between the two systems may with propriety be here pointed out. In France, it may be said, the judge conducts the evidence; he determines what should be proved, and examines the witnesses himself; the counsel for the parties have only a right to suggest questions to be put. The result of this is that the evidence is much shortened; but on the other hand the judge bears the whole responsibility, and the evidence in some cases may be begun over again at his expense. One can hardly imagine the inconveniences which result from this system and which are exposed by M. Lavielle in his *Etudes sur la Procédure Civile* (pp. 166 *et seq.*) In our system, on the contrary, the responsibility of conducting the evidence rests entirely with the parties and their counsel. It is true that writings are frequently multiplied to excess and the record is beyond measure increased in size by testimony given upon facts which in cases conducted with regularity and good faith should have been admitted at once. When hereafter the rules concerning articulations of facts are carried out and the procedure is rendered more tions of facts are carried out and procedure is rendered more easily and more generally understood, these denials of facts which too often are due to bad faith, will disappear and our mode of taking evidence become simplified.

The Commissioners have not felt called upon to frame a new code of procedure, but restricting themselves to a compliance with the requirements of the statute, they have stated the procedure such as it appears to be at present, merely suggesting such provisions as they deem necessary to supply deficiencies and to form as consistent and uniform a whole as possible, entering sometimes into details which might appear minute were it not borne in mind that the code of procedure will govern a considerable number of courts, that in many cases, in the absence of a judge, the clerk is called upon to fulfil his duties, and that it is important to secure uniformity of practice.

A comparative examination into the French system of proce dure and ours, aided by the criticisms which have been written upon the former, will shew the superiority of our own, which may be said to be free from the inconveniences imputed to the French system, which is generally admitted to have never received the same amount of careful study as the *Code Civil.*

After these preliminary remarks the Commissioners believe that it will be sufficient for them to explain the suggested amendments and the reasons which guided them in adopting rules upon doubtful or contested points.

PART FIRST.

General provisions. Arts. 1 to 25.

This first part relates to the holding of courts, the observance of order therein, and the general rules which govern the interpretation of laws concerning procedure and of judicial acts and proceedings. Its twenty-five articles are mostly taken from our statutes, and one amendment comprised in it, alone requires explanation. Article 2 reproduces a provision of the Civil Code which enumerates legal holidays; but the enumeration does not include Conception Day nor the Queen's Birth Day, which, according to chapter 64 of the Consolidated Statutes for Lower Canada, are non-juridical days as regards the payment or protest of bills of exchange and promissory notes, and which in fact are observed as holidays by nearly all the inhabitants of Lower Canada. With a view to uniformity the Commissioners suggest that in matters of procedure they should be placed upon the same footing as other legal holidays.

SECOND PART.

PROCEDURE BEFORE THE COURTS.

Book I. Superior Court. Preliminary provisions.

The first book of the second part relates to the Superior Court. It is divided into three titles, exclusive of a few preliminary provisions concerning the jurisdiction of the court and the exercise of its jurisdiction; the first treats of the suit; the