

OF APPEALS.—In all the cases above-mentioned, the complainants should have a right to appeal from the summary trial and judgment rendered in the "first instance," if he conceived himself aggrieved thereby. Whenever the defendant has no right to a jury, he should be allowed an appeal from the verdict and sentence of the "first instance." EVIDENCE IN APPEALS should be confined solely to the evidence offered, and either received or rejected in "the first instance," or which at that time was diligently sought and made a ground for an improperly rejected motion for delay. Where evidence given in the first instance cannot be produced (without fault or neglect of the party desiring its production) at the appeal, the best obtainable secondary evidence should be taken to establish what the necessary witness said in the first instance, or what subsequently unattainable evidence was originally rendered or produced in open Court. All evidence in appeals should be taken *in extenso*. The Court in Appeal should be held at the *chef lieu*, and, except where, as in the cities of Quebec and Montreal, other functionaries exist to whom it might be properly confided, should be composed of the sheriff, or in his place his deputy, or the coroner, or the chairman of the Quarter Sessions, or a barrister duly appointed to the office, and two justices of the peace,—the majority to decide. The Court on appeal should give judgment *de novo*, unless they confirmed the original judgment. All appeals to be taken within three lawful days.

OF CERTIORARI.—Wherever an appeal lies, *certiorari* should be allowed to arise (for cause) from its adjudication. On *certiorari*, the evidence and finding thereon being returned, the judges should impartially set aside every decision arrived at or any part thereof which might appear to them, by the return, repugnant to the evidence, whether such might be in favor of defendant or against him, and substitute a decision *de novo*, according to the evidence the return discloses. If the finding seem correct, but the order or sentence or judgment seem wrong, then they should set it aside and give judgment *de novo* on the finding, whether the same be in favor of the accused or the accuser. When *certiorari* is granted, good bail should be had, or the petitioner to remain a prisoner till the case is decided, which must be by the Queen's Bench in criminal Appeal and Error.