

Defendant.
Plaintiff may
demand a plea
to the merits.

the same, demand of such Defendant his plea or pleas to the action or merits; and if such last mentioned plea or pleas be not filed on or before the eighth juridical day after such demand, the Plaintiff may foreclose such Defendant from thereafter filing any plea or pleas to the action or merits, in the manner prescribed by the twenty-fifth section of the said Act of 1849, chapter 38, and there shall then be no issue raised between the Plaintiff and Defendant, except on such preliminary plea or pleas; saving to the Defendant nevertheless the benefit of the proviso to the said twenty-fifth section as to notice of the inscription of the cause for *enquête* or hearing: and the provisions of the said twenty-fifth section, and those of the twenty-first section of the Act of 1853, chapter 194, shall apply to the cases mentioned in this section in so far only as they may be consistent herewith.

Penalty on
Defendant
failing to file
such plea
when demand-
ed.

Defendant suc-
ceeding on the
preliminary
plea to have
the costs of
plea to the
merits.

LXXII. Provided always, that when the Defendant shall, on the demand of the Plaintiff under the next preceding section, file any plea or pleas to the action or merits, he shall be allowed the costs thereon if he shall afterwards succeed on the preliminary plea or pleas; and that, if proof is ordered on any such preliminary plea, the *enquête* shall be taken at the same time on the issue raised by the plea or pleas to the action or merits, unless the Court shall order otherwise, and if the Defendant succeed on such preliminary plea or pleas, he shall be allowed his costs on such *enquête*.

Statement of
facts to be filed
by each party
after issue
joined: and
proceedings
thereon.

LXXIII. Within two days after any issue shall be joined upon which evidence is to be adduced, each party shall file a statement (*articulation*) of facts pertinent to such issue and not admitted by the pleadings, which he proposes to prove, and shall serve a copy thereof upon the opposite party, and within three days after such service, the party on whom it is made shall file and serve his answer admitting or denying all or any of such facts or denying all or any of them to be within his knowledge; and in default of such answer being filed and served within the delay aforesaid, the facts in the statement of the opposite party shall be taken as admitted by the party who ought to have filed and served such answer, as shall also any fact alleged in the statement and not expressly denied by the answer, or not denied to be within the knowledge of the party answering.

As to costs of
facts not men-
tioned in such
statement or
denied, and
afterwards
proved.

LXXIV. If any fact not mentioned in such statement be afterwards proved by the party filing it, the costs of proving such fact shall be taxed against him, whatever be the event of the case; and if any fact denied in such answer shall be afterwards proved in the case, or any fact denied to be within the knowledge of the party answering shall be so proved and the Judge shall be of opinion that it must have been within the knowledge of such party, the costs of proving such fact shall be taxed against him, whatever be the event of the case.