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No. 43.

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4th Session, 6th Parliament, 24 Victoria, 1861.

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**BILL.**

An Act to amend the Agricultural Act.

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Received and read first time, Saturday, 23rd  
March, 1861.

Second reading, Tuesday, 2nd April, 1861.

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Mr. DESAULNIERS.

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**QUEBEC :**

PRINTED BY THOMPSON, HUNTER & CO.  
STE. URSULE STREET.

## An Act to amend the Agricultural Act.

**WHEREAS** it is expedient to continue the right of Appeal from Preamble.  
 Judgments rendered in virtue of the Agricultural Act:—Therefore,  
 Her Majesty, &c., enacts as follows:

## APPEAL TO THE CIRCUIT COURT.

- 5 I. An Appeal from any Judgment rendered in virtue of the Agricultural Act, or of this Act, may be brought in the Circuit Court, either of the District or County in which the Judgment was rendered, or in any of the Counties adjacent to such County or District. Appeal to Circuit Court.
- 10 II. The Appeal shall be brought in the manner following : No such Judgment shall be executory until the expiration of fifteen days after the date thereof, and in the course of the said fifteen days the party intending to appeal shall give a simple notice of his intention to the Justice, or one of the Justices of the Peace, or to the Clerk of the said Justices of the Peace, or of the Court by which such Judgment was rendered. How brought.
- 15 III. Within fifteen juridical days next after the rendering of the Judgment, the appellant shall give security to the Clerk of the Court, to which he intends appealing, (by a surety who shall justify his sufficiency to the amount of at least one hundred dollars,) that the appellant will effectively prosecute the said appeal, and will satisfy the Judgment and pay the damages and costs in case the appeal is not prosecuted, or the judgment appealed from, confirmed. Security by appellant.
- 20 IV. The surety shall justify his sufficiency upon oath before the said Clerk, who may make any examination or put any question necessary for that purpose. Sureties to justify.
- 25 V. The security bond may be in the form No. 1, annexed to this Act, or in any analogous form. Bond.
- VI. The Clerk shall deliver a copy of the security bond to any one requiring the same, and any copy certified by him as a true copy, shall be deemed authentic. Copies thereof
- 30 VII. Within the said fifteen days the Appellant, after having given the security above prescribed, may obtain from the Clerk of the Circuit Court in which the Appeal is brought, a Writ of Appeal in the English or French language, under the seal of the said Court, (but the absence of such seal shall not invalidate the writ), signed by the said Clerk and setting forth that the Appellant deems himself aggrieved by the Judgment appealed from, and ordering the Justice or Justices of the Peace or the Court, to transmit all the documents, proceedings, and papers forming the record, or contained in the registers and relating to the cause. Writ of appeal.
- 35

## Procedure.

VIII. The said Writ shall be returnable in term or in vacation within fifteen days from its date, and a duplicate thereof shall be served five days at least before the return day, upon the Respondent or his Attorney, and also upon the Clerk of the Justice or Justices of the Peace, or of the Court by whom the Judgment appealed from shall have been rendered, and thereupon it shall be the duty of the said Justices and of the said Clerk to transmit the said record forthwith and not later than the day fixed for the return of the said Writ, to the Clerk of the Circuit Court in which the Appeal shall have been brought, with a certificate signed and sealed by one Justice at least, or by the Clerk, certifying that the documents transmitted are all the documents relating to the cause. 5  
10

## Form of writ.

IX. The Writ may be in the form No. 2, annexed to this Act, or in any form to the like effect.

## Appearance.

X. On the return day of the Writ of Appeal, or on the following day, each party or his Attorney shall file an appearance, and at any time after, on the inscription for hearing of either party,—one day's notice of which in term, and three days of which in vacation, shall have been given to the opposing party,—the Appeal shall be heard for all purposes whatsoever and decided summarily.—And no new evidence shall be adduced. 15  
20

## Costs.

XI. The Circuit Court shall adjudge the costs on such Appeal, and if the Judgment appealed from be fully confirmed, it shall order that the record be transmitted to the Justice or Justices, or Court who shall have pronounced the Judgment or conviction, and such transmission shall be effected by the Clerk of the Circuit Court who shall annex to the record a copy of the Judgment of the said Court and a certificate of the costs allowed on the said Appeal, and the said costs shall be levied by the same means, and in the same manner in which the Judgment of the Justice or Justices, or of the Court below, is carried into effect according to law: 25  
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## In case the judgment be modified, &amp;c.

XII. But if, on the other hand, the said Judgment be modified or set aside, in whole or in part, the record and procedure on the Judgment appealed from, and any procedure upon the Appeal, shall remain to form part of the records of the Circuit Court, by which and under the authority of which, whatever shall have been adjudged, ordered, confirmed, modified or amended by the Judgment of the said Court shall be carried into effect, and that by the same means and in the same manner as the Judgment appealed from would itself have been carried into effect; 35

XIII. Any Appellant who shall have neglected to cause the Writ of appeal above mentioned to be served as aforesaid, or who, having caused it to be served, shall fail effectually to prosecute the said Appeal, shall be deemed to have abandoned the said Appeal, and upon application of the Respondent, the Circuit Court shall declare forfeited all the rights and claims founded on the said Appeal, and shall allow costs to the Respondent, and shall order that the record, (if it has been transmitted,) be sent back to the Court or Judge below; and if the record has not been transmitted, then, upon production of the notice of appeal or writ of appeal, the said Respondent shall obtain such costs as the Court may adjudge; 40  
45

## Recourse against sureties.

XIV. The execution of the Judgment against the party condemned shall not deprive the party who shall have succeeded, of his recourse against the sureties for the whole or any part of the costs of the Appeal 50

remaining unpaid, to the payment of which every surety shall be bound, under the penalty of seizure and execution, in the same manner and to the same degree as the principal party ;

XV. No Judgment rendered in virtue of this Act shall be contested Certiorari.  
5 or set aside by writ of *certiorari*.

XVI. To remove all doubts it is declared that any appeal instituted Doubts removed.  
before this Act goes into force from any judgment rendered in virtue of the *Agricultural Act*, shall be proceeded with, decided and carried into execution in the same manner, and shall be deemed as valid to all  
10 intents and purposes whatsoever, as though the 20th Section of the Act 22 Victoria, chapter 101, had never been repealed and had always remained in force, but only as regards those cases, the said 20th Section being hereby repealed as regards any Appeal to be instituted after this Act goes into force.

XVII. The first paragraph of the twenty-third Section of the said Interpretation  
Agricultural Act is not to be interpreted as compelling Inspectors to perform the work required for the opening or keeping in repair of a water-course at the same time as the *proces verbal* ordering such work, but the apportionment shall be made in accordance with the twenty-  
20 ninth Section of the same Act.

XVIII. Any Act or part of an Act inconsistent with this Act, is Contrary Acts.  
repealed.

FORM No. 1.

PROVINCE OF CANADA,  
*District of* or } IN THE CIRCUIT COURT.  
*County of*

WHEREAS in a cause (or matter) between A. B. plaintiff or complainant, and C. D. defendant, Judgment was rendered on or about the  
day of by at in the  
District of or County of , and the said C. D.  
(or A. B.) desires to Appeal from the said Judgment.

Be it known that on this day, the day of in the year  
appeared before me C. E., Clerk of the said Circuit Court  
at in the said District of or County of  
H. P. (*quality and residence*), who, after having justified his sufficiency on oath as required by law, became surety that the said Appellant would effectively prosecute the said Appeal and satisfy the Judgment and also pay the damages and costs in case the said Appeal is not proceeded with, or in case the said Judgment is confirmed; failing all which, the said surety binds himself towards the proper persons to pay and discharge whatever amount may be required by law.

And the above having been read to him, the said surety, has signed  
(or declared that he is unable to sign).

Taken, acknowledged and sworn before me, }  
the said Clerk, at the said on }  
the day and year secondly above mentioned. }

C. E.  
C. C. C.

## FORM No. 2.

PROVINCE OF CANADA, } VICTORIA, by the Grace of God of the United  
 Lower Canada, } Kingdom of Great Britain and Ireland,  
 To Wit : } Queen, Defender of the Faith :

To [*Names of the Justice or Justices.*]

WHEREAS in a cause (*or matter*) by you decided on or about the  
 day of                    at                    in the County of                    in the District  
 of                    between

A. B.  
*Plaintiff, (or Complainant.)*  
 and  
 C. D.  
*Defendant.*

And the said C. D. (or A. B.) deems himself aggrieved by the said  
 Judgment, and has provided the securities required by law—WE COM-  
 MAND you, and each of you, to transmit all the documents, proceedings,  
 and papers composing the record or contained in the registers and relat-  
 ing to the said cause, to our Circuit Court in and for the District of  
 (or County of                    ), at                    on or before the  
 day of                    that good and speedy justice may be done in the said  
 matter

In testimony whereof, We have caused the Seal of Our said Court to  
 be affixed hereto, at                    the                    day of                    in the year of  
 our Lord 186 .

C. E.  
*Clerk of the said Circuit Court.*