

CHAP. 78

An Act to amend the Code of Civil Procedure respecting the annulling of letters patent

[Assented to 14th April, 1908]

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

1. Article 1008 of the Code of Civil Procedure is amended C. C. P., art. 1008, by adding thereto the following paragraph :

“They may also be made in the name and upon the suit of any other person interested.” ^{amended.}

2. Article 1009 of the said Code is amended by adding thereto the following paragraph : ^{Id., art. 1009 amended.}

“When the writ is demanded by any person other than His Majesty’s Attorney-General or Solicitor-General, or some other officer duly authorized for such purpose, it cannot be issued, unless the *fiat* or *præcipe* is accompanied by a written authorization of the Attorney General.” ^{Issue of writ in certain cases.}

3. This act shall come into force on the day of its sanction. ^{Coming into force.}

CHAP. 79

An Act to amend the Code of Civil Procedure and the Revised Statutes respecting the Commissioners’ Court

[Assented to 14th April, 1908]

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

1. The Appendix of the Code of Civil Procedure is amended by inserting the following schedules after schedule CC : ^{Appendix C. C. P., amended.}

“SCHEDULE CC 1

FORM OF SUMMONS IN COMMISSIONERS’ COURT

(Article 1265)

Province of Quebec, }
District of . }

In the Commissioners’ Court for the town, (parish, township, or extra-parochial place, as the case may be) of

To A. B. of (*A. B's residence and profession trade or calling*),
Greeting :

You are hereby commanded to pay to C. D. of (*C. D.'s residence and profession trade or calling*), the sum of dollars, which he demands of you as being due to him for (*state briefly the cause of action*), and remaining unpaid, with his costs ; or to appear before this court, at the house of _____ in the said town, (*or as the case may be*), of at _____ o'clock in the _____ noon, of the _____ day of _____ next, (*or instant*), to answer the demand of the said C. D.; otherwise judgment may be given against you by default.

Given under my hand and seal, at _____, this _____ day of _____ 19____

[L. S.]

E. F.,
Commissioner.

SCHEDULE CC 2

FORM OF A WARRANT OF ATTACHMENT FOR RENT IN COMMISSIONERS' COURT

(Article 1258)

Province of Quebec, {
District of _____ }

In the Commissioners' Court for the town (parish, township or extra-parochial place, *as the case may be*), of _____.

To any bailiff of the said district of _____

Greeting :

At the instance of A. B., of (*A. B's residence and profession, trade or calling*), you are hereby commanded to attach by *saisie-gagerie* all the goods and chattels belonging to C. D. of (*C. D's residence and profession, trade or calling*), and being in the house by him occupied (*or the produce and effects in the barns and other buildings occupied by the said C. D.*) for the surety and payment of the sum of _____ due by the said C. D. to the said A. B. for the rent of the said premises, held by him of the said A. B.

And you are further commanded to summon the said C. D. to appear before this court, at the house of _____, in the said town (*or, as the case may be*) of _____ at _____ of the clock in the _____ noon, on the _____ day of _____ instant, (*or next*), to answer the demand of the said A. B., and to show cause why the said *saisie-gagerie* should not be declared good

and valid ; notifying the said C. D. that if he fail so to appear, either in person or by his attorney, judgment may be given against him by default ;—and have you then and there this warrant with your doings thereon.

Given under my hand and seal, at _____, this
day of _____, 19 _____.

[L. S.]

E. F.,
Commissioner.

SCHEDULE CC 3

FORM OF A WARRANT OF ATTACHMENT IN REVENDICATION IN COMMISSIONERS' COURT

(Article 1258)

Province of Quebec, {
District of _____ }

In the Commissioners' Court for the town (parish, township
or extra-parochial place, *as the case may be*) of _____.

To any bailiff of the said district of _____

Greeting :

At the instance of A. B., of (*A. B's residence and profession, trade or calling,*) you are hereby commanded to seize a certain cart painted red (*or, as the case may be*) to be further described and pointed out to you by the said A. B., and which he claims to be his property, unjustly detained from him by C. D., of (*C. D's residence and profession, trade or calling,*) and safely to keep the said cart (*or, as the case may be*), so as to have the same forthcoming to abide the judgment to be given in the case.

And you are further commanded to summon the said C. D. to appear before this court, at the house of _____ at _____ o'clock in the _____ noon, on the _____ day of _____ instant, (*or next,*) to answer the demand of the said A. B., and to show cause why the said seizure should not be declared good and valid, and the said cart (*or, as the case may be*) to be the property of the said A. B. ; notifying the said C. D., that if he fail so to appear, either in person or by his attorney, judgment may be given against him by default ;

and have you there and then this warrant, and your doings thereon.

Given under my hand and seal. at _____, this
day of _____, 19____.

[L. S.]

E. F.,
Commissioner.

SCHEDULE CC 4

FORM OF A WARRANT OF ATTACHMENT BEFORE JUDGMENT IN COMMISSIONERS' COURT

(Article 1258)

Province of Quebec, {
District of _____.

In the Commissioners' Court for the town (parish, township,
or extra-parochial place, *as the case may be*).

To any bailiff of the said district of _____

GREETING:

At the instance of A. B., of (*A. B.'s residence and profession, trade or calling*) you are hereby commanded to summon C. D. of (*C. D.'s residence, and profession, trade or calling*), and F. G., of (*F. G.'s residence and profession, trade or calling*) to appear before this court, at the house of _____, in the said town (*or as the case may be*) on the _____ day of _____ next (*or instant*) at _____ o'clock in the _____ noon, for the said F. G. to declare upon oath, the sums of money, moveable effects or things that he owes or has in his possession belonging to the said C. D., or that he may owe or have belonging to him hereafter in his possession; strictly prohibiting the said F. G. to dispossess himself of the said moneys, moveable effects or other things, until the court shall have ordered upon the said attachment as of right; and for the said C. D. to pay to the said A. B. the sum of _____ which the said A. B. demands as being due to him for (*state briefly the cause of action*) with his costs of action, or to appear before this court at the place day and hour aforesaid to answer to the demand of the said A. B.; and for the said C. D. and F. G. to set forth the reasons, if any they have, why the said attachment should not be declared good and valid. And, in default by them to appear, and by the said F. G. to

make the required declaration, judgment may be obtained against them by default, and the attachment declared valid ; and have you then and there this warrant with your doings thereon.

Given under my hand and seal, at _____, this
day of _____, 19__.

[L. S.]

E. F.,
Commissioner.

SCHEDULE CC 5

FORM OF SUBPOENA IN COMMISSIONERS' COURT

(Article 1279)

Province of Quebec, }
District of _____.

In the Commissioners' Court for the town (parish, township or extra-parochial place, *as the case may be*) of _____

To _____

Greeting :

You are hereby commanded, that laying aside all business and excuses, you (and each of you) be and appear in your proper person before this court, at the house of _____ in the said town (*or as the case may be,*) of _____ on the _____ day of _____, at _____ o'clock in the noon, then and there to testify whatever you or either of you may know in a cause between _____, Plaintiff, and _____, Defendant, pending before the court. (*If the witness be required to bring with him any paper or thing, mention it.*) And this you or either of you shall by no means omit, under the penalties of the law.

Given under my hand and seal, at _____, this _____ day
of _____, 19__.

[L. S.]

E. F.,
Commissioner.

SCHEDULE CC 6

FORM OF A WARRANT OF EXECUTION IN COMMISSIONERS' COURT

(Article 1281)

Province of Quebec, }
 District of . }

In the Commissioners' Court for the town (parish, township
 or extra-parochial place, *as the case may be*), of .

To any bailiff of the Superior Court of the said district of ,

Greeting :

Whereas A. B., of (A. B.'s *residence and profession, trade
 or calling*) did on the day of
 before this court, recover judgment against C. D. of, (C. D.'s
residence, and profession, trade or calling,) for the sum of
 for his debt, and

for his costs ; of which execution remains to be done ; you are
 therefore hereby commanded to levy, of the goods and chattels
 and effects of the said C. D.—except (*mention here the articles
 and animals exempted from seizure by the Code of Civil Proce-
 dure*) to be selected by him out of any larger number he may
 have—(*if the seizure be in satisfaction of a debt contracted for
 any article or animal otherwise exempt, it shall be seizable, and
 must be mentioned as being seizable and excepted in the exemption
 from seizure,*) the aforesaid sum and costs, together with

for the costs of this execution, returning
 to the said C. D. the overplus, if any there be, after having
 satisfied the aforesaid sums ; and you are further commanded
 to make return of this warrant, with your doings thereon,
 before this court, at the house of , in the said
 town (or *as the case may be*) of or on before the
 day of next (or instant.)

Given under my hand and seal, at , this
 day of , 19 .

[L. S.]

E. F.,
Commissioner.

" SCHEDULE C C 7

FORM OF WARRANT OF SEIZURE BY GARNISHMENT AFTER JUDGMENT IN COMMISSIONERS' COURT

(Article 1258)

Province of Quebec, {
 District of {

In the Commissioners' Court for the town (parish, township or extra-parochial place *as the case may be*,) of

To any bailiff of the said district of

Greeting :

At the instance of A. B. of (*A. B's residence and profession, trade or calling*,) you are hereby commanded, for assuring the payment of the sum of dollars due him by C. D., of (*C. D's residence and profession, trade or calling*,) under judgment of this court, (*state briefly the subject and date of the judgment*), to seize and attach in the hands of E. F., of (*E. F's residence and profession, trade or calling*,) all sums and things generally whatsoever, which he owes or will owe on any account whatsoever, or has or will have in his hands belonging to the said C. D., strictly prohibiting him from parting with the same, on pain of paying the same twice, and of being personally liable for the sum so due to the said A. B. as aforesaid.

And you are further commanded to summon the said C. D. and E. F. to appear before this court, at the house of , in the said town, (*or as the case may be*) of , on the day of next, (*or instant*,) at o'clock in the noon, the said C. D. to show cause why this attachment should not be declared good and valid, and the said E. F. to make his declaration under oath under this warrant ; notifying them that otherwise order may be made in the matter by default ; and have you then and there this warrant, with your doings thereon.

Given under my hand and seal, at , this
 day of , 19 .

[L. S.]

G. H.,
Commissioner."

2. Schedules numbers 1, 2, 3, 4, 5 and 6, following article 2445 of the Revised Statutes, are repealed. Certain
schedules
repealed.

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