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**RULES**

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/ (a)

AND

**ORDERS OF PRACTICE**

OF THE

**SUPERIOR COURT,**

**LOWER CANADA.**



**QUEBEC :**

PRINTED BY T. CARY, 2, BUADE STREET.

1850.



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## LOWER CANADA.

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# SUPERIOR COURT.

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IT IS ORDERED—That from henceforth, all previous Rules of Practice be rescinded, and that the following RULES AND ORDERS OF PRACTICE be, and the same are hereby established and declared to be the Rules and Orders of Practice of this Court :—

### CHAPTER I.

#### *Of the Officers of the Court.*

##### I.

That the Queen's Counsel, and Barristers, who practice in this Court, do appear, when in Court, habited in black, and in such robes and bands as are worn by the Queen's Counsel and Barristers in Westminster Hall, as heretofore hath been used, and that no Queen's Counsel, or Barrister, be heard in any cause who is not so habited.

## II.

That every Attorney practising in this Court, do file, in writing, in the Office of the Prothonotary, an election of his domicile, as such Attorney, at some place within a Mile of the Court House at the place where he practises; and that in default of his so doing, he shall be considered to have elected his domicile as such Attorney, for all intents and purposes, in the Office of the Prothonotary at such place.

## III.

That the Prothonotary of this Court do appear, when in Court, habited in black and in such robes and bands as are worn by the Prothonotary in Westminster Hall, as heretofore hath been used; that the Sheriff, when in Court, do appear, habited in black, with his robe, his wand of office and sword, as heretofore hath been used; and that the Crier, when in Court, do appear habited in black and in such robe as is worn by that officer in Westminster Hall.

## IV.

That the Offices of the Prothonotary and of the Sheriff, be open on every Juridical day during Term, and also in the Districts of Quebec and Montreal, on every Monday being a Juridical day, from the hour of Eight in the Morning until the hour of Six in the Afternoon; and in the Districts of Quebec and Montreal, during Vacation, Mondays excepted, from the hour of Nine in the Morning until the hour of Four in the Afternoon of every Juridical day, and in the Districts of Three Rivers, St. Francis, and Gaspé, during Vacation, from the hour of Nine in the Morning until Noon, and from the hour of Two to the hour of Four in the Afternoon.

## V.

That the Shertff, the Prothonotary and the Crier, do personally attend in Court, in their respective places, *de die in diem*, during each Term from the opening until the rising of the Court, and in like manner, during all Sittings of the Court held in Vacation.

## VI.

That no Barrister or Attorney, Prothonotary, Sheriff, Crier, Bailiff, or Sheriff's Officer, shall be bail or surety in any action or proceedings cognizable by this Court, or by any Judge thereof.

## VII.

That all Orders and Rules for the conduct and regulation of the Sheriff in the execution of his duty, shall extend to the Coroner, in all cases in which such duty shall be executed by him.

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**CHAPTER II.*****General Orders.***

## VIII.

That the Rules and Orders of Practice of this Court shall be fairly entered by the Prothonotary in a book to be by him kept for that purpose ; and all decisions of this Court on points of practice, shall also be entered by the Prothonotary, when so directed by the Court, in another book to be by him kept for that purpose—to each of which books there shall be an index, and all Practitioners of this Court, shall, during office-hours, have access thereto, and therefrom be allowed to take extracts and copies *gratis*.

## IX.

That all Writs and other practical Forms, which are or shall be settled by this Court, shall in like manner be fairly entered by the Prothonotary in a Register to be by him kept for that purpose, to which there shall be an index, and all Practitioners of this Court shall at all times, during office-hours, have access thereto, and therefrom be allowed to take extracts and copies *gratis*.

## X.

That every wilful breach of an Order or Rule of Practice of this Court (for which no fine or other specific punishment is provided in the body of such Rule or Order) shall be considered a contempt of Court, and punished accordingly.

## XI.

That in computations of time no fractions of a day be allowed, nor shall any Sunday or binding holiday (*fête d'obligation*) be reckoned unless otherwise provided for by law.

## XII.

That whenever any delay shall expire on a non-Juridical day, such delay shall be enlarged to the next Juridical day.

## XIII.

That no paper of any description shall be received by the Prothonotary, in any cause, unless the same be regularly docketted by mentioning the Title and Number of the cause, the general description of such paper, and the party fying the same.

## CHAPTER III.

*Of Process ad Respondendum.*

## XIV.

That a Register of all and every proces *ad respondendum* whatsoever, issued from this Court, specifying the names of the parties, the amount demanded, the cause of action, and the return day of each process respectively, shall be kept by the Prothonotary, to which all persons, during office-hours, shall have access *gratis*.

## XV.

That no process *ad respondendum* of any description shall issue, until an appearance for the party requiring such process, and a *Præcipe* for the same, be filed in the Office of the Prothonotary.

## XVI.

That no process *ad respondendum*, founded upon affidavit, shall issue in any suit until the affidavit upon which such process is founded be filed by the Plaintiff in the Office of the Prothonotary.

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CHAPTER IV.*Of Certificates of Service, &c.*

## XVII.

That every Affidavit or Certificate of Service shall particularly describe the manner, place and time of service, in letters, and also the distance, from the place of service, to the Court House, at which the party is required to appear.

## XVIII.

That all services on the Attorney of any party be

made between the hours of Nine, A.M., and Six, P.M., from the Twenty-first of March to the Twenty-first of September; and between the hours of Nine, A.M., and Five P.M., during the remainder of the year.

That every service of process and other service on any party to a suit be made between the hours of Eight in the Forenoon and the hour of Seven in the Afternoon.

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## CHAPTER V.

### *Of Appearances—and of Bail.*

#### XIX.

That of every appearance which shall be filed for a Defendant, a duplicate or certified copy shall be served during the same day upon the Plaintiff's Attorney.

#### XX.

That no change of Attornies shall in any case be allowed without leave of Court, or of a Judge in Vacation.

#### XXI.

That an Attorney who shall appear for any person shall not, without leave of Court, or of a Judge in Vacation, be permitted to withdraw from the suit in which he shall have so appeared.

#### XXII.

That in every suit in which a party shall cease to be represented by Attorney he may be compelled, by Rule of Court, to substitute an Attorney or an appearance in person; and in default of a Plaintiff so doing, his action shall be dismissed with costs, *sauf*

*à se pourvoir*—in default of a Defendant so doing it shall be competent for the Plaintiff to proceed *ex parte*.

### XXIII.

That no surrender of any Defendant, by himself or by his Bail, shall be valid or effectual, or allowed as such, unless such surrender be made in open Court, or before one of the Judges of this Court in Vacation, nor unless the Court or such Judge before whom such surrender shall be made, shall have made an entry or minute of such surrender, and shall have committed such Defendant thereupon to the custody of the Sheriff in discharge of such bail ; and in every case of surrender made before any Judge of the Court, the Minute of such surrender shall forthwith be returned into the office of the Prothonotary, and there be filed of Record, in the suit to which such minute shall relate, and a copy of such minute shall, by the Prothonotary, be delivered with such Defendant to the said Sheriff.

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## CHAPTER VI.

### *Of Exhibits and communication of Papers.*

#### XXIV.

That all Paper-writings, whereon any Declaration or other Pleading is founded, or duly certified copies of such papers, shall, with lists thereof, be filed together with such Declaration or other pleading respectively, and not afterwards, unless by the special permission of the Court ; and that all other paper writings which any party shall see fit to produce in evidence, together with the originals of all *actes sous seing privé*, copies of which shall have been filed as

hereinbefore directed, shall be exhibited and filed with lists thereof, before the *Enquête* of the party producing the same be closed.

#### XXV.

That every List of Exhibits shall be an index to all the Exhibits therewith filed, by number, title, date and description, under the signature of the Attorney or party filing such Exhibits, and any Exhibit which shall not be so mentioned in such list shall not be received.

#### XXVI.

That all delays to plead shall be reckoned from the day on which the Exhibits, in support of the Pleading to be answered, shall have been filed.

#### XXVII.

That all parties to a suit shall be entitled to communication of all Exhibits and other paper writings, filed in such suit, at the office of the Prothonotary.

#### XXVIII.

That of all Exhibits or other paper writings in any cause, being copies of *actes authentiques* or of papers *sous seing privé*, communication shall be given on the receipt of the party indorsed, dated and signed upon the List of Exhibits, and such party shall be entitled to retain such copies in communication during forty-eight hours; it being expressly provided that no original paper writing shall be removed from the Office of the Prothonotary for any cause whatsoever.

#### XXIX.

That no Exhibit, in any cause shall be withdrawn

pending such cause, or within a year and a day from the final Judgment in such cause, without an order of the Court or of a Judge in Vacation; and before such Exhibit or other paper writing be withdrawn, a copy thereof (except of authentic Instruments) certified by the Prothonotary, shall be filed of record, unless otherwise ordered by the Court or Judge.

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## CHAPTER VII.

### *Of Pleadings.*

#### XXX.

That whenever the particulars of any *demande* shall not be disclosed by the Declaration, and no Bill of particulars shall be therewith filed, no proceedings shall be had upon such Declaration, but the same shall, upon the Motion of the adverse party, be rejected, and thereupon the action of the Plaintiff be dismissed, unless it be otherwise ordered by the Court upon sufficient cause shewn.

#### XXXI.

That of every pleading filed a certified copy shall be served upon the adverse party, and, until such service shall have been made, the pleading shall not be held to have been filed.

#### XXXII.

That no *exception déclinatoire, péremptoire à la forme* or *dilatatoire* be received unless the party offering such exception shall therewith deposit in the hands of the Prothonotary the sum of Two Pounds One Shilling and Eightpence for every such exception, to answer the Costs of the adverse party, if such exception be dismissed or withdrawn, in the propor-

tion of Eleven Shillings and Eightpence to the Prothonotary, and One Pound Ten Shillings to the Attorney.

### XXXIII.

That upon every *exception déclinatoire, péremptoire à la forme* or *dilatatoire* the Plaintiff may move for hearing, without an answer; it being expressly provided that every Plaintiff, so moving shall thereby, for the purpose of such hearing, be held to confess the allegations contained in such exception.

### XXXIV.

That in every case in which an *exception déclinatoire, dilatatoire* or *peremptoire à la forme* shall be filed, the delay to plead to the merits shall be computed from the day on which such exception shall have been disposed of.

### XXXV.

That with every *defense au fonds en droit* shall be filed a notice assigning all the grounds of such *defense au fonds en droit*; it being expressly ordered that no party shall be permitted to urge any ground, in support of a *defense au fonds en droit*, not so set forth and particularised in such notice.

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## CHAPTER VIII.

### *Of Incidental Cross Demands, Interventions and Evocations.*

### XXXVI.

That every Incidental cross demand shall be filed at the same time with the plea to the action; and no

such Incidental cross demand shall be afterwards received.

### XXXVII.

That every Incidental Cross Demand shall be deemed a distinct action, and shall not delay the proceedings of the Plaintiff.

### XXXVIII.

That in every cause brought by evocation before this Court, and in which the Plaintiff shall think fit to file another Declaration, such Plaintiff shall, within Eight days from the allowance of such evocation, file such other Declaration.

### XXXIX.

That the Rules, Orders and delays prescribed by Law, or by this Court, with respect to the pleadings upon Demands in chief, shall in all things apply to and be the Rules, Orders and delays, with respect to all pleadings upon Incidental Demands, Interventions and causes brought before the Court by evocation.

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## CHAPTER IX.

### *Of Enquêtes.*

#### XL.

That there shall be kept, in the office of the Prothonotary, a Roll, to be called the *Roll des Enquêtes*, upon which shall be inscribed all causes set down for the adduction of proof.

#### XLI.

That no proof shall be adduced in any contested cause unless two days in Term, or eight days in

Vacation, shall have intervened between the notice of such inscription and the day appointed for the making of proof.

#### XLII.

That as soon as the issue or issues of fact shall be perfected in any cause in which no issue of law hath been raised, or, if raised, hath been disposed of, either party may inscribe the cause upon the *Roll des Enquêtes*.

#### XLIII.

That if, on the day appointed for adducing proof, the party bound to proceed shall not appear, or appearing shall not proceed, or shew legal cause for not proceeding, his *Enquête* shall, upon the application of the adverse party, be declared closed, and a day, if necessary, shall be fixed for the *Enquête* of such adverse party upon his application to that effect.

#### XLIV.

That a witness shall be examined by one Counsel and no more, and cross-examined by one Counsel and no more.

#### XLV.

That any cause inscribed on the *Roll des Enquêtes* shall remain thereon, until the *Enquête* in such cause shall have been declared closed, and shall be held to be continued from day to day without any special application to that effect. Provided always that if more than one day shall elapse without any proceeding or application in such cause, and without the same being specially continued to a day certain, no proceeding or application shall there-

after be taken or received without notice of at least one day to the adverse party.

## XLVI.

That all interrogatories to be annexed to any order or *Commission, in the nature of a Commission Rogatoire*, unless settled by consent, shall be allowed by one of the Judges.

## XLVII.

That if any such order or Commission shall not be returned on the day appointed for such return, (if such there be) or within a reasonable time after the issuing thereof, (if such order or Commission be returnable without delay) it shall be competent for the parties to proceed in such cause, as if no order or Commission had issued, unless good cause to the contrary be shewn, on Motion to that effect.

## XLVIII.

That either party shall, at any time, have a right, by application to the Court in Term, or to a Judge in Vacation, to cause the return to any order or commission to be opened, unless good cause to the contrary be shewn; but the return to an order or Commission, issued at the instance of the Defendant, shall not be opened until the Plaintiff's *Enquête* be closed.

## XLIX.

That in all cases in which the service of a Rule for *serment décisoire* or for *faits et articles* shall be made within the distance of five leagues from the Court House, there shall be one intermediate Juridical day between the day of service and the day of return, and when beyond that distance, one interme-

diate Juridical day as above, and also one intermediate Juridical day for every five leagues of distance.

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## CHAPTER X.

### *Of the Inscription of Causes for Hearing.*

#### L.

That there be kept in the office of the Prothonotary a Roll, to be called the *Roll de droit*, upon which shall be inscribed all causes for hearing upon any issue of law, or upon the merits, or other matter.

#### LI.

That no contested cause shall be heard upon any Inscription on the *Roll de droit* unless two Juridical days shall have intervened between the Inscription and the day appointed for the hearing.

#### LII.

That so soon as any issue of Law is perfected either party may inscribe the cause on the *Roll de droit* for hearing on such issue ; and if, on the day appointed for the hearing, the party by whom such law issue hath been raised shall not appear, and his adversary shall appear, the pleading whereby the same hath been raised shall be dismissed with costs. If neither party be present the Inscription shall be discharged.

#### LIII.

That so soon as the *Enquête* upon any preliminary exception shall be closed, either party may inscribe the same upon the *Roll de droit*, for hearing on the merits of such exception, and if on the day appointed

for the hearing thereof, the party Excipient shall not appear, his exception shall on the application of the adverse party be dismissed with costs. If neither party appear, the Inscription shall be discharged.

## LIV.

That as soon as the *Enquête* in any contested cause shall be closed, either party may inscribe such cause on the *Roll de droit* for hearing on the merits, and if, on the day appointed for the hearing thereof, the Plaintiff shall not appear, his action shall on the application of the adverse party be dismissed with costs. If neither party appear, the Inscription shall be discharged.

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 CHAPTER XI.
*Of Motions.*

## LV.

That no Motion be received or heard unless previous notice thereof, of at least one day, be given to the adverse party, excepting the Motions whereupon side bar Rules may be obtained, and those hereinafter specially mentioned.

## LVI.

That the parties shall not be heard on any Rule unless one day shall have intervened between the service of such Rule and the day appointed for the hearing thereof.

## LVII.

That every Motion founded on special matter shall contain the grounds on which such Motion is made,

and no party shall be permitted to urge any ground in support of a Motion not set forth in such Motion.

### LVIII.

That the following Motions being Motions of course, may be made and filed in the Office of the Prothonotary, and be by him received, and Rules entered thereon, in the same manner as if made in open Court :—

1. For the Sheriff to return a Writ—*Nisi*.
2. For Particulars—*Nisi*.
3. For security for Costs, the Plaintiff being a person without that part of the Province, heretofore Lower Canada, and stated so to be, in the Declaration—*Nisi*.
4. To give security for Costs—*Nisi*.
5. For a Jury Trial—*Nisi*.
6. To strike a cause from the *Roll de droit* or *Roll des Enquêtes*—*Nisi*.
7. For a reference to *experts*—*Nisi*.
8. To set aside or confirm a Report—*Nisi*.
9. To pay money into Court—*Nisi*.
10. To file a *Retraxit*—*Nisi*.
11. To dismiss for want of proceedings—*Nisi*.
12. To discontinue on payment of Costs—*Nisi*.
13. For *acte* to party that he does not contest an Opposition.
14. For a Rule on Defendant for *main levée* on such Opposition—*Nisi*.
15. To homologate a report of Distribution—*Nisi*.
16. For the Sheriff to bring in the body—*Nisi*.

### LIX.

That the following Motions may be made and adjudicated upon without notice to the adverse party :—

1. For judgment pursuant to confession, or to a verdict of Jury.
2. To defer or refer the *serment décisoire*.
3. For *faits et articles*.
4. To obtain *acte* of the Court.

## LX.

That a party intending to produce any Affidavit, or other paper-writing in support of any Motion or Rule, shall with the notice of such motion, or copy of such rule, serve on the opposite party copies of the Affidavits, or other paper-writings intended to be produced, and in default of his so doing, the opposite party shall be entitled to delay, until the next day, to take communication of such papers.

## LXI.

That the validity of every Report of *Experts*, or Award of Arbitrators shall be decided upon a motion, or upon a Rule *nisi* to homologate the Report, or to set the Report aside, as the case may be.

## LXII.

That every application for security for costs shall be made within four days from the appearance of the party making such application.

## LXIII.

That all costs to which, in any case, a party is entitled upon a Motion in any way, be asked for at the time at which such Motion is made and heard, and not afterwards.

## CHAPTER XII.

*Of Trials by Jury.*

## LXIV.

That in every cause wherein a Trial by Jury may by law be had, the party desiring such trial shall declare his option, either by his declaration or plea, or by Motion to be made within four days after the issue is perfected; and after the said four days, either party may move for the appointment of a day for trial and the issuing of a *Venire facias*.

## LXV.

That with every such Motion the party shall be bound to deposit, in the hands of the Prothonotary, the sum of Five Pounds, Six Shillings and Eightpence, to be distributed as follows:—

To the Prothonotary for striking the Jury, for the Writ of *Venire facias*, for calling and swearing the Jury, and for recording the Verdict, Twenty Shillings.

To the Sheriff for his services according to the Tariff, Twenty Shillings.

To the Crier, Six Shillings and Eightpence.

And for the Jurors the sum of Three Pounds, the amount allowed by Law.

## LXVI.

That the Sheriff shall not be bound to summon such Jury until a sum of money be placed in his hands, sufficient to pay the costs of summoning such Jury.

## LXVII.

That any difference respecting the amount of the

sum to be so deposited be determined by one of the Judges.

### LXVIII.

That if the sum so deposited be more than sufficient to pay such costs, the surplus shall be returned to the party who deposited the same, and if it be insufficient, the balance shall be paid to the Sheriff before the Jury shall be sworn.

### LXIX.

That the striking of the Jury shall take place in the Office of the Prothonotary.

### LXX.

That the party who obtains an order for a *Venire facias* shall give a notice to the opposite party, of at least one day, of the time appointed for the striking of the Jury, but the want of such notice shall not prevent the striking of the Jury, if the party entitled to notice do not object to such want of notice.

### LXXI.

That if the Attorney of either of the parties make default to appear before the Prothonotary at the time appointed for the striking of the Jury, or appearing, shall refuse to strike out from the list of Jurors, in such cause, the names of twelve, or of any lesser number of such Jurors, the Prothonotary, in the absence, or on the refusal of such attorney, shall strike out of the said list of Jurors twelve on behalf of the party of such Attorney, in the manner directed by law, or such lesser number as the Attorney shall refuse or neglect to strike out.

## LXXII.

That in every case in which a Trial by Jury shall be ordered, two days at least before the day appointed for such trial, *Factums* or Paper Books containing a statement of the facts to be proved and of the Authorities in support of the demand and of the defence, be delivered by the parties respectively, sealed up, to the Prothonotary to be by him forthwith delivered to the Judge whose duty it may be to preside at the trial of such case.

## LXXIII.

That so soon as the *Venire facias* shall be returned, the parties shall be called, and if neither party shall appear, the Jury shall be forthwith discharged ; but if the Plaintiff shall appear and the Defendant, being so called, shall not appear, the default of such Defendant shall be recorded, and thereupon the evidence of the plaintiff shall be heard *Ex parte*, the verdict of the Jury taken thereon, and judgment entered as to Law and Justice shall appertain. And if the Defendant being so called shall appear, and the Plaintiff, being called, shall not appear, the default of such Plaintiff shall be recorded and Judgment of *non-suit* thereupon entered in due course, dismissing such Plaintiff, *sauf à se pourvoir*, with costs to the Defendant.

## LXXIV.

That in every case in which a Jury shall be sworn, and the Plaintiff in such cause shall choose, at any time before the verdict of such Jury shall be given, to become *non-suit*, and for that purpose shall withdraw from the Court, such Plaintiff shall be called, and not appearing, the default of such Plaintiff shall be re-

corded, and Judgment of *non-suit* shall thereupon be entered in due course, dismissing such Plaintiff, *sauf à se pourvoir*, with costs to the Defendant.

## LXXV.

That a Motion for a Judgment upon a verdict shall not be made until after the expiration of four days in term, from the day on which such verdict shall be recorded.

## LXXVI.

That every Motion for a new Trial, after verdict, be made on or before the fourth day in term next after the day on which such verdict shall be recorded.

## LXXVII.

That every Motion in arrest of Judgment after Verdict, be made on or before the expiration of the fourth day in Term, next after the day on which such Verdict shall be recorded; except when a motion for a new Trial shall have been made, in which case such Motion in arrest of Judgment shall be made on the second day next after the day on which such Motion for a new trial, shall have been disposed of.

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**CHAPTER XIII.***Oppositions and Executions.*

## LXXVIII.

That no Writ of Execution shall issue until a *Præcipe* for such Writ be filed in the Office of the Prothonotary, and that every such Writ be indorsed or signed by the Attorney or person by whom such Writ shall be so sued out.



## LXXXI.

And any Opposition to which an affidavit in form aforesaid shall not be annexed, shall not delay the Execution of any Writ of *Fieri Facias* or *Venditioni Exponas* issued in any cause; and notwithstanding the service or filing of any such Opposition, the Sheriff shall in such cause, proceed to the due execution of such Writ in like manner as if no Opposition had been served or filed. It being nevertheless provided that all such Oppositions shall be returned into this Court with such Writ.

## LXXXII.

That in all cases of Opposition *afin de distraire* or *afin de charge*, founded upon Title, it shall not be necessary to annex to such Oppositions any affidavit in support of the same.

## LXXXIII.

That every Opposition *afin de conserver* be filed, on or before the sixth day next after the return day mentioned in the Writ of Execution, under which the monies claimed by such Opposition shall have been levied; provided that in case the said Writ be returned into the Office of the Prothonotary, on a day subsequent to the said return day, such Opposition may be filed on or before the sixth day next after the day on which such Execution shall be so actually returned. And no Opposition shall be afterwards received, unless upon sufficient cause shewn, and upon such Terms as the Court shall adjudge.

## LXXXIV.

That in every case wherein the Plaintiff shall de-

clare that he does not intend to contest an Opposition *afin d'annuller, afin de distraire* or *afin de charge*, the Opposant shall be entitled to Judgment of *main levée*, without proof, provided that the Defendant, upon the service of a Rule *Nisi* to that effect, shall not shew cause to the contrary, or declare that he intends to contest such Opposition.

## LXXXV.

That the Rules, Orders and delays, prescribed by law or by this Court, with respect to pleadings, *Enquêtes* and hearings upon demands in chief, shall be the Rules, Orders and delays, with respect to all pleadings, *Enquêtes* and hearings upon Oppositions of every description.

## LXXXVI.

That a Register of all Writs of Execution, and of all Oppositions filed in the Office of the Sheriff, containing a full description of such Writs and Oppositions, and of all proceedings and matters relating thereto, be made and kept by the said Sheriff in his Office, to which all persons shall, at all times during office hours, have access *gratis*.

## LXXXVII.

That any Opposition, made without the ministry of an Attorney of this Court, which shall not contain an election of Domicile on the part of the Opposant, at some dwelling house within one mile from the Court House, shall not be received or filed.

## LXXXVIII.

That every Opposition shall contain the *Moyens* upon which the same is founded, and that no other *Moyens d'Opposition* shall thereafter be received or filed.

## LXXXIX.

That with every Opposition *afin de conserver*, shall be filed all the Exhibits in support thereof, with a List of such Exhibits.

## XC.

That within twelve days after the return day of any Writ of Execution, and after the Sheriff's return thereto, certifying that there are monies in his hands subject to the Order of the Court, the Prothonotary shall prepare and file a Report of Distribution.

## XCI.

That the Prothonotary shall prepare a List of all such Reports filed, and that such List shall be posted up in some conspicuous place in the Office of the Prothonotary.

## XCII.

That any party intending to contest such Report shall file his Contestation at the Office of the Prothonotary, on or before the expiration of Eight days next after the filing of such Report; provided always, that if the Report of Distribution be filed on any day other than a Monday, the delay for filing the Contestation, shall be computed from the Monday next following the day on which such Report shall have been filed.

## XCIII.

That immediately after the delay for filing such Contestation shall have expired, if no Contestation has been filed, the Plaintiff, may move that the the said Report be homologated with Costs; and if the Plaintiff omit to make such motion, on the juridical day, next following the expiration of the delay for the filing of contestations, any other party collocated may make such Motion.

## XCIV.

That the Rule obtained for the homologation of such Report shall not be served on the parties, but that the same shall be posted in the Prothonotary's Office, as heretofore, at least four days.

## XCV.

That in every case in which a Report of Distribution shall be made and filed by the Prothonotary, and a Contestation of such Report or of any Claim or Opposition on which such Report shall be founded, shall be made and filed, such Report, upon Motion to be made as hereinafter mentioned, shall be confirmed and homologated, as to all uncontested claims and Oppositions which shall precede in rank the Claim or Opposition which, by such Contestation, shall be contested, and as to all other uncontested Claims or Oppositions (if any there shall be) which cannot be affected by such Contestation; and Judgment according to such Report, in so far as the same shall be so confirmed and homologated, shall be entered up and Recorded, unless cause to the contrary shall be shewn. It being hereby provided that the Rule for such partial homologation shall not be served upon the parties, but that the same be publicly affixed in the Office of the Prothonotary at least four days. And that the Plaintiff shall have an exclusive right to move for the partial homologation of such report during the juridical day next following the expiration of the delay for the filing of Contestations; and if the Plaintiff omit to move for the partial homologation of the report, within the said juridical day, immediately thereafter, any party collocated may move for such partial homologation.

## XCVI.

That none of the delays hereinbefore mentioned with respect to Oppositions *afin de conserver*, and Reports of Collocation and Distribution, shall be held to run during the month of August.

## CHAPTER XIV.

## XCVII.

That any party requiring a notice of an application for a Confirmation of Title shall demand the same by a *Præcipe*.

## CHAPTER XV.

*Saisie Arrêt after Judgment.*

## XCVIII.

That any party intending to contest the Declaration of a *Tiers Saisi* shall file his Contestation within Eight days from the making of the Declaration of the *Tiers Saisi*, if the Attachment be an Attachment after Judgment ; and if the Attachment be an Attachment before Judgment, then within Eight days from the rendering of the Judgment in the original Cause.

## XCIX.

That the Rules, Orders and delays prescribed by law or by this Court with respect to Pleadings, *Enquêtes*, and hearings upon Demands in chief, shall be the Rules, Orders and delays with respect to all Pleadings, *Enquêtes* and hearings upon the Contestation of the Declaration of any *Tiers Saisi*.

## CHAPTER XVI.

*Inscriptions en faux.*

## C.

A party desirous of Inscribing *en faux* against an

Exhibit filed shall, by Motion addressed to the Court, pray leave so to do.

#### CI.

The Motion for leave to Inscribe *en faux* shall be signed by the party in whose name it is made, or by an Attorney specially authorised so to do, and an authenticated copy of the Power of Attorney given shall be filed with the said Motion.

#### CII.

The party filing such Exhibit shall, within a delay to be prescribed by the Court, on Motion of the Plaintiff *en faux*, declare in writing whether he intend to avail himself of such Exhibit in support of the allegations set forth in his pleading.

#### CIII.

Should the party filing such Exhibit omit to make such Declaration in writing, signed by himself, or by his Attorney *ad lites*, within the time prescribed, the said Exhibit shall, by Order of the Court, on the Motion of the Plaintiff *en faux*, be taken off the files of the Court, and shall thereafter be held and considered, to all intents and purposes, to have been withdrawn by the party who filed the same.

#### CIV.

If the Defendant *en faux* declare that he does not intend to avail himself of such Exhibit in support of his allegations, the said Exhibit shall be taken off the files of the Court, and shall be held and considered, to all intents and purposes, to have been withdrawn by the party who filed the same.

## CV.

If the Defendant *en faux* declare his intention to avail himself of such Exhibit for the purposes aforesaid, he shall file the *minute* thereof, if there be a *minute*, in the Office of the Prothonotary, within such time as shall be prescribed by the Court, and in default of so doing, the said Exhibit shall, on Motion of the Plaintiff *en faux*, be taken off the files of the Court, and held and considered, to all intents and purposes, to have been withdrawn by the party who filed the same.

## CVI.

Two days after the Plaintiff *en faux* shall have been notified of the filing of the said *minute* at the Office of the said Prothonotary, the said Plaintiff shall file, under his signature or that of his Attorney *ad lites*, his Inscription *en faux*, containing all the *Moyens de faux*, a copy whereof shall be served on the Attorney of the adverse party.

## CVII.

If the said Plaintiff omit so to do, the leave granted to him to Inscribe *en faux* shall, on Motion of the adverse party, be set aside, and the Plaintiff on the original demand allowed to proceed as if leave to Inscribe *en faux* had not been granted.

## CVIII.

When the *Moyens de faux* are filed, the Defendant *en faux* may move that the said *Moyens* be declared irrelevant and inadmissible, on which Motion it shall be competent to the Court, if it reject the same, to declare the *Moyens de faux* relevant and admissible, and to Order the Defendant *en faux* to file

his Plea thereto within a given delay, to be computed from the day of the making of the *Procès Verbal* next hereinafter mentioned.

### CIX.

That immediately after the rendering of the said Judgment declaring the *Moyens de faux* relevant and admissible, the Plaintiff or Defendant *en faux* may move that a *Procès Verbal*, descriptive of the Exhibit filed, be made in the presence of the adverse party, or his Attorney *ad lites*.

### CX.

If the Defendant *en faux* omit to file his Plea as ordered, the Plaintiff *en faux* shall be allowed to proceed *Exparte*.

### CXI.

The Plaintiff *en faux* may, within two days from the day of the filing of such Plea, file a special answer thereto. if he think fit.

### CXII.

Either party may. Inscribe the cause on the *Roll d'Enquête* for the adduction of evidence.

### CXIII.

The *Enquête* being closed, either party may Inscribe the cause for final hearing.

### CXIV.

The cause being Inscribed on the *Roll d'Enquête*, and subsequently on the *Roll de droit*, the proceed-

ings thereon shall be regulated by the Orders and Rules of Practice of this Court.

QUEBEC, 17th December, 1850.

(Signed), EDWD. BOWEN, CHIEF JUSTICE, S. C.,  
CHS. D. DAY, J. S. C.,  
G. VANFELSON, J. S. C.,  
CHARLES MONDELET, J. S. C.,  
E. BACQUET, J. S. C.,  
J. DUVAL, J. S. C.,  
W. C. MEREDITH, J. S. C.



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LOWER CANADA,

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SUPERIOR COURT.

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IT IS ORDERED—That the following additional RULES OF PRATICE be observed in the Districts of THREE RIVERS, ST. FRANCIS and GASPE, anything in the General Rules and Orders of Practice of this Court to the contrary notwithstanding :

I.

That no contested cause shall be heard upon any inscription on the *Roll de droit* unless one juridical day shall have intervened between the Inscription and the day appointed for the hearing.

II.

That every Opposition *afin de conserver* be filed on or before the second day next after the return day mentioned in the Writ of Execution under which the monies claimed by such Opposition shall have been levied. Provided that in case the said Writ be returned in the Office of the Prothonotary on a day subsequent to the said return day such Opposition may be filed on or before the second day next after the day on which such execution shall be so actually

returned. And no Opposition shall be afterwards received, unless upon sufficient cause shown and upon such terms as the Court shall adjudge.

III.

That within four days after the return day of any Writ of execution, and after the Sheriff's return thereof, certifying that there are monies in his hands subject to the order of the Court, the Prothonotary shall prepare and file a Report of distribution or of collocation.

IV.

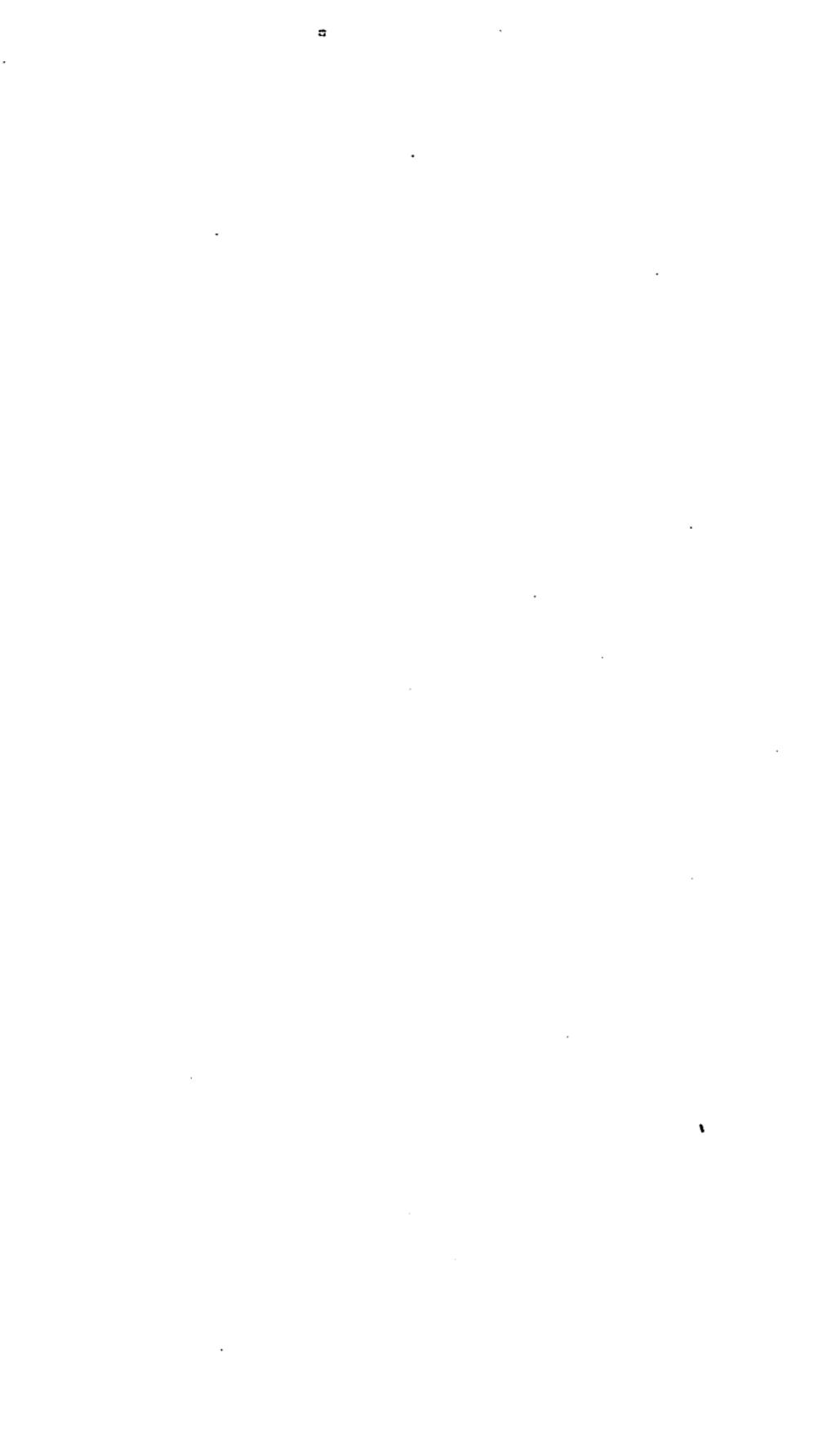
That any party intending to contest such Report shall file his Contestation (after a copy thereof has been served on the interested party) at the office of the Prothonotary on or before the expiration of two days next after the filing of such Report.

V.

That the Rule obtained for the homologation of any Report or partial Report shall not be served on the parties but that the same shall be posted up by a Bailiff of the Court in the Prothonotary's Office, at least one juridical day.

QUEBEC, 17th December, 1850.

(Signed), EDWD. BOWEN, CHIEF JUSTICE S. C.,  
D. MONDELET, J. S. C.,  
CHS. D. DAY, J. S. C.,  
J. SMITH, J. S. C.,  
G. VANFELSON, J. S. C.,  
CHARLES MONDELET, J. S. C.,  
E. BACQUET, J. S. C.,  
J. DUVAL, J. S. C.,  
W. C. MEREDITH, J. S. C.





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**TABLE OF FEES.**

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# LOWER CANADA.—SUPERIOR COURT.

It is ordered that the following Fees be allowed to the undermentioned Officers:—

TABLE 1.

| CLASS I.<br>In personal Actions if the matters in contest exceed £250, currency, and in Petitory actions. | Defendant's Attorney. |         | CLASS II.<br>In personal Actions if the matters in contest exceed £100, and do not exceed £250, cy., and in real and mixed actions, not specially provided for and also in actions en Reddition de compte, <i>pro socio</i> , en séparation de biens or en séparation de corps et de biens. |         | Defendant's Attorney. |         | CLASS III.<br>In personal Actions if the matters in contest do not exceed £100, cy., and in Actions en exhibition de titres and also under the Lessors and Lessees Act, § William IV., cap. 1. |         |   |
|-----------------------------------------------------------------------------------------------------------|-----------------------|---------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|-----------------------|---------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------|---|
|                                                                                                           | Plaintiff's Attorney. | £ s. d. | Plaintiff's Attorney.                                                                                                                                                                                                                                                                       | £ s. d. | Plaintiff's Attorney. | £ s. d. | Plaintiff's Attorney.                                                                                                                                                                          | £ s. d. |   |
|                                                                                                           | 4                     | 3       | 4                                                                                                                                                                                                                                                                                           | 3       | 6                     | 8       | 2                                                                                                                                                                                              | 10      | 0 |
|                                                                                                           | 4                     | 6       | 8                                                                                                                                                                                                                                                                                           | 3       | 10                    | 0       | 2                                                                                                                                                                                              | 13      | 4 |

## ACTIONS NOT CONTESTED.

1. If the action be settled after the taking out of the Writ, but before the Return.....
2. If the action be settled after default recorded for want of appearance, or after foreclosure for want of a Plea, but before the opening of the *Enquête*, where an *Enquête* is necessary, and before the Inscription for Judgment where no *Enquête* is necessary; or if the action be settled before Plea to the Merits, when the Defendant has appeared and has not been foreclosed from pleading; or if the Defendant confess Judgment before pleading to the merits or being foreclosed from pleading.....

3. If the action be settled after the opening, but before the closing of the *Enquête*; or if the action be settled after the Inscription for Judgment, where no *Enquête* is necessary; or if Judgment be rendered on such Inscription.....
4. If the action be settled after *Enquête* closed or if Judgment be rendered in such action (after *Enquête*).....
5. In any of the above cases in which the Defendant may have appeared by Attorney—to Defendant's Attorney.....

## ACTIONS CONTESTED.

6. If the action be dismissed on any Plea other than a Plea to the Merits; or if the action be settled after Plea to the Merits, but before *Enquête*.....
7. If the action be settled after the opening of the *Enquête*, but before final hearing on the Merits.....
8. If the action be settled after final hearing on the Merits or if Judgment be rendered on such hearing.....

ACTIONS *en revendication* for moveables to be classed according to the value of the thing claimed.

Hypothecary actions and actions for seigniorial dues, where the title of the Plaintiff as Seigneur is not contested, are to be considered in respect of costs, as merely personal actions. In any case where there are more Defendants than one, and where they sever in their defence, to Plaintiff's Attorney, on each additional issue, one half of the sum which he would have received, had there been but one issue, the whole amount payable in equal proportions by the party or parties to each issue.

|   |   |   |   |    |   |    |    |   |    |    |   |
|---|---|---|---|----|---|----|----|---|----|----|---|
| 6 | 5 | 0 | 5 | 0  | 0 | 3  | 15 | 0 | 1  | 13 | 4 |
| 8 | 6 | 8 | 6 | 13 | 4 | 4  | 0  | 0 | 5  | 17 | 6 |
|   |   |   |   |    |   | 2  | 6  | 8 | 7  | 10 | 0 |
|   |   |   |   |    |   | 10 | 0  | 0 | 10 | 0  | 0 |
|   |   |   |   |    |   | 5  | 0  | 0 | 3  | 15 | 0 |
|   |   |   |   |    |   | 7  | 6  | 7 | 10 | 0  | 0 |
|   |   |   |   |    |   | 12 | 10 | 0 | 7  | 10 | 0 |
|   |   |   |   |    |   |    |    |   | 8  | 0  | 0 |
|   |   |   |   |    |   |    |    |   | 6  | 0  | 0 |

**Additional Fees to TABLE I., when the cases may occur:—**

|                                                                                                                                                                                                                              | £ | s. | d. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|----|
| 9. For the second and every additional Copy of the Plaintiff's Declaration.....                                                                                                                                              | 0 | 5  | 0  |
| 10. Affidavit to obtain <i>Capias ad Respondendum</i> , <i>Saisie Arrêt</i> , <i>Saisie Revendication</i> or <i>Saisie Gagerie</i> , when Affidavit required.....                                                            | 0 | 10 | 0  |
| On every <i>Exception declinatoire</i> , <i>dilatatoire</i> or <i>péremptoire à la forme</i> , and on every <i>défense au fonds en droit</i> , rejected,—                                                                    |   |    |    |
| 11. To the Plaintiff's Attorney.....                                                                                                                                                                                         | 1 | 10 | 0  |
| 12. To the Defendant's Attorney.....                                                                                                                                                                                         | 1 | 3  | 4  |
| If the Plaintiff be permitted to amend his Declaration, after fying of an <i>Exception à la forme</i> ,—                                                                                                                     |   |    |    |
| 13. To the Plaintiff's Attorney.....                                                                                                                                                                                         | 1 | 15 | 0  |
| If the Plaintiff be permitted to amend his Declaration after fying of a <i>défense au fonds en droit</i> ,—                                                                                                                  |   |    |    |
| 14. To the Defendant's Attorney.....                                                                                                                                                                                         | 2 | 6  | 8  |
| On every <i>Exception dilatoire</i> maintained,                                                                                                                                                                              |   |    |    |
| 15. To the Defendant's Attorney.....                                                                                                                                                                                         | 2 | 6  | 8  |
| 16. To the Plaintiff's Attorney.....                                                                                                                                                                                         | 1 | 3  | 4  |
| For all proceedings on any application either before or after Judgment to liberate any person arrested for debt otherwise than by giving bail, or to obtain a <i>scellé</i> or the removal thereof,—                         |   |    |    |
| 17. If not contested—to each Attorney.....                                                                                                                                                                                   | 1 | 3  | 4  |
| 18. If contested—to each Attorney.....                                                                                                                                                                                       | 2 | 6  | 8  |
| 19. For all proceedings on any Petition, Motion or Rule not specially provided for, upon which Costs are ordered to be paid, to the party to whom Costs are awarded.....                                                     | 0 | 11 | 8  |
| Fee for Counsel at <i>Enquête</i> in any Contested Cause, this fee not to be allowed, unless an Appearance be fyled by the Counsel retained,—                                                                                |   |    |    |
| 20. To each Attorney—If action of first class.....                                                                                                                                                                           | 2 | 6  | 8  |
| If action of second class.....                                                                                                                                                                                               | 1 | 15 | 0  |
| If action of third class.....                                                                                                                                                                                                | 1 | 6  | 8  |
| 21. Ditto.....                                                                                                                                                                                                               |   |    |    |
| 22. Ditto.....                                                                                                                                                                                                               |   |    |    |
| 23. This fee to be allowed in Actions tried by Jury in like manner as in other Actions.<br>For all proceedings in an Action <i>en Reprise d'Instance</i> —one-third of the fee that would be allowed on the original demand, |   |    |    |
| 24. For all proceedings in an Action to have Judgment declared executory—same as in an Action <i>en Reprise d'Instance</i> ,                                                                                                 |   |    |    |

|                                                                                                                                                                                                                      |   |    |   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|---|
| On any rehearing ordered by the Court in a contested action,—                                                                                                                                                        | 2 | 6  | 8 |
| 25. If action be of first class—to each Attorney.....                                                                                                                                                                | 1 | 15 | 0 |
| 26. If action be of second class—to each Attorney.....                                                                                                                                                               | 1 | 6  | 8 |
| 27. If action be of third class—to each attorney.....                                                                                                                                                                | 0 | 6  | 8 |
| 28. For all proceedings on the suing out of a Writ of Execution.....                                                                                                                                                 |   |    |   |
| For all proceedings on the suing out of a Writ of <i>Saisie Arrêt</i> after Judgment,—                                                                                                                               |   |    |   |
| 29. If Declaration of <i>Tiers Saisi</i> be not contested—to the Plaintiff's Attorney.....                                                                                                                           | 1 | 3  | 4 |
| If contested, the costs the same as in an original demand of the same class—to be determined by the amount of the Judgment against the <i>Tiers Saisi</i> ,—                                                         |   |    |   |
| For all proceedings for a <i>folle Encheré</i> or for a Writ of Possession or for a <i>Contrainte par Corps</i> , except in the case hereinafter expressly provided for,—                                            |   |    |   |
| 30. To Attorney Moving.....                                                                                                                                                                                          | 1 | 3  | 4 |
| 31. To Attorney Shewing Cause.....                                                                                                                                                                                   | 1 | 0  | 0 |
| For all proceedings for a <i>contrainte par corps</i> against any person for injuring real property under seizure,—                                                                                                  |   |    |   |
| 32. If not contested—To each Attorney.....                                                                                                                                                                           | 1 | 3  | 4 |
| 33. If contested—To each Attorney.....                                                                                                                                                                               | 2 | 0  | 0 |
| 34. For prosecuting to Judgment a Report of Distribution, not contested.....                                                                                                                                         | 2 | 10 | 0 |
| For all proceedings upon a contestation of a Report of Distribution which shall not be withdrawn before the Inscription for final hearing on the Merits—when the amount of the collocation contested is above £250,— |   |    |   |
| 35. To the Attorney of the party contesting.....                                                                                                                                                                     | 4 | 3  | 4 |
| 36. To the Attorney of the creditor claiming.....                                                                                                                                                                    | 3 | 6  | 8 |
| If the amount of the collocation contested exceed £100, and do not exceed £250,—                                                                                                                                     |   |    |   |
| 37. To the Attorney of the party contesting.....                                                                                                                                                                     | 3 | 6  | 8 |
| 38. To the Attorney of the creditor claiming.....                                                                                                                                                                    | 2 | 10 | 0 |
| If the amount of the collocation contested exceed £50, and do not exceed £100,—                                                                                                                                      |   |    |   |
| 39. To the Attorney of the party contesting.....                                                                                                                                                                     | 2 | 10 | 0 |
| 40. To the Attorney of the creditor claiming.....                                                                                                                                                                    | 2 | 0  | 0 |
| If the amount of the collocation contested exceed £25, and do not exceed £50,—                                                                                                                                       |   |    |   |

|                                                                                                                                                                                                                                                                                                                                                                        | £ | s. | d. |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|----|
| 41. To the Attorney of the party contesting.....                                                                                                                                                                                                                                                                                                                       | 1 | 16 | 8  |
| 42. To the Attorney of the creditor claiming.....                                                                                                                                                                                                                                                                                                                      | 1 | 6  | 8  |
| If the amount of the collocation contested do not exceed £25,—                                                                                                                                                                                                                                                                                                         |   |    |    |
| 43. To the Attorney of the party contesting.....                                                                                                                                                                                                                                                                                                                       | 1 | 10 | 0  |
| 44. To the Attorney of the creditor claiming.....                                                                                                                                                                                                                                                                                                                      | 1 | 3  | 4  |
| If the contestation be withdrawn before the Inscription for hearing on the Merits—one half of the above fees according to the class,—                                                                                                                                                                                                                                  |   |    |    |
| For all proceedings after Judgment, ordering account to be rendered in any Action <i>en reddition de compte</i> —if the account be acquiesced in without <i>debats</i> ,—                                                                                                                                                                                              | 2 | 6  | 8  |
| 45. To each Attorney.....                                                                                                                                                                                                                                                                                                                                              |   |    |    |
| If the account be contested, the costs to be the same as in a contested personal action, the class to be determined by the amount for which the <i>rendant compte</i> shall be held accountable, if the costs be payable by the <i>rendant compte</i> ; and by the amount claimed by the <i>debats de compte</i> if the costs be payable by the <i>oyant compte</i> ,— |   |    |    |
| In Actions <i>en séparation de corps et de biens</i> —For all proceedings to liquidate the Matrimonial rights of the Plaintiff,—                                                                                                                                                                                                                                       | 2 | 6  | 8  |
| 46. If not contested—To each Attorney.....                                                                                                                                                                                                                                                                                                                             | 5 | 0  | 0  |
| 47. If contested—To each Attorney.....                                                                                                                                                                                                                                                                                                                                 |   |    |    |
| In Actions <i>en séparation de biens</i> —For all proceedings to liquidate the Matrimonial rights of the Plaintiff.                                                                                                                                                                                                                                                    | 2 | 6  | 8  |
| 48. To Plaintiff's Attorney.....                                                                                                                                                                                                                                                                                                                                       | 1 | 3  | 4  |
| 49. For all proceedings to cause Curator to be appointed to <i>décaissement</i> in any hypothecary action.....                                                                                                                                                                                                                                                         |   |    |    |
| (And to Curator, £1 3s. 4d.)                                                                                                                                                                                                                                                                                                                                           |   |    |    |

### *Inscriptions de faux.*

When cause settled after the *moyens de faux* are declared pertinent,—

|                                                                                   |   |   |   |
|-----------------------------------------------------------------------------------|---|---|---|
| 50. To the Attorney of the Plaintiff <i>en faux</i> .....                         | 2 | 6 | 8 |
| 51. To the Attorney of the Defendant <i>en faux</i> .....                         | 5 | 0 | 0 |
| When cause settled after answer to the <i>moyens</i> and before <i>Enquête</i> ,— |   |   |   |
| 52. To the Attorney of the Plaintiff <i>en faux</i> .....                         | 2 | 6 | 8 |

|                                                                                         |   |    |   |
|-----------------------------------------------------------------------------------------|---|----|---|
| 53. To the Attorney of the Defendant <i>en faux</i> .....                               | 1 | 13 | 4 |
| When cause settled after <i>Enquête</i> ,—                                              |   |    |   |
| 54. To the Attorney of the Plaintiff <i>en faux</i> .....                               | 3 | 10 | 0 |
| 55. To the Attorney of the Defendant <i>en faux</i> .....                               | 2 | 6  | 8 |
| When cause settled after final hearing, or where Judgment is rendered on such hearing,— |   |    |   |
| 56. To the Attorney of Plaintiff <i>en faux</i> .....                                   | 5 | 16 | 8 |
| 57. To the Attorney of Defendant <i>en faux</i> .....                                   | 3 | 10 | 0 |
| Incidental Cross-demands; one-half of the fees allowed on the original demand,—         |   |    |   |

### *Interventions.*

Costs on Interventions to be the same as on Original demands of the same Class.

### *Oppositions afin de conserver.*

|                                                                                                                                                                                                                                                     |   |    |   |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|---|
| If not contested,—                                                                                                                                                                                                                                  |   |    |   |
| 58. If sum due do not exceed £20.....                                                                                                                                                                                                               | 1 | 5  | 0 |
| 59. If it exceed £20, and do not exceed £50.....                                                                                                                                                                                                    | 2 | 0  | 0 |
| 60. If it exceed £50, and do not exceed £100.....                                                                                                                                                                                                   | 2 | 10 | 0 |
| 61. If it exceed £100.....                                                                                                                                                                                                                          | 3 | 0  | 0 |
| If contested,—                                                                                                                                                                                                                                      |   |    |   |
| Costs to be the same as in a contested personal action for the same amount, excepting that the costs of any opposition for a sum less than £50, if contested shall be the same as in a contested action of the highest class in the Circuit Court,— |   |    |   |
| 62. Oppositions <i>afin de distraire</i> , <i>afin d'annuller</i> or <i>afin de charge</i> , if not contested.....                                                                                                                                  | 3 | 0  | 0 |
| If contested, costs same as in actions of the second class.                                                                                                                                                                                         |   |    |   |

### *Ratification of Title.*

|                                                                     |                                                                                                                                                                     |          |
|---------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------|
| For all proceedings to obtain a Sentence of Ratification of Title,— |                                                                                                                                                                     |          |
| 63.                                                                 | To the Petitioner's Attorney if purchase money be under £250.....                                                                                                   | £ 3 10 0 |
| 64.                                                                 | If purchase money exceed £250, and do not exceed £500.....                                                                                                          | 5 0 0    |
| 65.                                                                 | If purchase money exceed £500.....                                                                                                                                  | 6 5 0    |
|                                                                     | Fees on Oppositions to sentences of Ratification of Title and upon contestations thereof, to be the same as on Oppositions to Executions and contestations thereof. |          |

### *Proceedings under 12 Vic., c. 41.*

The Costs upon proceedings, under any Writ, (excepting Writs of *Certiorari*) sued out under the provisions of this Statute to be the same as in actions of the third class.

### *Writs of Certiorari.*

If settled before the Motion to file any such Writ,—

|     |                                     |        |
|-----|-------------------------------------|--------|
| 66. | To Petitioner.....                  | 2 6 8  |
|     | If not settled before such Motion,— |        |
| 67. | To Petitioner.....                  | 3 10 0 |
| 68. | To Respondent.....                  | 2 10 0 |

### *Habeas Corpus.*

For all proceedings upon any Writ of Habeas Corpus which shall not be settled before the Motion to file the same,—

|     |                        |       |
|-----|------------------------|-------|
| 69. | To the Petitioner..... | 1 3 4 |
| 70. | To the Respondent..... | 1 0 0 |

For the like if settled before the Motion to file the same,—

|     |                        |        |
|-----|------------------------|--------|
| 71. | To the Petitioner..... | 0 13 4 |
| 72. | To the Respondent..... | 0 11 8 |

### *Commission Rogatoire.*

To the Attornies engaged at the place where the Writ is executed,—

|     |                                                                    |        |
|-----|--------------------------------------------------------------------|--------|
| 73. | To the Attorney prosecuting such Commission.....                   | 1 3 4  |
| 74. | To the Respondent.....                                             | 0 11 8 |
| 75. | For the examination in chief or cross-examination of any witness.. | 0 3 4  |
| 76. | For all proceedings to obtain Probate of any Will.....             | 2 10 0 |

### *Evocations.*

If the Evocation be maintained, costs to be as in an action of the third class, which costs shall include all service in both Courts,—

|     |                                             |       |
|-----|---------------------------------------------|-------|
| 77. | If Evocation be rejected—To each party..... | 1 3 4 |
|-----|---------------------------------------------|-------|

### *Appeals from Bankrupt Court.*

On every contested Appeal which shall be prosecuted to final Judgment, or final hearing,—

|     |                                                          |        |
|-----|----------------------------------------------------------|--------|
| 78. | To Attorney of Appellant.....                            | 7 10 0 |
| 79. | To Attorney of Respondent.....                           | 6 0 0  |
|     | If Appeal be not contested,—                             |        |
| 80. | To Attorney of Appellant.....                            | 5 16 8 |
|     | If Appeal be dismissed or settled before final hearing,— |        |
| 81. | To Attorney of Appellant.....                            | 3 10 0 |
| 82. | To Attorney of Respondent.....                           | 2 6 8  |

## Appeals from Circuit Court.

On every contested Appeal which shall be prosecuted to final Judgment or hearing,—

83. To the Attorney for Appellant.  
 84. To the Attorney for Respondent.  
 If Appeal be discontinued or dismissed before final hearing,—  
 85. To Appellant.  
 86. To Respondent.  
 If Appeal be not contested,—  
 87. To Appellant's Attorney prosecuting Appeal to final Judgment.

| If Judgment<br>appealed<br>from<br>amount to £25<br>or exceed<br>that sum. |       | If Judgment<br>appealed<br>from<br>amount to<br>do not<br>exceed<br>£25. |       |
|----------------------------------------------------------------------------|-------|--------------------------------------------------------------------------|-------|
| £                                                                          | s. d. | £                                                                        | s. d. |
| 3                                                                          | 10 0  | 2                                                                        | 6 8   |
| 2                                                                          | 6 8   | 1                                                                        | 13 4  |
| 1                                                                          | 15 0  | 1                                                                        | 3 4   |
| 1                                                                          | 3 4   | 0                                                                        | 16 8  |
| 1                                                                          | 15 0  | 1                                                                        | 3 4   |

## To the Sheriff for his Fees on the following proceedings, exclusive of disbursements.

|                                                                                                                                                                                  |   |    |   |   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|---|---|
| 88. For a copy of any Writ of Summons addressed to the Sheriff, and Warrant return included.                                                                                     | £ | 0  | 5 | 0 |
| 89. For each additional copy.                                                                                                                                                    | 0 | 0  | 5 | 0 |
| 90. For all his proceedings on the execution of any <i>Capias ad respondendum</i> .                                                                                              | 1 | 0  | 0 | 0 |
| 91. For each additional Defendant.                                                                                                                                               | 0 | 10 | 0 | 0 |
| 92. For all his proceedings on the execution of any Writ of Attachment or <i>Saisie arrêt</i> before Judgment or of any Writ of <i>Saisie revendication</i> .                    | 1 | 0  | 0 | 0 |
| 93. For each additional Defendant.                                                                                                                                               | 0 | 5  | 0 | 0 |
| 94. For all his proceedings on the execution of any Writ of <i>Saisie Gagerie</i> .                                                                                              | 0 | 11 | 8 | 0 |
| 95. For each additional Defendant.                                                                                                                                               | 0 | 5  | 0 | 0 |
| 96. For the return to any Writ issued under the authority of the Provincial Statute, 12 Vic., c. 88, sec. 63, and ordered to be returned by the Sheriff into the Superior Court. | 0 | 10 | 0 | 0 |
| 97. For all his proceedings on the execution of any Writ of monition.                                                                                                            | 1 | 0  | 0 | 0 |
| 98. For every additional copy.                                                                                                                                                   | 0 | 1  | 0 | 5 |

|                                                                                                                                                                                  |   |    |   |   |
|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|---|---|
| 99. For the execution of any order for the delivery of goods seized, or for the discharge of a prisoner, return included.                                                        | £ | 0  | 3 | 4 |
| 100. For all his proceedings to Summon a Jury under a Writ of <i>Venire facias</i> , return included.                                                                            | 1 | 0  | 0 | 0 |
| 101. For his warrant on any Writ of Execution.                                                                                                                                   | 0 | 5  | 0 | 0 |
| 102. For each return to any Writ of Execution.                                                                                                                                   | 0 | 5  | 0 | 0 |
| 103. On every Opposition filed in his hands, including return.                                                                                                                   | 0 | 5  | 0 | 0 |
| 104. Drawing advertisements for sale of Real Estate under Writ of Execution, copies for Printers, &c.                                                                            | 0 | 16 | 8 | 0 |
| 105. Drawing conditions of Sale.                                                                                                                                                 | 0 | 6  | 8 | 0 |
| 106. For all his proceedings on any Writ of possession.                                                                                                                          | 0 | 10 | 0 | 0 |
| 107. Receiving and enregistering Bond, under 41 Geo. III., c. 7, sec. 15.                                                                                                        | 0 | 10 | 0 | 0 |
| 108. For every other Bail Bond.                                                                                                                                                  | 0 | 5  | 0 | 0 |
| 109. Assignment of same, if required.                                                                                                                                            | 0 | 5  | 0 | 0 |
| 110. For every Search of Records for one year or less.                                                                                                                           | 0 | 1  | 0 | 0 |
| 111. For every general Search.                                                                                                                                                   | 0 | 2  | 6 | 0 |
| 112. For every official Certificate.                                                                                                                                             | 0 | 1  | 0 | 0 |
| 113. For any Office copy of any document, per hundred words.                                                                                                                     | 0 | 0  | 6 | 0 |
| 114. For every Deed of Sale of immovable estate, not exceeding £100, including Registry of Deed.                                                                                 | 1 | 0  | 0 | 0 |
| 115. For the like, where the consideration exceeds £100.                                                                                                                         | 1 | 10 | 0 | 0 |
| 116. For all his proceedings for the arrest of a Defendant under a Writ of <i>cap. ad. sat.</i> ; or under a Judgment ordering a <i>contrainte par corps</i> , including return. | 1 | 0  | 0 | 0 |

The above fees to be payable in all cases (excepting when herein otherwise provided for) when the officer is required to perform the duty for which the fee is chargeable.

## To the Bailiffs.

|                                                                                                                         |   |    |   |   |
|-------------------------------------------------------------------------------------------------------------------------|---|----|---|---|
| 117. For every service of a Writ of Summons and return.                                                                 | 0 | 2  | 0 | 0 |
| 118. For every service of a Writ of Subpœna, copy of Judgment, Rule of Court, notice, or other paper, including return. | 0 | 1  | 0 | 0 |
| 119. For all proceedings on the arrest of any person.                                                                   | 0 | 10 | 0 | 0 |
| 120. For all proceedings on any seizure or attachment, including <i>procs verbal</i> , not exceeding 300 words.         | 0 | 12 | 6 | 0 |
| 121. For every additional 100 words.                                                                                    | 0 | 1  | 0 | 4 |

|                                                                                                                                   | £ | s. | d. |
|-----------------------------------------------------------------------------------------------------------------------------------|---|----|----|
| 122. For every publication in both languages at the Church Door, including <i>affiches</i> , affixing same, &c.....               | 0 | 2  | 0  |
| 123. For the sale of goods and chattels.....                                                                                      | 0 | 7  | 6  |
| 124. For a return of no goods or no lands.....                                                                                    | 0 | 2  | 6  |
| 125. For a return of <i>rebellion à Justice</i> .....                                                                             | 0 | 5  | 0  |
| 126. For all services executing a Writ of possession.....                                                                         | 0 | 10 | 0  |
| 127. For a <i>Recoars</i> , when required.....                                                                                    | 0 | 2  | 0  |
| 128. For attendance on Jury Trials under direction of the Sheriff, per diem.....                                                  | 0 | 5  | 0  |
| 129. Mileage to be allowed in all cases excepting for the first mile, per league out and in (exclusive of Tolls and Ferries)..... | 0 | 1  | 6  |

Whenever a Bailiff is the bearer of several Writs to be executed at the same time the charge of mileage to be paid by the Defendants in equal proportions.  
 In appealable Cases in the Circuit Court, the like fees as above.

**To the Crier, including the Tipstaff.**

|                                                                                                                              |   |   |   |
|------------------------------------------------------------------------------------------------------------------------------|---|---|---|
| 130. On the return into Court of any action (this fee to be paid at the time of the return).....                             | 0 | 3 | 9 |
| 131. On each contested cause inscribed for <i>Enquête</i> .....                                                              | 0 | 5 | 0 |
| 132. On each cause, not contested, inscribed for <i>Enquête</i> .....                                                        | 0 | 2 | 6 |
| 133. In every cause in which a Jury Trial shall be ordered (to be paid at the time of taking out of the <i>Venire</i> )..... | 0 | 6 | 8 |
| 134. For all proceedings in a case of <i>licitation</i> of one <i>héritage</i> or more.....                                  | 1 | 0 | 0 |

QUEBEC, 17th December, 1850.

(Signed), EDWD. BOWEN, CHIEF JUSTICE S. C.,  
 CHARLES MONDELET, J. S. C.,  
 E. BACQUET, J. S. C.,  
 J. DUVAL, J. S. C.,  
 W. C. MEREDITH, J. S. C.,  
 D. MONDELET, J. S. C.,  
 CHS. D. DAY, J. S. C.,  
 J. SMITH, J. S. C.,  
 G. VANFELSON, J. S. C.,

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(4)

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LOWER CANADA.

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CIRCUIT COURT.

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IT IS ORDERED—that from henceforth the following ORDERS and RULES OF PRACTICE shall be the Orders and Rules of Practice for the CIRCUIT COURT of LOWER CANADA.

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*General Rules.*

I.

That the Court be opened at the hour of Ten in the forenoon of each Juridical day, unless otherwise specially adjourned.

II.

That the Queen's Counsel, Barristers, Attorneys and Officers of the Court be habited in the manner prescribed by the Rules of Practice of the Superior Court.

III.

That every Attorney elect his domicile within one mile from the Court House, in default whereof he shall be considered to have elected his domicile at the Office of the Clerk.

## IV.

That the Office of the Clerk, in the Districts of Quebec and Montreal, be open, in Vacation, from the hour of 8, A. M. to the hour of 4, P. M.; and during Term, from 8, A. M. to 6, P. M. And, in the Districts of Three Rivers, Saint Francis, and Gaspé, from 9, A. M. till Noon, and from 2 to 4, P. M. in Vacation; and during Term, from 8, A. M., till 6, P. M.

## V.

That no Attorney or Officer of the Court be received as Bail or Surety in any cause.

## VI.

That the Clerk shall keep a Register of every Process *ad respondendum* issuing from this Court, specifying the names of the parties, the amount demanded, the cause of action and the day of return.

## VII.

That in all cases in which the Defendant is entitled to a Bill of Particulars, a copy thereof shall be annexed to the original Writ or Declaration, and to the Copy to be served on the Defendant, and in default thereof, the Plaintiff's action shall, on motion of the Defendant, be dismissed with costs—*sauf à se pourvoir*.

## VIII.

That all services on Attorneys be made between the hours of Nine in the forenoon and Six in the afternoon, from the 21st of March to 21st of September, and between the hours of 9, A. M., and 5, P. M., during the remainder of the year.

## IX.

That no change of Attorney be allowed without leave of the Court.

## X.

That when a party ceases to be represented by Attorney, he may, by Rule of Court, be compelled to name another Attorney. In default of a Plaintiff so doing, his action shall be dismissed with costs, *sauf à se pourvoir*. If the Defendant omit so to do, the Plaintiff shall be allowed to proceed as if the Defendant had not appeared in the cause.

## XI.

That all Exhibits, with a list thereof, be filed with the Declaration or plea, as the case may require.

## XII.

That no party shall be bound to file any act *sous seing privé*, before his *Enquête*; but that a certified copy of such document shall be filed with the Declaration or plea, as is above directed.

## XIII.

That if a Defendant neglect to file his Exhibits with his plea, such Exhibits shall not be afterwards received or filed, unless allowed by the Court.

## XIV.

That either of the parties in a cause may take from the Clerk's Office all Exhibits filed, except writings *sous seing privé*, and the same keep during one day, on signing a receipt for the same on the list filed in the cause.

## XV.

That every *défense au fonds en droit* shall contain an assignment of the causes of demurrer.

## XVI.

That all Incidental Cross-demands be filed with the Defendant's plea, and that all Rules of Practice shall apply to Incidental Cross-demands.

## XVII.

That every such Incidental Cross-demand shall be considered a distinct action, and shall not delay the proceedings on the principal demand.

## XVIII.

That every notice of Motion or Rule *nisi* shall be served one day in Term, and two days in Vacation, before the party can be called upon to shew cause.

## XIX

That of all Motions for Attachments two days' notice shall be given, accompanied by a Copy of all Affidavits to be filed in support of such Motion.

## XX.

That all papers filed shall be regularly docketed, by specifying the Title and Number of the cause, describing the paper filed, and stating by whom filed.

## XXI.

That all applications for Security for Costs be made on or before the second day after the day of return.

## XXII.

That in computations of time, Sundays and binding Holydays—*Fêtes d'Obliigation*—shall not be reckoned, unless otherwise provided by Law.

## XXIII.

That when any delay shall expire on a non-juridical day, such delay shall be held to extend to the close of the next Juridical day.

## XXIV.

That the Clerk shall not receive or file any pleading or paper writing, unless the fee allowed thereon be paid.

## XXV.

That no *Exception déclinatoire, péremptoire à la forme* or *dilatatoire*, be received unless the party offering such Exception shall therewith deposit in the hands of the Clerk, the sum of one pound, six shillings, and eight pence, for every such Exception, to answer the costs of the adverse party, if such Exception be dismissed or withdrawn, in the proportion of six shillings and eight pence to the Clerk, and twenty shillings to the Attorney.

## XXVI.

That every Affidavit or Certificate of Service, shall particularly describe the manner, place, and time of service, in letters, and also the distance from the place of service to the Court House, at which the party is required to appear.

## XXVII.

That it shall be the duty of the Clerk to call the causes, each day, in the following order :

1st.—Causes Returned.

2nd.—Non-appealable Causes fixed for final hearing *Exparte*.

3rd.—Non-appealable Causes in which one of the parties is to be heard on the *serment décisoire*.

4th.—Non-appealable Causes contested.

5th.—Appealable Causes—*Exparte*.

6th.— do. do. contested.

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### Of Enquêtes.

#### XXVIII.

That the Clerk shall keep a Roll of all Causes inscribed for the adduction of Evidence.

#### XXIX.

That of every Inscription on the *Roll d'Enquête* one day's notice shall be given in Term, and four days in Vacation.

#### XXX.

That if the Plaintiff or Defendant is not ready to examine his witnesses on the day fixed for the *Enquête*, his *Enquête* shall, on Motion, be declared closed.

#### XXXI.

That every application for an Order or a Commission, in the nature of a *Commission Rogatoire*, for the Examination of Witnesses, be applied for within two days after issue joined.

#### XXXII.

That all Interrogatories annexed to such Commission, whether for the Examination of Witnesses or of

a party on *faits et articles*, shall be allowed by a Judge before the party can be called upon to answer.

### XXXIII.

- That either party may at any period cause the Return to a Commission by him sued out to be opened, unless good cause to the contrary be shewn. But the return to a Commission sued out by a Defendant shall not be opened until Plaintiff's *Enquête* has been closed.

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## *Roll de Droit.*

### XXXIV.

That the Clerk shall keep a Roll of all Causes inscribed for preliminary hearing *en droit*, and another Roll of all Causes inscribed for final hearing on the merits.

### XXXV.

That of all such Inscriptions one day's notice shall be given in Term, and two days in Vacation.

### XXXVI.

That either party may inscribe the Cause for final hearing on the merits, or for a preliminary hearing *en droit*.

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## *Of Oppositions.*

### XXXVII.

All Oppositions shall contain the reasons or *moyens d'opposition*, and none shall be admitted after the filing of any Opposition.

## XXXVIII.

Each Opposition *afin d'annuller* or *de distraire*, shall be supported by an Affidavit in the following form :

*Lower Canada,* }  
*Circuit.* }

CIRCUIT COURT.

A. B.

PLAINTIFF ;

vs.

C. D.

DEFENDANT.

A. B., of \_\_\_\_\_ being duly sworn, doth depose and say, that the facts articulated and set forth in the annexed Opposition *afin d* \_\_\_\_\_ and each of them is, and are true, and that the said Opposition is not made with any intent unjustly to retard or delay the sale of the whole or any part of the moveable or immoveable property, seized by virtue of the Writ of Execution in this cause issued, but that the same is made in good faith, for the sole purpose of obtaining justice.

Sworn before me, at }  
this \_\_\_\_\_ day of \_\_\_\_\_ 18 }

## XXXIX.

No Bailiff shall receive any of the Oppositions abovementioned, unless supported by such Affidavit ; but it shall be the duty of the Bailiff to proceed as if no such Opposition had been presented to him.

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*Inscriptions en Faux.*

## XL.

A party desirous of inscribing *en faux* against an

Exhibit filed, shall, by Motion addressed to the Court, pray leave so to do.

#### ·XLI.

The Motion for leave to inscribe *en faux* shall be signed by the party in whose name it is made, or by an Attorney specially authorised so to do, and an authentic Copy of the Power of Attorney given shall be filed with the said Motion.

#### XLII.

The party filing such Exhibit shall, within the delay to be prescribed by the Court, on motion of the Plaintiff *en faux*, declare in writing, if he intends to avail himself of such Exhibit in support of the allegations set forth in his pleading.

#### XLIII.

Should the party filing such Exhibit omit to make such declaration in writing, signed by himself or by his Attorney *ad lites*, within the time prescribed, the said Exhibit shall, by order of the Court, on the Motion of the Plaintiff *en faux*, be taken off the files of the Court, and shall thereafter be held and considered, to all intents and purposes, to have been withdrawn by the party who filed the same.

#### XLIV.

If the Defendant *en faux* declare that he does not intend to avail himself of such Exhibit in support of his allegations, the said Exhibit shall be taken off the files of the Court, and shall be held and considered to all intents and purposes, to have been withdrawn by the party who filed the same.

## XLV.

If the Defendant *en faux* declare his intention to avail himself of such Exhibit for the purposes aforesaid, he shall file the *minute* thereof, if there be a *minute*, in the Office of the Clerk, within such time as shall be prescribed by the Court, and in default of so doing, the said Exhibit shall, on Motion of the Plaintiff *en faux*, be taken off the files of the Court, and held and considered, to all intents and purposes, to have withdrawn by the party who filed the same.

## XLVI.

Two days after the Plaintiff *en faux* shall have been notified of the filing of the said *minute* at the Office of said Clerk, the said Plaintiff shall file, under his signature or that of his Attorney *ad lites*, his inscription *en faux*, containing all the *moyens de faux*, a copy whereof shall be served on the Attorney of the adverse party. If the said Plaintiff omit so to do, the leave granted to him, to inscribe *en faux* shall, on Motion of the adverse party, be set aside, and the Plaintiff on the original Demand, allowed to proceed as if leave to inscribe *en faux* had not been allowed.

## XLVII.

When the *moyens de faux* are filed, the Defendant *en faux* may move that the said *moyens* be declared irrelevant and inadmissible—on which Motion, it shall be competent for the Court, if it reject the same, to declare the *moyen de faux* relevant and admissible, and to order the Defendant *en faux* to file his plea thereto, within a given delay to be computed from the day of the making of the *Procès Verbal* next hereinafter mentioned.

## XLVIII.

That immediately after the rendering of the said Judgment declaring the *moyens de faux* relevant and admissible, the Plaintiff or Defendant *en faux* may move that a *Procès Verbal*, descriptive of the Exhibit filed, be made in the presence of the adverse party or his Attorney *ad lites*.

## XLIX.

If the Defendant *en faux* omit to file his plea as ordered, the Plaintiff *en faux* shall be allowed to proceed *ex parte*.

## L.

The Plaintiff *en faux* may within two days from the day of the filing of such Plea, file a special answer thereto, if he thinks fit.

## LI.

Either party may inscribe the cause on the *Roll d'Enquêtes* for the adduction of evidence.

## LII.

The *Enquêtes* being closed, either party may inscribe the cause for final hearing.

## LIII.

This cause being inscribed on the *Roll d'Enquêtes* and on the *Roll de droit*, the proceedings thereon shall be regulated by the Orders and Rules of Practice of this Court.

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*The following Rules of Practice shall apply specially to non-appeable cases.*

## LIV.

That the parties shall be bound to proceed to

Evidence on the day named for that purpose ; should the Plaintiff not be ready to proceed, his action shall be dismissed with costs, *sauf à se pourvoir*—in case the Defendant is not ready to proceed, the Plaintiff shall be allowed to proceed *Ex parte*.

## LV.

The Attorneys shall sign all pleadings by them filed—the Clerk shall enter on the Declaration the name of the Defendant's Attorney.

## LVI.

All Interrogatories upon the *serment décisoire* or upon *faits et articles* shall be served the day before that on which the party is to answer, when the party to be interrogated does not reside more than five leagues from the Court House, and when the said party resides at a distance of more than five leagues from the Court House, an additional delay of one day shall be required for every additional five leagues.—But the Judge may, in his discretion, allow either party to be interrogated on the *serment décisoire* without requiring the Interrogatories to be in writing.

QUEBEC, 17th December, 1850.

(Signed,) EDWD. BOWEN, CHIEF JUSTICE, S. C.  
 D. MONDELET, J. S. C.,  
 CHS. D. DAY, J. S. C.,  
 G. VANFELSON, J. S. C.,  
 CHARLES MONDELET, J. S. C.,  
 J. SMITH, J. S. C.,  
 ED. BACQUET, J. S. C.,  
 J. DUVAL, J. S. C.,  
 W. C. MEREDITH, J. S. C.

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CIRCUIT COURT.

TABLE OF FEES.

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# LOWER CANADA.—CIRCUIT COURT.

It is ordered that the following Fees be allowed to the undermentioned Officers:—

**TABLE 1.**

*Fees to be taken by Attorneys in Appealable Cases.*

| 1st CLASS.<br>Actions in which the sum of money or value of the thing demanded exceeds £25, currency. | Plaintiff's Attorney. |       | Defendant's Attorney. |       | 2d CLASS.<br>Actions in which the sum of money or value of the thing demanded exceeds £15, currency, and does not exceed £25, cy. |
|-------------------------------------------------------------------------------------------------------|-----------------------|-------|-----------------------|-------|-----------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                       | £                     | s. d. | £                     | s. d. |                                                                                                                                   |
|                                                                                                       | 1                     | 16    | 8                     | 0     |                                                                                                                                   |
| 2                                                                                                     | 0                     | 0     | 1                     | 13    | 4                                                                                                                                 |

ACTIONS NOT CONTESTED.

1. If the action be settled after the taking out of the Writ, but before the Return...
2. If the action be settled after default recorded for want of appearance, or after foreclosure for want of a Plea, but before the opening of the *Enquête*, where an *Enquête* is necessary, or before the Inscription for Judgment where no *Enquête* is necessary; or if the action be settled before Plea to the Merits, when the Defendant has appeared and has not been foreclosed from pleading; or if the Defendant confess Judgment before pleading to the Merits or being foreclosed from pleading.....

3. If the action be settled after the opening, but before the closing of the *Enquête*; or if the action be settled after the Inscription for Judgment, when no *Enquête* is necessary, or if Judgment be rendered on such Inscription....
  4. If the action be settled after *Enquête* closed, or if Judgment be rendered after *Enquête*.....
- In any of the above cases in which the Defendant may have appeared by Attorney—to Defendant's Attorney.....

ACTIONS CONTESTED.

5. If the action be dismissed on any Plea other than a Plea to the Merits; or if the action be settled after Plea to the Merits, but before *Enquête*.....
6. If the action be settled after the opening of the *Enquête*, but before final hearing on the Merits.....
7. If the action be settled after final hearing on the Merits, or if Judgment be rendered after such hearing.....

In any case where there are move Defendants than one, and where they sever in their defence—to Plaintiff's Attorney, on each additional issue, one half of the sum which he would have received, had there been but one issue, the whole amount payable in equal proportions by the party or parties to each issue.

|   |    |   |   |    |   |
|---|----|---|---|----|---|
| 2 | 15 | 0 | 2 | 5  | 0 |
| 3 | 13 | 4 | 3 | 0  | 0 |
| 1 | 3  | 4 | 1 | 0  | 0 |
| 2 | 15 | 0 | 2 | 5  | 0 |
| 4 | 2  | 6 | 3 | 7  | 6 |
| 5 | 10 | 0 | 4 | 10 | 0 |

## Additional Fees to TABLE I.—Appealable Cases.

|                                                                                                                                                                                | £ | s. | d. |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|----|
| 8. For the second and every additional Copy of the Plaintiff's Declaration.....                                                                                                | 0 | 3  | 4  |
| 9. For Affidavit to obtain <i>Capias ad Respondendum</i> , <i>Saisie Arrêt</i> , <i>Saisie Revendication</i> , or <i>Saisie Gagerie</i> , when Affidavit required.....         | 0 | 7  | 6  |
| On every <i>Exception déclinatoire</i> , <i>dilatatoire</i> , or <i>péremptoire à la forme</i> , and on every <i>défense au fonds en droit</i> , rejected,—                    |   |    |    |
| 10. To Plaintiff's Attorney.....                                                                                                                                               | 1 | 0  | 0  |
| 11. To Defendant's Attorney.....                                                                                                                                               | 0 | 15 | 0  |
| 12. To the Plaintiff be permitted to amend his Declaration, after the filing of an <i>Exception à la forme</i> ,—                                                              | 0 | 15 | 0  |
| 13. To the Defendant's Attorney.....                                                                                                                                           | 1 | 5  | 0  |
| 14. If the Plaintiff be permitted to amend his Declaration, after the filing of a <i>Défense au fonds en droit</i> ,—                                                          | 1 | 5  | 0  |
| 15. To the Defendant's Attorney.....                                                                                                                                           | 0 | 12 | 6  |
| 16. To Plaintiff's Attorney on any <i>Exception dilatoire</i> maintained.....                                                                                                  | 0 | 6  | 8  |
| For all proceedings on any Petition, Motion or Rule not specially provided for, upon which Costs are ordered to be paid.—To the party to whom Costs are awarded.....           |   |    |    |
| For all proceedings on any Action <i>en Reprise d'Instance</i> —one-third of the fees that would be allowed on the original demand, according to the stage of the proceedings. |   |    |    |
| For all proceedings in an Action to have Judgment declared executory, same fees as in an Action <i>en Reprise d'Instance</i> ,—                                                |   |    |    |
| 17. For all fees on the suing out of a Writ of Execution.....                                                                                                                  | 0 | 3  | 4  |
| For all proceedings on suing out a Writ of <i>Saisie Arrêt</i> after Judgment,—                                                                                                |   |    |    |
| 18. If the declaration of the <i>Tiers Saisi</i> be not contested.....                                                                                                         | 0 | 11 | 8  |
| If declared, Costs same as in an original Action for the same amount.                                                                                                          |   |    |    |
| For all proceedings for a <i>Contrainte par corps</i> ,—                                                                                                                       |   |    |    |
| 19. To Attorney Moving.....                                                                                                                                                    | 0 | 13 | 4  |
| 20. To Attorney Shewing Cause.....                                                                                                                                             | 0 | 10 | 0  |

|                                                                                                                                                                                                               |   |    |   |
|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|---|
| 21. For prosecuting to Judgment a Report of Distribution, not contested,.....                                                                                                                                 | 1 | 0  | 0 |
| For all proceedings upon a contestation of a Report of Distribution which shall not be withdrawn before the Inscription for hearing on the merits—when the amount of the collocation contested is above £25,— |   |    |   |
| 22. To the Attorney contesting.....                                                                                                                                                                           | 1 | 16 | 8 |
| 23. To the Attorney of party claiming.....                                                                                                                                                                    | 1 | 6  | 8 |
| When the amount of the collocation contested does not exceed £25,—                                                                                                                                            |   |    |   |
| 24. To the Attorney contesting.....                                                                                                                                                                           | 1 | 10 | 0 |
| 25. To the Attorney of the party claiming.....                                                                                                                                                                | 1 | 3  | 4 |
| If the contestation be withdrawn before the Inscription for hearing on the merits, one-half of the above fees according to the class,—                                                                        |   |    |   |
| For all proceedings after Judgment ordering Account to be rendered in any action <i>en reddition de compte</i> —                                                                                              |   |    |   |
| If the Account be contested,—                                                                                                                                                                                 |   |    |   |
| 26. To the party contesting the Account.....                                                                                                                                                                  | 2 | 6  | 8 |
| 27. To the opposite party.....                                                                                                                                                                                | 1 | 3  | 4 |
| 28. For all proceedings to cause Curator to be appointed to <i>délaissement</i> in any hypothecary Action.....                                                                                                | 0 | 11 | 8 |
| 29. And to Curator.....                                                                                                                                                                                       | 0 | 11 | 8 |

### Inscriptions de faux.

|                                                                                        |   |    |   |
|----------------------------------------------------------------------------------------|---|----|---|
| To the Attorney of Plaintiff <i>en faux</i> ,—                                         |   |    |   |
| 30. When the <i>moyens de faux</i> are declared pertinent.....                         | 1 | 10 | 0 |
| 31. To the Attorney of Defendant <i>en faux</i> .....                                  | 0 | 15 | 0 |
| When cause settled after answer to the <i>Moyens de faux</i> ,—                        |   |    |   |
| 32. To the Attorney of Plaintiff <i>en faux</i> .....                                  | 1 | 10 | 0 |
| 33. To the Attorney of Defendant <i>en faux</i> .....                                  | 1 | 0  | 0 |
| When cause settled after <i>Enquête</i> ,—                                             |   |    |   |
| 34. To the Attorney of Plaintiff <i>en faux</i> .....                                  | 2 | 6  | 8 |
| 35. To the Attorney of Defendant <i>en faux</i> .....                                  | 1 | 10 | 0 |
| When cause settled after final hearing, or when Judgment is rendered on such hearing,— |   |    |   |

|                                                                                                                                                                                                                                                                                         | £ | s. | d. |
|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|----|
| 36. To the Attorney of Plaintiff <i>en faux</i> .....                                                                                                                                                                                                                                   | 3 | 10 | 0  |
| 37. To the Attorney of the Defendant <i>en faux</i> .....                                                                                                                                                                                                                               | 2 | 6  | 8  |
| Incidental cross demands—one-half of the fees allowed, on the original demand.                                                                                                                                                                                                          |   |    |    |
| <b>Interventions.</b>                                                                                                                                                                                                                                                                   |   |    |    |
| 38. Costs on Interventions to be the same as on original demands of same class.                                                                                                                                                                                                         |   |    |    |
| <b>Oppositions.</b>                                                                                                                                                                                                                                                                     |   |    |    |
| 39. On any Opposition <i>afin de désistement, afin d'annuler, or afin de conserver</i> , not contested.....                                                                                                                                                                             | 1 | 0  | 0  |
| 40. On all Oppositions, excepting Oppositions <i>afin de conserver</i> , when contested, the same fees as in the original actions to which the same shall be incident.                                                                                                                  |   |    |    |
| 41. On oppositions <i>afin de conserver</i> , if contested same fees as in original Actions for like sums, excepting that the costs of the contestation of any Opposition for a less sum than £15, shall be the same as in a contested non-appealable Action of the highest class.      |   |    |    |
| <b>Appeals.</b>                                                                                                                                                                                                                                                                         |   |    |    |
| 42. On any Appeal in the Circuit Court—To each Attorney.....                                                                                                                                                                                                                            | 2 | 6  | 8  |
| <b>Fees to be taken by the Clerk.—In appealable Cases.</b>                                                                                                                                                                                                                              |   |    |    |
| Actions first Class above £25.—Actions second Class £25 and under.                                                                                                                                                                                                                      |   |    |    |
| 43. On the Return of any action of first class the Plaintiff shall pay.....                                                                                                                                                                                                             | 0 | 12 | 6  |
| 44. On the Return of any action of the second class the Plaintiff shall pay.....                                                                                                                                                                                                        | 0 | 10 | 0  |
| 45. In Action of first class Defendant shall pay, on filing Plea, either to the instance or to the action.....                                                                                                                                                                          | 0 | 10 | 0  |
| 46.                                                                                                                                                                                                                                                                                     |   |    |    |
| 46. In Action of second class Defendant shall pay, on filing Plea, either to the instance or to the action....                                                                                                                                                                          | 0 | 7  | 6  |
| 47. If Defendants sever in their defence, each Defendant pleading, shall pay the above fee.                                                                                                                                                                                             | 0 | 2  | 6  |
| 48. For each and every Writ—(The Writ of Subpoena alone excepted).....                                                                                                                                                                                                                  | 0 | 1  | 0  |
| 49. For each additional Copy when required.....                                                                                                                                                                                                                                         | 0 | 1  | 0  |
| 50. For every Writ of Subpoena wherein shall not be inserted the names of more than four Witnesses.....                                                                                                                                                                                 | 0 | 0  | 6  |
| 51. And for each Copy if required.....                                                                                                                                                                                                                                                  | 0 | 1  | 3  |
| 52. On every Witness examined above the number of two.....                                                                                                                                                                                                                              | 0 | 2  | 0  |
| 53. For each and every office copy of a Judgment not exceeding 200 words.....                                                                                                                                                                                                           | 0 | 0  | 6  |
| 54. And for every additional 100 words.....                                                                                                                                                                                                                                             | 0 | 1  | 0  |
| 55. For each and every office copy of a Rule of Court.....                                                                                                                                                                                                                              | 0 | 0  | 6  |
| 56. For each and every office Certificate.....                                                                                                                                                                                                                                          | 0 | 1  | 0  |
| 57. For a Search beyond a year from the period of making the search.....                                                                                                                                                                                                                | 0 | 1  | 0  |
| No allowance is made to the Clerk for a Search within the year reckoning as above, nor for a Search upon issuing any Writ of Execution.                                                                                                                                                 | 0 | 1  | 0  |
| 58. For every Recognizance or Bail Bond taken in or out of Court.....                                                                                                                                                                                                                   | 0 | 2  | 0  |
| 59. For a <i>Projet de Distribution</i> or Collocation, where the Creditors collocated do not exceed four in number, exclusive of the Attorneys and Officers of the Court, if the <i>Projet de homologation</i> .....                                                                   | 0 | 10 | 0  |
| 60. For the like between more than four Creditors, exclusive of the Attorneys and Officers of the Court, if the <i>Projet de homologation</i> .....                                                                                                                                     | 1 | 0  | 0  |
| 61. Upon every Opposition <i>afin de désistement, afin d'annuler, or afin de conserver</i> and upon every <i>Inscription de faux</i> or incidental demand, there shall be paid to the Clerk by the opposant or the party making the Inscription or intervention as the case may be..... | 0 | 5  | 0  |
| 62. If contested the party contesting shall pay at time of filing contestation.....                                                                                                                                                                                                     | 0 | 5  | 0  |
| 63. For all fees on a contestation of a Report of distribution or collocation—to be paid by the party contesting at time of filing contestation.....                                                                                                                                    | 0 | 5  | 0  |
| 64. For the Execution of a <i>Commission Rogatoire</i> .....                                                                                                                                                                                                                            | 0 | 5  | 0  |
| 65. For every Deposition taken in virtue of such Commission.....                                                                                                                                                                                                                        | 0 | 5  | 0  |
| 66. For a <i>Commission Rogatoire</i> or Commission in the nature of a <i>Commission Rogatoire</i> , including all the necessary forms to be annexed thereto.....                                                                                                                       | 0 | 2  | 0  |
| 67. For preparing a List of Jurors.....                                                                                                                                                                                                                                                 | 0 | 3  | 0  |
| 68. For attendance and striking a Jury.....                                                                                                                                                                                                                                             | 0 | 2  | 0  |

|                                                                                                                                                                                                                                                                                                                  |   |    |    |
|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---|----|----|
| 69. For all fees upon the Probate of a last Will and Testament (exclusive of Registering).....                                                                                                                                                                                                                   | £ | s. | d. |
| 70. For affixing and taking off seals of safe custody ( <i>scellés</i> ), the Clerk or Commissioner shall be entitled to a fee of 5s. for each and every <i>Vacation</i> not exceeding two <i>Vacations per diem</i> (to be paid by the <i>Poussavant</i> previous to the closing of each <i>Vacation</i> )..... | 0 | 11 | 8  |
| 71. For every copy of any paper in his custody the Clerk shall be allowed 1s. 6d. for the first two hundred words, including certificate, and sixpence for each and every additional 100 words.                                                                                                                  | 0 | 5  | 0  |
| 72. For his fee on making up a Record on a Writ of Appeal and returning the Writ, exclusive of Transcript to be paid for as a copy under this Tarif.....                                                                                                                                                         | 0 | 10 | 0  |
| 73. For every <i>Acte of Avis de Parents</i> , including the order for convening the <i>Assemblée</i> and copy of the <i>Acte</i> ,                                                                                                                                                                              | 0 | 5  | 0  |
| 74. Upon an <i>Avis de Parents</i> taken in the country parts by a sub-delegate, including the <i>Acte of Homologation</i> and copy, the Clerk shall be entitled to receive (three shillings).....                                                                                                               | 0 | 3  | 0  |
| 75. For every attendance out of his office the Clerk shall be entitled to receive 7s. 6d. for each <i>Vacation</i> not exceeding two <i>Vacations per diem</i> , exclusive of travelling expenses.....                                                                                                           | 0 | 7  | 6  |
| 76. For a <i>Clôture d'Inventaire</i> .....                                                                                                                                                                                                                                                                      | 0 | 3  | 0  |
| 77. For the safe keeping and payment of all monies deposited with the Clerk he shall be entitled to receive one <i>per centum</i> .....                                                                                                                                                                          | 0 | 0  | 6  |
| 78. For Enregistering a renunciation to a community or succession, or donation, or any other document to be enregistered, for every 100 words.....                                                                                                                                                               | 0 | 1  | 0  |
| 79. For each Bill of Costs, and Certificate if demanded.....                                                                                                                                                                                                                                                     | 0 | 12 | 6  |
| 80. On every Appeal there be paid to the Clerk, by the Appellant, on return of the Appeal.....                                                                                                                                                                                                                   | 0 | 6  | 3  |
| 81. By the Respondent, on filing appearance.....                                                                                                                                                                                                                                                                 |   |    |    |
| The above fees to be payable in all cases (excepting when herein otherwise provided for) when the Officer is required to perform the service for which the fee is chargeable.                                                                                                                                    |   |    |    |
| 82. On every Action, Opposition, or Intervention returned into Court.....                                                                                                                                                                                                                                        | 0 | 1  | 0  |
| 83. On every Action, Opposition, or Intervention returned into Court.....                                                                                                                                                                                                                                        | 0 | 0  | 6  |
| The fees of the Crier and Tipstaff to be paid into the Office of the Clerk, before the return.....                                                                                                                                                                                                               |   |    |    |

**To the Crier.**

**To the Tipstaff.**

**Non-Appearable Cases.—Table of Fees.**

**To the Attorney.**

- 84. On all proceedings in actions settled before return (except those on which additional fees are hereinafter allowed) to the Plaintiff's Attorney.....
- 85. On all proceedings (except as aforesaid) in action settled after return, and before contestation, or in which Judgment shall be given on confession or by default, or *Esquarte*, without *Enquête*, that is to say, without the examination in Court of any witness or party, to the Plaintiff's Attorney.....
- 86. And to the Defendant's Attorney.....
- 87. On the same, if the Judgment be given by default or *Esquarte*, but with *Enquête*—to the Plaintiff's Attorney.....
- 88. And to the Defendant's Attorney.....
- 89. On the same, in actions discontinued after contestation—to the Plaintiff's Attorney,
- 90. And to the Defendant's Attorney.....
- 91. On the same, when the Judgment shall be given after contestation, to the Plaintiff's Attorney.....
- 92. And to the Defendant's Attorney.....
- 93. In all hypothecary actions, or mixed actions an additional fee of 15s. Currency; (To Plaintiff's Attorney).....
- 94. On each Opposition, *afin d'annuler* or *afin de désavouer* or *afin de conserver* or intervention not contested.....
- 95. On all Oppositions (excepting Oppositions *afin de conserver*) and interventions, when contested, the same fees as in the original actions to which the same shall be incident,
- 96. On oppositions *afin de conserver*, if contested, same fees as in original actions for like sums,
- 97. On a *Saisie Arrêt* after Judgment, when there is no contestation.....
- 98. If Declaration of *Tiers Saisis* be contested, same fees as in an original action for a like sum.

F\*

| 1st CLASS.<br>Actions under £15, but above £10, currency. | 2d CLASS.<br>Actions £10, or under, but above £6 6s. | 3d CLASS.<br>Actions £6 6s. or under. |
|-----------------------------------------------------------|------------------------------------------------------|---------------------------------------|
| £ s. d.                                                   | £ s. d.                                              | £ s. d.                               |
| 0 10 0                                                    | 0 5 0                                                | 0 3 4                                 |
| 0 15 0                                                    | 0 7 6                                                | 0 5 0                                 |
| 0 10 0                                                    | 0 5 0                                                | 0 2 6                                 |
| 1 0 0                                                     | 0 10 0                                               | 0 7 6                                 |
| 0 10 0                                                    | 0 5 0                                                | 0 2 6                                 |
| 1 0 0                                                     | 0 10 0                                               | 0 5 0                                 |
| 0 15 0                                                    | 0 10 0                                               | 0 5 0                                 |
| 1 5 0                                                     | 0 12 6                                               | 0 7 6                                 |
| 1 0 0                                                     | 0 10 0                                               | 0 5 0                                 |
| 0 12 6                                                    | 0 10 0                                               | 0 5 0                                 |
| 0 7 6                                                     | 0 5 0                                                | 0 2 6                                 |



## To the Bailiffs.

Mileage on the service or execution of a Writ or of process of any kind, at the rate of sixpence per mile—without any further charge for mileage, or any other process to be served on the same party then in the hands of the Bailiff, and which shall be or might have been served at the same time (whether such process shall have been sued out by the same party or by any other) and without any charge for mileage in returning, but exclusive of sums paid at toll-gates, ferries or bridges.

125. For the service, certificate, or return, of such Writ or process . . . . .
126. For the seizure of goods and chattels, and all incidental trouble, but exclusive of mileage . . . . .
127. For his *recors* . . . . .
128. For the sale of goods and chattels exclusive of mileage . . . . .
129. For publishing the notices of the sale . . . . .
130. For the service of any notice, and the certificate and return . . . . .
131. If the Writ be returnable into the Superior Court, the fees to the Sheriff will be the same as if it had issued out of the Superior Court.

| 1st CLASS.<br>Actions un-<br>der £15, but<br>above £10,<br>currency. |       | 2d CLASS.<br>Actions £10,<br>or under, but<br>above £6 5s. |       | 3d CLASS.<br>Actions<br>£6 5s. or un-<br>der. |       |
|----------------------------------------------------------------------|-------|------------------------------------------------------------|-------|-----------------------------------------------|-------|
| £                                                                    | s. d. | £                                                          | s. d. | £                                             | s. d. |
| 0                                                                    | 1 0   | 0                                                          | 0 1   | 0                                             | 0 1   |
| 0                                                                    | 7 6   | 0                                                          | 0 5   | 0                                             | 0 3   |
| 0                                                                    | 1 8   | 0                                                          | 0 1   | 0                                             | 0 1   |
| 0                                                                    | 7 6   | 0                                                          | 0 5   | 0                                             | 0 3   |
| 0                                                                    | 1 0   | 0                                                          | 0 1   | 0                                             | 0 1   |
| 0                                                                    | 1 0   | 0                                                          | 0 1   | 0                                             | 0 1   |

QUEBEC, 17th December, 1850.

(Signed), EDWD. BOWEN, CHIEF JUSTICE S. C.,

D. MONDELET, J. S. C.,  
 CHS. D. DAY, J. S. C.,  
 J. SMITH, J. S. C.,  
 G. VANFELSON, J. S. C.

CHARLES MONDELET, J. S. C.,  
 E. BACQUET, J. S. C.,  
 J. DUVAL, J. S. C.,  
 W. C. MEREDITH, J. S. C.

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TO

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