

forthwith send up the record, and all proceedings and evidence taken and had in such cause duly certified to the said Superior Court, and thereupon the said Superior Court shall hear the arguments in such cause, determine the matter in issue and award costs, in the same manner in all respects as if the said suit or action had been originally instituted in the said Superior Court; Provided also, that unless security for costs as aforesaid shall have been entered up in such suit or action in the Circuit Court where such suit is commenced, within three days after the *enquête* shall have been closed by both contesting parties to such suit, it shall be lawful for either of the contesting parties to such suit to inscribe such cause for final hearing and argument before such Circuit Court, Circuit Judge in vacation, or Judge of the Superior Court in vacation, as the case may be, and thereupon the said Circuit Court, Circuit Judge in vacation or Judge of the Superior Court in vacation, may and shall proceed to hear, determine and adjudge upon the matter in issue in such cause, and award costs as he might do if no such adverse title were pleaded or produced.

But not unless such security be given.

Mode of commencing suits under this Act.

II. And be it enacted, That all suits under this Act shall be instituted in the manner usual in other matters, by issuing a writ of summons and attaching thereto a declaration setting forth the cause of action and praying relief in the premises, and by causing such writ and declaration to be served upon the defendant by the delivery of true copies thereof to him personally or at his domicile, and by fying such original writ and declaration and the title or titles upon which the lands or tenements or both in question in such suit are claimed, in the office of the Clerk of the Circuit Court where such writ of summons issued on the return day of such writ of summons; and when the defendant's residence shall be within five leagues of the place of sitting of the Circuit Court where such summons is made returnable, there shall be between the days of service and return (exclusive of those days) ten intermediate days; if there be more than five leagues, then there shall be an additional delay of one day for every additional five leagues; and the defendant shall be bound to fyle his appearance on the return day of the writ, and whether the appearance be fyled in term or in vacation, the defendant shall be allowed three clear days to plead to the declaration, and the plaintiff shall have a like delay to answer, and there shall be a like delay between each further pleading allowed by law; and if, after the expiration of any delay allowed for pleading, the same shall not be fyled, the opposite party may demand the same, and if it be not fyled on or before the next juridical day after the service of such demand may foreclose the party by whom it ought to have been fyled, and the fying of such demand of plea, with a bailiff's return of service thereon upon the party from whom such pleading,

Interval between service and return.

Foreclosure for want of plea.