

Technical and Bibliographic Notes / Notes techniques et bibliographiques

The Institute has attempted to obtain the best original copy available for filming. Features of this copy which may be bibliographically unique, which may alter any of the images in the reproduction, or which may significantly change the usual method of filming are checked below.

- Coloured covers / Couverture de couleur
- Covers damaged / Couverture endommagée
- Covers restored and/or laminated / Couverture restaurée et/ou pelliculée
- Cover title missing / Le titre de couverture manque
- Coloured maps / Cartes géographiques en couleur
- Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire)
- Coloured plates and/or illustrations / Planches et/ou illustrations en couleur
- Bound with other material / Relié avec d'autres documents
- Only edition available / Seule édition disponible
- Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge intérieure.
- Blank leaves added during restorations may appear within the text. Whenever possible, these have been omitted from filming / Il se peut que certaines pages blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées.
- Additional comments / Commentaires supplémentaires: **Cover title page is bound in as last page in book but filmed as first page on fiche.**

L'Institut a microfilmé le meilleur exemplaire qu'il lui a été possible de se procurer. Les détails de cet exemplaire qui sont peut-être uniques du point de vue bibliographique, qui peuvent modifier une image reproduite, ou qui peuvent exiger une modification dans la méthode normale de filmage sont indiqués ci-dessous.

- Coloured pages / Pages de couleur
- Pages damaged / Pages endommagées
- Pages restored and/or laminated / Pages restaurées et/ou pelliculées
- Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées
- Pages detached / Pages détachées
- Showthrough / Transparence
- Quality of print varies / Qualité inégale de l'impression
- Includes supplementary material / Comprend du matériel supplémentaire
- Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible.
- Opposing pages with varying colouration or discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont filmées deux fois afin d'obtenir la meilleure image possible.

This item is filmed at the reduction ratio checked below /
Ce document est filmé au taux de réduction indiqué ci-dessous.

10x		14x		18x		22x		26x		30x	
<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>									
12x		16x		20x		24x		28x		32x	

No. 28

2D SESSION, 3D PARLIAMENT, 12 VICTORIA, 1849.

BILL.

An Act to amend the Laws relative to the
Courts of Original Civil Jurisdiction in
Lower Canada.

Received and read first time,

Second reading,

[500 Copies.]

Honble. Mr.

S. Derbishire and G. Desbarats, Queen's Printer.

B I L L.

An Act to amend the Laws relative to the Courts of Original Civil Jurisdiction in Lower Canada.

2 **W**HEREAS it hath become expedient to reform the Judicature of Lower Canada, and by an Act of this present Session, provision hath been made for the establishment of a Court of Appellate and Criminal jurisdiction for that part of this Province, and it is necessary to remodel the several Courts of original civil jurisdiction : Be it therefore enacted, &c.,

Preamble.

10 And it is hereby enacted by the authority of the same, That the Act passed in the 12 seventh year of Her Majesty's Reign, and intituled, *An Act to repeal certain Acts and 14 Ordinances therein mentioned, and to make better provision for the administration of 16 justice in Lower Canada*, and the Act passed in the ninth year of Her Majesty's 18 Reign, and intituled, *An Act to amend the law relative to the administration of Justice 20 in Lower Canada*, and all other Acts and provisions of law inconsistent with this Act, 22 shall be and are hereby repealed : except that neither the repeal of the Acts above 24 cited and repealed, nor any thing herein contained shall extend to abolish the Circuit Court at any place or the office of any Circuit Judge : and provided always, that 28 the repeal of the said Acts shall not be construed to revive any Act or provision of 30 law thereby repealed, all which shall nevertheless remain repealed, and the Courts and 32 jurisdictions thereby abolished shall remain abolished.

Acts 7 V. c. 16, and 9. V. c. 29, repealed.

General repeal.

Exception.

Proviso :
Laws repealed
not to revive.

34 II. And be it enacted, That the several Courts of Queen's Bench or King's Bench 36 in and for the several Districts in Lower

Present Courts
of Queen's
Bench, &c.
abolished.

Canada, and the offices of Resident Judge of the District of Three-Rivers, and of Provincial Judge of the District of St. Francis, shall be and the said Courts and offices are hereby abolished.

Superior Court established.

How constituted.

Residence of the Judges.

Who may be appointed a Judge.

Provisions of the Judges' independence Act 7 V. c. 15, to apply.

General jurisdiction of the S. Court.

III. And be it enacted, That there shall be and there is hereby established in and for Lower Canada, a Court of Record of civil jurisdiction for Lower Canada to be called the "Superior Court;" which Court shall consist of eight Judges, that is to say, of a Chief Justice and seven Puisné Judges, to be appointed from time to time by Her Majesty, Her Heirs and Successors by Letters-Patent under the great Seal of this Province; and four of the said Judges shall reside at the City of Montreal, and four at the City of Quebec.

IV. And be it enacted, That no person shall be appointed a Judge of the said Superior Court, unless he shall immediately before his appointment, be a Justice of one of the said several Courts of Queen's Bench, or a Circuit or District Judge, or an Advocate of at least ten years' standing at the Bar of Lower Canada.

V. And be it enacted, That all the provisions of the Act passed in the Session held in the fourth and fifth years of Her Majesty's Reign, and intituled, *An Act to render the Judges of the Courts of King's Bench, in that part of this Province heretofore Lower Canada, independent of the Crown*, shall apply to the Judges of the said Superior Court as fully as if they had been specially named therein; and that no such Judge shall sit in the Executive Council or in the Legislative Council, or in the Legislative Assembly, or hold any other place of profit under the Crown, so long as he shall be such Judge.

VI. And be it enacted, That the said Superior Court shall have original civil jurisdiction throughout Lower Canada,

with full power and authority to take cognizance of, hear, try and determine in the first instance and in due course of law; all civil pleas, causes and matters whatsoever, as well those in which the Crown may be a party, as all others, excepting those purely of Admiralty jurisdiction, which shall be and remain subject to that jurisdiction, and excepting also those over which original jurisdiction is hereinafter given to the Circuit Court.

Exception.

VII. And be it enacted, That excepting the Court of Queen's Bench established, as aforesaid, by an Act of this session, all Courts and Magistrates, and all other persons, and bodies politic and corporate within Lower Canada, shall be subject to the superintending and reforming power, order and control of the said Superior Court and of the Judges thereof, in such sort, manner and form as Courts and Magistrates and other persons, and bodies politic and corporate, in Lower Canada, shall immediately before the time when this Act shall come fully into effect, be subject to the superintending and reforming power, order and control of the several Courts of Queen's Bench, and of the Judges thereof, in Term and in vacation; and such superintending and reforming power and control are hereby vested in and assigned to the said Superior Court, and the Judges thereof: and all appeals and evocations from any inferior Court or jurisdiction which immediately before the said time shall lie to any one of the said several Courts of Queen's Bench, or the Judges thereof, shall thereafter lie to the said Superior Court, or the Judges thereof, unless it be otherwise provided by this Act or by some Act of this Session.

Superintending and reforming power over other Courts, &c.

Appeals and evocations to former Courts of Q. B.

VIII. And be it enacted, That all and every the powers, authorities and jurisdictions in pleas, causes, matters and things of a civil and not criminal nature, of what kind soever, which immediately before the

Powers of Q. B. in civil matters transferred to S. Court.

Exception.

time when this Act shall come fully into effect, shall be by law vested in and required to be exercised by the several Courts of Queen's Bench in the several Districts of Lower Canada as then constituted, or any or either of them, and in and by the several Justices of the said Courts, or any or either of them, as well in Term as in Vacation, (excepting always such of the said powers, authorities and jurisdictions as shall by this Act or any other Act of this Session be vested in any other Court,) shall from and after the time when this Act shall come fully into effect, become and be vested in the said Superior Court hereby established, and shall and may be as fully and effectually exercised by the said Superior Court, and the Judges thereof severally and respectively, as well in term as in vacation, as the same might have been exercised and enjoyed by the said Courts of Queen's Bench, and any or either of them, and the several Justices thereof or any or either of them, in term or in vacation, if this Act had not been passed.

What laws shall govern the exercise of the powers of the Court.

IX. And be it enacted, That all singular the laws which shall be in force in Lower Canada immediately before the time when this Act shall come fully into effect, to govern and direct the proceedings and practice of the several Courts of Queen's Bench in the several districts of Lower Canada, in the exercise of those jurisdictions and powers of the said Courts which are hereby transferred to and vested in the Superior Court, and which are not repealed or varied by this Act, or inconsistent with the provisions thereof, shall continue to be in force and be observed in and by the said Superior Court, in the exercise of the jurisdictions and powers aforesaid.

Districts to remain as they now are.

X. And be it enacted, That for the purposes of the administration of Justice, Lower Canada shall continue to be divided, as it now is, into the Districts of Québec, Montreal, Three-Rivers, St. Francis and

Gaspé, the boundaries whereof shall remain as they now are: except that the Counties of Kamouraska and Rimouski (as bounded before the commencement of this Session) shall together form a new District by the name of the *District of Kamouraska*, upon, from and after the day to be appointed for that purpose in any Proclamation to be issued by the Governor, appointing such day, and declaring that a proper Gaol and Court House for the said new District have been erected at _____ in the said District: And that the County of Ottawa shall form a new District by the name of the *District of Ottawa*, upon, from and after the day to be appointed for that purpose in any Proclamation to be issued by the Governor appointing such day, and declaring that a proper Gaol and Court House for the said District have been erected at _____ in the said District, and the tract of land forming such new District shall thereafter cease to form part of the District of Quebec or of Montreal, as the case may be.

Exception.
Two new Districts to be formed when certain conditions are complied with.
District of Kamouraska.

District of Ottawa..

XI. Provided always, and be it enacted, That notwithstanding any such Proclamation as aforesaid, all suits, actions and proceedings in or before the said Superior Court, or any other Court, civil or criminal, commenced before the day appointed in such Proclamation as that upon, from and after which either of the said new Districts is to be established, shall, as shall also all matters and proceedings incident or relative thereto or dependent thereon, be continued, completed, dealt with and considered as if the new District established by such Proclamation had not been detached from the District of Quebec or of Montreal, as the case may be.

Proviso as to suits, &c. pending when either of the new Districts is formed.

XII. And be it enacted, That after the issuing of the said Proclamation with regard to either of the said new Districts, a Sheriff may be appointed for such new District, and shall have in and with regard

Sheriffs and Prothonotaries to be appointed in the new Districts when formed.

Proviso: such Officers need not be appointed for the old districts by reason of this Act.

But they shall be the Officers of the S. Court generally, and not merely of the Judges sitting in one District.

Prothonotaries may appoint Deputies.

Other Officers to be appointed in the new Districts.

to the same, like powers and duties and shall be subject to like liabilities, with the Sheriff of any other District; and a Prothonotary of the Superior Court may be appointed in and for such new District and shall have in and with regard to the same, like powers and duties and shall be subject to like liabilities with the Prothonotary of the said Court in any other District: but nothing in this Act contained shall make it necessary that a Sheriff or a Prothonotary of the said Court be appointed in any one of the present Districts, merely by reason of the passing of this Act, but the Sheriff of each such District shall remain the Sheriff thereof, and the Prothonotary of the present Court of Queen's Bench therein shall be and remain and be called the Prothonotary of the Superior Court for such District, without any new appointment, until such Sheriff or Prothonotary shall die, resign or be removed from office, in which case a successor shall be appointed: but each such Sheriff or Prothonotary shall be the officer of the Superior Court generally, and not merely of the Judges sitting or acting in his District, and shall accordingly obey the lawful orders of the said Court and of the Judges thereof in whatever District such orders be made, provided any thing be required to be done under it by such Sheriff or Prothonotary in his District: And any Prothonotary of the Superior Court whether appointed before or after this Act shall come into effect, may from time to time appoint by an instrument under his hand and seal, a Deputy who shall have power to perform all the duties of the office in case of the absence or sickness of such Prothonotary; and such instrument shall be entered at full length in the Register of the Court: And in and for each new District when so constituted by proclamation, a Clerk of the Crown, Clerk of the Peace, Coroner, Gaoler, and other proper Officers shall be appointed; as in the other Districts, and shall have like powers, duties and liabilities with Officers of the same name in other Districts:

And General and Special Sessions of the
 2 Peace shall be held therein, the said General
 Sessions being held at such times as shall be
 4 appointed by the Governor, in and by the
 Proclamation aforesaid, in like manner and
 6 with like powers and duties as in other
 Districts; and the Justices of the Peace
 8 for the District from which the new District
 shall be detached then resident in such
 10 new District, shall without any other Com-
 mission, be Justices of the Peace for such
 12 new District, but shall cease to be so for
 the remainder of the District from which it
 14 shall be detached.

Sessions of the
 Peace to be
 held therein.

Who shall hold
 such sessions.

XIII. And be it enacted, That each of
 16 the Circuit Judges when in the District of
 Gaspé, shall be held to be a Judge of
 18 the Superior Court, but in so far only
 as relates to terms or sittings of the
 20 Court in the District of Gaspé, and to judi-
 cial acts to be done in the said District; and
 22 that each of the Circuit Judges for Lower
 Canada, when in the District of Three
 24 Rivers or St. Francis, or in the District of
 Ottawa when terms of the Superior Court
 26 shall be held therein, or in the District of
 Kamouraska when Terms of the Superior
 28 Court shall be held therein, shall at all times
 except during any Term of the Superior
 30 Court in such District, have and exercise all
 the powers vested in any one Judge of the
 32 said Superior Court, and which might be
 exercised by him out of Term in such
 34 District, except the power of presiding at
 Trials by Jury: Provided always, that the
 36 limitations made in this section shall not
 impair or derogate from the effect, out of the
 38 said Districts, respectively, of any process,
 judgment, order or judicial act issued, render-
 40 ed, made or done in the said Districts,
 respectively, by the Superior Court in the
 42 District of Gaspé, or by the said Circuit
 Judges or any of them in any of the said
 44 Districts, as Judges or as exercising the
 powers of Judges, of the Superior Court,
 46 but such effect shall be governed by the
 general provisions of this Act in similar
 48 cases.

Circuit Judges
 when in Gaspé
 to be Judges
 of S. Court,
 for certain
 purposes, and
 to have the
 powers of a
 single Judge
 in other Dis-
 tricts out of
 Term.

Exception.
 Proviso as to
 effect out of
 such Districts
 of their judi-
 cial acts
 therein.

Where the
Terms of the
S. Court shall
be held.

In what dis-
trict any action
in the S.
Court may be
commenced.

XIV. And be it enacted, That terms and sittings of the Superior Court, and of the Judges thereof, shall be held at the places hereinafter mentioned, in each of the Districts into which Lower Canada is or may be divided: And all actions, suits, or proceedings may be commenced at the place where the terms of the said Court are held in any District, provided the cause of such actions, suits or proceedings respectively, shall have arisen within such District, or the defendant or one of the defendants, 12 or the party or one of the parties, to whom the original writ, order or process shall be 14 addressed, shall be domiciled or served personally with such writ, order or process 16 within such District, and that all the Defendants or parties aforesaid, be legally served 18 with process, and not otherwise, except where any of the said Defendants or parties 20 shall be summoned by advertisement as hereinafter mentioned. 22

Who shall
hold the
Court.

Quorum.

Equal division.

Who shall
preside.

XV. And be it enacted, That the terms of the Superior Court in each of the said 24 Districts, shall be held by not more than three nor less than two of the Judges 26 of the said Court; and in term any two of the said Judges shall form a Quorum, and 28 may exercise all or any of the powers of the Court, but if they be divided in opinion on 30 any matter, such matter shall stand over for future decision; and in the said Court, the 32 Chief Justice shall preside, or if he be not present then the Puisné Judge entitled by his 34 Commission to precedence in the Court.

Times of hold-
ing the Terms
of the S.
Court.

At Montreal.

XVI. And be it enacted, That Terms 36 of the Superior Court shall be held at the times hereinafter mentioned in each and 38 every year, and at the places also hereinafter mentioned, that is to say: 40

At the City of Montreal, in and for the 42 District of Montreal, from the of ; and 46 from the to the 48 of ; and from the of ; 48

At the City of Quebec, in and for the District of Quebec, from the
 2 to the of ; and
 4 from the to the
 of ; and from the
 6 to the of ;

At the Town of Three-Rivers, in and for the District of Three-Rivers, from the
 8 to the of ;
 10 and from the to the
 of ;

At the Town of Sherbrooke, in and for the District of St. Francis, from the
 12 to the of
 14 and from the to the
 16 of ;

At Percé and New Carlisle, in and for the District of Gaspé, from the
 18 to the
 20 of ; and from the
 to the of
 22 the sittings of the Court during each Term
 being held on the first
 24 juridical days at Percé, and
 during the remainder of the Term at New
 26 Carlisle, but the sittings at the two places
 forming only one Term :

28 And the days from and to which any Term is herein directed to be held, shall in all
 30 cases be both included in such Term ;

At , in and for the District of Kamouraska, commencing on such two
 32 days respectively as shall be appointed
 34 by the Governor in the Proclamation
 hereinbefore mentioned to be in that behalf
 36 issued, and on the nine days next after
 such two days respectively, or such of
 38 them as shall be juridical days ;

At , in and for the District of Ottawa, commencing on such two days
 40 respectively as shall be appointed by the
 42 Governor in the Proclamation hereinbefore
 mentioned to be in that behalf issued, and

on the nine days next after such two days respectively, or such of them as shall be juridical days:

Proviso: the Court may prolong any Term.

What Judges shall ordinarily go to hold the Court in Gaspé.

Weekly sittings of the Court at Quebec and Montreal for certain purposes.

Any case may be heard by consent of parties: provisions to apply to transmitted cases.

4
 Provided always, that the Court shall have full power to continue any Term, in any of the said seven Districts, beyond the time herein fixed for its continuance, by any Order to be made for that purpose during such Term: And provided also, that it shall be the duty of the Judges of the Superior Court residing at Quebec, ordinarily to assist in holding the Terms of the said Court in the District of Gaspé, but this shall not prevent any other Judges from so doing if circumstances shall require it. 16

XVII. And be it enacted, That in the Districts of Montreal and Quebec, out of 18 Term, upon the first two juridical days in each week, in every month except August, 20 the Court or any Quorum thereof, may hold sittings for the purpose of giving 22 judgment in cases theretofore heard and taken *en délibéré*, and of hearing and giving 24 judgment in cases by default or *ex-parte*, including cases of application for judg- 26 ment of confirmation of title to immovables, where there shall be no opposition 28 or the oppositions shall be admitted by all the parties, and of hearing and giving judg- 30 ment in any case appealed, evoked or removed from any Circuit Court, or brought 32 in the Superior Court, (as hereinafter provided,) because a Circuit Judge is a party 34 thereto, but of which, from its nature or the amount in dispute, the Circuit Court 36 would otherwise have cognizance,—and may, in any case, hear and give judgment upon all 38 issues of law raised upon demurrers or pleadings, and all motions, rules and incident- 40 tal matters; but with the consent of all parties, any case may be heard upon the merits 42 and determined at such sittings: and the provisions of this section shall apply to 44 cases transmitted to the District of Quebec or Montreal, in the manner hereinafter pro- 46 vided, as well as to cases arising in the said 48 Districts.

XVIII. And be it enacted, That the Superior Court shall, as aforesaid, take cognizance of all suits or actions (those purely of Admiralty jurisdiction excepted) which shall not be cognizable in the Circuit Court hereinafter mentioned, or which shall be evoked or otherwise removed from the said Circuit Court, or from any other Court or jurisdiction, into the said Superior Court, and of such suits or actions only, unless in any case it be otherwise provided by this Act, and excepting always such suits, actions or proceedings as shall be pending in Superior Term in any one of the several Courts of Queen's Bench immediately before the time when this Act shall come fully into effect, and which shall be transferred to and shall subsist, depend and be continued in the Superior Court at the same place, as hereinafter directed.

Jurisdiction of S. Court confined to certain cases.

Exception as to suits, &c. pending in Q. B. and transferred to S. Court.

XIX. And be it enacted, That all writs and process to be issued out of the Superior Court shall run in the name of Her Majesty, Her Heirs or Successors, and shall be sealed with the seal of the said Court, and signed by the Prothonotary for the District in which they shall issue, whose duty it shall be to make out and prepare the same; and they shall not be tested in the name of any Judge, but the words "in witness whereof we have caused the seal of our said Court to be hereunto affixed," shall be instead of such *teste*; and every such writ or process may be either in the English or in the French language, any law, custom or usage to the contrary notwithstanding: and if any affidavit be required before the issuing of any such writ of process, the Prothonotary shall have full power to receive such affidavit, and to administer the necessary oath: Provided always, that this shall not be construed to prevent any Judge of the Court from receiving such affidavit and administering such oath if he shall think fit.

Form and style of Writs and Process.

Not to be tested in the name of a Judge.

Language.

Requisite affidavits to be received by the Prothonotary.

Proviso.

XX. And be it enacted, That all writs of summons issuing out of the Superior

To whom writs of summons shall be addressed.

Exception. Court, except writs of *capias ad respondendum*, *saisie-arrêt* before judgment, *saisie-gagerie*, or *saisie-revendication*, shall be directed to and executed and returned by any of the Bailiffs of the said Court appointed for the District in which the writ shall issue, any law or custom to the contrary notwithstanding; but where any such writ shall be to be executed, wholly or in part, in any District other than that in which it shall issue, then, whether it be a writ of summons, or a writ of *capias ad respondendum*, *saisie-arrêt* before judgment, *saisie-gagerie*, or *saisie-revendication*, it shall (except those cases in regard to which other provision is hereinafter made) continue to be directed to and executed and returned by the Sheriff of the District in which it is to be executed, as heretofore; and when any such writ of summons shall be directed to any Bailiff of the Court as aforesaid, the copies of the same to be served upon the parties according to law, shall be certified as true copies, either by the Prothonotary of the said Court, for the District in which they shall have issued, or by the Attorney of the party suing out such writ.

Further exception—writs to be executed out of the District.

Copies how testified when served by a Bailiff.

Return of writs, &c. issued before the commencement of this Act.

XXI. And be it enacted, That every writ or process issued before this Act shall come fully into effect, which shall have been made returnable into any one of the several Courts of Queen's Bench, in the exercise of any of those jurisdictions or powers hereby transferred to and vested in the Superior Court, on any Juridical day subsequent to the time when this Act shall come fully into effect, shall be returned on the said day into the office of the Prothonotary of the Superior Court, at the place where it shall have been made returnable, and shall then have the same and no other effect as if it had been issued from the Superior Court, and had been made returnable on such day and at such place.

What shall be return days.

XXII. And be it enacted, That every day not being a Sunday or holiday, shall be

deemed a juridical day, for all the purposes of this Act, and shall be a return day for all writs, process and proceedings required to be returned into the Superior Court.

XXIII. And be it enacted, That it shall not be necessary that any Defendant summoned to appear before the Superior Court, shall appear or be called in open Court, but the writ of summons shall be returned into the Prothonotary's office, on the day on which it shall be returnable, and the Defendant may on that day or on the next following juridical day, fyle his appearance personally or by attorney, in the office of the Prothonotary of the Court at any time during office hours, and if he shall not fyle his appearance as aforesaid, he shall not thereafter be allowed to appear (except by express permission as hereinafter mentioned), and his default shall, on the juridical day next but one after the return day, be recorded, and the Court shall proceed to hear, try and determine the suit or action in due course of law: and every such writ of summons shall be served at least ten days (of which neither the day of service nor the day of the return shall be reckoned as one) before the day fixed for the return thereof, if there be not more than five leagues from the place of service of the writ to the place where the Defendant shall be summoned to appear; and if there be more than five leagues, then there shall be an additional delay of one day for every additional five leagues.

Defendant not to be called in Court, &c.

Appearance how fyled.

Default.

Delay between service and return.

XXIV. And be it enacted, That notwithstanding any such default to appear, the Defendant may, at any time before judgment, be allowed by the Superior Court, or by any one Judge thereof, to appear, on a special application of which the Plaintiff shall have had one clear day's notice, and for good cause shewn to the satisfaction of such Judge.

How Defendant in default may be allowed to appear.

Delay for
pleading and
between
pleadings.

Demand of
plea and
foreclosure.

Proviso: right
of party fore-
closed.

Delay for
pleading may
be enlarged.

How and
where *enquêtes*
may be taken.

XXV. And be it enacted, That whether the appearance be fyled in term or in vacation, the Defendant shall be allowed eight clear days from his appearance to plead to the Declaration, and the Plaintiff shall have a like delay to answer, and there shall be a like delay between each further pleading allowed by law; and if at the expiration of the delay allowed for any pleading, the same shall not be fyled, the opposite party may demand the same, and if it be not fyled on or before the third juridical day after such demand, may foreclose the party by whom it ought to have been fyled; and the fyling of the return of service of such demand shall be sufficient to authorize the Prothonotary, upon application in writing for *Acte* of foreclosure, to grant and record the same without further notice or formality: Provided always, that the party foreclosed shall nevertheless be entitled to at least one clear day's notice of the inscription of the cause for *enquête* or hearing, before such *enquête* shall be commenced or the cause shall be heard.

XXVI. And be it enacted, That the delay for pleading may in any case be enlarged by the Superior Court, or by any one Judge thereof, on special application of which notice shall be given to the opposite party at least one clear day before it is made; and that any party may fyle any pleading within the time hereby allowed for fyling the same.

XXVII. And be it enacted, That the *enquêtes* in causes cognizable in the Superior Court shall be taken before a single Judge, or before more than one Judge of the said Court, or before any Circuit Judge as *Commissaire Enquêteur* of the Superior Court, and as well in Term as in Vacation, subject to the provisions hereinafter made; and that for that purpose it shall be lawful for the Judges of the Superior Court to assign one room, or more than one room, in each Court House in which the

Court is held, for the taking of such *enquêtes* therein, and to fix the number of Clerks or Writers whom the Prothonotary of the Court shall employ for taking such *enquêtes*, accordingly as the case shall require.

XXVIII. And be it enacted, That each and every Circuit Judge shall be a *Commissaire Enquêteur* of the Superior Court, and shall have all the powers of a single Judge thereof with regard to the taking of *enquêtes*; but it shall not be the duty of such Circuit Judge to act as *Commissaire Enquêteur* when any Judge of the Superior Court is present at the place where the *enquête* is to be taken, and not incapacitated from acting by sickness or otherwise.

Circuit Judges to be *Commissaires Enquêteurs*.

Proviso.

XXIX. And be it enacted, That in the Districts of Montreal and Quebec, every juridical day out of Term, except every day in the month of August and the days on which the Circuit Court shall sit at the same place, shall be an *enquête* day; as shall also every day in Term which shall have been appointed by the Court for that purpose: and that in each of the other Districts every juridical day in vacation, (except every day in the month of August), on which a Circuit Judge or *Commissaire Enquêteur* shall be present at the place where the Superior Court is held, and every day in Term or out of Term which shall be appointed by the said Court for that purpose, shall be an *enquête* day.

Enquête days in Quebec and Montreal.

In other Districts.

XXX. And be it enacted, That the Superior Court may, in its discretion, order the *enquête* in any case, or the examination of any witness or witnesses, or of any party to the cause, or other person required to be examined in such case, to be taken at any place where Terms of the Superior Court are held, or at any place where sittings of the Circuit Court are held, before any Judge of the Superior Court or *Commissaire Enquêteur* thereof; and this provision shall extend to *Faits et Articles*,

Court may order *enquêtes*, &c. to be taken in any District.

How any witness or party may be examined in such other District.

Serment décisoire, or other Oath which may be legally required of any party ; 2
 and the examination may, in the discretion 4
 of the Court, be had in the usual manner as if the witness or party examined had ap- 6
 peared at the place where the case is pend-
 ing, or upon written interrogatories and 8
 cross interrogatories ; and the Court may, in
 its discretion, order the record or any por- 10
 tion thereof to be transmitted to the place
 where the *enquête* or examination is to be 12
 taken, but no Commission or formality
 other than the order of the Court shall be 14
 requisite, and such order (and the other
 documents if any) shall be transmitted to the 16
 Prothonotary of the Superior Court or
 Clerk of the Circuit Court (as the case 18
 may be) at the place where the *enquête* or
 examination is to be had, and such Pro-
 thonotary or Clerk may thereupon issue 20
 the proper process to compel the attendance
 of any witness or party to be examined in 22
 the case, at the place named in such order
 and on any *enquête* day at such place, or on 24
 any day (to be appointed by the *Commis-
 saire Enquêteur*) on which a *Commissaire* 26
Enquêteur will be present at such place.

Not to prevent the issuing of Commission Rogatoire, &c.

XXXI. And be it enacted, That nothing 28
 in next preceding section shall be construed
 to prevent the said Superior Court from 30
 issuing any *Commission Rogatoire*, or Com-
 mission in the nature of a *Commission* 32
Rogatoire, addressed to any Commissioner
 or Commissioners at any place out of Lower 34
 Canada, or at any place within Lower Ca-
 nada, if from the circumstances of the case, 36
 the Court shall think the ends of Justice
 will be better attained by such Commission 38
 than by such order as in the next preceding
 section is mentioned. 40

Court to have jurisdiction in certain special cases : *capias* :

XXXII. Provided always, and be it enact- 42
 ed, That the Superior Court shall have ori-
 ginal cognizance of, hear, try and determine, 44
 in due course of law, any suit or action in
 which a writ of *capias ad respondendum*,
 shall be sued out, or (until legislative pro- 46

vision shall be made for trials by Jury in cases before the Circuit Court) in which a trial by Jury may by law be had, and the plaintiff shall in and by his declaration therein filed, declare his choice and option to have a trial by Jury, although the sum of money, or the value of the thing demanded, in such suit or action, shall not exceed, or shall be under fifty pounds, currency : Provided always, that such declaration of the choice and option of the plaintiff to have a trial by Jury, or the declaration of such choice and option by the Defendant, in his Evocation, as hereinafter provided, shall bind all parties to proceed accordingly, whenever the suit or action shall be ready for such trial ; nor shall any other mode of trial be allowed therein, except by consent of all the parties ; and saving always the discretionary power of the Court over the costs in any case it may deem to have been vexatiously or unnecessarily brought in or removed into the Superior Court, instead of being brought or left to be determined in the Circuit Court by which it would have been cognizable : Provided also, that the Superior Court shall have original cognizance of any suit or action to which any Circuit Judge shall be a party, and which, from its nature, or the amount, or value of the thing demanded, would have been otherwise cognizable by the Circuit Court, but such suit or action shall be heard, tried and determined, at any sitting of the Superior Court in term or in vacation, according to the course and practice of the Circuit Court, and with like costs ; and any suit or action to which a Circuit Judge shall become a party to any intervention, opposition, *demanded en garantie*, or otherwise, shall be at once removed into the Superior Court, in the same District.

Jury cases.

Proviso as to option of a Jury trial.

Costs.

Cases where a Circuit Judge is a party ;

or shall become a party.

XXXIII. And be it enacted, That the Judges of the Superior Court or any one of them, shall be and they are hereby authorized in all cases of trial by jury in civil matters, to try the issues of fact, and to

Jury trials may be had in vacation.

receive the verdicts of juries in vacation, on such days as the Court shall have appointed for that purpose; any law to the contrary notwithstanding.

Jury trial may be ordered to be had in any District.

XXXIV. And be it enacted, That the Superior Court may, in its discretion, order the trial by jury in any civil case to be had in any district; and if such trial be ordered to be had in a district other than that in which the cause is pending, the record in the cause and the order for the trial shall be sent to the Prothonotary of the Court for the District in which the trial is ordered to be had; and thereupon all proceedings to trial and verdict shall be had in such district, as if the cause were pending there, and the verdict shall then be returned, with the record, to the Prothonotary of the District wherein the cause is pending, for judgment and all ulterior proceedings.

Jury trials may be had at Circuit Courts, when proper provisions shall be made.

XXXV. And be it enacted, That when and so soon as lists of jurors shall have been made out, and the requisite provisions of law in that behalf enacted, it shall be lawful for the Superior Court to order any trial by jury in a civil case to be had at any Circuit Court; and the Judge presiding at such trial shall receive the verdict of the jury and return the same into the Superior Court, to be by the said Court proceeded upon according to law.

Provision for facilitating the proceedings in suits, &c. brought in the remote districts.

XXXVI. And for facilitating the decision of cases pending in other Districts than those of Quebec or Montreal—Be it enacted,

That whenever any case, in any such District shall be ready for hearing upon the law or upon the fact, or both, or it shall become necessary to obtain any judgment or order which cannot be rendered or made by a Circuit Judge in such District, and for want of which the proceedings in the cause would be stayed;

1. Any party may require the Prothonotary (hereinafter called the Prothonotary for the remote District,) to transmit the record, including all documents which may have been produced in evidence, to the Prothonotary for the District of Quebec or of Montreal, which the Prothonotary of the remote District shall accordingly do, upon the fying of a return of the service of notice of such requisition on such of the other parties as shall have appeared, and upon payment of the postage of the record; and such Prothonotary shall, if required by any of the parties, take and keep a copy of any original document fyled as evidence in the case, which copy, in case of the loss of such original document, shall have the same effect as the original would have had; and for such copy he shall be entitled to demand pence currency per hundred words :

Transmission of the record to Quebec or Montreal.

Copies of original documents may be kept, &c.

2. The packet containing the Record so to be transmitted, shall be sealed with the seal of the Court, and the brief title of the cause, the name of the remote District and the signature of the Prothonotary, shall be upon the outside thereof, and it shall be addressed to the Prothonotary for the District of Quebec or Montreal, (as the case may be,) who shall open the same upon the receipt thereof, and shall have the custody of the Record until it be remitted to the Prothonotary of the remote District, as hereinafter provided :

Mode of making up the record, &c. for transmission.

3. Any party to the cause, may appear in person or employ an Attorney of the Court to appear for him at Quebec or Montreal, (as the case may be) and such appearance shall be fyled there accordingly; but if such appearance be not fyled by any party, or if such party or the Attorney appearing for him shall not have his domicile within the City (of Quebec or Montreal, as the case may be), then all notices and papers in the case left for him at the Prothonotary's office, shall be held to be duly served upon

Appearance of parties at Quebec or Montreal, &c. Service of notices, &c.

him, except in cases where personal service
is by law required : 2

Attorney in
remote District
not superseded.

4. The appearance of any other Attorney 4
at Quebec or Montreal, shall not be con- 6
structed to supersede the Attorney appearing 8
for the same party in the remote District, 8
but the Attorney appearing at Quebec or 10
Montreal, shall be held to be acting under
him : 10

Proceedings to
be had at
Quebec or
Montreal.

5. Whenever the Record shall have been 12
four clear days in the hands of the Protho- 12
notary at Quebec or Montreal, (as the case 14
may be) the cause shall be deemed to 14
be pending there, and shall be heard and 16
dealt with accordingly, in term or in vaca- 16
tion as the case may require, until final 18
judgment or judgment upon the issue 18
raised in the remote District shall have 20
been given, or the requisite order shall have 20
been made, when it shall be remitted to the 22
Prothonotary of the remote District for 22
execution or further proceedings, as the 24
case may require : 24

Return of the
record, &c.
when judg-
ment, &c. is
obtained.

6. When judgment shall have been 26
given, or the requisite order shall have been 26
made, any party may require the Protho- 28
notary at Quebec or Montreal to remit 28
the record, with all papers fyled in the 30
cause in his office and certified copies 30
of all judgments and entries in his Register, 32
to the Prothonotary in the remote District ; 32
and such record shall, upon payment of 34
the postage and of the costs of all copies 34
of judgments or entries at the rate afore- 36
said, be so remitted accordingly, sealed and 36
indorsed as hereinbefore provided, and 38
addressed to the Prothonotary of the re- 38
mote District, who shall open the same, 40
and proceedings shall then be had in such 40
remote District as if the judgment had been 42
there rendered by the Court : 42

Foregoing
provisions to
apply to oppo-
sitions, &c.

7. The foregoing provisions of this sec- 14
tion shall apply to all oppositions, inter- 14
ventions, *demandes incidentes*, and other

incidental proceedings in any cause, whatever be the technical name or nature thereof, in which it shall be requisite to obtain any judgment of the Court or of any Judge thereof, or any decision or order for want of which the proceedings in the cause would be stayed :

8 8. A separate Register shall be kept by the Prothonotary at Quebec or Montreal, for causes transmitted from other Districts ; and any judgment or other entry in such Register, shall be also entered by the Prothonotary for the remote District in his Register, when the certified copy of such judgment or entry shall be sent to him with the Record remitted, so that the entries in the cause contained in his Register may be complete : and copies of such entries certified by the Prothonotary of the remote District shall have the same effect as evidence or otherwise, as copies thereof certified by the Prothonotary at Quebec or Montreal :

Mode of keeping the Register as to such cases.

Copies of entries.

24 9. The party applying for the transmission of any Record from the Districts of Three-Rivers or St. Francis, may require the same to be transmitted to Quebec or to Montreal in his discretion, but if the Record in the same cause be afterwards transmitted, it shall be transmitted to the same place : but Records required to be transmitted under this section from the District of Gaspé or of Kamouraska shall be so transmitted to Quebec, and Records from the District of Ottawa shall be transmitted to Montreal :

To what place the transmission shall be.

10. No Record shall be so transmitted at any time within one month next before the holding of any Term of the Superior Court in the remote District :

Limitation.

11. The transmission and remission of the Record shall be by Post, unless all the parties consent that it be by some other conveyance :

Mode of transmission.

Part only of
the record may
be transmitted
by consent.

12. With the consent of all parties, any portion only of the Record may be transmitted, the parties filing a declaration in writing that the other portions are not material to the issue: and in such case judgment may be given as if the whole Record were transmitted, unless the Court or Judge shall think it necessary to require the transmission of some other portion, or the whole of the record, in which case the Court or Judge may order the same to be transmitted before giving judgment, or making any Order:

Or statement
and pleadings
only, by con-
sent.

13. The parties may agree upon a statement of the case and may have the same transmitted with the pleadings only, and judgment may be given thereupon as if the whole Record were transmitted, unless the Court or Judge shall think it necessary to require the transmission of some other portion, or the whole of the Record, in which case the Court or Judge may order the same to be transmitted before giving judgment or making any order.

Judgments
which may be
appealed from
to be *motives*.

XXXVII. And be it enacted, That each final judgment, and each interlocutory judgment from which an appeal may lie, rendered by the Superior Court, as well in any suit or action by default or *ex-parte* which shall be dismissed, as in any suit or action where issue shall have been joined, shall contain a summary statement of the points of fact and law, and the reasons upon which such judgment shall be founded, and the names of the Judges who shall have concurred therein or entered their dissent therefrom.

In what cases
an appeal shall
lie from Judg-
ments of the
S. Court.

XXXVIII. And be it enacted, That an Appeal and Writ of Error shall lie to the Court of Queen's Bench established by an Act of this Session, from the judgments of the Superior Court, (whether rendered in any cause commenced in the said Court, in the first instance, or brought into it by appeal, evocation, removal from some

other Court, or transmission from some
 2 former Court,) in every case in which,
 from its nature or the amount in dispute,
 4 an Appeal or Writ of Error by law lay,
 immediately before the coming into force
 6 and effect of the Act passed in the seventh
 year of Her Majesty's Reign and intituled,
 8 "*An Act for the establishment of a better
 Court of Appeals in Lower Canada,*" from
 10 the judgments of the Courts of King's Bench
 in and for the several Districts of Lower
 12 Canada, to the Provincial Court of Ap-
 peals, upon the same terms and conditions,
 14 and under and subject to the same res-
 trictions, limitations, rules and regulations
 16 as were then established and obtained in
 Appeals from the said Courts of King's
 18 Bench to the said Provincial Court of Ap-
 peals.

20 XXXIX. And be it enacted, That all and
 every the Records, Registers, Muniments
 22 and judicial or other proceedings of the
 Courts of Queen's Bench in the several
 24 Districts of Lower Canada (except only such
 as by any Act of this Session are directed
 26 to be transmitted into the Court of Queen's
 Bench established, as aforesaid, by an Act
 28 of this Session, and such as are by this Act
 directed to be transmitted into the Circuit
 30 Court,) shall forthwith, after this Act shall
 come fully into effect, be transmitted into and
 32 make part of the Records, Registers, Muni-
 ments, and judicial or other proceedings of
 34 the Superior Court hereby established, in the
 Districts and at the places in and at which
 36 the said several Courts of Queen's Bench are
 now respectively established and held; that
 38 is to say, the Records, Registers, Muniments,
 judicial and other proceedings of the said
 40 Court of Queen's Bench for the District of
 Montreal shall be transmitted into the said
 42 Superior Court, and shall be kept in the
 Office of the Prothonotary thereof for the
 44 said District, at the City of Montreal;
 and the Records, Registers, Muniments, ju-
 46 dicial and other proceedings of the said
 Court of Queen's Bench for the District of

Transmission
 of certain
 records, &c of
 the present
 Courts of Q.
 B. into the
 Superior
 Court.

Places to which
 they shall be
 transmitted.
 Montreal.

Quebec.

Quebec, shall be transmitted into the said Superior Court, and shall be kept in the Office of the Prothonotary thereof for the said District, at the City of Quebec; and the Records, Registers, Muniments, and judicial or other proceedings of the said Court of Queen's Bench for the District of Three-Rivers, shall be transmitted into the said Superior Court, and shall be kept in the Office of the Prothonotary thereof for the said District, at the Town of Three-Rivers; and the Records, Registers, Muniments, judicial or other proceedings of the said Court of Queen's Bench for the District of St. Francis, shall be transmitted into the said Superior Court, and shall be kept in the Office of the Prothonotary thereof for the said District, at the Town of Sherbrooke; and the Records, Registers, Muniments, judicial and other proceedings of the said Court of Queen's Bench for the District of Gaspé, shall be transmitted into the said Superior Court, and shall be kept in the Office of the Prothonotary thereof for the said District, at Percé and at New Carlisle, respectively, that is to say, those which before the passing of this Act, would be kept at Percé, shall be kept in the Office of the said Prothonotary there, and those which before the same time, would be kept at New Carlisle, shall be kept in the Office of the said Prothonotary there.

Actions, &c.
in the present
Courts of Q.
B. to be
continued in
the S. Court.

XL. And be it enacted, That no judgment, order, rule or act of the said several Courts of Queen's Bench respectively, legally pronounced, given, had or done before this Act shall come fully into effect, shall be hereby avoided, but shall remain in full force and virtue as if this Act had not been passed; nor shall any action, information, suit, cause or proceeding depending in the said courts respectively, be abated, discontinued or annulled, but the same shall (except such as are by this Act or any other Act of this Session, directed to be transferred to and to subsist in some Court other than the Superior Court), be transferred in

their then present condition respectively to
 2 and subsist and depend in the said Superior
 Court, in the several and respective districts
 4 in which they shall be subsisting and de-
 pending when this Act shall come fully into
 6 effect, as if they had respectively been
 commenced, brought or recorded in the
 8 said Superior Court, and in such District
 as aforesaid, and whatever be the amount or
 10 value in dispute, and other and further pro-
 ceedings shall be therein had in the said
 12 Superior Court to judgment and execution,
 or subsequent thereto, as might have been
 14 had in the said several Courts of Queen's
 Bench respectively, or in the said Superior
 16 Court in cases or proceedings commenced
 and depending before that Court.

18 XLI. And be it enacted, That all and
 every the Records, Registers, Muniments
 20 and judicial or other proceedings of the
 Courts of Queen's Bench in the several
 22 Districts of Lower Canada, in the Inferior
 Terms of the said Court respectively, shall
 24 forthwith, after this Act shall come fully
 into effect, be transmitted into and make
 26 part of the Records, Registers, Muniments,
 and judicial or other proceedings of the
 28 Circuit Court, in the Circuits and at the
 places in and at which the said Courts of
 30 Queen's Bench are now respectively estab-
 lished and held ; that is to say, the Records,
 32 Registers, Muniments, judicial and other
 proceedings of the said Court of Queen's
 34 Bench for the District of Montreal, in the
 Inferior Term of the said Court, shall be
 36 transmitted into the said Circuit Court, and
 shall be kept in the Office of the Clerk
 38 thereof for the Montreal Circuit, at the City
 of Montreal ; and the Records, Registers,
 40 Muniments, judicial and other proceedings
 of the said Court of Queen's Bench for the
 42 District of Quebec, in the Inferior Term of
 the said Court, shall be transmitted into the
 44 said Circuit Court, and shall be kept in
 the Office of the Clerk thereof for the Que-
 46 bec Circuit, at the City of Quebec ; and
 the Records, Registers, Muniments, and

Records, &c.
 of the present
 Courts of Q.
 B. in Inferior
 Term, to be
 transmitted
 into the
 Circuit Court
 at the same
 place.

Montreal.

Quebec.

Three-Rivers.

Sherbrooke.

judicial or other proceedings of the said Court of Queen's Bench for the District of Three-Rivers, in the Inferior Term of the said Court, shall be transmitted into the said Circuit Court, and shall be kept in the Office of the Clerk thereof for the Three-Rivers Circuit, at the Town of Three-Rivers; and the Records, Registers, Muni-ments, judicial or other proceedings of the said Court of Queen's Bench for the Dis-trict of St. Francis, in the Inferior Term of the said Court, shall be transmitted into the said Circuit Court, and shall be kept in the Office of the Clerk thereof for the Sher-brooke Circuit, at the Town of Sher-brooke.

Actions, &c.
in the Inferior
Terms, to be
continued in
the Circuit
Court.

XLII. And be it enacted, That no judg-ment, order, rule or act of the said Courts of Queen's Bench respectively, in Inferior Term, legally pronounced, given, had or done before this Act shall come fully into effect, shall be hereby avoided, but shall remain in full force and virtue as if this Act had not been passed; nor shall any action, information, suit, cause or proceeding depending in the said Courts respectively in Inferior Term, be abated, discontinued or annulled, but the same shall be transferred in their then present condition respectively to and subsist and depend in the said Circuit Court, in the several and respective Circuits in and into which the Records and other proceedings therein, are hereinbefore directed to be transmitted and kept, when this Act shall come fully into effect, as if they had respectively been commenced, brought or recorded in the said Circuit Court, and in such Circuit as aforesaid, and other and further proceedings shall be therein had in the said Circuit Court to judgment and execution, or subsequent thereto, as might have been had in the said several Courts of Queen's Bench respectively, in Inferior Term, or in the said Circuit Court in cases or proceedings commenced and depending before the said Court: and the provisions of this and of the next pre-

ceding section shall apply to the judgments
 2 of the several Courts of King's Bench,
 mentioned in the Act passed in the eleventh
 4 year of Her Majesty's Reign, and intituled,
An Act to render executory certain judg-
 6 *ments rendered by the late Courts of King's*
Bench for Lower Canada, and to the Re-
 8 cords and proceedings in the said Courts of
 King's Bench in Inferior Term.

This section
 to apply to
 judgments of
 the former
 Courts of
 K. Bench.

10 XLIII. And be it enacted, That a Court of
 Record, to be called the Circuit Court and
 12 having jurisdiction throughout Lower Can-
 ada, shall continue to be holden every year
 14 in each of the Circuits in Lower Canada,
 by one of the Judges of the Superior Court,
 16 or by one of the Circuit Judges; Provided
 always, that nothing in this Act contained
 18 shall be construed to make the Circuit
 Court to be held under it at any place a
 20 New Court, or to abate or discontinue any
 suit, action or proceeding pending therein,
 22 but the Circuit Court to be holden under
 this Act shall be held to be to all intents
 24 and purposes, one and the same with the
 Circuit Court holden at the same place un-
 26 der the Acts hereby repealed, notwithstanding
 any change hereby made in its name,
 28 constitution or jurisdiction, or in the times
 at which it is to be held.

Circuit Courts
 established for
 Lower Cana-
 da.

Circuit Courts
 at any place
 not to be
 deemed a new
 Court, &c.

30 XLIV. And be it enacted, That the District
 Judges for the District of Gaspé, shall from
 32 and after the time when this Act shall come
 fully into effect, and without any new Com-
 34 mission, be and be called Circuit Judges, and
 not District Judges, and that they and the
 36 other Circuit Judges theretofore appointed in
 and for the other Districts, shall by virtue of
 38 this Act, and without any new Commission,
 and until they shall respectively resign, be re-
 40 moved or suspended from office, be Circuit
 Judges for Lower Canada, as shall also, each
 42 and every Circuit Judge thereafter appointed;
 and the Circuit Judges for Lower Canada,
 44 whether appointed before or after the time
 when this Act shall come fully into force,
 46 shall each respectively have full power to

District Judges
 in Gaspé to be
 hereafter called
 Circuit Judges.

Circuit Judges
 to be so for all
 Lower Cana-
 da.

Where the
Circuit
Judges shall
reside.

act as such in any part of Lower Canada, but the Districts and places in and at which they shall respectively reside, and in which they shall ordinarily act, shall be from time to time appointed by the Governor, but this shall not prevent their acting in other places or Districts whenever circumstances shall require them so to do : provided that at least one of the said Circuit Judges shall reside at Three-Rivers, in the District of Three-Rivers, and at least one of them at Sherbrooke, in the District of St. Francis, and at least one of them at New Carlisle, in the District of Gaspé, and at least one of them at Percé, in the said District, and at least one of them at in the District of Ottawa after the Proclamation establishing the said District shall have issued, and at least one of them at in the District of Kamouraska, after the Proclamation establishing the said District shall have issued, and at least one of them at Chicoutimi in the Circuit of Saguenay; and the others shall respectively reside at the City of Montreal, or at the City of Quebec : And the total number of the said Circuit Judges in office at any one time shall not be more than

Their number
limited.

How vacancies
shall be filled.

XLV. And be it enacted, That whenever any of the Circuit Judges appointed before or after the time when this Act shall come fully into effect, shall die, resign or be removed, or suspended from office, or whenever, from any cause, the number of Circuit Judges shall be or become less than the number fixed in and by the next preceding section, and it shall be deemed expedient to fill the vacancy thus existing, it shall be lawful for the Governor of this Province, by an instrument under the Great Seal thereof, to appoint a proper person to be a Circuit Judge for Lower Canada; and all such Circuit Judges appointed before or after the passing of this Act, shall be *ex officio* Justices of the Peace, and shall act as Chairmen of the General or Quarter Sessions in and for the several Districts in

Circuit Judges
to be Chairmen
of Quarter
Sessions.

Lower Canada, and for the Chicoutimi
 2 Circuit, when such Sessions shall be held
 therein; and the said Circuit Judges shall
 4 also have such powers and duties as are
 hereinafter assigned to them, or as may be
 6 assigned to them by any other Act of the
 Legislature: Provided always, that no
 8 such Circuit Judge shall act as Advocate,
 Attorney, or Counsel in Lower Canada.

Other duties
 may be as-
 signed to them.

Proviso.

10 XLVI. Provided always, and be it en-
 acted, That nothing in this Act shall be
 12 construed to render any Court of General
 or Quarter Sessions incompetent by reason
 14 of the absence of any Circuit Judge, who, if
 present, would be the Chairman of the
 16 Court: And provided also, that the pro-
 visions of the Act passed in the sixth year
 18 of Her Majesty's Reign, and intituled, *An*
Act for the qualification of Justices of the
 20 *Peace*, shall not extend to any Circuit
 Judge, anything in the said Act to the con-
 22 trary notwithstanding.

Proviso: Ses-
 sions not to be
 incompetent
 by their ab-
 sence.

Act 6 Vict. c.
 3, not to apply
 to them.

XLVII. And be it enacted, That no per-
 24 son shall be appointed a Circuit Judge,
 unless he be an Advocate of at least five
 26 years' standing at the bar of Lower Canada.

Who may be
 appointed a
 Circuit Judge.

XLVIII. And be it enacted, That the
 28 Circuit Court shall have cognizance of and
 shall hear, try and determine all civil suits
 30 or actions as well those where the Crown
 may be a party as others, (those purely of
 32 Admiralty jurisdiction excepted,) wherein
 the sum of money or the value of the
 34 thing demanded shall not exceed fifty
 pounds currency, and wherein no Writ of
 36 *capias ad respondendum* shall be sued out;
 and if the said sum or value shall not ex-
 38 ceed fifteen pounds currency, the suit or
 action shall be heard, tried and determined in
 40 a summary manner; and if the said sum or
 value shall not exceed six pounds five shillings
 42 currency, then the said suit or action shall be
 determined according to equity and good
 44 conscience; Provided always, that if any
 such suit or action shall relate to any title to

Cases in which
 the Circuit
 Court shall
 have jurisdic-
 tion.

Proceedings
 summary in
 cases up to
 £15 and in
 good conscience
 up to £6. 5.

Proviso.

Actions evocable by defendant in certain cases to the S. Court.

lands or tenements, or to any sum of money payable to Her Majesty, or to any fee of office, duty or rent, revenue, annual rents or such like matters or things where the rights in future may be bound, or shall be a suit or action in which a trial by jury may by law be had and in which the defendant shall in and by his evocation declare his choice and option to have a trial by jury, it shall be lawful for the party defendant before making his defence to the merits of any such suit or action to evoke the same, and by such evocation to require that the said suit or action be removed and carried for hearing, trial and judgment to and in the Superior Court in the same District; and every such evocation shall be filed and entered of record, and the said suit or action shall thereupon be removed into the said Superior Court, which shall, at any sitting thereof, in or out of term, proceed to hear and determine in a summary way whether the said evocation be well founded; and if it should maintain the said evocation and adjudge the same to be well founded, proceedings shall thereupon be had in the said Superior Court to trial and judgment and execution according to the rules of proceeding in the said Court, as if the said suit or action had been originally instituted therein; and if the said evocation should be overruled, the said suit or action shall be remitted to the Circuit Court there to be heard, tried and finally determined.

Proceedings on evocation.

If maintained.

If overruled.

Evocation by plaintiff on defendant's plea.

XLIX. And be it enacted, That if in any suit or action which might be so evoked as aforesaid, the defendant shall not evoke the same, but shall make any plea or defence by which the plaintiff's title to any lands or tenements shall be disputed or called in question, or by which, if maintained, his rights in future would be impaired or injuriously affected, it shall then be lawful for the plaintiff to evoke such suit or action, in the same manner and with the same effect as the defendant might have

done, and such evocation and the suit or
 2 action so evoked shall be subject to the
 provisions herein made as to suits or actions
 4 evoked by the defendant.

L. And be it enacted, That all ac-
 6 tions, suits, or proceedings may be com-
 menced at the place where the terms of the
 8 Circuit Court are held in any Circuit, pro-
 vided the cause of such suits, actions or
 10 proceedings respectively, shall have arisen
 within such Circuit, or the defendant or one
 12 of the defendants, or the party or one of the
 parties, to whom the original writ, order or
 14 process shall be addressed, shall be domi-
 ciled or served personally with such writ,
 16 order or process within such Circuit, and
 that all the defendants or parties aforesaid
 18 be legally served with process and not
 otherwise, except where any of the said
 20 defendants or parties shall be summoned by
 advertisement as hereinafter mentioned:
 22 Provided always, that the process may in
 such cases be served out of the limits of the
 24 Circuit, but in the District in which such
 Circuit is situate, by any Bailiff of the Su-
 26 perior Court appointed in and for such
 District.

In what
 Circuit actions,
 &c. may be
 commenced.

Proviso as to
 service of
 process.

LI. And be it enacted, That in any
 28 suit or action to be brought in the Circuit
 30 Court, the first process to be issued for
 bringing the defendant before the said Court,
 32 to answer the *demande* made in such suit
 or action, shall be a Writ of Summons, in
 34 which the Plaintiff's cause of action shall be
 briefly stated, unless there shall be attached
 36 to such Writ of Summons a Declaration
 setting forth the cause of action, in which
 38 case it shall be sufficient that in the Writ
 of Summons reference be made to the Decla-
 40 ration for the cause of action; and such Writ
 of Summons may be in the form contained
 42 in the Schedule (A,) to this Act subjoined,
 and shall be served at least five days (of
 44 which neither the day of service nor the
 day of return shall be reckoned as one) be-
 46 fore the day fixed for the return thereof, if

Process by
 which actions,
 &c. shall be
 commenced.

Form of Writ
 of Summons.
 Delay between
 service and
 return.

there be not more than five leagues from
the place of service to the place where the
Court shall be held; and if, in any such
case, there be more than five leagues, then
there shall be an additional delay of one
day for every additional five leagues; and
such Writ of Summons shall be directed to
and executed by any Bailiff of the Superior
Court appointed in and for the District in
which the same shall have been issued, any
law or custom to the contrary notwithstanding;
and the copies of the Writ of Summons
and of the declaration, if any there be, to be
served upon parties according to law, shall
be certified as true copies, either by the Clerk
of the Circuit Court, or by the Attorney of
the Plaintiff: Provided always, that in all
cases cognizable by the Circuit Court,
where such Writ of Summons may by law
be executed in any District other than the
District in which the same shall have issued,
such Writ of Summons shall be directly
addressed to the Sheriff of such other Dis-
trict, and shall be executed and returned by
such Sheriff to the Circuit Court at the
place from which it shall have issued,
according to the exigency of such Writ and
to law.

By whom ser-
vice shall be
made.

Copies how
certified.

Proviso as to
process to be
executed out of
the District.

Style and form
of Writs and
Process.

LII. And be it enacted, That all Writs
and Process issuing out of the Circuit Court,
shall run in the name of Her Majesty, Her
Heirs or Successors, and shall be sealed
with the Seal of the Court, and signed by
the Clerk, whose duty it shall be to prepare
the same, and shall not be tested in the
name of any Judge, but the words "in wit-
ness whereof we have caused the Seal of
our said Court to be hereunto affixed" shall
be instead of such *teste*, and all such Writs
and Process may be either in the English
or in the French language, any law, usage
or custom to the contrary notwithstanding.

Return of
Process issued
before the
commence-
ment of this
Act.

LIII. And be it enacted, That every
Writ or process issued before this Act shall
come fully into effect, which shall have been
made returnable into any one of the several

Courts of Queen's Bench, in the Inferior
 2 Term thereof, or into any Circuit Court, on
 any day subsequent to the time when this
 4 Act shall come fully into effect, shall be
 returned on that day into the office of the
 6 Clerk of the Circuit Court, at the place
 where it shall have been made returnable,
 8 unless it shall have issued in a non-appeal-
 able case, and such day shall happen not
 10 to be a return day in such cases, and it
 shall then be returned into the said Court
 12 at the said place, on that juridical day
 which shall be next after the day on which
 14 such Writ or process shall have been made
 returnable, and in either case it shall then
 16 have the same effect and no other as if it
 had been issued from the Circuit Court, and
 18 had been made returnable on such day and
 at such place.

In appealable
cases.

In non-ap-
pealable cases.

Effect.

20 LIV. And be it enacted, That from any
 Judgment rendered by the Circuit Court,
 22 in any suit or action in which the sum of
 money or the value of the thing demanded
 24 shall exceed fifteen pounds currency, if
 such judgment be rendered after this
 26 Act shall come fully into effect, or in-
 which the sum of money or value of the
 28 thing demanded, shall exceed ten pounds
 currency, if such judgment shall have been
 30 rendered in any suit or action brought
 before the said time, or which shall relate to
 32 any titles to lands or tenements, or to any
 sum of money payable to Her Majesty, fee
 34 of office, duty or rent, revenue, annual rents,
 or such like matters or things, where the
 36 rights in future may be bound, an appeal
 shall lie to the Superior Court in the Dis-
 38 trict within which the suit or action shall
 have been originally instituted; which said
 40 Court shall proceed to hear and adjudge on
 such appeal as to law may appertain, and
 42 in the manner hereinafter provided.

Appeal to the
Superior Court
in certain
cases.

*
 LV. And be it enacted, That the party
 44 appealing from any judgment rendered
 as aforesaid by the Circuit Court, shall within
 46 fifteen days after the rendering of the judg-

Mode of
bringing ap-
peal.

ment to be appealed from (but without
 being bound to give previous notice the- 2
 reof to the adverse party) give good and
 sufficient security, by sureties who shall 4
 justify their sufficiency to the satisfaction of
 the person before whom it shall be given 6
 as hereinafter provided, that he will effec- 8
 tually prosecute the said appeal and answer
 the condemnation, and also pay such costs 10
 and damages as shall be awarded by the
 Superior Court if the judgment appealed 12
 from should be affirmed; and such secu-
 rity shall be given either before any Judge 14
 of the Superior Court or the Protho-
 notary thereof; and the bond shall then be 16
 deposited and remain of record in the Office
 of the latter, or it shall be given before 18
 any Circuit Judge, when at the place where
 the said judgment appealed from shall have 20
 been rendered, or before the Clerk of the
 Circuit Court at such place, and the bond 22
 shall then be deposited, and remain of re-
 cord in the office of the latter; and any one 24
 surety, being a proprietor of real property
 of the value of fifty pounds currency, over 26
 and above all incumbrances payable out of
 or affecting the same, shall suffice to 28
 render such security valid; and the said
 Judges, Prothonotaries, or Clerks, are 30
 hereby respectively authorized to admi-
 nister all oaths required by law in such cases 32
 from the persons so becoming sureties, and
 to put to them all necessary enquiries and 34
 questions: Provided always, that if the
 party appealing shall, within the same 36
 delay of fifteen days after the rendering of
 the judgment, agree and declare in writing 38
 at the Office of the Prothonotary of the
 Superior Court, or at the Office of the 40
 Clerk of the Circuit Court appealed from,
 that he does not object to the judgment 42
 being carried into effect according to law,
 or shall pay into the hands of either of the 44
 said Prothonotaries or Clerks, the amount
 in capital, interest and costs, of the said 46
 judgment, and shall, at the same time,
 declare in writing his intention to appeal, 48
 (which amount, when so paid, the res-

Security.

Before whom
and how
given.

Who may be
surety.

Justification.

Proviso: if the
appellant al-
lows the
judgment to
be executed, or
pays in the
amount of
judgment.

pondent shall be entitled to have and receive from the said Prothonotary or Clerk) then, and in that case, the party so appealing, in lieu of the security above required, shall give security only for such costs and damages as shall be awarded by the Superior Court, in case the appeal be dismissed; and provided also, that when only such last mentioned security shall have been given, the respondent, if the judgment appealed from be reversed, shall not be bound to return to the appellant more than the amount of money so paid by the latter into the hands of the Prothonotary or Clerk, with the legal interest thereon from the day of the payment of the same to the said Prothonotary or Clerk—or more than the sum levied under the execution sued out upon such judgment, with the legal interest upon such sum from the day of its being so levied,—or more than the restitution of the real property whereof the respondent shall have been put in possession by virtue of the said judgment, and the net value of the produce and revenues thereof, to be computed from the day the respondent shall have been put in possession of such real property, until perfect restitution is made,—with the costs of such appellant, as well in the Court appealed to as in the Court below, but without any damages, in any of the said cases, against the respondent by reason of the said Judgment or of the said execution; any law, custom or usage to the contrary notwithstanding.

Proviso: effect of reversal of judgment in the cases last mentioned.

LVI. And for the purpose of obviating delay and expense in the prosecution of appeals from judgments rendered by the Circuit Court—Be it enacted, That such appeals shall be prosecuted and proceedings thereon had in a summary manner, by petition of the appellant to the Superior Court setting forth succinctly the grounds of appeal, and praying for the reversal of the judgment appealed from, and the rendering of such judgment as by the Court below ought to have been rendered; a copy of which peti-

Appeals to be determined summarily. Petition, notices, &c.

tion, with a notice of the time at which it is to be presented to the Superior Court, shall be served on the adverse party personally, or at domicile, or on his attorney *ad litem*, within twenty-five days from the rendering of the judgment appealed from ; and such petition shall be so presented at some weekly sitting or term (whichever shall first happen) of the Superior Court, next succeeding the rendering of the judgment, if there shall be an interval of thirty days between the rendering of such judgment and such sitting or term, and if there shall not be such an interval, then on the first juridical day of the sitting or term next succeeding the expiration of the thirty days next after the rendering of such Judgment : Provided always, that neither the day of the rendering of the judgment appealed from, nor the day of the presenting of the said petition to the Superior Court, shall be considered as forming part of the said interval of thirty days ; And provided also, that a true copy of the appeal bond given by the party appealing, certified as such by the Prothonotary or Clerk in whose office it shall have been deposited, shall be annexed to the original of the petition presented to the Superior Court, and that a copy or copies of the same, certified as such by the party appealing, or his attorney, shall be served, with the petition and notice hereinbefore mentioned, upon the party respondent.

Proviso.

Proviso : copy of the appeal bond to accompany the Petition.

Proceedings for causing the record to be transmitted to the Superior Court.

LVII. And be it enacted, That within the same delay of twenty-five days after the rendering of the judgment appealed from as aforesaid, the party appealing shall also cause a copy of the said petition and notice only, to be served upon the clerk in the office and custody of whom the record in the suit or action in which the judgment is appealed from shall be, with a certificate from the Prothonotary of the Superior Court, that security in appeal has been given, if the appeal bond shall not be deposited in the office of the

Court appealed from ; and thereupon it
 2 shall be the duty of the said Clerk of the
 last mentioned Court without waiting for
 4 the presenting of the said petition to the
 Superior Court, forthwith to certify under
 6 his hand and the seal of the Court, to the Su-
 perior Court, and to cause to be transmitted
 8 to the said Court (to be filed among the re-
 cords thereof) the judgment, record, evidence,
 10 and proceedings to which such appeal shall
 relate ; and after the transmission of the said
 12 judgment, record, evidence and proceedings,
 and the filing of the said petition of appeal
 14 by and on the part of the appellant as afore-
 said, the appeal shall, without any further
 16 formality, be summarily heard, and judg-
 ment thereon rendered by the said Court, as
 18 to law and justice may appertain ; Pro-
 vided always, that if the judgment appealed
 20 from shall have been rendered, by any
 Judge of the Superior Court holding the
 22 Circuit Court, such Judge shall not sit on
 the hearing and judgment of the cause upon
 24 such appeal ; and if the Superior Court be
 equally divided on the question whether the
 26 judgment appealed from ought or ought not
 to be affirmed, it shall stand and be affirmed ;
 28 And provided also, that any appellant who
 shall neglect to cause a copy of such petition
 30 and notice of appeal to be served as afore-
 said or who after having caused the same to
 32 be served, shall neglect to prosecute effect-
 ually the said appeal in the manner herein-
 34 before prescribed, shall be considered to have
 abandoned the said appeal, and upon the
 36 application of the respondent, the Court
 appealed to shall declare all right and
 38 claim founded on such appeal to be for-
 feited, and shall grant costs to the respon-
 40 dent, and order the record (if transmitted)
 to be remitted to the Court below.

Transmission
of the record.

Subsequent
proceedings.

Proviso: judge
appealed from
not to sit.

Equal division.

Appeal to be
deemed
abandoned in
certain cases.

42 LVIII. And be it enacted, That if the de-
 fendant in any non-appealable suit or action
 44 instituted in the Circuit Court, shall not
 appear personally or by his Attorney, on
 46 the day fixed for the return of the Writ of
 Summons, his default shall be recorded ;

Defaults in
non-appealable
cases.

Proceedings
after default.

Plaintiff not
appearing.

Plaintiff estab-
lishing his
demand.

Pleadings in
non-appealable
cases.

Articulation de
faits in such
cases.

and in any such case it shall not be necessary that the defendant be called on the 2
third day, or at any other time thereafter, nor shall he be entitled to appear at any 4
other time, and have the said default taken off, unless express permission be given to 6
him by the Court, any law, usage or custom to the contrary notwithstanding; and after 8
the default shall have been so recorded, it shall be lawful for the Court, after due 10
proof of the service of the Writ of Summons, in a summary manner, to receive 12
evidence and hear the Plaintiff in support of his *demande* in such suit or action, and 14
thereupon to make and render such judgment as law and justice may require; and 16
if the said defendant should appear on the said day, either personally or by his Attor- 18
ney and the Plaintiff should not appear either personally or by his Attorney, or 20
appearing should not prosecute his suit or action, the same shall be dismissed, with 22
costs to the defendant against the Plaintiff; and if the Plaintiff in any such suit or action 24
should establish his demand, he shall be entitled to recover the sum of money or 26
thing by him demanded, and costs against the defendant. 28

LIX. And be it enacted, That in non-appealable cases, the pleadings after the 30
declaration shall be oral or in writing, at the option of the defendant, unless the 32
Court shall expressly order the same to be in writing; and if the defendant choose to 34
plead in writing, he shall file his plea upon appearing, unless further delay be 36
granted to him by the Court, but if he be ordered to plead in writing he shall have 38
such delay as the Court shall allow him by such order, and in either case no answer in 40
writing by the Plaintiff shall be necessary, unless expressly ordered by the Court; and 42
if the defendant do not plead in writing, he shall, on appearing, be called upon by 44
the Court to state orally or in writing what facts (if any) alleged in the Plaintiff's decla- 46
ration he is willing to admit, and his admis-

sion shall be recorded, and if he refuses or neglects to make such statement, he shall be deemed to have denied them all, and shall be liable for the costs of the proof thereof, as hereinafter provided in other cases; and if the Plaintiff be ordered to answer in writing he shall have such delay to answer as the Court shall allow him by such order.

LX. And be it enacted, That in appealable cases the pleadings shall be in writing, and the delay for pleading, answering and replying shall be the same as in the Superior Court.

In appealable cases delay for pleading, &c. to be as in S. Court.

LXI. And be it enacted, That in any non-appealable suit or action in the Circuit Court, it shall not be necessary to reduce to writing the depositions of the witnesses, but such witnesses shall be examined *vivâ voce*, in open Court, nor shall it be necessary that any notes of the evidence be taken by the Judge, any law, custom or usage to the contrary notwithstanding; but in any appealable suit or action, that is in any suit or action in which, by this Act, an appeal may lie to the Superior Court, the evidence shall be reduced to writing in the same manner as in the Superior Court; and every day on which a Circuit Judge shall be present at the place where the Court is held in any Circuit, shall be an *enquête* day for causes pending in such Circuit, but the taking of any *enquête* shall not prevent the Judge from proceeding with the despatch of any other business before him or before the Court: Provided always, that by consent of all the parties to any appealable suit or action, the evidence therein may be taken orally as in non-appealable cases: And provided also, that the *enquêtes* in cases pending before the Circuit Court may always be taken by and before any Judge of the Superior Court, and it shall be the duty of any such Judge when presiding at *enquêtes* in cases pending in the Superior Court, to preside at the *enquêtes* in cases pending in the Circuit

Oral Evidence in non-appealable cases.

In appealable cases, to be in writing.

What shall be *enquête* days.

Proviso: oral evidence by consent in any case.

Proviso: Judge of S. C. to take *enquêtes* in C. Court in certain cases.

Proviso as to
such cases.

Court which are to be taken on the same day
and at the same place, and he shall and may 2
preside at both at the same time : nor shall
his having presided at the *enquête* in any 4
case in the Circuit Court, or his having
given any decision with regard to the 6
evidence therein while so presiding, dis-
qualify him from sitting in the Superior 8
Court on any appeal brought thereto in
such case. 10

Enquêtes, &c.
may be ordered
to be taken in
any other
Circuit.

LXII. And be it enacted, That the
Judge holding any Circuit Court, shall have 12
like power to order the *enquête* in any suit
or action to be taken, or any witness or 14
party to be examined, before a Judge of the
said Court in any other Circuit on any day 16
to be appointed by such Judge, and to or-
der the transmission of the record or of any 18
portion thereof to such other Circuit, as is
hereinbefore vested in the Superior Court, 20
and such order shall be obeyed accordingly
by the Clerk of the Court for the Circuit in 22
which such *enquête* is to be taken or such
witness or party is to be examined ; and the 24
provisions hereinbefore made in similar
cases with reference to the Superior Court, 26
by the section or by the
section of this Act, shall apply to the cases 28
mentioned in this section.

Provisions of
Sect : to
apply in such
cases.

Distance from
which witness-
es may be
compelled to
attend.

LXIII. Provided always, and be it 30
enacted, That no person shall be bound to
attend the Circuit Court as a witness in 32
any suit or action pending therein, unless
he be resident within fifteen leagues of the 34
place at which he shall be summoned to at-
tend or within the Circuit in which such 36
place shall be.

Circuit Court
may issue cer-
tain Writs.

LXIV. And be it enacted, That the 38
Circuit Court shall have power and
authority, in causes and matters cognizable 40
therein, to issue Writs of *saisie-arrêt* before
or after judgment, *saisie-gagerie*, and *saisie* 42
revendication, to be made returnable in the
said Court, in the same and in like cases 44
and circumstances in which such Writs

might immediately before the time when this
 2 Act shall come fully into effect, lawfully
 be issued from and be made returnable in
 4 any of Her Majesty's Courts of civil juris-
 diction in Lower Canada, and under and
 6 subject to the rules of law in such cases
 provided; and that in all cases where such
 8 Writs shall be issued out of the said Circuit
 Court, it shall and may be lawful for the
 10 Clerks of the said Court respectively,
 to take and receive the necessary oath,
 12 affidavit or proof, in such cases by law
 required, and thereupon to issue, without
 14 the *fiat* of a Judge, any of the above men-
 tioned Writs, in like manner as if the same
 16 had been granted or awarded by a Judge of
 the proper Court; Provided always, that
 18 nothing herein contained shall prevent
 any Judge of the Superior Court, or Cir-
 20 cuit Judge, from granting or awarding
 any such Writ aforesaid, in cases where he
 22 could otherwise do so according to law:
 and provided always, that in all cases in
 24 which a Writ of *Capias ad Respondendum*,
 or a Writ of *Saisie-Arrêt* before Judgment
 26 in an action cognizable by the Superior
 Court, may by law be issued, the Clerks of
 28 the Circuit Court respectively shall have the
 same power and authority as are vested in
 30 the Prothonotaries of the Superior Court
 respectively, to receive the requisite affidavit,
 32 and to issue such last mentioned Writ of
Capias ad Respondendum, or of *Saisie-Arrêt*
 34 before Judgment, and to make the same re-
 turnable in the Superior Court, in the
 36 District in which the same shall have issued;
 and the Writs last mentioned shall, in any
 38 such case, be addressed directly, either to
 the Sheriff of the said District, or to any
 40 Bailiff of the Superior Court, appoint-
 ed for the same and by them respectively
 42 executed and returned; and when such
 Writ shall be so addressed to any such
 44 Bailiff, such Bailiff shall without delay
 proceed to execute the same, without any
 46 previous Warrant from the Sheriff, and
 shall deliver the Writ, with a report of his
 48 proceedings thereon to the Sheriff, to

Affidavits for
 obtaining
 Writs.

Proviso.

Proviso:
 Certain Writs
 may be issued
 by the Clerks
 of the Circuit
 Court and
 made return-
 able in S.
 Court.

Such Writs to
 whom address-
 ed.

If to a Bailiff.

Proviso :
When the res-
ponsibility of
the Sheriff
shall com-
mence, &c.

Proviso :
Defendant to
have the usual
relief by Bail,
&c.

Certain powers
vested in the
Circuit Court,
Judges and
Officers, as in
other Courts in
like matters.

whom he shall also deliver the body, or the
goods attached, (as the case may be) to be 2
dealt with according to law, and by whom
the Writ and the proceedings thereon shall 4
then be returned to the Superior Court:
Provided always, that in such case, the 6
Sheriff shall not be responsible for any act
done by the Bailiff, until the Officer last 8
named shall have complied with the fore-
going requirements; and in every such 10
case service of the declaration in the cause
may be made in the same manner and within 12
the same delay as if the Writ had been
issued by the Prothonotary of the Superior 14
Court, and addressed to and executed by the
Sheriff: Provided always, that in all cases 16
where any such Writ of Attachment against
the body or goods shall be issued by any 18
Clerk of the Circuit Court, and made
returnable in the Superior Court, the 20
defendant shall be entitled to the same re-
lief on giving security or otherwise to the 22
Sheriff, and in default shall be committed
to the common Gaol of the District, in like 24
manner as if such Writ had been issued by
the Prothonotary of the Superior Court. 26

LXV. And be it enacted, That all pow-
ers vested in the Superior Court or in the 28
Judges or Officers of such Court, respective-
ly, in any suit or action pending in the said 30
Court, with regard to the summoning of De-
fendants *en garantie*—the admission of par- 32
ties to intervene—the summoning of wites-
ses and the adduction of evidence—the pro- 34
duction of papers and other things in the
possession of any witness or party—the exa- 36
mination of any witness or party, and the
oaths to be deferred, referred or required of 38
them—the issuing of any *Commission Ro-*
gatoire or Commission in the nature of a 40
Commission Rogatoire—the examination of
any witness sick or about to leave Lower 42
Canada—the enforcing of the attendance of
witnesses duly summoned, and the punish- 44
ment of such as shall disobey any Writ of
Subpœna—the imprisonment (*contrainte* 46
par corps) of any defendant or party resist-

ing or fraudulently endeavoring to evade
 2 the execution of any Writ against his goods
 or chattels,—or with regard to other matters
 4 relative to or connected with the conduct of
 such suit or action, and the proceedings
 6 therein, shall be and all such powers are
 hereby vested in the Circuit Court, and the
 8 Judges by whom the same is to be held,
 and in the Officers of the said Court, res-
 10 pectively, and may be exercised by them
 (in so far as such powers and the provisions
 12 of law thereunto relating shall not be repug-
 nent to or inconsistent with the provisions
 14 of this Act,) as fully and effectually, and
 under the same provisions and conditions
 16 of law, as if the several Acts, Ordinances
 and Laws conferring the said powers were
 18 herein recited and re-enacted, and in such
 manner as shall be most conformable to
 20 and consistent with the other enactments of
 this Act.

22 LXVI. And be it enacted, That the
 provisions hereinbefore made by the
 24 section of this Act, for facilitating
 the despatch of cases and matters pending
 26 before the Superior Court, by allowing the
 transmission of records from the remote Dis-
 28 tricts to the places where the weekly sittings
 of the said Court are held, to be there
 30 considered and adjudged upon, shall be and
 are hereby made applicable to appealable
 32 cases and matters pending before the Circuit
 Court in so far as the same can apply, but the
 34 transmission shall in such cases be from the
 remote Circuits (that is, the Circuits in
 36 which no Judge is resident) of any District,
 to the nearest place where a Judge or Judges
 38 of the Circuit Court is or are hereby directed
 to reside in the same District; and the
 40 Clerk of the Circuit Court in the remote
 Circuit shall perform the duties assigned
 42 by the said section to the Prothonotary of
 the remote District, and the Clerk of the
 44 Court in the Circuit in which the Judge or
 Judges shall reside, shall perform the duties
 46 assigned by the said section to the Prothono-
 tary at Quebec or Montreal, and where any

Provisions of
 the section,
 for facilitating
 despatch of cases,
 to apply to Circuit
 Courts; with
 certain modifications.

service is by the said section to be made at the office of the said Prothonotary, it may under this section be made at the office of the said Clerk.

Provision when the Judge holding the Circuit Court shall be recused, or incompetent.

Recusation how tried.

If maintained.

If dismissed.

Removal of the suit, &c.

LXVII. And be it enacted, That whenever any Judge holding the Circuit Court at any place, shall be lawfully recused in any suit or action, or shall be disqualified or rendered incompetent either by reason of interest, relationship or otherwise, from taking cognizance of the same, such Judge shall immediately upon such recusation being made, cause an entry thereof, or of the reasons of such disqualification or incompetence to be made on the record, and shall thereupon order that the record and proceedings in such suit or action be removed to the Superior Court in the District in which the said suit or action shall have been brought, there to be heard, tried, and finally determined, in the case of such disqualification or incompetence as above mentioned, at any Term or Sitting of the said Court, but according to the course and practice of the Circuit Court; but in the case of a recusation, the Superior Court shall at any such Term or Sitting, first proceed in a summary manner to determine whether such recusation be well founded, and if it should maintain the said recusation and adjudge the same to be well founded, proceedings shall thereupon be had to trial, judgment and execution, according to the course and practice of the Circuit Court; and if the Superior Court should dismiss the said recusation, the said suit or action shall be remitted to the Circuit Court in the Circuit in which it shall have been originally brought; and when, in any case of recusation, disqualification, or incompetence as aforesaid, an order shall have been made for the removal of the suit or action, as above required, the Clerk of the Circuit Court shall make an entry of such order in the Register thereof, and thereupon it shall be his duty forthwith to certify under his hand and the seal of the Court to the Superior

1 Court in the proper District, and to cause
 2 to be transmitted to the said Court, the re-
 cord and proceedings in the cause, which
 4 shall then be filed among the records of the
 said Court, and there shall continue to re-
 6 main, even after judgment, as if the suit or
 action had been originally instituted in the
 8 said Court, except only in cases where a re-
 cusation shall have been made and dismissed
 10 as aforesaid, in which case the said record
 and proceedings shall be remitted as herein-
 12 before directed.

14 LXVIII. And be it enacted, That the
 Circuit Court may, if the Judge holding the
 same shall think proper, order the sum for
 16 which judgment may have been given to
 be levied by instalments; Provided the
 18 delay allowed for the payment of the last
 instalment shall not exceed the space of
 20 three months from the day of the judgment;
 and provided also, that in default of pay-
 22 ment of any one such instalment at the time
 it shall become due, execution may issue in
 24 satisfaction of the judgment, as if such
 delay had not been granted.

Amount of
 judgment
 may be levied
 by instalments.

Proviso as to
 total delay.

26 LXIX. And be it enacted, That the
 certificate of the Clerk of the Circuit Court,
 28 that the costs in any suit or action or pro-
 ceeding in such Court, amount to a sum
 30 named in such certificate (the sum allowed
 to witnesses having been previously approv-
 32 ed by a Judge or Circuit Judge, as the case
 may be) shall be sufficient proof of the
 34 amount of such costs, provided a detailed
 bill or account of the same, signed by the
 36 said Clerk be annexed to such certificate,
 and execution may issue accordingly for such
 38 costs, without any other or further taxation
 thereof; nor shall it be necessary that any
 40 Writ of execution issuing out of the Circuit
 Court be signed or endorsed by any Judge;
 42 any law, usage or custom, to the contrary
 notwithstanding.

What shall be
 a sufficient
 certificate of
 costs in the
 Circuit Court.

As to Writs of
 execution.

44 LXX. And be it enacted, That in all
 suits, actions and proceedings in the Circuit

Fees as per
 Tariff.

Court, the fees to be specified in the Tariff then in force under this Act for the Circuit Court, shall be deemed and taken to be the lawful fees for the discharge of the several duties therein mentioned; and no other fees or emoluments shall be received or taken upon any pretence whatever for any act done or service performed under the authority of this Act; and if any Officer or person shall receive any other or greater fee or emolument than shall be specified in the said Tariff, for any of the duties aforesaid, he shall forfeit the sum of twenty pounds currency for each such offence, which penalty shall and may be recovered by civil action in the Circuit Court; and one half of such penalty shall belong to Her Majesty, Her Heirs and Successors, and the other half to the person who shall sue for the same.

No others to be taken.

Penalty for taking greater.

Application of penalty.

Tariff to be posted openly.

Penalty for neglect.

Execution of judgments of the Circuit Court.

To whom addressed, &c.

LXXI. And be it enacted, That each of the Clerks of the Circuit Court shall cause to be continually and openly posted as well in his Office as in some conspicuous place in the hall or apartment in which the Circuit Court shall be held, a fair and legible copy of the Tariff of Fees to be made by the Superior Court, and a notice of the penalty to which any person will become liable for receiving any other and greater fees than is set forth in the said Tariff, and in default of so doing, such Clerk shall be deemed guilty of a misdemeanor, and shall be liable to be punished accordingly.

LXXII. And be it enacted, That in every case where judgment shall be rendered in the Circuit Court, awarding or adjudging the payment of any sum of money, it shall and may be lawful for the Clerk of the Court, at the expiration of fifteen days after the rendering of the judgment, to issue under the seal of the Court, a Writ of *feri facias* against goods and chattels; which Writ shall be signed by him, and made returnable to the Court, and shall be directed to any of the Bailiffs of the Superior Court appointed for the District in which 46

the judgment shall have been rendered;
 2 who is hereby authorized to levy the sum of
 money mentioned in such Writ; and the
 4 costs of execution, upon and from the
 goods and chattels of the party against whom
 6 such judgment shall have been rendered,
 which shall be found within the District, in
 8 the same manner, and according to the
 same rules and regulations of law, by and
 10 under which any Sheriff may levy money by
 virtue of a Writ of *feri facias* issuing out
 12 of any of Her Majesty's Courts of Civil
 Jurisdiction in Lower Canada; but the said
 14 Bailiff shall not be entitled out of the mon-
 nies so levied by him, to the Commission of
 16 two and a half per cent in such case by
 law allowed to Sheriffs, or to any Commis-
 18 sion whatever; and the said Writ, on or be-
 fore the day fixed for the return thereof,
 20 shall be by the said Bailiff returned into the
 Circuit Court at the place where it shall have
 22 issued, with his proceedings thereon; Provi-
 ded always, that for the satisfaction of any
 24 such judgment, execution shall (except in hy-
 pothecary actions) go only against the movea-
 26 ble property of the party condemned, in
 cases where the sum of money awarded by
 28 the judgment shall not exceed ten pounds,
 currency; and that in cases where the said
 30 sum of money so awarded shall exceed ten
 pounds currency, execution shall go not
 32 only against the moveable, but also against
 the immoveable property of the party con-
 34 demned, as it shall also in all hypothecary
 actions against the immoveable property
 36 declared by the judgment to be hypothecat-
 ed for the payment of the sum for which
 38 such judgment shall have been rendered,
 whatever be the amount demanded or re-
 40 covered in the suit; and when execution
 upon any such judgment shall be sued out
 42 against the immoveable property, a Writ of
feri facias de terris shall be issued from
 44 the Circuit Court at the place where the
 judgment shall have been rendered, under
 46 the seal of the said Court, and signed by the
 Clerk thereof, and such Writ shall be made
 48 returnable to the Superior Court in the Dis-

No percentage
to Bailiff.

Return of
Writ.

Proviso as to
cases under
£10.

Above £10.

Hypothecary
actions.

Execution
against im-
moveables.

When return-
able.

To whom addressed.

trict in which the judgment shall have been rendered, and shall be directed to the Sheriff 2 of the said District, who is hereby authorized to levy the sum of money mentioned 4 in such Writ, and the costs of execution, upon and from the immoveable property of 6 the party against whom such judgment shall have been rendered, or upon and from 8 the immoveable property declared by the judgment to be so hypothecated as afore- 10 said (as the case may be) in the manner and according to the rules and regulations 12 of law, by and under which any Sheriff may levy money by virtue of a Writ of *feri facias* 14 *de terris* issuing out of any of Her Majesty's Courts of Civil jurisdiction in Lower 16 Canada; and the said Writ, on or before the day fixed for the return thereof, shall be 18 by the said Sheriff returned into the Superior Court, with his proceedings thereupon, in 20 the same manner as if such writ had issued from the said Court; and all ulterior pro- 22 ceedings of what kind soever, consequent upon the issuing of such Writ, or necessary 24 for the execution thereof, as well with regard to the Plaintiff and Defendant as 26 with regard to other parties, who, according to law, may have intervened in the cause 28 by opposition or otherwise, shall be had in Superior Court, as effectually and in 30 the same manner as if the cause in which such Writ shall have issued had been origi- 32 nally brought and determined in the said Court. 34

Return.

Ulterior proceedings.

When the property of the executed is in another District.

LXXIII. And be it enacted, That when the party against whom judgment shall have 36 been rendered in the Circuit Court, shall not have within the District in which such judg- 38 ment shall have been rendered, sufficient goods, chattels, lands or tenements to sa- 40 tisfy the said judgment in capital, interest, and costs, but shall have goods, chattels, 42 lands or tenements within any other District in Lower Canada, an *alias* Writ *de bonis* or 44 *de terris*, as the case may be, shall issue from the Court at the place where the judgment 46 shall have been rendered, under the seal of

the said Court, and signed by the Clerk
 2 thereof; which *alias* Writ shall be made re-
 turnable to the Court out of which it shall is-
 4 sue, if it be a Writ *de bonis*, and to the Superior
 Court in the District in which the judgment
 6 shall have been rendered, if it be a Writ *de*
terris, and shall be directed to the Sheriff
 8 of such other District; and such *alias*
 Writ shall be executed in the latter District
 10 by the Sheriff thereof, as if it were a Writ
 of execution issued from the Superior
 12 Court, and in the same manner and ac-
 cording to the same rules and regulations
 14 of law; and the said Writ shall be, by
 the said last mentioned Sheriff, with his
 16 proceedings thereon, duly returned into the
 Court from which it shall have been is-
 18 sued, if it be a Writ *de bonis*, or into the
 Superior Court in the District in which the
 20 said judgment shall have been rendered, if
 it be a Writ *de terris*; and in the latter case,
 22 all ulterior proceedings of what kind soever
 consequent upon the issuing of such Writ *de*
 24 *terris*, or necessary for the execution there-
 of, as well with regard to the plaintiff and
 26 defendant, as with regard to other parties
 who, in due course of law, may have inter-
 28 vened in the cause by opposition or other-
 wise, shall be had in the Court last above
 30 mentioned, as effectually and in the same
 manner as if the cause in which such Writ
 32 shall have issued had been originally brought
 and determined in such last mentioned
 34 Court: Provided always, that in all cases
 where execution may issue in any hypothe-
 36 cary action against any immoveable proper-
 ty declared by the judgment to be hypothe-
 38 cated for the payment of the money to be
 levied under such execution, and *délaisseé*
 40 under such judgment, and situate in a Dis-
 trict other than that in which the Writ shall
 42 issue, such Writ shall be issued, executed
 and returned, and the subsequent proceed-
 44 ings relative to the same shall be had as here-
 in provided with regard to *alias* Writs *de*
 46 *terris*, without its being necessary that any
 other Writ should previously issue.

Writ where
returnable.

How executed.

And returned.

Ulterior pro-
ceedings.

Provido as to
property hypo-
thecated and
délaisseé.

S. Court may call up the record in cases where lands are seized.

LXXIV. And be it enacted, That when any such Writ *de terris*, issuing from the Circuit Court, shall have been, in the manner hereinbefore provided, returned into the Superior Court, it shall be lawful for the said last named Court, in its discretion, to direct the record of the cause in which such Writ of execution shall have issued, to be removed into the Superior Court, and such removal shall be made, on an order made by the said Court, and addressed to the Clerk of the Circuit Court at the place from which the record is to be removed, in the same manner and according to the same regulations as are hereinbefore provided for the removal of records in other cases into the Superior Court.

Opposition to Writs *de bonis*, where returnable.

LXXV. And be it enacted, That if any opposition be made to the execution of any Writ *de bonis* issued from the Circuit Court, such opposition shall be made returnable to the Circuit Court at the place where the cause shall be pending, or at the place in the same District (or in the District of Gaspé, in the same County) where the Circuit Judge or Circuit Judges shall reside; if the Term at such last named place be nearer to the day on which the opposition shall have been allowed, there to be heard and determined; and when such opposition shall have been made returnable at such last mentioned place, the Court shall have power, if it deem it necessary, to order the removal of the record in the original suit or action from the place where the judgment was rendered to the place where the Circuit Judge or Judges shall reside, and such removal shall be made in the manner hereinbefore provided for the removal of records in similar cases; and the Bailiff charged with the execution of the Writ shall immediately after he shall have been served with a true copy of the said opposition, return the same, and the writ with his proceedings thereon, to the Court to which the opposition shall have been made returnable; and when final judgment

Removal of record in certain cases.

Duty of Bailiff receiving opposition.

shall have been given on any such opposition, the Writ of execution and all proceedings thereon with a true copy of the said judgment (and the record in the original suit or action, if it shall have been removed) shall be remitted to the Circuit Court at the place where the judgment was rendered, where further proceedings shall thereupon be had, as to law may appertain: Provided always, that the *fiat* or order to stay proceedings upon such Writ *de bonis* in consequence of any such opposition, and to make such opposition returnable as aforesaid, may be made by any Circuit Judge although he be not then within the limits of the Circuit, or by the Clerk of the Circuit Court, and to that effect such Circuit Judge or Clerk is hereby authorized to administer all oaths in such cases required by law.

Proceedings on final judgment.

Proviso as to *fiat* to stay proceedings on oppositions.

LXXVI. And be it enacted, That the Circuit Court and any Judge who might hold the same at any place, shall as well in Court as out of Court, in term or out of term or in vacation, have and may exercise within the said Circuits, respectively, and concurrently with the Judges of the Superior Court, the same power and authority as are vested in the Superior Court and the Judges thereof, in what respects the Probate of Wills, the election and appointment of Tutors and Curators, and the taking of the counsel and opinion of relations and friends in cases where the same are by law required to be taken, the closing of inventories, attestation of accounts, *insinuations*, affixing and taking off seals of safe custody, and other acts of the same nature requiring despatch; and the proceedings in all such cases shall form part of the records of the Circuit Court in the Circuit in which they shall be had: Provided always, that the appointments and orders made by any Judge under the authority of this section shall be liable to be set aside by the Superior Court in the District, in the manner and under the provisions of law, in and under which appointments and orders of like nature made by a single Judge might

Certain powers vested in Circuit Judges as to matters requiring despatch.

Proviso: how orders made in such matters may be set aside.

be set aside immediately before the time when this Act shall come fully into effect. 2

Clerks of the Circuit Court to be appointed, &c.

LXXVII. And be it enacted, That Clerks 4 of the Circuit Court shall be appointed for the Montreal Circuit, the Quebec Circuit, the 6 Three-Rivers Circuit and the Sherbrooke Circuit, respectively; and from time to 8 time, and as vacancies shall occur in the several Circuits in Lower Canada, by death 10 resignation, removal from office or otherwise, Clerks of the Circuit Court shall be 12 appointed in and for such Circuits, respectively; and every Clerk of the Circuit Court 14 shall have power, by an instrument under his hand and seal, to appoint a Deputy, who 16 shall act as such only in case of the absence or sickness of such Clerk, and such instru- 18 ment shall be entered at full length in the Register of the Court: Provided always, 20 that the Clerk may at all times remove such Deputy and appoint another in his place. 22

May have Deputies.

Proviso.

Minors may sue for wages.

LXXVIII. And be it enacted, That it shall be lawful for any person under the age 24 of twenty-one years and above the age of fourteen years, to prosecute any suit in 26 the proper Circuit Court, for any sum of money not exceeding six pounds five shil- 28 lings, currency, which may be due to him for wages, in the same manner as if he were 30 of full age; any law to the contrary notwithstanding. 32

Places of holding Circuit Courts, and extent of Circuits.

LXXIX. And be it enacted, That the said Circuit Court shall be holden in every year 34 at the times and places hereinafter appointed; and the local extent and limits of 36 the jurisdiction of the said Circuit Court, sitting at such places respectively, shall, 38 so far as regards the commencement of any suit, action or proceeding, be as follows, 40 that is to say:

In the said District of Quebec;

Quebec Circuit.

In the City of Quebec, in and for the 42 Circuit to be called the Quebec Circuit,

and the said Circuit shall include and consist of all that part of the said District of Quebec which shall not be included within any of the other Circuits hereinafter described :

6 In the Parish of St. Germain, in and for the Circuit called and to be called the
8 Rimouski Circuit, from the _____ to the _____
day, inclusively, of each of the
10 months of _____ and _____ ;
which said Circuit doth and shall include
12 and consist of the County of Rimouski,
except the Parishes of Rivière-du-Loup and
14 Cacona ;

Rimouski
Circuit.

In the Parish of St. Louis de Kamouraska,
16 in and for the Circuit called and to be
called the Kamouraska Circuit, from the
18 _____ to the _____ day, inclusively, of
each of the months of _____ and _____
20 _____ ; which said Circuit doth and shall
include and consist of the County of Ka-
22 mouraska, and the Parishes of Rivière du
Loup and Cacona ;

Kamouraska
Circuit.

24 In the Parish of St. Thomas, in and for
the Circuit called and to be called the St.
26 Thomas Circuit, from the _____ to the _____
day, inclusively, of each of the
28 months of _____ and _____ ;
which said Circuit doth and shall include
30 and consist of the County of L'Islet, in-
cluding so much of the Parish of St. Pierre,
32 Rivière du Sud, as may be within the County
of Bellechasse and the Parishes of Berthier,
34 St. Vallier, St. Michel and St. François,
Rivière du Sud, in the County of Belle-
36 chasse ;

St. Thomas
Circuit.

In the Parish of Ste. Marie, Nouvelle
38 Beauce, in and for the Circuit called and
to be called the Beauce Circuit, from the
40 _____ to the _____ day, inclu-
sively, of each of the months of _____
42 _____ and _____ ; which said Circuit doth
and shall include and consist of the County
44 of Dorchester, (except the Seigniory of
Lauzon) ;

Beauce Circuit.

- Leeds Circuit. In the Township of Leeds, in and for the
Circuit called and to be called the Leeds 2
Circuit, from the to the
day, inclusively, of each of the months of 4
and ; which said
Circuit doth and shall include and consist 6
of the County of Megantic, and the Par-
ishes of St. Sylvester and St. Giles, in the 8
County of Lotbinière ;
- Lotbinière
Circuit. In the Parish of Ste. Croix, in and for 10
the Circuit called and to be called the Lot-
binière Circuit, from the to the 12
day, inclusively, of each of the
months of and ; 14
which said Circuit shall include and con-
sist of the County of Lotbinière, except the 16
Parishes of St. Sylvester and St. Giles ;
18.
- Portneuf Cir-
cuit. In the Parish of Cap Santé, in and for
the Circuit called and to be called the 20
Portneuf Circuit, from the to the
day, inclusively, of each of the 22
months of and ;
which said Circuit shall include and consist 24
of the County of Portneuf ;
- Saguenay
Circuit. In the Parish of Les Eboulemens, in and 26
for the Circuit called and to be called the
Saguenay Circuit, from the 28
to the day, inclusively, of
each of the months of 30
; which said Circuit
shall include and consist of that part of the 32
County of Saguenay, which is bounded as
follows, that is to say ; on the west by the 34
County of Montmorency, on the north by
the parallel of the forty-eighth degree of 36
north latitude, from the County of Mont-
morency, until it meets the prolongation of 38
the eastern line of the Township of St.
Jean on the River Saguenay, and thence 40
by the said prolongation and the said line,
as far as the River Saguenay, and thence on 42
the west by a line to be drawn astronomi-
cally north to the limits of the Province ; 44
on the north and on the east by the limits
of the Province, and on the south-east by 46

the River St. Lawrence, upwards from the
 2 limits of the Province to the County of
 Montmorency.

4 At the Village of Chicoutimi, in and for Chicoutimi
 the Circuit to be called the Chicoutimi Circuit.
 6 Circuit, from the
 to the day, inclusively, of
 8 each of the months of
 ; which said Circuit,
 10 shall include and consist of that part of the
 County of Saguenay, not hereinbefore in-
 12 cluded in the Saguenay Circuit, and those
 parts of the Counties of Quebec and Mont-
 14 morency respectively, which lie north of
 the parallel of the forty-eighth degree of
 16 north latitude.

In the said District of Montreal ;

In the City of Montreal, in and for the
 18 Circuit to be called the Montreal Circuit, Montreal Cir-
 cuit.

and the said Circuit shall include and con-
 20 sist of all that part of the said District of
 Montreal, which shall not be within any of
 22 the other Circuits hereinafter described ;

In the Parish of Berthier, in and for the
 24 Circuit called and to be called the Berthier Berthier Cir-
 Circuit, from the to the day, cuit.
 26 inclusively, of each of the months of
 and ; which said Circuit
 28 doth and shall include and consist of the
 County of Berthier, and all the Islands in
 30 the River St. Lawrence, which lie within
 the County of Richelieu, except those on
 32 the south side of the main or ship channel ;

In the Parish of St. Pierre de l'Assomp-
 34 tion, in and for the Circuit called and to be Assumption
 called the Assumption Circuit, from the Circuit.
 36 to the day, inclusively, of
 each of the months of and
 38 ; which said Circuit doth and
 shall include and consist of the County of

Leinster, except the Parishes of Lachenaye,
St. Henri de Mascouche and St. Lin ; 2

Terrebonne
Circuit.

In the Parish of St. Louis de Terrebonne
in and for the Circuit called and to be called 4
the Terrebonne Circuit, from the to
the day, inclusively, of each of 6
the months of January, and
; which said Circuit doth and shall 8
include and consist of the County of Terre-
bonne, and the said Parishes of Lachenaye,
St. Henri de Mascouche and St. Lin, in the 10
County of Leinster ;

Two Mount-
ains Circuit.

In the Parish of St. Benoit, in and for 12
the Circuit called and to be called the Two
Mountains Circuit, from the to 14
the day, inclusively, of each of
the months of and ; 16
which said Circuit doth and shall include
and consist of the County of Two Moun- 18
tains, except Isle Bizarre ;

Ottawa Cir-
cuit.

At the Village of Aylmer, in and for the 20
Circuit called and to be called the Ottawa
Circuit, from the to the 22
day, inclusively, of each of the months of
and ; which said 24
Circuit doth and shall include and consist
of the County of Ottawa ; 26

Vaudreuil Cir-
cuit.

In the Parish of St. Michel de Vaudreuil,
in and for the Circuit called and to be called 28
the Vaudreuil Circuit, from the to
the day, inclusively, of each of 30
the months of and ;
which said Circuit doth and shall include 32
and consist of the County of Vaudreuil ;

Beauharnois
Circuit.

In the Parish of St. Clément de Beauhar- 34
nois, in and for the Circuit called and to be
called the Beauharnois Circuit, from the 36
to the day, inclu-
sively, of each of the months of 38
and ; which said Circuit doth
and shall include and consist of the County 40
of Beauharnois, except the Township of
Hemmingford ; 42

In the Parish of St. John the Evangelist, 2 in and for the Circuit called and to be called the St. John's Circuit, from the 4 to the day, inclusively, of each of the months of and ; 6 which said Circuit doth and shall include and consist of the Seignories of Lacolle 8 and De Léry, and the Islands in the River Richelieu, lying wholly or partly opposite 10 the same, and the Township of Sherrington, all in the County of Huntingdon, the Town- 12 ship of Hemmingford in the County of Beauharnois, the Parishes of St. John the 14 Evangelist and St. Luc, in the County of Chambly, and the Parish of Ste. Margue- 16 rite de Blairfindie, lying partly in the County of Chambly and partly in that of 18 Huntingdon, the County of Missisquoi, except the Townships of Dunham and Sutton, 20 and the County of Rouville, except the Parishes of St. Mathias, St. Hilaire and St. 22 Jean Baptiste de Rouville ;

St. John Cir-
cuit.

24 At Nelsonville, in the Township of Dun- ham, in and for the Circuit called and to be 26 called the Missisquoi Circuit, from the to the day, inclusively, of each of 28 the months of and ; which said Circuit doth and shall include 30 and consist of the County of Shefford (ex- cept the Township of Milton,) of so much 32 of the County of Stanstead as does not lie in the District of St. Francis, and of the Town- 34 ships of Dunham, Stanbridge and Sutton, in the County of Missisquoi, and the Parishes of St. Armand East and St. Armand West ; 36

Missisquoi
Circuit.

At the Village of St. Hyacinth, in and 38 for the Circuit called and to be called the St. Hyacinth Circuit, from the to the 40 day, inclusively, of each of the months of and ; 42 which said Circuit doth and shall include and consist of the County of St. Hyacinth, 44 the Township of Milton, in the County of Shefford, the Parishes of St. Charles and 46 St. Barnabé, in the County of Richelieu, and the Parishes of St. Hilaire and St. Jean

St. Hyacinth
Circuit.

- Baptiste de Rouville, in the County of Rouville; 2
- Richelieu Circuit. In the Parish of St. Ours, in and for the Circuit called and to be called the Richelieu Circuit, from the to the day, inclusively, of each of the months of and ; which said Circuit doth and shall include and consist of the County of Richelieu, (except the Parishes of St. Charles and St. Barnabé, 10 and the Islands of the said County which lie in the River St. Lawrence, on the north side of the main or ship channel), and the Parishes of Contrecoeur and St. Antoine, in 14 the County of Verchères; 16
- In the said District of Three-Rivers ;* 18
- Three-Rivers Circuit. At the Town of Three-Rivers, in and for the Circuit called, and to be called the Three-Rivers Circuit, 20
- and the said Circuit shall include and consist of all that part of the said District of Three-Rivers which shall not be within any 24 of the other Circuits hereinafter described ;
- Yamaska Circuit. In the Parish of St. Antoine de la Baie du Febvre, in and for the Circuit called and to be called the Yamaska Circuit, from the to the day, inclusively, of each of the months of and ; which said Circuit doth and shall include and consist of the County of Yamaska, and the Seigniory of Nicolet and its Augmentation, in the County of Nicolet, and so much of the County of Drummond as lies within the District of Three-Rivers, except the Townships of Aston, Bulstrode Stanfold and Arthabaska ; 38
- Gentilly Circuit. In the Parish of Gentilly, in and for the Circuit called and to be called the Gentilly Circuit, from the to the day, inclusively, of each of the months of 42

and

to

2 the

3 ; which said Circuit doth and shall
4 include and consist of all that part of the Dis-
5 trict of Three-Rivers, lying on the south
6 side of the River St. Lawrence, which is
7 not included in the Yamaska Circuit;

In the said District of St. Francis ;

8 At the Town of Sherbrooke, in and for the
9 Circuit to be called the Sherbrooke Circuit,
10 from the

Sherbrooke
Circuit.

11 and the said Circuit shall include and con-
12 sist of all that part of the said District of
13 St. Francis which shall not be within any
14 of the other Circuits hereinafter described ;

15 At the Village of Richmond, in the Town-
16 ship of Shipton, in and for the Circuit call-
17 ed and to be called the Richmond Circuit,
18 from the to the
19 day, inclusively, of each of the months of
20 and ; which said Circuit doth
21 and shall include and consist of the Town-
22 ships of Durham, Kingsey, Tingwick and
23 Chester, in the County of Drummond, and
24 the Townships of Shipton, Melbourne,
25 Brompton and Windsor, in the County of
26 Sherbrooke ;

Richmond
Circuit.

27 At Eaton Corner, in the Township of
28 Eaton, in and for the Circuit called and to
29 be called the Eaton Circuit, from the
30 to the day, inclusively,
31 of each of the months of and
32 ; which said Circuit doth and shall
33 include and consist of the Townships of
34 Eaton, Newport, Clifton, Hereford, Hamp-
35 den, Chesham, Emberton, Bury, Lingwick,
36 Stratford, Marston, Ditton, Clinton, Auck-
37 land, and Whitton, all in the County of
38 Sherbrooke ;

Eaton Circuit.

At Stanstead Plain, in the Township of

Stanstead Cir-
cuit.

Stanstead, in and for the Circuit called and to be called the Stanstead Circuit, from the 2
to the day, inclusively, of each of the months of and 4
; which said Circuit doth and shall include and consist of the Townships of 6
Stanstead, Barnston, Barford, and Hatley, and so much of the Township of Bolton as 8
lies within the District of St. Francis;

In the said District of Gaspé :

District of Gaspé.

At the places and times appointed for 10
holding of the Circuit Courts in the said District, in and by the Act passed in the 12
Seventh year of Her Majesty's Reign, and intituled, "*An Act to establish the District 14
of Gaspé, and to provide for the due administration of Justice therein,*" or as may 16
be provided for the holding of the Circuit Court therein, by any Act of the present 18
Session amending the said Act.

Changes not to affect pending suits.

LXXX. Provided always, and be it enacted, That no change made by this Act in the limits of any Circuit, shall affect any 20
action, suit or proceeding commenced in any Circuit Court before the time when this Act 24
shall come fully into effect, but the same, and all proceedings and matters incident 26
thereto, whether before or after execution, shall be continued and dealt with as if the 28
limits of the Circuit in which such action, suit or proceeding shall have been commenced, had not been changed or affected 30
by this Act. 32

Return days in appealable and non-appealable cases.

LXXXI. Provided always, and be it enacted, That for all appealable cases, 34
every day in Term or in vacation not being a Sunday or holiday, shall be a 36
Return day, but the six first juridical days only of each Term shall be Return 38
days in non-appealable cases; and at the close of the sixth juridical day, or 40
at any time thereafter, the Judge may, if there be no business before the Court, close 42
the sitting thereof until the then next Term,

Power of Judge to close or prolong the Term.

or may, in his discretion, and if it be requisite to the despatch of the business before the Court, prolong the Term until such business be despatched, or his duty shall require his attendance at some other place ;
 6 Provided also, that if by illness, accident or any other cause, the Judge by whom any
 8 Circuit Court ought to be holden shall not be present on the first or any other juridical day, being a Return day in any
 10 Term, it shall be lawful for the Clerk of
 12 such Court to receive all Returns to be made on such day, in non-appealable cases,
 14 and to cause any defendant or party in any such case, summoned to appear on such
 16 day, to be called, and to enter his appearance, or record his default, notwithstanding
 18 the absence of the Judge.

Proviso.
 Clerk may receive returns, &c. in certain cases.

LXXXII. And be it enacted, That from
 20 and after the day to be appointed for that purpose in any Proclamation to be issued by
 22 the Governor appointing such day, and declaring that a proper Gaol hath been
 24 erected at Chicoutimi aforesaid in and for the Chicoutimi Circuit, General and Special
 26 Sessions of the Peace shall be held therein, the said General Sessions being held at such
 28 times as shall be appointed by the Governor in and by the Proclamation aforesaid, in
 30 like manner and with like powers and duties as in the several Districts of Lower Canada
 32 respectively ; and a Clerk of the Peace and other requisite officers may be appointed
 34 accordingly ; and the Justices of the Peace for the District of Quebec, shall
 36 be the Justices by whom such Sessions of the Peace shall be held, but the said Chicoutimi
 38 Circuit shall not be detached from the said District, except only with regard
 40 to such Sessions and matters cognizable thereat.

Sessions of the Peace, &c. to be held in Chicoutimi Circuit when a Gaol is erected.

Clerk of the Peace to be appointed. Who shall hold the Sessions, &c.

LXXXIII. And be it enacted, That from
 42 and after the time when this Act shall come fully into effect, no Commissioners Court
 44 shall be held in the City of Quebec or in
 46 the City of Montreal, under the Act passed

No Commissioners Court to be held in Quebec or Montreal.

But pending suits to be completed in the Circuit Court:

Papers and documents of Commissioners Courts to be transmitted to Circuit Court.

Return of Process issued before this Act shall be in force.

Amount demanded to govern in certain cases.

in the Seventh year of Her Majesty's Reign, and intituled, "*An Act to provide for the Summary Trial of Small Causes in Lower Canada,*" but that all actions, suits, and proceedings theretofore commenced in the Commissioners Court at either of the said Cities, shall be transmitted into the Circuit Court, and be continued and completed therein, at the City in which the same were respectively commenced, as if they had been commenced therein, or the said Circuit Court were one and the same Court with the Commissioners Court at such place; and all papers, writings, documents and proceedings in the office of the Clerk of the Commissioners Court at either of the said Cities, or in his custody, whether the same relate to any action, suit or proceeding therein, then pending or completed before the time when this Act shall come fully into effect, shall forthwith after the said time be transmitted into the Circuit Court, and shall be kept in the office of the Clerk of the said Court at the same place, and shall make part of the records and muniments of the said Court; and every Summons or Process issued before the time when this Act shall come fully into effect, out of the Commissioners Court at either of the said Cities, and made returnable after the said time, shall be returned into the Circuit Court at the same place and on the day on which it shall have been made returnable, unless such day should happen not to be a return day at such place in non-appealable cases in the Circuit Court, and it shall then be returned on the return day for such cases, which shall be next after the day on which it shall have been made returnable, and in either case, it shall then have the same effect and no other, as if it had issued from the Circuit Court and had been made returnable on such day and at such place.

LXXXIV. And be it enacted, That whenever the jurisdiction of any Court or the right to appeal from any judgment of any Court, is dependent upon the amount in

dispute, such amount shall be understood
 2 to be that demanded and not that recovered,
 if they be different; but if the amount re-
 4 covered be such that it might have been
 recovered in any inferior Court, the plaintiff
 6 shall recover such costs only as he would
 have recovered if the suit had been brought in
 8 such inferior Court, unless the Court in
 which the suit is brought shall order other-
 10 wise.

Provision as to
 costs.

LXXXV. And be it enacted, That any
 12 party desiring to confess judgment in any
 cause, either in the Superior Court, or in
 14 the Circuit Court, except in non-appealable
 cases in the latter Court, shall fyle an
 16 appearance therein, and may then fyle a
 confession of judgment in writing, signed
 18 by him (or by an Attorney thereunto spe-
 cially authorized by an authentic *Acte* to
 20 be fyled with it,) and countersigned by
 his Attorney *ad litem*; and if the Plaintiff
 22 shall accept such confession, he may forth-
 with inscribe the case for judgment on the
 24 same, and the Prothonotary or Clerk shall
 thereupon draw up a judgment accordingly,
 26 which being signed by the Plaintiff or his
 Attorney, *ad litem*, shall be held to be the
 28 judgment of the Court, and recorded and
 executed accordingly; and in non-appeal-
 30 able cases in the Circuit Court, Judgment
 may be confessed orally in open Court.

Mode of con-
 fessing judg-
 ment, in ap-
 pealable or
 non-appealable
 cases in any
 Court.

Judgment on
 such confes-
 sion if accept-
 ed.

non-appeal-
 able cases.

LXXXVI. And be it enacted, That any
 32 confession of judgment fyled or made orally
 34 as aforesaid, and not accepted by the Plain-
 tiff, shall, if such Plaintiff shall not, by the
 36 judgment in the cause, recover more than he
 would have obtained judgment for under
 38 such confession, have the same effect, with
 regard to all costs incurred after the fyling
 40 or making of such confession as if it had
 been accepted by the Plaintiff at the time
 42 of the fyling or making thereof, and in any
 such case the Defendant shall be entitled
 44 to recover from the Plaintiff such costs,
 incurred by him after the fyling or making
 46 of such confession, as may be awarded to
 him by the Court in its discretion.

Effect of con-
 fession not ac-
 cepted by
 Plaintiff.

Facts alleged
in pleadings
and not de-
nied, &c.
deemed ad-
mitted costs.

LXXXVII. And be it enacted, That in any pleading in any contested civil case, every allegation of fact, the truth of which the opposite party shall not expressly deny or declare to be unknown to him, shall be held to be admitted by him: and the costs of proving any such allegation of fact or any document proved in evidence shall always be in the discretion of the Court, so that the whole or any part of such costs may be awarded against a party denying or not admitting any fact or document which in the opinion of the Court he must have known to be true or genuine, whatever be the event of the case.

Rules of con-
structions as to
pleadings

LXXXVIII. And be it enacted, That to all allegations of fact in any pleading, the ordinary rules of legal construction shall apply, so that it shall be sufficient to support any pleading that the facts alleged in it agree sufficiently with those proved to maintain the conclusions of such pleading or some of them, and that the Court shall be of opinion that the opposite party could not have been misled by such pleading as to the real nature and effect of the facts intended to be therein alleged and to be proved under such pleading: and the Court may in its discretion, at any time before judgment, and on such conditions as it shall deem just, allow any pleading to be amended so as to agree with the facts proved, if the Court shall be of opinion that the ends of justice will be promoted by allowing such amendment.

Court may
allow amend-
ment-

No form of
action or of
words to be
 requisite.

LXXXIX. And be it declared and enacted, That in civil cases no form of action or of words is or shall be necessary in any declaration, opposition or other pleading or paper, but the parties may and shall respectively state *bonâ fide*, and to the best of their belief, the real facts on which they intend to rely, and which they allege to be true and offer to prove, in plain and concise language, to the interpretation of which the rules of construction applicable to such

language in the ordinary transactions of
 2 life do and shall apply, so that no allegation
 or statement may or shall be held to be in-
 4 sufficiently made, if it would be ordinarily
 understood to have the meaning intended
 by the party using it.

6 XC. And be it enacted, That no trial
 8 by Jury shall be allowed in any civil suit
 or action, wherein the sum of money or va-
 10 lue of the thing demanded or in dispute
 shall not exceed twenty pounds currency,
 12 unless the same shall have been instituted
 before the time when this Act shall come ful-
 14 ly into effect, and one of the parties thereto
 shall before the said time have declared his
 16 choice and option to have a trial by Jury
 therein.

No trial by
 Jury in cases
 under £20.

18 XCI. And for the avoidance of doubts—
 Be it declared and enacted, That any party
 20 to any suit or action of a Commercial
 nature may be examined on *faits et articles*,
 22 in the like manner as parties may be
 examined in other cases; any law touching
 24 the rules of evidence to be observed in such
 cases, to the contrary notwithstanding.

Faits et articles
 in commercial
 cases.

26 XCII. And be it enacted, That if the
 28 day on which any thing is by this Act di-
 rected to be done, shall be a Sunday or
 30 Holiday, then such thing shall and may be
 done with like effect on the next following
 32 juridical day.

As to Sundays
 and Holidays.

XCIII. And be it enacted, That the
 34 word "Sterling," in any Act or Ordinance
 relative to the administration of justice,
 36 and in force in Lower Canada, shall, with
 regard to any suit or action commenced
 38 after the twentieth day of April, one thou-
 sand eight hundred and forty-four, or to be
 40 commenced after this Act shall come fully
 into effect, and with regard to all proceed-
 42 ings therein, be held to have the meaning
 assigned to the said word by the Act of the
 44 Legislature of this Province, passed in the
 Session held in the fourth and fifth years of

Word "Ster-
 ling" how to
 apply in judi-
 cature Acts.

Her Majesty's Reign, and intituled, "*An Act to regulate the Currency of this Province*," that is to say: each pound sterling, in any sum mentioned in such Act or Ordinance, shall be held to be equal to one pound, four shillings and four pence, currency.

Demande in intervention need not be allowed by a Judge, &c.

Nullity for non-compliance with this section.

Provision for Writs which are to be executed by several officers.

As to suits against absentees.

XCIV. And be it enacted, That it shall not be necessary that any *demande* in intervention should be allowed by any Court or any Judge, but such *demande* may be at once fyled at the Office of the Prothonotary or Clerk of the Court, and the mere fyling thereof shall stay proceedings in the case during three days; and if during that time it shall be served on the proper parties, and the return of such service shall be fyled at the Office aforesaid, proceedings shall be had as in an action of the same nature; but if such return be not so fyled, such *demande* in intervention shall be *ipso facto* null, and any party may demand and obtain from the Prothonotary or Clerk, *acte* of the non-fyling of such return, and may fyle such *acte*, which shall have the same effect as a judgment pronouncing such nullity, and the parties may thereupon proceed as if such *demande* in intervention had never been fyled.

XCIV. And be it enacted, That if in any case, either in the Superior Court or in the Circuit Court, any Writ shall require to be executed by the Sheriffs of two or more Districts, or by a Bailiff in one District and by a Sheriff or Sheriffs in another or others, then such Writ shall be addressed to such Sheriff or Sheriffs, and to any Bailiff of the Superior Court, as the case may require, and as many originals shall be made as there may be Districts in which it is to be executed; but this shall not affect any provision herein made with regard to *alias* Writs.

XCVI. And be it enacted, That in any suit or action brought or to be brought against any person who shall have left his domicile

in Lower Canada, or against any person who shall have had no domicile in Lower Canada, but shall have personal or real estate within the same, it shall be lawful for the plaintiff, if such person be not personally served with process, to summon and implead such person, by a Writ issued in the usual way out of the Superior Court, or out of the Circuit Court, in the District or Circuit wherein such person may have had his domicile, or where such property may be situate, and that upon the return of the Sheriff or Bailiff to the Writ, that the defendant cannot be found in the said District or Circuit, it shall be lawful for the Court, or for any Judge thereof in vacation, to order that the defendant shall by an advertisement to be twice inserted in the English language in any newspaper published in that language, and twice in the French language in any newspaper published in that language in Lower Canada, (such newspapers to be designated by the Court or Judge) be notified to appear and answer to such suit or action within two months after the last insertion of such advertisement; and that upon the neglect of the defendant to appear and answer to such suit or action within the period aforesaid, it shall be lawful for the plaintiff to proceed to trial and judgment as in a case by default.

Advertisement to be inserted in newspapers.

XCVII. And be it enacted, That all the powers vested in any Judge or Judges of the Superior Court by virtue of this Act and of the Act of the Legislature of Lower Canada passed in the Third year of the Reign of His late Majesty King William the Fourth, and intituled, *An Act to regulate the exercise of certain rights of Lessors and Lessees*, and the Ordinance of the Legislature of Lower Canada, passed in the Second year of Her Majesty's Reign, and intituled, *An Ordinance to amend and continue the Act to regulate certain rights of Lessors and Lessees*, shall be and are hereby vested in, and may be exercised by any

Powers under Lessors and Lessees Acts, and by whom to be exercised.

Act of L. C. 3 W. 4. c. 1.

Ordinance L. C. 2 V (3) c. 47

one Judge of the Superior Court, or by any
 Circuit Judge, in Term or in Vacation, and
 an appeal shall lie from the judgment of
 any such Judge or Circuit Judge to the
 Court of Queen's Bench established by an
 Act of this Session, in the cases in which
 an Appeal to the Provincial Court of Ap-
 peals is given in the said last mentioned
 Act: but nothing in this section shall be
 construed to prevent the Superior Court
 or any two or more Judges thereof, sitting
 together, from exercising any of the said
 powers, if they shall in any case deem it
 expedient so to do.

Proviso.

How the privi-
 lege of the
 Lessor on
 goods taken in
 execution shall
 be exercised.

XCVIII. And be it declared and
 enacted, That in all cases of the taking
 of goods and chattels in execution by
 virtue of a Writ issuing out of any
 Court in Lower Canada, wherein a Lessor
 may claim a privilege or lien for rent,
 it is not and shall not be lawful for
 such Lessor to prevent the sale of such
 goods and chattels by opposition, but
 it is and shall be lawful for him to deliver
 to or lodge with the Sheriff or the Bailiff
 who shall have seized such goods and chat-
 tels, his opposition *afin de conserver*, either
 before or after the sale, and if the same be
 so delivered or lodged before the sale, the
 Sheriff or Bailiff shall nevertheless proceed
 to the sale of the goods and chattels by him
 seized, and make his return thereof; and
 upon such return the Lessor shall have his
 privilege or lien upon the proceeds of the
 sale of such goods and chattels, and be col-
 located accordingly, any law, usage or cus-
 tom to the contrary notwithstanding: Pro-
 vided always, that when any such opposition
 or any other opposition *afin de conserver*
 upon monies levied by virtue of a Writ
de bonis directed to a Bailiff, shall be deliv-
 ered to and lodged with the Bailiff before
 he shall have paid the proceeds of the sale
 to the party suing out such Writ, it shall
 be the duty of the Bailiff forthwith to
 make his return of the said Writ according
 to law, and to pay over into the hands
 of the Clerk of the

Proviso: duty
 of the Bailiff
 receiving any
 opposition.

Court in which the case shall be pending,
2 the proceeds of the sale to abide the judgment of the Court.

4 XCIX. And be it enacted, That no recognizance to the Crown, shall be estreated in
6 the manner heretofore used, but the sum forfeited by the non-performance of the conditions of such recognizance, shall be recoverable with costs by action in any Court having
8 jurisdiction in civil cases to the amount, at the suit of the Attorney General or Solicitor
10 General, or other Officer or party authorized to sue for the Crown; and in any such
12 action it shall be held that the party suing for the Crown is duly empowered so to do,
14 and that the conditions of the recognizance were not performed, and that the sum therein
16 mentioned is therefore due to the Crown, unless the Defendant shall prove the contrary.
18
20

Recognizances how to be enforced for the future.

C. And be it enacted, That all and
22 every the powers and authorities which immediately before the time when this Act
24 shall come fully into effect, shall be by law vested in the several Courts of Queen's
26 Bench in the several Districts of Lower Canada, and in the Chief Justices and the
28 Justices thereof respectively, relating in any manner or way to the Writ of Habeas Corpus,
30 as well in criminal as in civil cases, and to the awarding or issuing or return
32 thereof, and to the hearing and determining in due course of law, of any question, issue
34 or matter thence arising or incident thereto, shall be and the same are hereby vested as
36 well in the Circuit Court; as in the Superior Court, (concurrently with the other Courts
38 and Judges in whom like powers may by any Act of this Session be vested) and in
40 each and every of the Judges of the said Superior Court and Circuit Court respectively,
42 as well in term as in vacation; which said Judges shall respectively be subject and
44 liable to the same penalty, for denying in vacation time, any Writ or Writs of Habeas
46 Corpus, as is by law provided for the denial

Habeas Corpus powers vested in the Superior Courts and Circuit Court, and in the Judges thereof

Penalty for denying the Writ in vacation.

of a Writ of Habeas Corpus in vacation time by any Judge or Justice, and the said penalty shall be recovered from the Judges of the Superior Court and Circuit Court respectively, in the like cases and circumstances, and in the same manner as is by law provided with respect to any Judge or Justice. 8

Provision as to service of notices, &c. when any thing is ordered to be done in a place other than that where the suit is pending.

CI. And be it enacted, That whenever under this Act anything shall have been ordered by the Superior Court, or by the Circuit Court, to be done in any case or matter therein pending, by or before the Superior Court or the Circuit Court or some Judge or officer thereof, in some District or Circuit other than that in which such case or matter is pending, then after the order shall have been four clear days in the hands of the Prothonary or Clerk of the Court at the place where such thing is to be done, all parties may proceed as if the case or matter were pending there; and if any notice or paper require to be served on any party in relation to the thing so required to be done, it shall be held validly served if left for him at the office of such Prothonary or Clerk, unless he shall previously have fyled at the Office of that Officer, an Election of Domicile, where such service may be made, within one mile of the said Office, or unless personal service be required by law. 32

Superior Court or any six Judges, to make Tariff and Rules of Practice for the said Court and for the Circuit Court.

CII. And for the purpose of ensuring uniformity in the practice and proceedings of the Superior Court and Circuit Court in the several Districts and Circuits in Lower Canada: Be it enacted, That the Superior Court, or any six or more of the Judges thereof, shall and may (and it shall be their duty so to do within one year from the time when this Act shall come fully into effect,) agree upon, make and establish Tariffs of Fees for the Officers of the said Courts, respectively and the Counsel, Advocates and Attornies practicing therein, and also such Rules of Prac- 46

tice as shall be requisite for regulating the
 2 due conduct of the causes, matters and bu-
 4 siness before the said Courts, respectively,
 and the Judges thereof, or any of them, and
 in Term or out of Term, and all process
 6 and proceeding therein or thereunto rela-
 8 ting: and such Tariffs of Fees and Rules
 of Practice respectively, being signed by any
 six of the said Judges, shall, without further
 10 formality, and immediately upon the receipt
 thereof or of a copy certified by the Pro-
 12 thonotary of the Superior Court having the
 custody of the original, be entered by the
 14 Prothonotaries and Clerks of the Superior
 Court, or of the Circuit Court, in the Regis-
 16 ters of the said Courts respectively, and
 shall then have full force and effect in each
 18 District or Circuit in which they shall have
 been so registered, until they shall have
 20 been repealed or amended, as hereinafter
 mentioned, and such repeal or amendment
 22 shall have been registered as aforesaid; and
 the Judges of the Superior Court or any six
 24 or more of them shall have full power and
 authority from time to time to repeal or
 26 amend the said Tariffs and Rules of Practice,
 or any part thereof; and such repeal or
 28 amendment being signed by any six or more
 of the said Judges shall be registered as afore-
 30 said by the proper Prothonotaries or Clerks,
 and shall have effect accordingly: Provided
 32 always, that no such Rule of Practice shall
 be contrary to or inconsistent with this Act,
 34 or any other Act or law in force in Lower
 Canada, otherwise the same shall be void;
 36 and provided also, that until such Tariffs of
 Fees and Rules of Practice, respectively,
 38 shall be made and established as aforesaid,
 the Tariff of Fees and Rules of Practice in
 40 force in each District or Circuit, immedi-
 ately before the time when this Act shall
 42 come fully into effect, with regard to the
 Court of Queen's Bench or Circuit Court
 44 therein, shall continue to be in force, and
 shall apply to the Superior Court or Cir-
 46 cuit Court and the proceedings therein, as
 far as regards such Districts or Circuit;
 48 except that in all cases in the Circuit

How such
Tariffs and
Rules shall be
authenticated,
&c.

They may be
amended.

Provido: such
Rules not to be
inconsistent
with any law.

Provido: what
Tariff and
Rules shall be
in force until
new ones be
made.

Exception.

Cases over
£20 in C.
Court.

Court in which the sum or value of the thing in dispute shall exceed twenty pounds 2
currency, the Tariff of Fees in force at 4
the time aforesaid with regard to the same 4
class of cases, in the Court of Queen's 6
Bench in any District, shall be the Tariff 6
for the Circuit Court in the same District 8
until a Tariff shall be made for such cases 8
under this Section.

Attornies
practising in
any Circuit to
elect a domicile
there.

CIII. And be it enacted, That each At-10
torney practising in the Circuit Court in
any Circuit, shall fyle in the Office of the 12
Clerk of the Court for such Circuit, his
election of a domicile within one mile of the 14
place where the Court shall be held in such
Circuit, or in default of his so doing, any 16
notice, pleading or other paper in any case
before the Court in such Circuit, shall be 18
well served upon him if left for him at the
Office of the Clerk of the Court for such 20
Circuit.

Who shall be
Commission-
ers for receiv-
ing affidavits in
C. Court.

CIV. And be it enacted, That no Com- 22
missioners for receiving affidavits shall be
appointed by the Circuit Court, but the 24
Commissioners for receiving affidavits in
the Superior Court, shall, in the Dis- 26
tricts for which they shall have been res-
pectively appointed, be Commissioners for 28
receiving affidavits to be used in the Circuit
Court, without any other appointment. 30

Prothonotaries
and Clerks not
to practise as
attornies, &c.

CV. And be it enacted, That no Pro- 32
thonotary or Clerk of any Circuit Court, 32
shall during his continuance in Office,
nor shall, his Deputy while performing, 34
the Duties of the Office, practise as an Ad-
vocate, Counsel or Attorney at law in Lower 36
Canada.

Bonds given by
them to con-
tinue in force.

CVI. And be it enacted, That the bonds 38
given before this Act shall come fully into
effect by the several Prothonotaries of the 40
Court of Queen's Bench in Lower Canada
and the Clerks of the Circuit Courts therein, 42
and their sureties, for the due performance
of the official duties of such Prothonotaries 44

and Clerks respectively, shall notwithstanding
 2 ing this Act, and the change of their names of
 Office, and those of the Courts of which they
 4 are Officers, remain in full force and avail to
 all parties as if they had been given after this
 6 Act had come fully into effect and for the due
 performance of the duties of the Office
 8 which such Prothonotary or Clerk shall
 hold by virtue of this Act, and for duly
 10 accounting for and paying all monies which
 shall have come into their hands respec-
 12 tively by virtue of such Offices respectively,
 as if such bonds respectively had been
 14 given under this Act and conditioned accord-
 ingly; and each Prothonotary of the Su-
 16 perior Court and each Clerk of the Circuit
 Court to be appointed after this Act shall
 18 come fully into effect shall, within three
 months after his appointment, give security
 20 for the due performance of the duties of his
 Office and for duly accounting for and
 22 paying all monies which shall come into his
 hands by virtue of his Office, by a bond to
 24 be given by him jointly and severally with
 good and sufficient sureties, which bond shall
 26 stand and be as and for a security to the
 amount thereof, for the damages which
 28 may be sustained by any party, by reason of
 the negligence or misconduct of such Protho-
 30 notary or Clerk; and the amount for which
 such bond shall be given shall be as follows,
 32 that is to say: by the Prothonotary of the
 Superior Court, in the District of Montreal
 34 or of Quebec, and his sureties, in the sum of
 two thousand pounds currency: by the
 36 Prothonotary of the Superior Court, in the
 District of Three-Rivers or of St. Francis,
 38 Kamouraska or Ottawa, and his sureties in
 the sum of one thousand pounds currency;
 40 by the joint Prothonotary of the Superior
 Court, in the District of Gaspé, and their su-
 42 reties, in the sum of currency;
 and by each Clerk of the Circuit Court, and
 44 his sureties, in the sum of currency.

Prothonotaries
and Clerks
hereafter ap-
pointed to give
security.

Amount of
such security:

CVII. And be it enacted, That the per-
 46 sons who immediately before the time when
 this Act shall come fully into effect, shall

Present Bailiffs
continued in
office.

be Bailiffs of the Court of Queen's Bench for any District in Lower Canada, shall without any new appointment become and be Bailiffs of the Superior Court, for the same District, and all bonds and securities which such persons may have respectively given for the due performance of the duties of their office as Bailiffs of the Court of Queen's Bench for such District, shall remain in full force notwithstanding this Act, and shall be held to be conditioned for the due performance of the duty of such persons respectively as Bailiffs of the Superior Court, and shall accordingly enure to the benefit of all parties damaged by the non-performance, mal-performance or neglect of such duty, as if such bonds and security had been given after the coming of this Act fully into effect and in the manner and form hereby required; but nothing herein contained shall prevent any such person from being removed from the office of Bailiff as if he had been appointed under this Act; and such bond shall likewise, notwithstanding this Act, remain in full force with regard to all damages sustained by any person by reason of any thing done or neglected by such Bailiff before this Act shall come fully into effect, and such damages shall be recoverable accordingly.

Their security to remain in force.

They may be removed.

Bonds to avail as to past Acts.

Who shall be Bailiffs in the new Districts when established.

CVIII. And be it enacted, That upon and after the establishment of the District of Kamouraska or of Ottawa (as the case may be) by proclamation as aforesaid, the Bailiffs of the Superior Court appointed for the District of Montreal, and resident within the then new District of Ottawa shall, without any new appointment or order, be Bailiffs of the Superior Court for the said New District of Ottawa, but not for the rest of the District of Montreal, and the Bailiffs of the Superior Court appointed for the District of Quebec, and resident within the then New District of Kamouraska shall be Bailiffs of the Superior Court for the said New District of Kamouraska but not for the rest of the District of Que-

bec, until in either case, they shall have
2 been removed from office.

4 CIX. And be it enacted, That the Bai-
liffs of the Superior Court shall have power
6 to act as such within the limits of the District
8 for which they shall have been appointed
10 Superior Court as from the Circuit Court,
and from all other Courts in Lower Canada,
12 which may lawfully be directed to a Bailiff;
and such Bailiffs shall be removable by the
14 Judges of the Superior Court at any term
or sitting thereof, or by any Judge of the
16 said Court or by any Circuit Judge when
holding the Circuit Court.

Bailiffs to act
only in their
own District.

How remove-
ble.

18 CX. And be it enacted, That every per-
son who shall after this Act shall come
20 fully into effect, be appointed a Bailiff of
the Superior Court, shall, before acting
22 as such, enter into a Bond with two good
and sufficient sureties who shall justify
24 their sufficiency to the satisfaction of the
person before whom the Bond shall be
26 given, unto Her Majesty, Her Heirs and
Successors, in the penalty of one hundred
28 pounds currency, conditioned for the due
performance of the duties of the said office,
30 and such Bond shall be taken before the
Prothonotary of the Superior Court, for
32 the District in which the Bailiff shall have
been so appointed, and shall remain of
34 record in the office of the said Prothonotary;
and every copy of such Bond delivered by
36 such Prothonotary under his hand and the
seal of the Court, shall be deemed and con-
38 sidered an authentic copy to all intents and
purposes; and it shall be incumbent on the
40 said Prothonotary and his Successors in
office to enquire and ascertain when such
42 sureties may die, or become insolvent or
resident out of Lower Canada, (in any of
44 which cases it shall be the express duty of
the Bailiff to give notice of the fact to the
46 Prothonotary for the District,) and in such
case or cases to require the Bailiff to give

Bailiffs here-
after appointed
shall give secu-
rity.

Copies of
Bonds.

Duty of Pro-
thonotary as
to such securi-
ty.

Effect of Bonds. other and further security as aforesaid : and every Bond so given shall stand and be as and for a security to the amount thereof, for the damages which may be sustained by any person or party by reason of the culpable negligence or misconduct of the Bailiff.

Bailiffs to be Officers of Circuit Court.

And Sheriff's also.

CXI. And be it enacted, That the Bailiffs of the Superior Court appointed for any District, shall be Bailiffs and Officers of the Circuit Court for the same District without any other appointment, and shall be amenable to the Circuit Court as such Officers, and the security given by them shall extend and be applicable to all their acts or omissions as Bailiffs of the Circuit Court, as fully as to their acts or omissions as Bailiffs of the Superior Court; and the Sheriff of each District shall also be the Officer of the Circuit Court, and shall, within his District, obey the orders of the said Court in all matters pending before it, and the Clerk of the Circuit Court at any place shall be the Officer of the said Court, and shall within his Circuit, obey the orders of the said Court in what place soever such orders may be made and directed to such Sheriff or Clerk, and they shall be respectively amenable to the said Court accordingly.

Bailiffs not to be witnesses in certain cases.

CXII. And be it enacted, that no Bailiff who shall have made the service of the writ of summons in any suit or action, shall be competent to be examined as a witness in support of the Plaintiff's demand in such suit or action, save and except as to what may relate to the service of such writ of summons.

Punishment of Officers guilty of extortion or misconduct.

CXIII. And be it enacted, That if any Bailiff or any officer of any Court acting under colour or pretence of the process of such Court, shall be guilty of extortion or misconduct, or shall not duly pay or account for any money levied or received by him under the authority of this Act or

of the Act hereinbefore repealed, it shall be
 2 lawful for the Superior Court or for any
 Judge or Circuit Judge holding the Circuit
 4 Court; if the party aggrieved shall think fit
 to complain to him, to enquire into such
 6 matter in a summary way and for that pur-
 pose to summon and enforce the attendance
 8 of all necessary parties, and to make such
 order thereupon for the repayment of any
 10 sum of money extorted, or for the due pay-
 ment of any money so levied or received as
 12 aforesaid, and for the payment of such costs
 to the party aggrieved as such Court, Judge
 14 or Circuit Judge shall think just; and in de-
 fault of immediate payment of any sum of
 16 money so ordered to be paid by such Bailiff
 or by such officer, to commit the offender
 18 to the Common Gaol of the District, there
 to be detained until such payment be made
 20 in full: and the provisions of this section
 shall apply as well to any act of misconduct
 22 or neglect committed by any Bailiff before
 this Act shall come fully into effect, as after
 24 that time.

Court may
 enquire sum-
 marily into
 the facts, &c.

Imprisonment
 of non-compli-
 ance with the
 sentence.

CXIV. And be it enacted, That the salary
 26 of each of the said Circuit Judges shall not
 exceed pounds per annum,
 28 and such salary shall be in lieu of all fees,
 emoluments, or allowances whatever, whe-
 30 ther for travelling expenses or otherwise.

Salary of Cir-
 cuit Judges.

CXV. And be it enacted, That the In-
 32 terpretation Act shall apply to this Act;
 and that all the provisions thereof shall be
 34 liberally construed so as best to promote
 the attainment of justice in every case, and
 36 no construction shall be deemed right which
 shall leave any provision thereof without
 38 effect; and if there be any case in which,
 before this Act shall come fully into effect,
 40 a party would have had the means of en-
 forcing or defending some just claim or
 42 right in some Court then existing, and no
 provision shall be found in this Act under
 44 which such claim or right can be enforced
 or maintained, such provision shall be made
 46 by the Rules of Practice to be made under

Interpretation
 Act to apply,
 &c.

No case to be
 deemed omitt-
 ed in this Act.

this Act, and until it be so made no proceeding for enforcing or maintaining such claim or right which shall not be inconsistent with this Act, or some other Act of this Session or with the law, shall be held to be illegal or void.

Provisions of Ordinance 1. V. c. 20 to apply to Districts and Circuits under this Act.

CXVI. And be it enacted, That all the provisions and enactments of a certain Ordinance of the Legislature of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, "*An Ordinance to provide for the erection and establishment of Court Houses and Gaols in certain Judicial Districts in this Province*," shall, in so far as the same may not be inconsistent with or repugnant to the provisions of this Act, be applied to the Districts and Circuits established or confirmed by this Act, in the place and stead of the Judicial Districts in the said Ordinance mentioned.

Commencement of the foregoing provisions of this Act.

CXVII. And be it enacted, That the foregoing sections of this Act shall come into force and effect, upon, from and after the day of

Proviso.

next, and not before, except in so far as it may be therein otherwise provided: and upon, from and after the said day, any Judge or officer then appointed under this Act shall and may perform all or any of the duties and functions of his office although the Court of which he may be a Judge or Officer shall not have met or sat, since this Act shall have come fully into force and effect.

TABLE OF TERMS
OF THE COURT OF
QUEEN'S BENCH, SUPERIOR COURT
AND
CIRCUIT COURT.

	January.	February.	March.	April.	May.	June.	July.	August.	September.	October.	November.	December.
COURT OF QUEEN'S BENCH.												
1. IN APPEAL AND ERROR.												
1. AT QUEBEC	7-15						1-12					
2. AT MONTREAL			1-12							1-12		
2. FOR CRIMINAL MATTERS.												
1. AT QUEBEC	20-30						14-24					
2. AT MONTREAL			14-20							14-20		
3. AT THREE-RIVERS		2-8							11-17			
4. AT SHERBROOKE		12-18							1-7			
SUPERIOR COURT.												
1. AT QUEBEC AND MONTREAL				1-20					1-20			1-20
2. AT THREE-RIVERS					1-12						1-12	
2. AT SHERBROOKE	20-31						16-27					
CIRCUIT COURT.												
DISTRICT OF QUEBEC.												
QUEBEC												
RIMOUSKI	19-28				19-28				19-28			
KAMOURASKA		1-10				1-10				1-10		
ST. THOMAS		13-22				13-22				13-22		
LEEDS		16-25				16-25				20-29		
BEAUCE			1-10				1-10				1-10	
LOTBINIERE			13-22				13-22				13-22	
PORTNEUF	7-16				7-16				7-16			
SAGUENAY			1-10				1-10			1-10		
CHICOUTIMI												
CIRCUIT COURT.												
DISTRICT OF MONTREAL.												
MONTREAL												
BERTHIER	21-30				21-30				21-30			
ASSUMPTION			1-10				1-10				1-10	
TERREBONNE			12-21				12-21				12-21	
TWO-MOUNTAINS	7-16				7-16				7-16			
OTTAWA	20-29				20-29				20-29			
VAUDREUIL			1-10				1-10				1-10	
BEAUHARNOIS			12-21				12-21				12-21	
ST. JOHN'S		10-19			10-19					10-19		
MISSISKOUI		21-30			21-30					21-30		
ST. HYACINTH		10-19			10-19					10-19		
RICHELIEU		21-30			21-30					21-30		
CIRCUIT COURT.												
DISTRICT OF THREE-RIVERS.												
THREE-RIVERS												
YAMASKA		10-19				10-19				10-19		
GENTILLY			10-19				10-19				10-19	
CIRCUIT COURT.												
DISTRICT OF St. FRANCIS.												
SHERBROOKE												
RICHMOND			10-19						10-19			
EATON					1-10						1-10	
STANSTEAD					15-24						15-24	

In the Quebec Circuit and in the Montreal Circuit, respectively, the Circuit Court to sit at Quebec and Montreal, respectively, on the last six juridical days of each month in the year, except August.

In the Three-Rivers Circuit, the Circuit Court to sit at Three-Rivers on the last six juridical days of the months of February, March, April, June, July, October and November, in each year.

In the Sherbrooke Circuit, the Circuit Court to sit at Sherbrooke on the last six juridical days, of the months of February, March, April, June, September and October, and on the first six juridical days of the month of December, in each year.

In the Circuit of Chicoutimi, the Circuit Court to sit at Chicoutimi, on the last six juridical days of the months of January, February, May, June, September and November, in each year.

SCHEDULE.

Province of Canada, }
 Circuit, } IN THE CIRCUIT COURT.
 A. B. of &c.

Plaintiff,

and

C. D. of &c.

Defendant.

[L. S.] VICTORIA by the Grace of God,
 of the United Kingdom of Great
 Britain and Ireland, QUEEN,
 Defender of the Faith :

2 To C. D. the defendant above mentioned.

WHEREAS A. B. the Plaintiff aforesaid
 4 demands of you the sum of
 currency, due by you to him for (*state suffi-*
 6 *ciently the cause of action*) which said sum
 you have (as he saith) refused to pay him.
 8 (*If the action be to recover a thing wrong-*
fully detained, &c. vary the statement of the
 10 *cause of action accordingly. If there be a*
declaration annexed, refer to it ; and omitt-
 12 *ing the words after " the Plaintiff afore-*
 said," say, " hath by his declaration here-
 14 *unto annexed made complaint against you*
 in the manner therein set forth.") And the
 16 Plaintiff prays judgment, accordingly :

You are therefore required to satisfy the
 18 demand of the said Plaintiff in this cause,
 with costs, or to appear in person or by
 20 your Attorney before our said Court, at the
 Court House, at ()
 22 in the said Circuit (at
 o'clock in the forenoon, *omit these words if*
 24 *the case be appealable*) on the
 day of instant
 26 (*or next,*) to answer the said demand ; other-
 wise judgment may be given against you by
 28 default.

In witness whereof, we have caused the
 30 Seal of our said Court to be hereunto affix-
 ed, at this day of
 32 in the year of our Lord, one
 thousand eight hundred and

E. F.

Clerk of the said Court for
 the said Circuit.