

C A P. I V.

An Act to fix the time at which the Statutes of this Province shall come into force.

[Assented to 23rd December, 1871.]

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

1. Every statute of this province, whenever its commencement is not otherwise therein provided for, shall, if it be not reserved, come into and be in force on and from the sixtieth day after the day on which it was assented to, and, if it has been reserved and afterwards assented to, then, on and from the tenth day after the day on which it was published in the *Quebec Official Gazette*, together with the proclamation announcing such assent.

Statutes assented to and not reserved.

Statutes reserved and afterwards assented to.

2. This act shall not be deemed inconsistent with, nor be in any way affected by, article 2 of the civil code.

Art. 2, C. C. not inconsistent with this.

3. This act shall not apply to the statutes of the present session.

Act not to apply to statutes of this session.

C A P. V.

An Act respecting Judicial and other Deposits.

[Assented to 23rd December, 1871.]

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

1. The treasury department shall be a general deposit office for the province, in so far as regards deposits to be made in virtue of this act.

Treas. dep. to be general deposit office.

2. Immediately upon any deposit being made with the treasurer under this act, he shall give the depositor a receipt, and, in the case of registered rights, a duplicate receipt, specifying the amount deposited and the nature and cause of the deposit, and such receipt may be in such form as the treasurer may from time to time regulate.

Deposit receipt to be given.

3. The deposit receipt shall be *prima facie* evidence of the deposit and of the facts it purports to certify.

Receipt to be prima facie evidence.

4. Every prothonotary or clerk of the circuit court who shall, as such, have received, by way of judicial deposit,

Prothonotaries and clerks to

deposit all sums over \$100 and file the receipt.

or otherwise, any sum of money exceeding one hundred dollars, shall forthwith deposit such sum of money with the treasurer of the province, and shall file in the record of the cause or proceeding, in which he received such sum, the deposit receipt of the treasurer.

Sheriffs to deposit sums over \$100.

5. Every sheriff who shall, as such, have received any sum of money exceeding one hundred dollars, whether the same arises from a judicial sale, or any other proceeding had in the execution of any duty of his office, shall, unless such sum of money shall have legally been paid over by him before the making of his return in respect thereof, deposit such sum of money with the treasurer of the province, and shall, within six days after making his return, file, in completion thereof, the treasurer's deposit receipt for the said sum.

Deposit receipt to be filed.

§3 of art. 883 C. C. P. repealed.

6. The third paragraph of article 883, of the code of civil procedure, is hereby repealed.

How treasurer shall pay over sums so deposited.

7. Whenever an authentic copy of a competent judgment or order, providing for the payment or distribution of any sum deposited with the treasurer, in virtue of either of the preceding sections, or a written consent signed by all the interested parties in the case, and certified by the prothonotary or clerk, shall have been filed with the said treasurer, and no notice of an appeal or of an opposition shall have been filed with him, he shall, within fifteen days, distribute the said sum accordingly, by delivering to the sheriff or prothonotary, as the case may be, his orders or cheques in favor of each party mentioned in the judgment, for the amount awarded such party by such judgment.

In the event of a notice of appeal or of an opposition having been filed with him, he shall withhold the moneys until a copy of the judgment upon such appeal or opposition, or a consent of all the parties interested, shall have been filed with him.

When creditor refuses or is absent, debtor may deposit the sum.

8. Whenever any person desires to pay any sum of money, and is prevented from doing so by reason of the refusal of his creditor, or of the absence of his creditor from the place where the debt is payable, such person may deposit such sum with the treasurer, together with a proper designation of the nature of the debt, of the title under which it is due, and of the person or persons to whom he desires the money should be paid.

Effect of such deposit.

And the effect of this deposit shall be to liberate, for the future, whoever shall have made a tender, from the payment of interest on such sums of money, provided his creditor has, without having any right so to do, refused to

accept such tender; and the moneys deposited for a creditor who is absent from the place where the debt is payable, shall also cease to bear interest against the debtor, if the amount deposited is sufficient.

9. The treasurer shall thereupon, on demand, pay to the creditor so designated the amount so deposited; saving the right of the depositor, if the deposit receipt has not been registered, and if the money has not been paid into court as a tender, to withdraw his deposit before the same shall have been demanded by his creditor. Treasurer to pay creditor on demand. Proviso.

10. Whenever any person desires to pay any sum of money which is demanded of him by contending claimants, he may deposit the money he so desires to pay with the treasurer of the province. Moneys in dispute may be deposited.

11. In the case mentioned in the preceding section, the treasurer shall pay over the amount deposited to the claimant, who shall produce and file an authentic copy of a competent judgment entitling him to the money, saving the right of the depositor, if the deposit receipt has not been registered, and if the money has not been paid into court as a tender, to withdraw his deposit before the same shall have been demanded by the claimant. How treasurer shall pay over. Proviso.

12. In any case in which a voluntary deposit is made under this act of any amount due in virtue of any registered claim, the depositor shall cause a duplicate of the deposit receipt to be registered, and left with the registrar, and an entry thereof shall be made in the margin of the register opposite the title under which the claim exists; and such registration and entry shall have the same effect as regards the cancelling of the registration of the claim, as the registration and entry of a discharge from the creditor for a like amount would have had. In case of a registered claim, receipt shall be registered and entered. Effect of such registration.

13. The treasurer of the province may, at any time, and from time to time, appoint any person or persons to be his treasury deposit agents for the purposes of this act, and of any future act amending the same. Such person or persons may be so appointed for any one or more judicial districts, and thereupon all the provisions of this act relating to the said treasurer shall, as regards such district or districts, apply to such treasury deposit agents as well as to the treasurer. Treasury deposit agents may be appointed. This act shall apply to them as to the treasurer.

14. The duties and powers of the said treasury deposit agents, in so far as the same are not provided for by this act, shall be such as may, from time to time, be regulated and defined by the treasurer of the province; and the said agents, as regards the duties which are thus prescribed to Duties and powers of agent may be regulated by treasurer. They shall be deemed officers

of the court.

them by this act or by the treasurer, shall be reputed officers of the court in connection with which these duties are to be executed.

Ex-sheriffs, &c., to account under oath, to treasurer.

15. Every sheriff, prothonotary, clerk of the circuit court, clerk of a district court, or other judicial officer, and every person who has been but is no longer a sheriff, prothonotary or clerk of the circuit court, or the heirs or legal representatives of any such person, shall, within three months after the coming into force of this act, furnish the treasurer of the province with a detailed account of all moneys received officially by such sheriff, prothonotary, clerk, officer or person. Every such account shall be previously sworn to before a judge of the superior court or a commissioner for receiving affidavits.

And deposit all moneys remaining in their hands.

16. Within the said delay of three months, the said sheriffs, prothonotaries, clerks, heirs and representatives, shall be bound to deposit with the treasurer of the province all moneys so received and remaining in their hands.

Judicial officers to account quarterly.

17. Every sheriff, prothonotary, clerk of the circuit court, clerk of a district court, or other judicial officer shall, between the first and eleventh days of the months of January, April, July and October in every year, render to the treasurer of the province, a detailed account sworn to as aforesaid, of all moneys received by him in his official capacity, whether the same shall have been deposited or not with the treasurer, in virtue of the provisions of this act.

Treasurer may regulate manner, &c., of deposits, payments and accounts.

18. The treasurer of the province may, at any time, and from time to time, regulate the manner, time and form, in which deposits and payments shall be made, and accounts shall be rendered and kept in virtue of the provisions of this act.

When treasurer may allow interest.

19. When the treasurer establishes the fact that the profits, which he has derived from deposits made in his hands, exceed the expenses relating thereto, he may grant and pay to such persons as are entitled to receive the sums of money which have remained in his hands for more than one month, such interest dating from the expiration of the said month, as he may deem just and proper, without incurring any loss to the province.

Treasurer may allow certain sheriffs a percentage.

20. At the close of any fiscal year, the treasurer of the province may allow and pay to each of the prothonotaries and each of the sheriffs in office at the time of the coming into force of this act, (other than the sheriffs of Quebec and Montreal,) such sums as he may deem proper, not exceeding two per cent upon the amount deposited with him, during such year, by the said prothonotary or sheriff, in virtue of this act.

21. The amount so allowed shall be deemed to form part of the expenses incurred in carrying out the provisions of this act, and it shall be the duty of the treasurer to see that such expenses shall not exceed the interest or profit accruing to the treasury, from the moneys deposited in virtue of the said provisions.

Percentage to form part of expenses incurred under this act.
Expenses not to exceed profits derived.

22. The lieutenant-governor in council may fix the salary of the sheriff of the district of Quebec, at a sum not exceeding three thousand six hundred dollars, and the salary of the sheriff of the district of Montreal, at a sum not exceeding three thousand six hundred dollars per annum.

Salaries of certain sheriffs to be fixed by lieut.-gov.

23. Moneys held by the treasurer or by any agent of his, under this act, may be seized by garnishment, either before or after judgment, provided the ordinary requirements of the law, in respect of garnishees, be fulfilled in respect of the agent, and that moreover a copy of the writ be sent by mail to the treasurer.

Moneys deposited may be seized by garnishment.

24. Whenever any judicial surety or any surety of a public officer, or any tutor or judicial administrator shall be desirous of paying over the amount of his suretyship or the full amount of his legal liability, he may deposit such amount with the treasurer under this act, and upon the production of the deposit receipt, he shall thereupon be free from the costs of any proceeding taken against him with respect to such amount.

Sureties may deposit the amount of their suretyship.

Effect of such deposit.

25. Any public officer failing to comply with the provisions of this act shall be liable, at the suit of the attorney-general of the province or of any interested party, to a penalty not exceeding two hundred dollars, to be recovered before any court of competent jurisdiction in the district; and shall be liable to the party or parties interested for any amount he shall have failed to deposit, and for all damages, and may, moreover, be proceeded against by motion and rule, under pain of coercive imprisonment, to compel him to the payment of any moneys deposited with him under this act.

Liability of public officers failing to comply with this act.

CAP. VI.

An Act respecting the amendment of certain articles of the Code of Civil Procedure, the appointment of an additional Judge of the Superior Court at Montreal, and the administration of justice in other respects.

[Assented to 23rd December, 1871.]

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

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