to a committee of privileges of the House of Lords, it was reported that it did not give him a right to sit or vote. Many lawyers, including Lord Wensleydale himself, were of opinion that the decision was wrong, and the patent was altered to the usual form without any practical effect on Lord Wensleydale's peerage, as he died without male issue. The prerogative under the bill is hedged round to prevent its being abused by flooding the House of Lords with political partisans of the Minister, as happened in the last century when at a stroke twelve peers were created, whom the Duke of Wharton asked, when they made their appearance in the House, whether they voted one by one or by their foreman. There are not to be more than fifty life peers at one time in the House, and no more than three a year are to be made, and if three are made one must belong to the classes specially qualified, being judges of two years' standing, admirals, generals, ambassadors, Privy Councillors in the Civil Service, and colonial governors of five years' standing. Persons not specially qualified may also be appointed life peers so long as more than two are not made in one month. The dignity proposed to be given to the new peers is the same as that given to the lords of appeal, except that the latter hold it during office, and it is exactly the same as the bishops, who differ from their peers in being not 'of trial by nobility.'

SUPERIOR COURT.

AYLMER, (district of Ottawa,)
May 25, 1888.

Before WURTELE, J.

CHARLEBOIS v. RABY.

Procedure—Demand in warranty.

HELD:—1. *That an action in warranty can be brought after the expiration of the delays fixed by articles* 123 *and* 107 *of the Code of Civil Procedure, but that in such case the suit cannot be stayed thereby.*

2. *That in such case, however, the principal demand and the demand in warranty may be adjudicated upon together, if it can be done without retarding the principal demand.*

PER CURIAM. The plaintiff has sued the defendant, who is a notary, for damages caused by delay in the registration of a deed which it is alleged that he had undertaken to register, and the defendant has pleaded to the action; and the parties are at proof. The defendant now alleges that he has a recourse in warranty against one Sauvé and a Mrs. Frappier, and he moves that he be allowed to call them in warranty and that all the proceedings in the suit be stayed until his warrantors have been put in the suit.

The delay to call in warrantors is fixed by article 123 of the Code of Civil Procedure, and is eight days after the service of the principal demand; and article 122 provides that a defendant who is exercising his recourse in warranty may, by means of a dilatory exception, obtain a stay of proceedings until his warrantor has been called in and held to plead to the merits, and the delay to file such dilatory exception is four days from the return of the writ.

In this case the delay to file a dilatory exception has expired long ago, and the defendant cannot therefore claim a stay of proceedings; and even if he was within this delay, he could not ask for a stay of proceedings, as he did not institute a demand in warranty within the prescribed delay, and he would have to show that he had done so to obtain a stay. (*Belle* v. *Dolan*, 20 L. C. J. 302.)

But can he, at all events, take an action in warranty and bring his warrantors in the suit after the expiration of the delay fixed by article 123? I am of opinion that he can, but without however having the right to stay the principal demand or to have the demand in warranty joined with it; I hold that the article is not restrictive of the right to bring an action in warranty, but that it confers certain privileges when steps are taken within the delay. Our article is the same in substance as articles 175 and 176 of the French Code of Civil Procedure, and what I now hold has been held in France. Carré & Chauveau say in their question 766: "Doit-on conclure des articles 176 et 177, " qu'on ne puisse appeler des garants après " les délais qu'ils prescrivent? Non, sans " doute: on ne peut conclure de ces ar- " ticles rien autre chose, si ce n'est que, sur