

Actions, &c.,  
not to abate.

As to appear-  
ances, &c.,  
previously or-  
dered.

held at such place or by such transmission, but shall remain in full force and virtue; nor shall any action, information, suit, cause or proceeding be thereby abated, discontinued or annulled, but the same shall be transferred, in their then present condition, respectively, to and shall subsist and depend in the Circuit Court at the place to which the records therein are so to be transmitted, and as if they had there been respectively brought or recorded, and other and further proceedings shall be therein had to judgment and execution, or subsequent thereto, as they might have been at the place where the Circuit Court shall so cease to be held; and any person who shall have been therein ordered to appear or do any other thing at any time at such place, shall appear or do such thing at the same time at the place to which such records are to be transmitted, and under the like penalties in case of default, unless the Judge shall in any case substitute another time, as he is hereby empowered to do.

#### PROCEDURE IN CIVIL CASES, IN SUPERIOR AND CIRCUIT COURTS.

When any  
preliminary  
plea is filed by  
Defendant,  
Plaintiff may  
demand a plea  
to the merits.

Penalty on  
Defendant  
failing to file  
such plea  
when demand-  
ed.

Certain provi-  
sions of 16 V.  
c. 194, to  
apply.

LXXII. Whenever the Defendant in any case shall file any *exception à la forme*, *exception déclinatoire* or *exception dilatoire*, or other preliminary plea, the Plaintiff may, before answering the same, demand of such Defendant his plea or pleas to the action or merits; and if such last mentioned plea or pleas be not filed on or before the eighth juridical day after such demand, the Plaintiff may foreclose such Defendant from thereafter filing any plea or pleas to the action or merits, in the manner prescribed by the twenty-fifth section of the said Act of 1849, chapter 38, and there shall then be no issue raised between the Plaintiff and Defendant, except on such preliminary plea or pleas; saving to the Defendant nevertheless the benefit of the proviso to the said twenty-fifth section as to notice of the inscription of the cause for *enquête* or hearing: and the provisions of the said twenty-fifth section, and those of the twenty-first section of the Act of 1853, chapter 194, shall apply to the cases mentioned in this section in so far only as they may be consistent herewith.

Defendant suc-  
ceeding on the  
preliminary  
plea to have  
the costs of  
plea to the  
merits.

Further provi-  
sion if such  
preliminary  
plea be an *ex-  
ception dila-  
toire*.

LXXIII. Provided always, that when the Defendant shall, on the demand of the Plaintiff under the next preceding section, file any plea or pleas to the action or merits, he shall be allowed the costs thereon if he shall afterwards succeed on the preliminary plea or pleas; and that, if proof is ordered on any such preliminary plea, the *enquête* shall be taken at the same time on the issue raised by the plea or pleas to the action or merits, unless the Court shall order otherwise, and if the Defendant succeed on such preliminary plea or pleas, he shall be allowed his costs on such *enquête*: Provided also, that if such preliminary plea be an *Exception dilatoire*, and the Defendant succeed thereupon, such Defendant, notwithstanding his being foreclosed under the preceding section, shall be entitled, if he has not pleaded to the action or merits, to file within the delay prescribed by law his  
pleas