

(145)

1854.]

BILL.

[No. 145.]

An Act to amend the Judicature of Lower Canada.

WHEREAS it is expedient to amend the Acts relating to the judicature, so as to make better provision for the expediting and administration of justice; Be it therefore enacted, &c., as follows:— Preamble.

I. The first juridical day only of each term of the Circuit Court in all the Circuits of Lower Canada, in which there is no resident Judge, shall hereafter be the return day for non-appealable cases; and the second and third juridical days only, and, if matters render it necessary, the fourth juridical day shall, to the exclusion of all other business, be *enquête* days for all causes and proceedings subject to appeal, and no other *enquête* days shall hereafter be fixed or had for the said cases, but all pleadings, proceedings, acts and documents, whatsoever, may, during any of the said *enquête* days be filed and produced, and summary cases may be fixed on later juridical days, for proof or otherwise: and provided also, that *enquêtes* may, by consent of parties, be proceeded with at any time during vacation in appealable cases, in presence of the Clerk, in the manner prescribed by the ninth Section of the Act of the Legislature of Canada, passed in the sixteenth year of her Majesty's reign, and chaptered 194. Return day for non-appealable cases fixed. Proviso.

II. In all appealable actions and suits in the Circuit Court in the Circuit of Lower Canada, in which there is no resident Judge as aforesaid, the parties shall, on the day fixed for proof by the inscription therefor, which may have been entered by any of them on the Roll *des enquêtes*, and after notice shall have been given to the opposite party by the simple service of a copy of the inscription one day previous, during term, and four days previous, in vacation, proceed to the examination of their witnesses, who shall be examined *viva voce*, and in open Court, and it shall be the duty of the presiding Judge to take, as in trials before Juries, full and complete notes of the evidence so given *viva voce*, and of all the exceptions and objections made and raised by the parties; and the said notes shall be read by the Judge, or by the Prothonotary, or Clerk of the Court, upon request made *viva voce* by any party, at any time during or immediately after the *enquête*, and they shall be always read to each witness immediately after his examination, in order to the correction and remedying of any error or omission. Witnesses in appealable cases to be examined *viva voce* in certain cases

III. A fair copy of the said notes of evidence shall be made by the Prothonotary or Clerk of the Court, and the same having been certified by the Judge, shall be deposited with the said original notes among the documents of record in the cause, for recourse thereto when necessary, and shall in case of appeal from any judgment pronounced in any such suit or cause, be transmitted to the Court of Appeal, as forming part of such record, and the said notes and such copies shall be considered as forming the authentic record of the evidence, and shall to all intents and purposes have the same force and legal effect as the depositions. Fair certified copies of notes of evidence to be deposited with record.