** such reunion, the husband reassumes his rights, but the consorts remain separate as to property, unless they re-establish community of property in conformity with article 1320."

C. C., art. 264, am. **7.** Article 264 of the said Code is amended by striking out the fourth paragraph thereof.

Id., art. 272a, added. **8.** The said Code is amended by adding thereto, after article 272 thereof, the following article:

Tutorship may be refused. **"272a.** Women shall in no case be bound to accept a tutorship, and may exact release therefrom, even after accepting."

C. C., art. 282, am. **9.** Article 282 of the said Code is amended by replacing paragraph 3 thereof by the following:

"3. A married woman, unless she has been appointed jointly with her husband."

Id., art. 283, replaced. **10.** Article 283 of the said Code is replaced by the following:

Effect of marriage on tutorship. **"283.** A woman who has been appointed to a tutorship is deprived of it from the day on which she marries or remarries, and the husband of the tutrix remains responsible for the administration of the property of the minors during such marriage until a new tutor is appointed, even if there be no community."

C. C., art. 337a, added. **11.** The said Code is amended by adding thereto, after article 337 thereof, the following article:

Tutors may be curators. **"337a.** The persons who may be appointed tutors may, on the same conditions, be appointed curators; but the wife cannot be curatrix to her husband, an emancipated minor not interdicted."

Exceptions.

12. Article 342 of the said Code is amended by adding C. C., art. thereto, after the word: "her", in the third line thereof, the ^{342, am.} word: "interdicted".

13. The said Code is amended by adding thereto, after ^{Id., art.} article 350 thereof, the following article: ^{350a, added.}

"**350a.** The persons who may be appointed tutors may ^{Tutors may} be appointed judicial advisers."^{be judicial advisers.}

14. Article 844 of the said Code, as amended by the ^{C. C., art.} act 6 Edward VII, chapter 38, section 2, is replaced by the ^{844, re-} following:^{placed.}

"**844.** Authentic wills must be made as originals re-^{Authentic} maining with the notary."^{wills.}

The witnesses must be named and described in the will.^{Witnesses.} They must be of full age and must not be sentenced to civil degradation nor to an infamous punishment. Aliens and women may serve as witnesses, but a woman cannot be a witness with her husband, nor can the wife of the notary drawing up the will, nor his clerk, nor his servant, act as a witness.

The date and place of its execution must be stated in ^{Date, etc.} the will."

15. Article 851 of the said Code is amended by re-^{C. C., art.} placing the second paragraph thereof by the following: ^{851, am.}

"The rules respecting the competency of witnesses are ^{Competency} the same as for wills in authentic form."^{of witnesses.}

16. Article 1292 of the said Code is replaced by the ^{C. C., art.} following:^{1292, re-}

"**1292.** The husband alone administers the property ^{Administra-} of the community. He may sell, alienate and hypothecate ^{tion by} it without the concurrence of his wife."^{husband.}

He shall not, without such concurrence, dispose by gra-^{Idem.} tuitous title *inter vivos* of the immoveable property of the community or of the whole or an aliquot part of the moveable property except for the establishment of their common children. He may dispose of moveable things by gratuitous and particular title provided that he does not reserve for himself the usufruct thereof and that it be without fraud."

17. The said Code is amended by adding thereto, after ^{C. C., art.} article 1298 thereof, the following article: ^{1298a, ad-}

Judge may authorize action in name of wife in certain cases.

"1298a. Where the husband refuses or is unable to act, through absence or other cause, the wife, with the authorization of the judge, may exercise alone or in her name an action to recover damages for personal injury. The husband must be impleaded, but shall incur no liability, either personally or as head of the community, unless he takes part in the contestation."

C. C., art. 1311, replaced.

18. Article 1311 of the said Code, as amended by the act 60 Victoria, chapter 50, section 22, is replaced by the following:

Cases when separation of property may be obtained by wife.

"1311. Separation of property may be obtained by the wife:

1. When her interests are imperilled;
2. When the disordered state of the husband's affairs gives reason to fear that his property will not be sufficient to satisfy her rights and reprises;
3. When the husband has abandoned his wife or the wife is forced to provide alone or with her children for the wants of the family;
4. When, for serious reasons, it appears just and necessary that the separation be granted to safeguard the wife's interests.

All mere voluntary separations are null."

C. C., art. 1312, replaced.

19. Article 1312 of the said Code, as replaced by the act 60 Victoria, chapter 50, section 23, is again replaced by the following:

When separation of property takes effect.

"1312. Separation of property must be obtained judicially, and has no effect so long as it has not been carried into execution in the manner stated in article 1098 of the Code of Civil Procedure."

C. C., art. 1313, repealed.

20. Article 1313 of the said Code, as contained in article 6235 of the Revised Statutes, 1888, and as amended by the act 60 Victoria, chapter 50, section 24, is repealed.

Id., arts. 1314c and 1314d, repealed.

21. Articles 1314c and 1314d of the said Code, as enacted by the act 60 Victoria, chapter 50, section 25, are repealed.

Id., art. 1318, replaced.

22. Article 1318 of the said Code, as amended by the act 10 George V, chapter 77, section 2, and replaced by the act 11 George V, chapter 90, section 1, is again replaced by the following:

“1318. The wife, when separated either from bed and board or as to property only, regains the entire administration of her property and may exercise all the powers conferred by articles 210 or 1422, as the case may be.” Administration of property of separated wife.

23. Article 1320 of the said Code, as amended by the act 20 George V, chapter 96, section 3, is replaced by the following: C. C., art. 1320, replaced.

“1320. Community dissolved by separation from bed and board, or by separation of property only, may be re-established, with the consent of the parties, in the first case when the consorts have become re-united, but, in both cases, such re-establishment can only be effected by an act before a notary as an original, a copy of which is deposited in the office of the court which rendered the judgment of separation, and is joined to the record in the case; and mention of such deposit must be made in the register after such judgment and in the special register wherein the separation is inscribed, pursuant to article 1097 of the Code of Civil Procedure.” Re-establishment of community.

24. The said Code is amended by adding thereto, after article 1389 thereof, the following subdivision and articles: C. C., arts 1389a, 1389b, added.

“§1a. Of community restricted to acquests

“1389a. When the consorts stipulate that the community between them shall consist only of acquests, they are deemed to exclude from the community all their property and debts existing at the date of the marriage as well as all property devolving upon them thereafter as their individual property. In such case, after each consort has pretaken his or her duly established contributions, the partition is limited to the acquests made by the community.” When community consists only of acquests.

“1389b. Moveable property existing at the time of the marriage or falling to the consorts afterwards shall be considered to be acquests, unless the contrary is proven by an inventory or other equivalent title, and, as between the consorts themselves, according to the rules in articles 1387 and 1389.” Moveables considered acquests.

The debts are governed by the rules contained in articles 1396 to 1399.” Debts.

25. Article 1422 of the said Code is replaced by the following: C. C., art. 1422, replaced.

When consorts separate as to property.

“1422. When the consorts have stipulated by their marriage contract that they shall be separate as to property, the wife retains the entire administration of her property moveable and immoveable, the free enjoyment of her revenues and the right to alienate, without authorization, her moveable property.

Alienation of immoveables, etc.

She cannot, without authorization, alienate her immoveables or accept a gift of immoveables.”

C. C., art. 1424, am.

26. Article 1424 of the said Code is amended by adding thereto, after the word: “case”, in the first line thereof, the words: “save that of article 1425a”.

Id., arts. 1425a-1425i, added.

27. The said Code is amended by adding thereto, after article 1425 thereof, the following chapter and articles:

“CHAPTER SECOND-A

“Of property reserved to married women

Property reserved to administration of wife.

“1425a. Under all the systems, and subject to the penalty of the nullity of any covenant to the contrary, the proceeds of the personal work of the wife, the economies therefrom and the moveable or immoveable property acquired by her by investing same, as well as the compensation received by her on an action for injury under section 1298a, are reserved to the entire administration of the wife.

Claiming of such property.

The wife may, without authorization, demand, even before the courts, the property so reserved and may alienate same by onerous title.

Exception.

Such property shall not include the earnings from work jointly carried on by the consorts.

Withdrawal of powers in case of abuse by wife.

“1425b. In the event of the wife abusing the powers so conferred upon her in the interest of the household, especially in the cases of dissipation, imprudence or bad management, the husband may obtain, by way of petition duly served, judgment for the withdrawal of same, wholly or partly, by a judge of the Superior Court of the district in which the consorts have their domicile. In an urgent case the judge may provisionally order the stay of any act or deed which the wife proposes to enter into with a third party.

Judgments.

Judgments rendered under the above provisions shall be enforceable notwithstanding any appeal. They may, even after they have become final, be amended in the same manner, if the respective position of the consorts justifies

it. In the case of a simulated or fraudulent alienation, the husband may sue for the annulling thereof by an ordinary action, even before the dissolution of the community.

“**1425c.** In exercising such powers, the capacity of the wife to act without authorization shall be presumed in favour of third parties in good faith, if there is a declaration in writing by her that she is engaged in an occupation or employment distinct from that of her husband.” Capacity to act presumed.

“**1425d.** The ordinary rules of evidence shall apply in all circumstances and with regard to all, to prove the nature and source of the property reserved.” Evidence.

“**1425e.** Creditors of the wife may proceed for the payment of their claims against such reserved property. The creditors of the husband or of the community may also do so for debts contracted, before or after the 11th of March, 1931, in the interest of the household. The other property of the husband or of the community cannot be seized for debts contracted by the wife otherwise than in the interest of the household or with marital authorization.” Creditors may proceed against reserved property.

“**1425f.** If there be legal or conventional community the reserved property shall be included in the partition of the community property.” Property reserved in case of community.

If the wife renounces the community, she shall keep such property free and clear of all debts other than those for which such property was liable under article 1425e. Her legal or testamentary heirs in the direct line descending shall have the same power. If wife renounces community.

If the wife or her heirs without distinction accept the community, and the wife has disposed of the reserved property, even by onerous title, but in fraud of the rights of the husband or of his heirs, all reserved property so alienated or their value at the date of the dissolution must be returned as part of the community property. If community is accepted.

“**1425g.** The wife may appear before the courts without authorization in any suit or contestation respecting her reserved property.” Wife may appear before courts without authorization.

“**1425h.** Notwithstanding any agreement to the contrary, the wife shall remain subject to the obligation to contribute to the expenses of marriage out of her reserved property, in the proportion established according to article 1423.” Contribution to marriage expenses.

“**1425i.** The provisions of articles 1425a to 1425h shall apply even to women married before the 11th of March, 1931.” Provisions applicable.

C. C. P., art. 1090, re-placed. **28.** Article 1090 of the Code of Civil Procedure is replaced by the following:

Suits for separation of property. **"1090.** Suits for separation of property may be brought without marital or judicial authorization."

C. C. P., art. 1092, am. **29.** Article 1092 of the said Code, as amended by the act 16 George V, chapter 67, section 1, is again amended by replacing the second paragraph thereof by the following:

Notice of suit. **"Fifteen days'** notice of such suit must be given and inserted once in the *Quebec Official Gazette* and twice in two newspapers published, one in English, and the other in French, at, or as near as possible to, the place where the defendant resides".

C. C. P., art. 1095, re-placed. **30.** Article 1095 of the said Code is replaced by the following:

No confession of judgment. **"1095.** Separation of property thus sued for cannot be granted upon a confession of judgment, the allegations must be established by legal proof filed in the record."

C. C. P., art. 1097, am. **31.** Article 1097 of the said Code, as replaced by the act 20 George V, chapter 102, section 1, is amended by adding thereto, after the word: "recorded", in the seventh line thereof, the words: "and on every copy of such judgment".

Coming into force. **32.** This act shall come into force on the day of its sanction.