

Decisory oath* “ Or unless the agreement upon those two points be established by the decisory oath of the proprietor.”

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

C A P. X X I I I .

An Act to amend article 376 of the Code of Civil Procedure.

[Assented to 12th July, 1888.]

Preamble.

WHEREAS section 2 of the Act 33 Victoria, chapter 13, which amended article 376 of the Code of Civil Procedure, respecting the amount of the fine upon jurors who, when summoned, have not appeared in cases in civil matters, was repealed by the law respecting jurors in criminal matters, 46 Victoria, chapter 16, section 62;

Whereas in consequence of such repeal there is now no fine under the said article 376, and it is expedient to remedy this matter ;

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

Art. 376 C. C. P., replaced.

1. Article 376 of the Code of Civil Procedure is replaced by the following :

Penalty upon jurors failing to appear when summoned.

“ **376.** On the day fixed for the trial, the persons summoned as jurors must appear at the appointed hour, at the place where the court is held, under a penalty of a fine not exceeding twenty-five dollars, which may be immediately imposed, and is levied by the sheriff on the goods and chattels of the person so fined ; and, in default of sufficient goods and chattels, such person may be imprisoned for a period not exceeding fifteen days.

Penalty may be reduced or remitted.

The court may, however, for good cause shown, reduce or entirely remit such penalty or imprisonment.”

Coming into force.

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

C A P. X X I V .

An Act to amend certain articles of the Code of Civil Procedure.

[Assented to 12th July, 1888.]

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

C. C. P. 556 ;
45 V., c. 12, s.
3 ; 45 V., c. 34,

1. Article 556 of the Code of Civil Procedure, as amended by the acts 45 Victoria, chapter 12, section 3, 45

Victoria, chapter 34, section 1 and 49-50 Victoria, chapter 15, sections 1 and 2, is amended by replacing paragraph 3 thereof by the following :

" 3. Two stoves and their pipes, one pot-hook and its accessories, one pair of andirons, one pair of tongs and one fire-shovel ;

Certain effects exempt from seizure.

" 3a. All the cooking utensils, knives, forks and spoons and crockery in use by the family, two tables, two cupboards or dressers, one lamp, one mirror, one washing stand with its toilet accessories, two trunks or valises, the carpets or matting covering the floors, one clock, one sofa, twelve chairs, provided that the total value of these effects does not exceed the sum of fifty dollars, the debtor having, in case of seizure, the right to chose the things that he may retain to the amount of the said sum of fifty dollars ;

" 3b. All spinning wheels and weaving looms in domestic use, one axe, one saw, one gun, six traps, such fishing nets, lines and seines as are in common use, one tub, one washing machine, one wringer, two pails, three flat-irons, one blacking brush, one scrubbing brush, one broom, and fifty volumes of books, all the family portraits, and all drawings or paintings executed by the debtor or the members of his family for their use ;

" 3c. One sewing-machine in the hands of tailors and milliners, or of any person earning his livelihood by working for others with such sewing-machine."

2. Paragraph 7 of the said article 556 of the said Code is amended by adding after the words " mentioned in paragraphs " the following " 3a, 3b, 3c."

C. C. P. 556, s. 57, amended.

3. The following article is added after article 628 of the said Code :

Article added after C. C. P. 628.

" 628a. In addition to the things enumerated in article 556, 557, 558 and 628, the wages and salaries of workmen and laborers (*operarius*), paid by the day, week or month, including those who perform manual labor in factories, and workshops, are, to the extent of three-fourths thereof, not liable to seizure.

Wages of workmen, &c., exempt from seizure to extent of three-fourths.

In such case, the attachment by garnishment holds so long as the contract or engagement continues.

Duration of attachment.

The other creditors who have judgments against the debtor, upon filing a copy of such judgments in the office of the prothonotary or clerk in the record of the case, are paid concurrent with the seizing creditor.

Proceedings after attachment if other creditors file judgments.

Notice of the filing of such judgments shall be given to the parties interested.

The prothonotary or clerk shall determine in a summary manner upon the writ or upon a sheet annexed thereto the amount coming to each of the creditors of the

Distribution of moneys.

party seized upon *pro rata* to the amount of their respective claims saving the case of privileges.

Garnishees duty on making declaration.

The garnishee shall, on making his declaration, deposit the sum which he owes, and if the defendant continues in his service, such garnishee shall renew his declaration every month and deposit it in court.

If he neglects to make his declaration, he may be thereto compelled by a judge's order.

If the defendant quits his service, the garnishee shall make a declaration thereof.

The moneys seized and paid remain in the hands of the prothonotary or clerk who pays them over to the plaintiff and the other creditors on their demand, three days after they are deposited if there are no oppositions.

Declaration how contested.

The declaration of the garnishee much be made without costs except travelling expenses, if there be any, and it may be contested in the ordinary manner.

Art. 556, s. 5, amended.

4. Paragraph 5 of article 556 of the said Code as amended by the act 45 Vict., chap. 34 is amended by adding of the end thereof the following words : " provided that such exemption may not be claimed by other than agriculturists or farmers who use such effects exclusively for agricultural purposes. "

Proviso.

44-45 V., c. 18, repealed.

5. The act 44-45 Victoria, chapter 18, is repealed.

Act not retroactive.

6. This act shall have no retroactive effect ; all debts contracted before the passing of this act may be recoverable by way of seizure as if this act had not been passed.

Coming into force.

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

C A P . X X V .

An Act to amend article 1325 of the Code of Civil Procedure.

[Assented to 12th July, 1888.]

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

C. C. P. 1325, replaced.

1. Article 1325 of the Code of Civil Procedure is replaced by the following :

Power to sell immoveables and shares in industrial and financial companies.

" 1325. He may sell the immoveables and the shares or stocks in industrial or financial companies by observing the formalities provided by law for voluntary licitations,