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BILL.

An Act to amend and consolidate the laws
respecting the Recorder's Court of the
City of Quebec.

[No. 45 of 1865—1st Session.]

Hon. Mr. AILEYN.

OTTAWA:

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SALLY STREET.

An Act to amend and consolidate the Laws respecting the Recorder's Court of the City of Quebec.

WHEREAS, the Mayor, Councillors and citizens of the city of Quebec have, by their petition, represented that it is expedient to amend and consolidate the Acts relating to the Recorder's Court of the city of Quebec; Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

1. There shall be, as heretofore, a Court of Record in the said city, to be called the "Recorder's Court of the City of Quebec."

Recorder's Court.

2. The said court shall be held by the Judge hereinafter mentioned, or in case of his absence from the said city, or in case of his illness, disability, legal recusation or incompetency, then by the Deputy Recorder, or in case there be no Deputy Recorder, by the Mayor of the said city, with one Councillor, or by two Councillors of the said city.

Court to be held by Recorder or his Deputy, or Councillors.

3. The said court shall have exclusive jurisdiction in civil matters within the limits of the District of Quebec, and shall hear and decide in the first instance, and summarily:—

Jurisdiction.

First. Any action brought by the Corporation of the said city for the recovery of any sum or sums of money due to the said corporation, for any tax, assessment, impost or duty whatsoever, legally imposed by any By-law of the Council of the said city now in force, or that may hereafter be in force, or by any law or Act relating to the said city; or,

Sums due to Corporation for assessment.

Second. Any action for the recovery of any sum or sums of money due to the said corporation for the rent, use or occupation of any movable or immovable property belonging to the said city, or of any stalls or stands in or upon any of the public markets in the said city, or due to the said city in virtue of any By-law now in force, or that may hereafter be in force in the said city; or,

Rent of market stalls.

Third. Any action for the recovery of any sum, tax, assessment, impost or duty now imposed, or to be hereafter imposed or levied in and upon the said markets, or on persons selling therein; or,

Tax on persons selling in market.

Fourth. Any action for the recovery of any sum of money or revenue whatsoever, which may be due and payable to the said corporation, for any supply of water, given or furnished by the Quebec Water Works, in or to any house, building, land or dependencies; or for the use of any factory, gas-house, steam engine, brewery, distillery or other establishment, art of industry, within or beyond the limits of the said city; or for the value of any supply of water received from the said water works or furnished thereby; or for the costs of introducing, laying or

Water rate.

removing any pipe or pipes from the said water works, into any house, building or dependency, or on any land at the instance of or for the use and benefit of any person, society or corporation within or beyond the limits of the said city, or for enlarging, maintaining or altering any such pipe.

5

Water rate paid by lessee for landlord and vice versa.

Fifth. Any action for the recovery of any sum or sums of money paid by the owner or proprietor of any immovable property within the said city for water-rate or for any other tax, assessment, impost or duty whatsoever for and on account of his lessee, or agreed to be paid or satisfied by the said lessee according to the terms of his lease or otherwise; or of any sum or sums of money paid by the lessee for water-rate or for any other tax, assessment, impost or duty aforesaid for and on account of the proprietor, and which the said lessee was not bound by his lease or otherwise to pay or satisfy; or.

Sums due to the Corporation.

Sixth. Any action for the recovery of any sum or sums of money, due to the said city, either in virtue of the law which incorporates and controls the said city, or of the by-laws of the said city, or under any contract made under such law or by-law, now existing or which may hereafter exist; or.

Wages of servants, journey men, &c.

Seventh. Any action for the recovery of wages and salaries of servants, journeymen or laborers employed by the day, not exceeding twenty-five dollars.

Lessors and lessees.

Eighth. The said court shall have concurrent jurisdiction with the Circuit Court or with any Judge of the Superior Court in the District of Quebec, as matters between lessors and lessees, and may act in virtue of the Act of the Consolidated Statutes for Lower Canada, chapter forty, intituled: "An Act respecting Lessors and Lessees," and of the Legislative provisions amending the same, in the same manner and with the same formalities as the said Circuit Court, or any of the Judges of the said Superior Court is directed to proceed in and by the above last-cited Act, as regards the ejection of the lessee for committing waste upon the premises or part of the premises leased, or for refusing or neglecting to pay his rent, or any part of his rent, or for using the premises leased contrary to the intent for which they were leased, or because the term of his lease, either written, verbal or presumed, is expired; and the said Recorder's Court shall have and possess to that end all the necessary powers and authority including that of issuing writs of summons, execution and possession, and to fix and determine the costs to be paid by the losing party, which costs, however, shall not include any attorney's fees; provided always that the competency of the said Recorder's Court shall be limited to cases where the consideration or annual value of the property occupied shall not exceed the sum of one hundred dollars, and to premises or real estate situate within the said city only.

Proviso.

Offences committed within the limits of the city.

3. The said Recorder's Court may take cognizance of, hear and summarily decide in accordance with the law which controls it, any offence committed within the limits of the said city, punishable upon summary conviction; but not offences committed against the Provincial or Imperial Acts respecting navigation and trade, or against the Merchant Shipping Act, or against chapters one hundred and five and one hundred and six of the Consolidated Statutes of Canada.

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2. It shall have exclusive jurisdiction in, and shall hear and decide in a summary manner, as aforesaid, all offences against by-laws of the said city, or against the provisions of the law incorporating it, or of any other law relating to or respecting the said city at present in force or which may hereafter become so.

Offences against by-laws of city.

4. As regards servants, clerks, apprentices, domestics, journeymen or day laborers, the said Recorder's Court shall have and exercise the power and authority conferred by chapter twenty-seven of the Consolidated Statutes for Lower Canada, intituled: "An Act respecting Masters and Servants in the country parts."

Authority under c. 27 Con. Stat. L. C. conferred.

2. In case of a complaint or suit under the said last-cited Act or the by-laws now in force or which may hereafter be in force in the said city, respecting servants, clerks, apprentices, domestics, journeymen or day laborers, when the engagement shall be by notarial act, an exemplification or copy of such act, certified by the notary in whose office the original remains of record, shall be evidence in the same manner as if the original had been produced.

When agreement is by act a certified copy is to be evidence.

5. The said Recorder's Court shall be held at the City Hall or in any other suitable place in the said city which may be selected by the Council thereof, every day (Sundays and *fêtes d'obligation* excepted) and as many times in each day as shall be necessary, without previous notice and without the time being fixed to hear and decide offences of which it may take cognizance against the by-laws of the said city or against the law respecting loose, idle and disorderly persons, chapter one hundred and two of the Consolidated Statutes for Lower Canada.

Where and when Court may be held.

6. The Recorder of and for the City of Quebec shall be the Judge in the said Recorder's Court, and shall hold the said Court. He shall be a Barrister of Lower Canada of at least five years' standing and shall be appointed by the Crown during pleasure; he shall be *ex-officio* Justice of the Peace in and for the City and District of Quebec.

Recorder to hold Court.

2. In case of the death, dismissal or resignation of the said Recorder, the Governor in Council may appoint his successor, or in case of absence, illness or prolonged absence of the said Recorder, may appoint a Deputy Recorder.

Deputy Recorder appointed by Governor.

3. The said Recorder may, from time to time, in writing, bearing his signature, appoint a Deputy Recorder, who shall also be a Barrister of Lower Canada of at least five years' standing; and the said Deputy shall have and possess in all respects, all the powers and authority conferred upon the Recorder by this Act, or by any other Act; but the Deputy Recorder shall only act in case of the absence from the city, illness, legal recusatation or other disability of the said Recorder, and not otherwise.

Recorder may appoint Deputy.

When Deputy may act.

4. The salary of the Recorder shall not be less than five hundred pounds current money of this Province per annum, and such salary shall be paid to him monthly by the Treasurer of the said city without any formality whatsoever, upon the demand of the said Recorder.

Salary of Recorder.

7. Every summons, order, writ or warrant of any nature whatsoever, issued out of or by the said Court, shall run and be in the name and style of Her Majesty, Her Heirs or successors; they shall be sealed with the seal of the said Court, and be signed by the Clerk of the said Court.

Summons to be in Her Majesty's name.

How suit shall be begun.

8. Every suit in a civil case within the purview of the said Recorder's Court shall be begun by a writ of summons addressed to the defendant, enjoining him to appear before the said Court on the day and at the hour and place therein mentioned, and such writ of summons shall set out the grounds of the action or complaint, in a succinct and explicit manner. 5

Writ of summons, how served.

2. Such writ of summons shall be served upon the defendant by a bailiff of the said court, by leaving a copy of such writ, certified by the Clerk of the Court, at the domicile of the defendant speaking to some grown member of the family of the said defendant, or at the office or counting house, or store or shop of the defendant, leaving such copy with the defendant, personally or with some grown member of the family, or with some person employed by him. 10

Suit may be begun by declaration or petition.

3. Such suit, however, may be begun by means of a declaration of petition containing the grounds of the action, to which shall be attached the writ of summons signed and sealed as aforesaid. 15

Interval between service and return.

4. There shall be an interval of at least two clear days between the service of the writ of summons and the day of its return into court, when the defendant resides within the limits of the said city.

In case debtor resides within City of Quebec.

5. If such defendant resides without the limits of the said city, but within the limits of the District of Quebec, there shall be added to the required interval of two days between the service and the return of a summons as aforesaid, an interval of one day for every five leagues of distance between the said city and the domicile of the defendant between the service of the summons and the return thereof into the said court, and every fraction of a league shall be reckoned as a league. 20 25

Proprietor of real property indebted to the city and residing out of the city.

6. If the proprietor or possessor of any real property in the City of Quebec, who is indebted to the said city, resides beyond the limits of the City of Quebec and in another district of Lower Canada, a writ of summons may be issued from the said Recorder's Court, addressed to the Sheriff of the district in which the domicile of the said debtor is situate, summoning such debtor to appear before the said court on the day and at the hour and place in such writ of summons mentioned, and in such case there shall be allowed an interval of one day between the service of this summons and its return into court for every five leagues of distance between the said city and the domicile of the said debtor. 30 35

And the said sheriff shall make a return of such summons to the said court, and also a return of what he shall have done in relation thereto.

Summons not to be served after six o'clock.

7. No service of a summons shall be made after six o'clock in the evening under penalty of nullity and costs against the bailiff who shall have made such service. 40

Prosecution of offences.

9. The prosecution for offences of which the said Recorder's Court may take cognizance and which it may decide, shall be as follows:

Writ of arrest.

1. By writ of arrest in case of prosecution other than for offences against the by-laws and regulations of the said city (when the offender shall not have been arrested or taken in the act); such warrant shall be issued from the said court on complaint under oath preferred before the Recorder and on the *fiat* to that end pronounced by the said 45

Recorder: But the said Recorder or any Justice of the Peace for the district of Quebec may issue a warrant to cause the person arrested to be brought before the said Recorder's Court in the case of any offence of which the said Court may take cognizance and which it may decide.

5 2. In the case of offences against the regulations or by-laws of the said city, the prosecution may be either by warrant as aforesaid, or by summons, setting forth in a clear and succinct manner the nature of the offence and enjoining the defendant to appear before the said court on the day and at the hour and place therein mentioned; a copy of such
10 summons shall be left with the defendant in the manner and way hereinabove provided for service of summons in civil cases; but this provision shall not apply to cases in which the offender has been arrested and taken in the act.

Warrant or summons in case of offences against by-laws of the city.

15 3. Every warrant issued by or from the said court shall be executed by a bailiff of the said court or by a constable in the police force of the said city.

Warrant to be executed by bailiff.

10 10. No action, proceeding, civil suit nor any prosecution or complaint respecting an offence within the purview of the said court shall be null for vice or error in the form or in the merits, or for default or insufficiency of allegation, or for error in the christian or surnames, the
20 addition or description of the plaintiff or defendant; nor shall any suit or complaint for an offence be null in consequence of two or more offences being set forth or comprised in such suit or complaint, or for variance between suit or complaint, and the proof adduced at the time
25 of the hearing of the case, but the said court may order such action, proceeding, process, suit or complaint to be amended in such way as it shall consider necessary to further the ends of justice, or may cause the prosecutor to declare on which of such offences it is his intention to proceed.

Action, &c., not to be null through error of form.

30 11. If a defendant summoned to appear before the said court by summons, or if arrested by warrant, having given security to appear before the said court, does not appear personally or by attorney *ad litem*, on the day and at the hour and place fixed in the summons or
35 the recognizance, the said court, on proof of the service of the summons, or after ascertaining the default of the defendant to appear in conformity with the terms and conditions of the said recognizance, shall proceed to the hearing of the case as if the defendant were present and on proof of the allegation contained in the summons, complaint, or suit, shall render such judgment and conviction as justice shall
40 require.

If defendant does not appear.

2. If the defendant appears in person or by attorney, the Clerk of the Court shall enter the defence by him made, and the court shall hear the witnesses of the parties, if such there be, and shall decide in accordance with law.

If defendant appear, witnesses to be heard.

45 3. If on the day fixed for the hearing of a case the defendant fails to appear as aforesaid, the said court may proceed to the hearing of the case and to judgment or conviction.

In case of non-appearance Court may give judgment.

4. If the defendant confesses judgment or pleads guilty, the said court, if such confession is accepted by the plaintiff, shall order the

If defendant confess judgment.

clerk to enter judgment in accordance with the confession; or in case of a complaint or suit for an offence, shall condemn the defendant in accordance with the law.

Costs in the discretion of the Court.

5. The said court, by any judgment or conviction by it rendered, may in its discretion grant or refuse costs to the successful party, or may divide them between the parties or dismiss the suit, each party paying his own costs. 5

Person suing for penalty may be condemned in cost if suit fails.

12. In any case in which a suit for the recovery of a fine or penalty is instituted before the said court at the instance of an individual, either in the name of Her Majesty, or in the name of the said city, or in the name of such individual, if such suit is rejected, such individual may, in the discretion of the court, be condemned to pay the costs of such suit, and in default of payment may be imprisoned for a term not exceeding one month, unless such costs and those of the imprisonment be sooner paid to the clerk of the said court. 15

Court may grant delay.

13. The said court, in civil cases, may grant to the defendant confessing judgment, delay of from one to three months, or may order the debt and costs to be paid by instalments within the period of three months.

Court may compel witnesses to appear.

14. The said court may compel witnesses residing in the District of Quebec to appear in any action, prosecution, process, suit or complaint pending before the said court, and compel them to reply to any legal question which may be put to them, and on the refusal of such witnesses to reply to such question, may punish them by imprisonment.

Interrogatories to party to a cause.

2. The court may require interrogatories on *faits et articles* or the *serment décisive* or *judiciaire* to be put to any party to a cause, in all cases in which such interrogatories or oath are allowed by law in civil cases. 25

Court may compel obedience to writ, order, &c., of the Court.

3. The court may compel the execution of, and may enforce obedience to any writ, order, warrant or summons whatever of the said court, and to that end it shall be invested with all the powers and authorities enjoyed in that respect by the ordinary courts of civil and criminal jurisdiction in Lower Canada. 30

Court to cause order to be maintained.

4. The said court shall cause order to be maintained during its sittings and may punish by fine or imprisonment, or by both, any person guilty of contempt of the said court, or of any member thereof during the sittings and in the presence of the said court. 35

Admissibility of oral testimony.

15. In any civil action or case the said court shall, as regards the admissibility of oral testimony and the competency and the number of witnesses, follow the rules prescribed in that respect by the law in relation to civil matters. 40

Employés of city to be competent witnesses.

2. But in any civil action, or in any prosecution or complaint for any offence in relation to the said city, any councillor of the said city (excepting the Mayor or councillors sitting in the said court), and any employé, officer or servant of the said city, and any police constable shall be a competent witness, provided he is not directly interested, or is not incompetent from any other cause. 45

3. Any assessment, tax, duty, impost or sum of money whatsoever due to the said city, and any penalty or fine which may be claimed or sued for in the said court, shall be recoverable on the oath of one competent and credible witness.

Assessment, &c., to be recovered on oath of one witness.

4. In any action, process, proceeding suit or complaint instituted or brought by the said city, it shall not be necessary to specify or recite the statute, by-law or law on which such action, process, proceeding, suit or complaint is based;

Statute or by-law need not be recited;

5. Nor to allege or prove that the formalities required for the passing of a by-law have been observed, nor that a by-law has been transmitted to the Governor in Council; but the observation of such formalities and such transmission shall be presumed until the contrary is proved.

Nor formalities respecting by-law proved.

16. Any person examined before the said court under oath as a witness or as a party who shall wilfully or knowingly give false testimony, or make a declaration or affidavit knowing it to be false, in any cause or proceeding pending in the said court, or to be brought before or submitted to the said court, shall be liable to the pains and penalties prescribed by law against wilful perjury.

False testimony to be perjury.

17. The clerk of the said court shall not take down or reduce to writing the depositions of witnesses or of parties examined before the said court in any action or complaint whatsoever.

Clerk shall not take down depositions.

2. In civil matters, in appealable causes or processes, as hereinafter set forth, the said court shall take such notes of the depositions and evidence as it shall deem essential and necessary; and copies of such notes, certified by the person or persons holding such court, shall be evidence to all purposes whatsoever.

Court to take notes in causes.

18. The clerk of the said Recorder's Court shall be appointed by the council of the said city, and shall hold his office during good conduct, and shall not be dismissed except in the case and in the manner prescribed for the dismissal of the clerk and of the treasurer of the said city. His salary shall not be less than three hundred pounds per annum payable monthly by the treasurer of the said city, without other formality.

Clerk of Recorder's Court how appointed.

2. The clerk of the said court shall be a person fit and able to fulfil the duties of the office. He shall appoint a deputy and may change such deputy at pleasure.

May appoint Deputy.

3. During his continuance in office such deputy shall exercise all the powers conferred on the said clerk by this Act.

Power of Deputy.

4. The said clerk and his deputy, before taking office, shall make oath before the Recorder well and truly to fulfil the duties of their respective offices; such oath shall be written on the back or some other part of the document appointing the said clerk or deputy clerk.

Clerk or Deputy to take oath of office.

19. The duties of the said clerk shall be:—

Duties of Clerk:

1. To prepare and make out all the summonses, orders, writs, warrants and other documents whatsoever, which shall be issued out of or by the said court.

To make out summonses, &c.

To enter proceedings in registers.

2. He shall enter daily, and in a succinct manner, under the orders of the said Recorder or of the said court, in one or more registers which shall be kept for that purpose, the proceedings had in each civil case or process, and he shall register at length any judgment rendered by the said court.

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To keep a roll of convictions

3. He shall keep a roll of all the convictions pronounced by the said court; such roll shall contain the christian and surname of the defendant, the nature of the offence, the date of conviction, and the amount of the penalty or fine imposed, and such roll shall be sufficient, any law or usage to the contrary notwithstanding.

10

Shall comply with Recorder's orders as to the keeping of his office.

4. He shall comply with the orders which he may receive from the said Recorder respecting the management, administration, keeping and arrangement of the office of the said court, and shall be under the control of the said Recorder in respect of everything connected with his office.

15

May take any affidavit in civil cases.

5. The said clerk or his deputy may take any affidavit which is requisite or necessary in civil matters in any action, process or proceeding whatsoever pending before the said court or which is to be submitted thereto.

Form of conviction.

20. The form of convictions pronounced by the said court shall be 20 (*mutatis mutandis*) that used for convictions in the Court of General Quarter Sessions of the Peace for the District of Quebec.

Appeal.

21. In all cases in which the law allows of an appeal from the judgment of the Circuit Court or the Superior Court of Lower Canada, any party who may think himself wronged by any judgment of the said Recorder's Court in any matter whatsoever within the jurisdiction of the said Recorder's Court, whether such judgment has been rendered in any action or an a complaint made as to the assessment roll or book, or in any other proceeding whatsoever, may appeal therefrom to the Court of Revision sitting in the City of Quebec in virtue of the provisions of the Act of the Provincial Parliament passed in the twenty-seventh and twenty-eighth years of Her Majesty's Reign, chaptered thirty-nine, intituled:— *An Act to diminish the expense of Sales en justice and of confirmations of Title, and to facilitate the taking of Enquêtes, the summoning of Absentees, the judicial distribution of moneys, the seizure of constituted rents representing seigniorial rights, and to provide for the review of judgments in certain cases, in Lower Canada.*

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Proceedings in appeal.

2. In such appeal proceedings shall in every respect be in the manner and form prescribed by sections twenty, twenty-one, twenty-two, twenty-three, twenty-four and twenty-five of the said last cited Act.

40

Judgment of Court of Revision to be final.

3. The judgment of the said Court of Revision shall be final and conclusive.

No judgment to be quashed with costs under certain circumstances.

4. But no judgment of the said Recorder's Court shall be quashed with costs, unless the question of the point of law or of fact on which such judgment shall be so quashed appear by the record to have been submitted for the decision of the Recorder's Court, notwithstanding any law or usage to the contrary.

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22. And to prevent the inconvenience occasioned to the said city by the issuing of writs of *certiorari* without any legal cause or reason; in future no writ of *certiorari* shall be granted, unless the defendant within the four days next after the rendering or pronouncing of the judgment or conviction by the said Recorder's Court, has given notice to that end to the adverse party or to his attorney *ad litem*, in the manner prescribed by law, and has entered into sufficient security before the said Recorder, in a sum not exceeding forty dollars, in favor of the said city for the payment of the costs and expenses which may be incurred by the said adverse party.

Certiorari.
Security re-
quired.

2. Subsequent to the expiring of the term aforesaid no writ of *certiorari* may be issued.

Time for issue
of *certiorari*
limited.

3. The amount of such security, if the judgment or conviction is maintained, shall be sued for and levied, in the manner prescribed by law, by action for debt before the said Recorder's Court.

Security, how
sued for.

23. The costs in every action, process or suit shall be taxed by the clerk of the said Recorder's Court, subject to an appeal from such taxation to the said court, whose judgment in this respect shall be final.

Costs to be
taxed.

24. The said Recorder's Court may and shall make a tariff of costs and fees, which may be demanded and collected by the clerk and bailiffs or other similar officers of the said court.

Tariff of costs
and fees.

2. The court may change or modify such tariff from time to time, but no tariff, nor any changes or modification therein made, shall have executory force until it has been approved by the Governor General in Council.

Tariff may be
modified.

25. The Council of the said city may from time to time and whenever it shall be necessary so to do, appoint by resolution of the said council, any number of competent persons to be bailiffs of the said Recorder's Court; but no such bailiff shall be dismissed, otherwise than by the Recorder's Court; and the said Recorder's Court shall appoint the necessary criers for the said court, and may remove them from office when it shall think proper to do so; and any bailiff so removed from office shall not be reappointed.

Appointment
of bailiffs.

26. All persons appointed bailiffs as aforesaid, shall act as such after having received a commission to that effect, signed by the Mayor of the said city, sealed with the seal of the said city, and countersigned by the Clerk of the said city; and they shall take the oath of office before the said Recorder's Court.

Bailiffs to re-
ceive commis-
sions.

2. In the District of Quebec any bailiff of the Superior or Circuit Court residing without the limit of the said city, shall be *ex-officio* a bailiff of the said Recorder's Court without its being necessary for him to take the oath of office hereinbefore required to be taken.

Bailiff of Su-
perior or Cir-
cuit to be bai-
liff of Recor-
der's Court.

27. Every bailiff, the bearer of a writ of summons, or other writ, order, proceeding, paper or other judicial document whatsoever, in every civil suit or action, shall make a return in writing to the said Recorder's Court, under his oath of office, of all proceedings taken by him in relation to the service or execution of any writ, order, proceeding, paper or document, and such return shall be held to be true until the contrary is proved in accordance with the law.

Bailiff to
make return.

Proof of service of summons, &c.

2. The service of any summons or other order, writing or judicial document whatsoever, in cases of prosecutions for offences shall be proved by the return in writing, and under his oath of office, of the bailiff or constable charged with the making of such service.

Execution of judgment.

28. The execution of any judgment rendered in any civil action by the said Recorder's Court shall be levied by the seizure and sale of the goods and movable effects of the defendant, situate within the District of Quebec, and no execution shall be issued against a defendant until eight days after that on which judgment shall have been rendered against him. 5 10

Seizure of goods by bailiff.

2. The bailiff, the bearer of the writ of execution, shall proceed in the manner and form prescribed by the law respecting the seizure and sale of movable effects.

When writ of execution is to be returned.

3. Every writ of execution shall be returned into the said Recorder's Court on the day fixed by such writ, or on such other day on which the return of the said writ shall be ordered by the said court, and any bailiff, the bearer of such writ, refusing or neglecting to return such writ, shall be liable to the legal penalties for such refusal or neglect. 15

To whom writ of execution shall be addressed.

29. The said writ of execution shall be addressed to a bailiff of the said Recorder's Court when the defendant resides within the District of Quebec; in any other case, it shall be addressed to the sheriff of the district in which the defendant resides: In any case the writ shall be returnable into the said court on the day fixed by such writ. 20

In case goods are already under seizure.

30. If the goods and movable property of the defendant be already under seizure in such case, the Sheriff or Bailiff, the bearer of the writ of execution issued by the said Recorder's Court, shall not make any seizure, and upon production to him of the *procès-verbal* of the said seizure, or of a copy thereof, he shall hand over the writ of execution issued by the said Recorder's Court to the Sheriff or Bailiff, as the case may be, who shall have made such seizure. 25 30

Delivery of writ to be opposition *à fin de conserver*.

2. The delivery of the writ shall have the effect of an opposition *à fin de conserver*, and shall be sufficient to secure to the said corporation by privilege (in cases in which such privilege exists) the payment of the sum due, including principal, interest and costs, mentioned in the said writ. 35

In case defendant possesses in goods and chattels.

31. In case the defendant does not possess any goods or chattels, or in case they are not sufficient to satisfy the amount of the judgment obtained against him,—in all such cases if the amount of the judgment in principal, interest and costs, or the sum due on such judgment, exceeds forty dollars, and the defendant possesses in the District of Quebec, or any other District in Lower Canada, any immovable property, lands or tenements, then the said Recorder's Court may issue a writ *de terris*, addressed to the Sheriff of the district in which the said immovable property, lands and tenements are situate, for the purpose of causing them to be seized and sold to satisfy the said judgment or the balance due thereon as aforesaid. 40 45

Return of writ.

2. The said writ shall be returnable into the Superior Court for the District of Quebec, sitting in the said city of Quebec.

3. Upon the receipt of the writ, the Sheriff, to whom it is directed, shall act and proceed in all respects as regards the said writ as if it had been issued by the said Superior Court, and he shall make a return thereon, and of his proceedings in respect of its execution, to the said Superior Court.

Action of Sheriff on receipt of writ.

4. All ulterior proceedings of what kind soever, consequent upon the issuing of such writ, or necessary to the execution thereof, as well with regard to the plaintiff and defendant, as with regard to other parties who, in due course of law may intervene, by opposition or otherwise, shall be had in the said Superior Court, in the same manner as if the said action had been originally brought in the said Superior Court.

Ulterior proceedings to be had in Superior Court.

32. In any case in which a judgment obtained by the said City of Quebec for the causes aforesaid in the said Recorder's Court is less than forty dollars, and the defendant does not possess any goods and chattels in the District of Quebec, or if they are not sufficient to discharge the amount of the said judgment or any sum due thereon; or if such judgment or the sum due thereon exceeds forty dollars, and the defendant does not possess any real or personal property in any district in Lower Canada, or if such property is insufficient to discharge the amount of such judgment or the balance due thereon, in every such case on the return of the sheriff or bailiff, the bearer of such writ of execution issued from the said Recorder's Court, setting forth the foregoing facts or any of them, the plaintiff may apply by petition to the said Recorder's Court for the issuing of a writ of *contrainte par corps* against the said defendant, when he resides within the limits of the said city.

In case judgment exceed \$40 and defendant has not property to that amount.

2. On proof of the allegations of the said petition, the court may order the issue of the said writ, directed to the Sheriff of the District of Quebec, enjoining and commanding him to arrest and apprehend the defendant and to convey and lodge him in the common jail of the district, there to be imprisoned until payment of the sum by him due, together with the costs of imprisonment.

Defendant may be imprisoned.

3. But such imprisonment shall not exceed three months, at the end of which time the defendant shall be liberated.

Imprisonment not to exceed three months.

4. And such liberation shall in no way affect any other juridical recourse which the plaintiff has or may subsequently have against the said defendant, notwithstanding such imprisonment.

Liberation not to affect other juridical recourse.

5. Every fine or penalty imposed for the commission of an offence within the jurisdiction of the said Recorder's Court, unless it is otherwise ordered by the law for the punishment of such offence, shall be levied with costs by payment of such fine and costs either at once or within such delay as shall be fixed by the court; and in default of such payment the defendant shall be imprisoned and kept at hard labor, at the discretion of the said court, in the common jail of the District of Quebec, for a space of time not exceeding two months unless the said fine and costs and those of imprisonment be sooner paid to the clerk of the said court.

Fines and penalties for commission of offence.

33. The said Recorder's Court may issue writs of *seizis arrêt* after judgment in the same manner and form as the courts of original civil jurisdiction in Lower Canada, and shall follow, in relation thereto, the rules proscribed by law.

Writs of *saisis arrêt*.

When such writs may issued.

2. Any *saisie arrêt* may be issued at any time after judgment, and the service shall be made within the time fixed by this Act for the service of summonses in civil cases.

Court to proportion fine or punishment to gravity of offence.

34. In the case of prosecutions for offences within the purview of the said Recorder's Court, the said court may proportion the amount of the fine or the length of the imprisonment, within the limits fixed by law, to the gravity and frequency of the offence. 5

Recorder's Court to have powers of Courts of original civil jurisdiction in certain cases.

35. The said Recorder's Court and the Judge thereof shall in every civil action, proceeding or suit within the purview of the said court, have, possess and exercise in relation to actions or demands *en garantie*, incidental demands, or demands in intervention, exceptions, defences or *incidents* whatsoever during the suit, and also in relation to oppositions *afin de conserver*, or other oppositions in form of *requête civile*, or other matter or thing whatsoever connected with the execution of such judgment, all and every the powers and attributes which would be possessed and exercised by ordinary courts of original civil jurisdiction and the judges thereof in Lower Canada, if such action, proceeding or suit within the purview of the said Recorder's Court, had been instituted or brought before the said courts of ordinary civil jurisdiction. 10 15 20

Acts repealed

36. The Act passed in the twenty-fourth year of Her Majesty's Reign, chaptered twenty-six, with the exceptions of sections thirty-four, thirty-five, thirty-six, and thirty-seven, is hereby repealed. The Act passed in the twenty-seventh year of Her Majesty's Reign, chaptered twenty-one, and all other Acts or parts of Acts contrary to or incompatible with this Act, are also repealed; and the Acts repealed by the said Act shall be and remain repealed. 25

Appointments made, &c., under such acts to be valid.

2. But every appointment made, and matter, act or thing whatsoever done in virtue of the Acts hereby repealed, shall remain in full force and effect, in the same manner as if this Act had not been passed. 30

Summary jurisdiction for punishment of offences.

37. In all cases in which summary jurisdiction for the punishment of offences now is or hereafter shall be vested in the Recorder of the said City of Quebec by any law whatsoever, the clerk of the said Recorder's Court shall be the clerk of the said Recorder, and shall be bound as such to perform all the duties and fulfil all the obligations imposed by any law whatsoever on the Clerk of the Peace of the District of Quebec. The tariff of fees to be levied by the said clerk shall be that now in force or which may hereafter be in force in the office of the Clerk of the Peace of the said district. The said Clerk shall perform the like duties in all cases in which the said Recorder acts as a Justice of the Peace in accordance with law. 35 40

Her Majesty's rights saved.

38. This Act shall in no way affect the rights of Her Majesty, except in so far as they may be affected by this Act.

Public Act.

39. The Interpretation Act shall apply to this Act, and this Act shall be deemed a Public Act. 45

Explanation of words used.

2. The word "Mayor" in this Act shall signify the Mayor of the City of Quebec, or the person performing the duties of Mayor.

3. The word "Councillor" or "Councillors" shall signify the person or persons elected to represent the said city in the Council of the said city.

4. The words "City of Quebec" or "the said city" shall signify
5 the Corporation of the City of Quebec, in accordance with the intention and meaning of the law incorporating the said city.

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