

Lieutenant-Governor in Council may be pleased to fix by proclamation.

C A P. L.

An Act to amend the Civil Code.

[Assented to 9th January, 1897.]

WHEREAS the changes made in the Code of Civil Procedure by the Commission charged with its revision under the act 57 Victoria, chapter 9, render necessary certain amendments to the Civil Code ;

Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

1. Subsection 6 of paragraph 14 of article 17 of the Civil Code, as contained in article 5775 of the Revised Statutes, is amended by adding thereto the words : "or as Labour Day."

Preamble.

C. C., 17, § 14, amended.

2. Article 29 of the said Code is repealed.

C. C., 29, repealed.

3. The following chapter is added after chapter sixth of title second of book first of the said code :

Chapter added after C. C., 78.

"CHAPTER VII.

"OF REPLACING REGISTERS OF CIVIL STATUS WHICH HAVE BEEN LOST OR DESTROYED.

"**78a.** Whenever registers of civil status have been lost or destroyed, in whole or in part, the officer charged with keeping them may, upon a resolution of the *fabrique*, trustees, or religious community interested, establishing such loss or destruction, obtain from the prothonotary of the district, in whose office such registers are deposited, a copy of the whole or of any part thereof, on payment of six cents for each certificate of baptism or of burial, and of eighteen cents for each certificate of marriage.

Loss of registers of civil status.

"**78b.** The registers and books necessary for making such copies are furnished by the *fabrique*, trustees, or religious community interested, and must be numbered and initialed in the manner prescribed by the Code of Civil Procedure.

Registers by whom furnished.

"**78c.** Such copy of the registers must be a *fac simile* of the sole existing duplicate.

Copies to be *fac-similes* of originals.

Authentification of register.

“**78d.** The certificate of authenticity of such copies of registers must be appended by the prothonotary after the last entry in each book or register.

Value of copies.

“**78e.** Every copy of registers, so authenticated and delivered, is considered as an original register; and extracts, certified by the depositary of the said registers, are authentic; but such depositary must declare, in the extracts which he delivers, that the registers from which they are taken are copies, so certified, of the only existing duplicate.

Replacing of certain registers.

“**78f.** Any person authorized to keep registers of civil status may, with the authorization of the *fabrique*, trustees, or religious community interested, at the expense of the parish, church, mission, congregation or religious community to which he is attached, replace, in so far as the writing may be deciphered, the said registers of civil status kept up to the year 1800, in his custody, by others, reproducing them as exactly as possible.

Certificate on copies of such registers.

“**78g.** Any such person, so authorized to keep registers of civil status, after having carefully compared such copy kept by him with the original, must affix at the end thereof a certificate attesting that it has been examined and compared and that it agrees with the register of which it is a copy.

To be sworn to.

Such certificate is made under oath before the prothonotary of the Superior Court of the district.

Copy to be authenticated, &c., before being used.

Such copy must be authenticated and initialed by the prothonotary before being used.

Original to be preserved.

“**78h.** Notwithstanding the authenticity of such copy, which has the same effect as the original register, the latter must be preserved, so that reference may be had thereto.”

C. C., 93, amended.

4. Article 93 of the said Code is amended by inserting, after the word: “court,” in the fourth line thereof, the words: “or the judge.”

C. C., 94, amended.

5. Article 94 of the said Code is amended by inserting, after the word: “court,” in the third line thereof, the words: “or the judge.”

C. C., 95, amended.

6. Article 95 of the said Code is amended by inserting, after the word: “court,” in the first line thereof, the words: “or the judge.”

C. C., 97, amended.

7. Article 97 of the said Code is amended by inserting, after the word: “court,” in the sixth and eighth lines thereof, the words: “or the judge.”

8. Article 138 of the said Code is amended by striking out all the words after the word: "minor," in the third line thereof. C. C., 138, amended.

9. Articles 145 and 146 of the said Code are repealed. C. C., 145 and 146, repealed.

10. Article 147 of the said Code is replaced by the following: C. C., 147, replaced.

"147. If the opposition is dismissed, the opposants, other than the father and the mother, are liable for damages according to circumstances, without prejudice to the condemnation to costs, in the manner stated in the Code of Civil Procedure." Damages if opposition dismissed.

11. Articles 192 and 193 of the said Code are repealed. C. C., 192 and 193, repealed.

12. Article 194 of the said Code is amended by inserting after the word: "wife," in the first line thereof, the words: "who desires to obtain a separation from bed and board." C. C., 194, amended.

13. Article 299 of the said Code is repealed. C. C., 299, repealed.

14. Article 339 of the said Code, as contained in article 5791 of the Revised Statutes, is amended by substituting, for the word: "They," in the first line of the second paragraph, the words: "Curators to the person." C. C., 339, amended.

15. The following article is inserted in the said Code, after article 347: Art. added after C. C., 347.

"347a. Curators to property must be sworn before entering upon their duties." Curators to be sworn.

16. Article 504 of the said Code is amended by striking out the following words from the end thereof: "those of the suit, in case of contestation, are in the discretion of the court." C. C., 504, amended.

17. The following article is inserted in the said Code, after article 504: Art. added after C. C., 504.

"504a. Boundaries may be determined either by mutual consent between neighbours, and by their mere act, or with the intervention of judicial authority. Boundaries how determined.

"If suit is taken, the costs are in the discretion of the court." Costs discretionary.

18. Article 1223 of the said Code is amended by inserting, after the word: "declare," in the sixth line, the words: "under oath." C. C., 1223, amended.

C. C., 1230,
1231 and 1232
repealed.

19. Article 1230 of the said Code, article 1231 of the said Code as contained in article 5808 of the Revised Statutes, and article 1232 of the said Code as amended by the act 54 Victoria, chapter 45, section 1, are repealed.

C. C., 1243,
amended.

20. Article 1243 of the said Code is amended by adding thereto the following paragraphs :

Division of
admission. :

“ Nevertheless, an admission may be divided in the following cases, according to circumstances, and in the discretion of the court :

1. When it contains facts which are foreign to the issue ;
2. When the part of the admission objected to is improbable or is invalidated by indications of fraud or of bad faith, or by contrary evidence ;
3. When the facts contained in the admission have no connection with each other.”

C. C., 1246 to
1256, repealed.

21. Articles 1246, 1247, 1248, 1249, 1250, 1251, 1252, 1253, 1254, 1255 and 1256 of the said Code are repealed.

C. C., 1311,
amended.

22. Article 1311 of the said Code is amended by striking out, in the second line thereof, the words : “ before the court of the domicile.”

C. C., 1312,
replaced.

23. Article 1312 of the said Code is replaced by the following :

Separation of
property must
be carried out
to be effect-
ive.

“ **1312.** Separation of property, although judicially ordered, has no effect so long as it has not been carried into execution in the manner stated in the Code of Civil Procedure.”

C. C., 1313,
amended.

24. The first paragraph of article 1313 of the said Code, as contained in article 6235 of the Revised Statutes, is replaced by the following :

Inscription of
judgement
in separation
as to proper-
ty.

“ **1313.** The judgment of separation as to property must be inscribed in the manner prescribed in the Code of Civil Procedure.”

Arts. ad-
ded after
C. C., 1314.

25. The following articles are added to the said Code after article 1314 :

Rights of wife,
&c., suing for
separation.

“ **1314a.** The wife who sues for separation may accept or renounce the community, according to circumstances, and if the husband fails to make an inventory, she may, upon being authorized, have one made, if she has not renounced.

Partition.

If she accepts, the partition is effected in the manner provided in the title *Of Marriage Covenants*.

“**1314b.** The wife’s renunciation of the community must be registered in the registry office of the division in which the husband was domiciled at the time when the suit was brought, or, if the husband was not then domiciled in the Province, in the registry office of the division in which the consorts had their last common domicile before the institution of the action.” Registration of renunciation of community.

“**1314c.** When the reprises of the wife consist of moveable property, the husband may oblige her to invest the proceeds thereof, or a portion of the same, in the purchase of immoveables.” Investment of reprises.

“**1314d.** If the husband gives up immoveables to his wife in payment of her reprises, she must apply for and obtain a judgment of confirmation of the deed by which he does so, according to the formalities prescribed in the Code of Civil Procedure.” Confirmation of deed to wife from husband in payment of reprises.

“**1314e.** If the amount at which the rights of the wife have been determined is not voluntarily paid, execution may be enforced as in ordinary cases.” Execution to enforce rights of wife.

Nevertheless, the husband may compel the wife to receive immoveables in payment, at a valuation by experts, provided such immoveables are available and do not prejudice her interests.” Proviso.

26. Section second (*a*) of chapter sixth of title fifth of book third of the said Code, comprising articles 1561*a* and 1561*b*, as contained in article 5812 of the Revised Statutes, is repealed. C. C., 1561*a* and 1561*b*, repealed.

27. Paragraph 3 of article 1823 of the said Code is amended by inserting, after the word: “court,” in the first line, the words: “or the judge.” C. C., 1823, § 3, amended.

28. Article 1825 of the said Code is amended: C. C., 1825 amended.

(*a*) By inserting, after the first paragraph, the following:

“He is subject to the duties and obligations imposed upon guardians in seizures under execution.

(*b*) By inserting, after the word: “court,” in the third line of the third paragraph thereof, the words: “or the judge.”

(*c*) By inserting, after the word: “court,” in the second line of the fourth paragraph thereof, the words: “or the judge.”

29. The following articles are inserted in the said Code after article 1825: Arts. added after C. C., 1825.

Sale of perishable, &c., things by sequestrator.

“**1825a.** If among the things sequestrated some are consumable or perishable, the sequestrator may cause them to be sold, upon observing the formalities prescribed for the sale of moveable property under execution.

Sale by auction of lease of right of enjoyment.

“**1825b.** If the thing sequestrated consists in a right of enjoyment, the sequestrator, if there is no conventional lease, is bound to give out the lease by auction.”

Art. added after C.C., 1826.

30. The following article is inserted in the said Code after article 1826 :

Order required before making repairs, &c.

“**1826a.** Repairs or other necessary expenditure cannot be made upon the premises sequestrated without the authorization of the court or of the judge, upon petition of which the parties have received notice.”

Art. added after C.C., 1827.

31. The following article is inserted in the said Code after article 1827 :

Discharge of sequestrator.

“**1827a.** A sequestrator is discharged by law upon his delivering the property sequestrated to the party named in the judgment.”

C. C., 1892, amended.

32. Article 1892 of the said Code is amended by adding the following paragraph :

How commercial partnerships are further terminated.

“Commercial partnerships are also terminated by judgment maintaining, at the instance of a creditor of one of the partners, the seizure of such partner's share in the stock of the partnership, or at the instance of one of the partners after such seizure.”

C. C., 1994, amended.

33. Article 1994 of the said Code, as contained in article 5825 of the Revised Statutes, and as amended by the act 59 Victoria, chapter 41, section 1, is again amended by inserting therein, after paragraph 8, the following :

Claim of owner.

“**8a.** The claim of the owner of a thing lent, leased, pledged or stolen, in accordance with article 2005a.”

C. C., 2001, replaced.

34. Article 2001 of the said Code is replaced by the following :

Ranking of creditors who have right of pledge.

“**2001.** Creditors, having a right of pledge or of retention, rank according to the nature of their pledge or of their claim.

The following is the order among them :

- Carriers ;
- Hotel-keepers ;
- Mandataries or consignees ;
- Borrowers in loan for use ;
- Depositaries ;
- Pledges ;

Workmen upon things repaired by them, and persons having a privilege in virtue of article 1994c;

Purchasers against whom the right of redemption is exercised, for the reimbursement of the price and the moneys laid out upon the property.

This privilege cannot, however, be exercised unless the right is still subsisting, or could have been claimed at the time of the seizure, if the thing has been sold.” Proviso.

35. The following article is inserted in the said Code, after article 2005 : Art. added after C. C., 2005.

“ **2005a.** The owner of a thing who has lent, leased or pledged it, and who has not prevented its sale, has a right to be paid the proceeds of its sale, after the claims mentioned in articles 1995 and 1996, and the claim of the lessor, have been collocated. Right of owner to be paid out of proceeds of sale, &c.

The same rule applies to the owner of a thing which has been stolen, who would not have lost his right to revendicate it, had it not been judicially sold.”

36. The following article is inserted in the said Code after article 2006 : Art. added after C. C., 2006.

“ **2006a.** The privileges of the Crown are defined by special statutes.” Privileges of Crown.

37. Article 2181 of the said Code is replaced by the following : C. C., 2181, replaced.

“ **2181.** Every register for registration must, before any entry is made therein, be authenticated in the manner prescribed in the Code of Civil Procedure. Authentication of registers for registration.

38. Article 2271 of the said Code, article 2272 of the said Code as contained in article 5852 of the Revised Statutes, and articles 2273, 2274, 2275, 2276, and 2277, of the same Code, are repealed. C. C., 2271, to 2277 repealed.

39. This Act shall come into force on the day which the Lieutenant-Governor in Council may be pleased to fix by proclamation. Coming into force.

CAP. LI.

An Act respecting Stenographers in the Superior Court

[Assented to 9th January, 1897.]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :