

of such Court in Upper Canada that the cause of action is the same in both suits.

II. And be it also enacted, That if an action shall be brought in Lower Canada, or is now brought there, for which a suit or action shall have been or shall be brought in Upper Canada previously to the institution thereof in Lower Canada, and whether the said action shall be between the same parties or the same party or parties and others jointly interested with them or either of them, provided always that both the said actions be for the same cause of action, it shall and may be lawful for the said Defendant or Defendants to plead that the affair is in *litispendance* and that an action for the same cause of action hath already been instituted in Upper Canada, whereupon on the production with the said plea of the proof hereinafter provided for and on its appearing therefrom to the satisfaction of such Court in Lower Canada that the cause of action in both suits is the same, the said action shall by the adjudication of the said Court be thence dismissed.

III. And be it enacted, That in proof of the allegations of such plea the said Defendant or Defendants shall be required to produce and fyle with such plea a certificate under the hand of the Clerk and under the seal of the Court in Upper Canada in which such action is then depending to the effect that an action is pending in the said Court between the parties and for the cause of action which the said certificate shall certify, and the said certificate shall also contain the date of the commencement of such action, and such plea shall also be accompanied with an affidavit of the truth of the allegations of such plea, and no other or further proof shall be required thereof than the said certificate and the said affidavit.