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2nd Session, 7th Parliament, 26 Victoria, 1863.

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**BILL.**

**An Act to amend the law respecting the  
Recorder's Court of the City of Quebec.**

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**Received and read, 1st time, Monday, 27th  
April, 1863.**

**Second reading, Thursday, 30th April, 1863.**

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**Hon. Sir N. F. BELLEAU.**

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**QUEBEC:**

**PRINTED FOR THE CONTRACTORS BY HUNTER,  
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# BILL.

## An Act to amend the law respecting the Recorder's Court of the City of Quebec.

**WHEREAS** it is necessary to amend the existing legislative provisions respecting the Recorder's Court of the City of Quebec :

Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:

- 5    1. The said Recorders Court may, by a Writ of Summons in the manner prescribed by law, order any debtor of the Corporation of the said city, residing in the District of Quebec, to appear before it in any civil action over which it has jurisdiction. Summoning of debtors of the city, residing in the District of Quebec.
- 10    2. If such debtor resides without the limits of the said city, but within the limits of the said District, there shall be added to the required interval of two days, between the service and the return of a summons, when the Defendant resides in the said city, an interval of one day for every five leagues of distance between the said city and the domicile of the Defendant, between the service of the summons and the return thereof before the said Court; and every fraction of a league shall be reckoned as a league. Delay between the service and return of the Summons.
- 15    3. If the proprietor or possessor of vacant or unoccupied immovable property in the said city is absent from the District, and such immovable property is subject to the payment of any assessment, tax or due whatever to the Corporation of the said city, then such proprietor shall be proceeded against in the manner prescribed by law (*mutatis mutandis*) for the summoning of absent debtors. Manner of summoning an absent debtor.
- 20    4. Execution against the property of a debtor shall not issue until eight days after the rendering of the Judgment against him. Delay for execution.
- 25    2. The costs in every civil action, or in every complaint or prosecution, shall be taxed by the Clerk of the said Court, or his Deputy, subject to an appeal from such taxation to the said Court, whose judgment in this respect shall be final. Taxation of costs.
- 30    3. In case a Defendant has no movable effects or property within the District of Quebec, or if the said property is insufficient for the payment and satisfaction in principal interest and costs of the judgment rendered against him, but possesses immovable property in the said District, a Writ *de terris*, addressed to the Sheriff of the said District, may be issued out of the said Court; and the procedure in that case shall be that prescribed by the Act 24 Victoria, Chapter 26. Writ de terris may be issued in certain cases.
- 35    3. In case of the seizure in execution of the movable effects and property of a Defendant, every creditor of such Defendant having a right to make an opposition *a fin de conserver* on the moneys arising from the sale of the said property may place such opposition in the hands of the Bailiff making the seizure, and the said Recorder's Court shall hear and determine the said opposition according to law. Oppositions a fin de conserver.
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**Tariff of costs** 4. The said Recorder's Court may make a tariff of fees and costs to be demanded and received by the officers of the said Court, and by the Advocates, Attorneys and Counsel practicing before the said Court, and may alter the said tariff; but the said tariff, and any alterations therein, shall have force only after having been approved by the Governor in 5 Council.

**Certain powers conferred upon the Clerk** 5. The Clerk of the said Court, or his Deputy, may swear any person to any affidavit or deposition to be produced in any cause or proceeding pending or to be brought or instituted before the said Court.

2. The said Clerk, or his Deputy, may also swear any person to any deposition required for the prosecution of offences over which the said Court has jurisdiction, and may issue from the said Court any Warrant for the arrest of the person against whom such prosecution is instituted or required, according to law.

3. The said Clerk, or his Deputy, may admit any person arrested as 15 aforesaid to bail for his appearance before the said Court in the manner prescribed by law; and such bail shall be as good, in all respects, and shall be considered, as if it had been given before and received by a Justice of the Peace.

4. The penalties of wilful perjury shall apply to every person who 20 shall wilfully make a false deposition under the provisions of this Act.

**Repeal of Sec. 28 of 25 Vic. C. 45.** 6. Section 28 of the Act 25 Victoria, chapter 45, is hereby repealed.

**Form of convictions.** 7. The form of convictions for offences over which the said Court has jurisdiction, shall be (*mutatis mutandis*) that used for convictions in the Court of General Quarter Sessions of the Peace for the District of 25 Quebec.

**Exception à la forme.** 8. No civil action, procedure or proceeding, and no complaint or prosecution for any offence over which the said Recorder's Court has jurisdiction shall be void for defect of form or for deficiency of allegation; but the said Court may order such action, procedure or proceeding, 30 complaint or prosecution to be amended if it thinks necessary for purposes of justice.

**Proof of the transmission of a By-law to the Governor shall not be necessary. Sec 22 of 25 Vic., C. 45, amended.** 9. It shall not be necessary to allege or to prove that any By-law of the Council of the said city has been transmitted to the Governor in Council, but such transmission shall be presumed until the contrary is proved. 35

10. Section 22 of the Act last above cited is hereby amended by adding to it, after the words "shall be imprisoned," the words "and kept at hard labor."

**Certain powers granted to the Recorder's Court.** 11. The said Recorder's Court of the said city, in civil matters within the jurisdiction of the said Court, shall have, in relation to such matters 40 and every suit proceeding, matter or thing, or incidental proceeding whatever connected therewith or depending thereon, as well before as after judgment, the powers and authority granted by law in that respect to the ordinary Courts of original civil jurisdiction in Lower Canada, and to the Judges thereof. 45

**Public Act.** 12. A public Act, to which the Interpretation Act applies.