

second of remedies against judgments; and the third of their execution.

Article 32 is suggested as amending the law in force by declaring that in suits *in formâ pauperis* the defendant against whom the action is maintained may be condemned to pay the expenses of the officers of the court, to whom such costs are then payable as if they had obtained distraction thereof. Art. 32.

This title is subdivided into eight chapters which will each be explained in their place. Title I. Of the suit.—Ch. I. Of summons. Arts. 42 to 79.

The articles numbered from 42 to 79 are founded upon our statutes, upon the ordinance of 1667 and the decisions of our courts. Six amendments are suggested. The amendment to article 48 extends to suits brought upon any private writing, the provisions of the 29th section of chapter 64 of the Consolidated Statutes for Lower Canada, under which a defendant may be designated in the summons by the initials he used in signing the bill of exchange or promissory note sued upon. Art. 48.

Article 52 contains a provision which our statutes express in a general manner; the suggested amendment is intended to restrict it within reasonable bounds, which the legislature undoubtedly did not intend to exceed. Art. 52.

Article 54 expresses the rule at present followed in the district of Montreal as to the portion of the day during which services may be made; there is however no uniformity among the decisions rendered. In order to settle the point the Commissioners suggest an amendment fixing between the hours of seven in the morning and seven in the evening the period during which any summons may be served. Art. 54.

In order to prevent artifices and frauds which might be resorted to in summoning a defendant residing in the same house as the plaintiff, article 57 proposes, that a personal service should be necessary unless a judge upon sufficient cause shewn dispenses with it. Art. 57.

Article 64 in order to settle a doubtful point requires that for summoning church *fabriques* and vestries, a copy should be left with the *curé* or rector, and another with the acting churchwarden. Art. 64.

It is proposed by article 65 that when the master or captain of a vessel or any other mariner has no domicile in Lower Canada, he may be validly served on board, speaking to some person in the ship's employ. Art. 65.

This chapter, which is subdivided into six sections, treats of the return of the writ, of appearances, elections of domicile for purposes of procedure, non-appearance, exhibits, and judgments by default or upon confession. Of the four amendments suggested the first, article 80, extends to the Superior Court the right of obtaining judgment of non pros.; the second, article 94, requires that any unknown person appearing in order to confess judgment should produce the copy served upon him or the counter-signature of an attorney *ad litem*. Ch. 2. Of the return. Art. 80. Art. 94.

Article 97, when there are several defendants some only of whom confess judgment, permits judgment to be obtained against these, and the suit to be contested with the others. Art. 97.

Article 101, in giving an absolute remedy is not inconsistent with the ordinary powers of the courts and will have the effect of removing all doubt upon the subject. Art. 101.

This chapter, which is also subdivided into six sections, regulates the modes of contesting suits. After stating the delays allowed for pleading, it treats of the different grounds of defence that may be pleaded. Four articles only, suggested in amendment, require explanations. Article 117, with the view of discouraging chicane and of limiting procedure to the use of *bonâ fide* means of litigation, proposes that the omission to allege mere accessories of a right claimed should not be a ground of exception to the form, and leaves the party to plead the want Ch. 3. Of contestation. Arts. 106 to 150. Art. 117.