

lows: "The plaintiff first states his case to the jury, and adduces his evidence. The defendant next states the grounds of his defence, and adduces the proof in support thereof, and addresses the jury upon the whole case. The plaintiff is afterwards entitled to reply, and he may, if new facts have been brought out by the defendant, adduce evidence in rebuttal, in which case the defendant addresses the jury, and the plaintiff replies after the adduction of such evidence in rebuttal."

Art. 464. It is recommended, Mr. DOUTRE dissenting, that this article shall read thus: "Peremption is granted without costs," instead of leaving it discretionary with the Court to condemn the plaintiff to pay all costs, as the article now stands.

Art. 484. The Codification Commissioners suggest, in order, as they say, to settle a doubtful point, that distraction of costs can only be demanded before judgment. The Montreal Committee recommend that this be struck out, and that the following be substituted: "Such distraction cannot be demanded later than the juridical day following the judgment." It is the practice in the Court of Appeals not to ask for distraction till after judgment.

Art. 538. The Committee proposed to add the following to the clauses relating to tenders: "but a tender in current notes of any Bank chartered in this Province, or a cheque accepted by such Bank, shall be held valid, unless it be at the time of such tender objected to as not made in current coin."

Art. 543. It is here suggested that if a party, to whom a tender is made in Court, wishes to withdraw the moneys paid in, without prejudicing his claim to the remainder, he shall be obliged to leave an amount, or percentage, to answer the costs that may be awarded to the opposite party.

Art. 601. The Committee recommend that moneys seized or levied, after deducting the duties thereon and taxed costs, must be returned into Court by the Sheriff.

Art. 668. It was proposed to insert the following after this article respecting bids at Sheriff's Sales: "The creditor may also declare in the obligation consented in his favor, what amount, in case of Sheriff's sale or con-

firmation of title, he is willing to give for the property hypothecated, or for any part of it, and in such case the Registrar shall note such declaration in his certificate, and it shall avail as a bid, and need not be supported by affidavit." This is intended to be of service to the holder of a mortgage who may be absent; but some doubt as to its expediency was expressed at the meeting of the bar.

Art. 757. As to the time within which the Sheriff must pay over moneys, the Committee propose that he shall be bound to pay them immediately after the date of the judgment homologating a report of distribution, instead of at the expiration of fifteen days.

Art. 797. This article, the first respecting the issuing of the *capias*, has not been left in a very satisfactory state by the Codification Commissioners. No part of our statute law has given rise to more litigation than that stating the grounds for a *capias*, and yet the Codification Commissioners have framed the article thus: "When the amount claimed exceeds \$40, the plaintiff may obtain, from the Prothonotary of the Superior Court, a writ of summons and arrest against the defendant, if the latter is about to leave immediately the Province of Canada, or if he secretes his property with intent to defraud his creditors." This can hardly be called English. The Committee have suggested that the clause be amended by reading "has secreted or is about to secrete" for "secretes."

Art. 863. "The plaintiff or the defendant may contest the declaration of the garnishee, upon leave of the Court to that effect." The Committee suggest that the words, "upon leave of the Court &c." be struck out, as the leave of the Court is not asked in such cases.

Art. 875. "If the things seized are of a perishable nature or liable to deteriorate during the pendency of the suit, the Court or Judge may order them to be sold and the proceeds of the sale to be deposited in the office of the prothonotary or clerk." The Committee recommend that this provision be made applicable to every kind of seizure.

Art. 890. "Actions to rescind a lease, or to recover damages resulting from the contravention of any of the stipulations of the lease, or the non-fulfilment of any of the obligations