

C A P. XXXIV.

AN ACT further to provide for the Summary Trial of Small Causes.

3d April, 1833.—Presented for His Majesty's Assent and reserved "for the signification of His Majesty's pleasure thereon."

13th April, 1834.—Assented to by His Majesty in Council.

13th August, 1834.—The Royal Assent signified by the Proclamation of His Excellency the Governor in Chief.

Preamble.

WHEREAS an easy and expeditious mode of recovering small debts in the Parishes, Seigniories and Townships and other Settlements, and the enlarging of the Jurisdiction of Commissioners having cognizance of such Small Causes would prove materially beneficial to the inhabitants of those parts; and the existing Laws concerning the matter inadequately fulfil the purposes contemplated by the Legislature, and are moreover to expire on the first day of May next;—Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, "*An Act for making more effectual provision for the Government of the Province of Quebec in North America,*" and to make further provision for the Government of the said Province;" and it is hereby enacted and declared by the authority of the same, that from and after the first day of May of the present year one thousand eight hundred and thirty-three, it shall and may be lawful for the Governor, Lieutenant Governor, or person administering the Government, to appoint as Commissioners, such and so many fit and proper persons as he shall think fit, in any Parish, Seigniorie, Township or extra parochial place to hear, try and determine in a summary way according to the facts as made out in evidence and to law, to the best of their knowledge and judgment, all suits and actions purely personal, with the exceptions hereinafter made, to the amount of six pounds five shillings currency, arising within the Parish, Seigniorie, Township or extra parochial place, wherein such Commissioner or Commissioners may respectively reside, the Parish of Three Rivers excepted, as well as the Parishes of Nicolet, Baie du Febvre, Saint Gregoire, Pointe du Lac, and Le Cap de la Magdeleine; and it shall be lawful for such Commissioner or Commissioners, upon request or application to them or any of them made, to grant and issue or cause to be issued, a summons or summonses to one or more person or persons, as the case may require, which summons shall be in the form hereinafter-mentioned and described in the Schedule annexed to this Act, under the number one, and shall not be returnable

Governor to appoint Commissioners under this Act.

None to be appointed in certain places.

If there is no Commissioner in the Parish, &c. where the debtor resides &c. he may be sued before Commissioner of the nearest Parish, &c.

If any Commissioner be recused, the suit to be transmitted to the Commissioner of the nearest Parish &c.

Matter in contestation may be referred to the decision of three Arbitrators.

Defendant or other party may evoke suits out of the Inferior to the Superior Term, King's Bench, & to the Court of Appeals &c.

nable within less than three intermediate days, in cases where the Defendant shall reside within two leagues from the residence of the Commissioner or Commissioners before whom they shall be summoned, allowing one day more between the service and return of every such summons for every five leagues distance over and above the said two leagues, at which the Defendant or Defendants may reside, from the place where such Commissioner or Commissioners shall hold the Court as hereinafter provided. Provided always, that in case there shall not be a Commissioner appointed or resident in the Parish, Seignior, Township or extra parochial place, as aforesaid, in which the debtor shall reside, or in case such commissioner should be absent or sick, or unable to act as commissioner, then such debtor may be sued before the Commissioner who shall reside nearest to the Parish, Seignior or Township, or extra parochial place in the same County in which the Defendant shall reside, provided the distance do not exceed six leagues; but in every case the suit may be brought before the Commissioner's Court nearest to the residence of the Defendant, although such court be not within the same Parish, Seignior or Township, provided it be within the same County, and if in any suit the commissioner should be recused by either party, (which recusation and the ground thereof shall be reduced to writing) such suit shall immediately be transmitted to the commissioner of the nearest Parish, Township, Seignior or extra-parochial place within the same county, and if the recusation be adjudged valid by such commissioner, he shall proceed to adjudge and determine the cause, but on the contrary if he shall adjudge the recusation to be frivolous or unfounded, he shall send the parties before the recused commissioner, in order that he may proceed as if such recusation had not been made, and in such case the commissioner before whom the cause shall have been originally brought, may without any reference to the merits thereof, tax the costs of such frivolous recusation against the party by whom it shall have been made. Provided further, that nothing herein contained shall extend or be construed to extend to prevent the parties, Plaintiff and Defendant, or either of them from referring the matter or matters in contestation before such commissioner or commissioners to the judgment and decision of three arbitrators to be named by the commissioner or commissioners, and by the parties respectively, and to be sworn by the commissioner or commissioners, or before any Justice of the Peace, the report and award of any two of whom shall be final and conclusive to all intents and purposes, and judgment entered thereon, to be executed as in other ordinary cases. Provided further, that in all cases wherein a Defendant or other party may evoke a suit out of the Inferior Term of the Court of King's Bench into the Superior Term thereof, and appeal from thence to the Provincial Court of Appeals, or to His Majesty in His Privy Council, such Defendant or other party being a suitor before such commissioner, shall have the same right of evocation and appeal, and may also evoke the suit to the said Inferior Term of the King's Bench.

Judgments to be executory during a certain time.

Whenever any judgment has been rendered by any Commissioner and the party thereby condemned has removed his domicile out of their jurisdiction, judgment may be declared executory by any court of competent jurisdiction.

Proviso.

II. And be it further enacted by the authority aforesaid, that every judgment rendered by any such Commissioner or Commissioners shall be executory during two years from the date thereof, after expiration of which term it shall not be executory unless the party thereby condemned shall have been again summoned to shew cause why it should not be held and declared to be so. Provided also, that whenever any judgment shall have been rendered by any such Commissioner or Commissioners, and the party thereby condemned shall have removed his domicile out of their jurisdiction, the said judgment may be declared executory by any court of competent jurisdiction, within the limits of whose jurisdiction the domicile of the party condemned shall be, after an authentic copy of the said judgment shall have been produced, and the party condemned shall have been duly summoned to shew cause why it should not be declared to be executory. Provided that the judgments which have been or shall hereafter be rendered by virtue of any of the Acts now in force shall be executory during the same term, and shall be considered in all respects as those rendered by virtue of this Act.

Commissioners at present appointed to continue in office.

Proviso.

Governor may revoke such Commission.

III. And be it further enacted by the authority aforesaid, that the Commissioners at present appointed, shall and may continue to exercise the powers of Commissioners under this Act, without any necessity for a new commission, and in the same manner as if such commission had actually been granted to them by virtue of this Act. Provided always that every Commissioner to be appointed under the authority of this Act, shall be appointed by commission under the hand and seal at arms of Governor, Lieutenant Governor, or person administering the Government of the Province, which shall be prepared in the office of the Secretary of the Province for the time being, who shall enregister such commission in his office, and shall be entitled for the same to the sum of five shillings currency, and no more. Provided always that it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government of the said Province, to revoke and determine any such commission heretofore issued, or any commission which shall hereafter be issued by virtue of this Act, when and so often as he shall deem it necessary so to do.

No Commissioner to be named for any Parish, &c. unless a certain number of Inhabitants, apply by Petition for the establishment of the Court.

IV. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, no Commissioner shall be named for any Parish, Seignory, Township or extra-parochial place, unless a petition praying for the establishment of such court, shall have been presented by at least one hundred proprietors of lands or tenements in such Parish, Seignory, Township or extra-parochial place, to the Governor, Lieutenant Governor, or person administering the Government of the Province for the time being.

Inhabitants of Quebec and Montreal desirous of obtaining a commissioners court—they may demand the establishment of the same.

Commissioners to hold the same.

Proviso.

V. And be it further enacted by the authority aforesaid, that whenever the inhabitants of the Cities of Quebec and Montreal, being proprietors of real property, shall be desirous of obtaining a Commissioners Court for the purposes herein set forth, it shall be lawful for two hundred or any greater number of them to demand the establishment thereof in the manner hereinbefore prescribed, and it shall be lawful for the commissioners appointed in consequence thereof, or for any two or more of them, to hear and determine, (conforming in all respects to the provisions of this Act,) all suits which shall arise within the limits of the said cities, and of which the commissioners appointed for the several Parishes, Seigniories, Townships or extra parochial places, might have taken cognizance if such suits had arisen within their respective jurisdiction. Provided always, that in the said cities, such commissioners shall hold a court once every week, any thing in this Act contained to the contrary notwithstanding.

Jurisdiction of the commissioners not to extend to certain actions, &c.

VI. And be it further enacted by the authority aforesaid, that the jurisdiction of the commissioners who shall act under the authority of this Act, shall not extend to actions for slander or personal wrongs, nor to such as shall relate to paternity, or to the civil estate of persons in general, or for seduction or lying in expences, or for any fine or penalty whatever.

Petition not to give occasion for the appointment of such Commissioners unless three or more of the principal Inhabitants certify that the names of the persons subscribed are Inhabitants of the city, &c.

VII. And be it further enacted by the authority aforesaid, that such petition shall not give occasion to the appointment of such commissioner or commissioners, unless three or more of the principal inhabitants of the place shall certify at the foot of such petition, that the persons whose names are thereunto subscribed are really inhabitants of the city, parish, seigniorie, township or extra parochial place, and also proprietors of lands or tenements.

If proprietors of lands in any Parish shall petition the Governor representing that there is no fit person to be Commissioner—Governor how to proceed.

VIII. And be it further enacted by the authority aforesaid, that in case any proprietors of land in any parish, seigniorie, township or extra parochial place, at least thirty in number, shall by petition to the Governor, Lieutenant Governor, or person administering the Government of this Province, represent that there does not reside in such Parish, Seigniorie, Township or extra parochial place, any person fit and qualified to act as commissioner therein, and shall pray that some person or persons may be appointed to be commissioner or commissioners for such Parish, Seigniorie, Township or extra parochial place, it shall be lawful for the Governor, Lieutenant Governor, or person administering the Government, to appoint any person or persons otherwise duly qualified according to the requirements of this Act, to be commissioner or commissioners for such Parish, Seigniorie, Township or extra parochial place, for the purposes of this Act, although such person or persons be not resident or have no real property in the said Parish, Seigniorie, Township or extra parochial place, for which he or they shall be so appointed, and such commissioner may appoint

point a clerk, not residing and not having real property in the same Parish, Seignory, Township, or extra parochial place, but having real property in the Province of the value hereinafter stated.

No Commissioner to act before taking an oath of office before a Justice of the Peace. Justice of the Peace to give a certificate of such oath to the Commissioner to be annexed to his Register. Clerk to make oath before a Commissioner. Certificate of such oath to be entered on the Register. Proviso.

Clerks to be of lawful age of majority.

Commissioners and Clerks to be qualified.

Proviso.

IX. Provided always, and be it further enacted by the authority aforesaid, that no commissioner shall be authorized to act as such, until he shall have made oath before some Justice of the Peace, well and duly to the best of his judgment and capacity to perform the duty of commissioner as required by this Act, of which oath such Justice of the Peace shall give a copy and certificate to the commissioner having so made oath, who shall annex the same to his register, and the clerk or other person doing the duty of clerk to such commissioner, shall in like manner before entering upon the duties of his office, make oath before such commissioner faithfully and impartially to execute to the best of his ability the duties of his office under this Act; which oath shall by such commissioner be entered upon his register as aforesaid. Provided always that no bailiff, serjeant of militia, or person keeping a house of public entertainment as tavern-keeper or vending spirituous liquors to be drank in their house or houses, or on their premises, shall act as such commissioner or clerk to such commissioner; and provided also that the person who shall act as clerk to such commissioner or commissioners shall have reached the age of majority, and no person being the brother, brother-in-law, son, son-in-law, the nephew, the clerk or agent of such commissioner, or of any of the commissioners in his or their private concerns, shall act as clerk to such commissioner or commissioners.

X. And be it further enacted by the authority aforesaid, that from and after the passing of this Act, no person shall be capable of being appointed a commissioner or clerk, or of acting as such within any district of this Province, who shall not have to and for his own use and benefit in his actual possession a Freehold Estate, either in Fief, *en roture*, or in free and common soccage, in absolute property or by *emphitéose* originally created for a term of at least twenty-one years, or by *usufruit* for his life, in lands, tenements or other immoveable property, lying and being within the limits of the county, of the yearly value of twelve pounds currency, over and above what will satisfy and discharge all incumbrances affecting the same, and over and above all rents and charges payable out of the same, except in the cases provided for by the eighth section of this Act; Provided always, that every person who although he be not so qualified shall give good and sufficient security for the due execution of his duties before such commissioners to the amount of one hundred pounds currency, may act as a clerk in the same manner as if he was qualified according to the provisions of this Act.

XI.

Times at
which Com-
missioners are
to hold their
courts.

XI. And be it further enacted by the authority aforesaid, that the several commissioners shall hold their respective courts on the first and third Saturday of every month, and on any other days to which they may then find it necessary to adjourn, for hearing witnesses and for determining suits, and that such courts shall so be held by them publicly in some suitable room or place which shall be provided for them and under their directions by their clerks, and the expence of hiring and warming such room or place, and all other expences necessary for the convenient holding of of such courts shall be paid by such clerks respectively out of the fees hereinafter assigned to them. Provided always, that no such court or courts shall at any time be held in any Tavern or place of public entertainment, nor in any building thereunto appertaining.

Proviso.

Powers of the
Commissioners
as to preserv-
ing order dur-
ing the holding
thereof.

XII. And be it further enacted by the authority aforesaid, that the said commissioners by whom such courts shall be held, shall have such and the like power and authority to preserve order in the said courts during the holding thereof, and by the like ways and means as now by Law are or may be exercised and used in the like case and for the like purpose, by any courts of Justice in this Province or the Judges thereof respectively, during the sittings thereof.

No more than
one Clerk em-
ployed in any
Parish, &c.

XIII. And be it further enacted by the authority aforesaid, that in any one Parish, Seigniori, Township or extra parochial place as aforesaid, no more than one clerk or person doing the duty of clerk shall be employed, or in any way act as such clerk, although two or more commissioners may have been or may hereafter be appointed in such Parish, Seigniori, Township or extra parochial place as aforesaid, in virtue of this Act, and that the person first appointed to be or act as such clerk, shall be and act as such clerk to the exclusion of all others subsequently appointed as such in the same Parish, Seigniori, Township or extra parochial place, until he shall be removed in the manner hereafter mentioned; and when it may hereafter be necessary to appoint a clerk or person to act as such under this Act, the appointment shall be vested in a majority of the commissioners, where they are more than two commissioners in the same Parish, Seigniori, Township, or extra parochial place, as aforesaid, and when there are no more than two commissioners in such Parish, Seigniori, Township, or extra parochial place as aforesaid, the appointment of such clerk or person to act as such, shall be vested in the commissioner whose appointment shall be oldest or first in date. Provided always that any clerk, or person or persons acting as such, who may have been or may be hereafter appointed under and in virtue of this Act, shall and may be removeable from his office by the commissioner by whom he may have been appointed, or by the commissioners of the same Parish, Seigniori, Township, or extra parochial place as aforesaid, or a majority of them, such removal being sanctioned by the Governor, Lieutenant Governor,

Proviso.

or

or the person administering the Government of the Province for the time being, and another clerk may be appointed in his stead, in the manner it is hereinbefore provided.

No remuneration granted to the Commissioners under this Act. Clerk not to serve process.

Penalty on Commissioner or clerk misdemeaning themselves.

XIV. And be it further enacted by the authority aforesaid, that no commissioner or commissioners shall be entitled to, nor receive any recompense or remuneration whatever for any thing by any of them done under this Act, nor shall the clerk or person doing the duty of clerk, serve any process; and any such service shall be null and void, and every such commissioner, clerk, or other person doing the duty of clerk, who in the execution of the trust hereby reposed in him, shall misdemean himself, or deliver to any bailiff, peace officer, serjeant of militia, or other person, any process to be by him or them distributed, sold or otherwise disposed of, shall for any such offence, incur a penalty and forfeiture of five pounds currency, (one half of which shall go to His Majesty, and the other half to the Informer,) and shall be thenceforth disabled from acting as commissioner or clerk as aforesaid.

No more than one Court to be held in each Parish.

XV. Provided always, and be it further enacted by the authority aforesaid, that no more than one court shall be held in any Parish, Township or Seignior, or extra parochial place in this Province, under and by virtue of this Act, although two or more commissioners may have been appointed for the same Parish, Township or Seignior, or extra parochial place, it being nevertheless competent to all commissioners appointed under and in virtue of this Act, in the same Parish, Township or Seignior, or extra parochial place, to be present and to assist at such court if need be, or if they think fit, and the place where the court shall be held in such Parish, Seignior, Township or extra parochial place, shall be near the Church, or at the most public and frequented place, and shall be fixed by the majority of the commissioners where there are more than two commissioners in the same Parish, Township, or Seignior, or extra parochial place, and when there are no more than two commissioners in the same Parish, Township or Seignior, or extra parochial place, then the senior commissioner shall fix the place where such court shall be held, and in every Writ or Summons to issue under this Act, the place where the court is to be held shall be mentioned.

No bailiff or serjeant of militia to act as Attorney.

No person to act as Attorney without a power of Attorney.

XVI. Provided always, and be it further enacted by the authority aforesaid, that no bailiff or serjeant of militia, shall act as Attorney before such commissioner or commissioners, nor shall any other person than an Attorney, or Barrister, duly commissioned to practice the law in this Province, so act without a power of Attorney in writing, or in presence of the parties and with their consent, and every person not duly commissioned to practice the law as aforesaid, who shall act or practice before

Persons acting
as Attornies to
do so gratis.

before the said commissioners, or any of them, as Attorney or Agent of the parties, Plaintiff or Defendant, shall be bound so to do gratis, without demanding or receiving any fee, perquisite or remuneration whatsoever, and every person acting or practising as an Attorney or Agent of the parties, Plaintiff or Defendant, before the said Commissioners or any of them, without being duly commissioned to practice the Law as aforesaid, and without being thereunto authorized by power of Attorney as aforesaid, and who shall directly or indirectly receive in consideration of such services any fee, emolument or remuneration whatsoever, shall for every such offence incur the pains and penalties of the crime of extortion, and shall for ever be incapable of acting or practising as Attorney or Agent, before the said Commissioners or any of them. Provided also that the clerk of any such court shall not act as an Attorney or *Porteur de Pièces* in any case whatsoever;—Provided also that the clerk shall not deliver any summons to any bailiff or serjeant of militia who shall not be personally interested in the suit.

Penalty.

Proviso.

Proviso.

Commission-
ers to issue
Writs of Sub-
pœna in the
form hereunto
annexed.

XVII. And be it further enacted by the authority aforesaid, that it shall be lawful for such commissioner or commissioners before whom such suit or action shall have been instituted, on the application of either party, to issue writs of subpœna, in the form hereinafter mentioned and prescribed in the Schedule hereunto annexed under the number two, to compel the appearance of witnesses before him or them, under a penalty of ten shillings, current money of this Province, for each and every default, to appear as by the said writ of subpœna commanded, and that it shall be lawful to and for such commissioner or commissioners to administer to such witnesses an oath in the usual manner.

Writs of Sum-
mons, &c.—by
whom served,
&c.

XVIII. And be it further enacted by the authority aforesaid, that no writ of summons, subpœna or execution issued by virtue of this Act, shall be directed to be served or executed by any person other than a bailiff or a serjeant of militia, residing in the parish, seigniory, township or extra parochial place, wherein the Defendant or witness may respectively reside, unless such bailiff or serjeant of militia not residing within such parish, seigniory, township or extra parochial place, shall renounce all claim to any greater sum for travelling expences than that to which a person being resident therein would be entitled. Provided always, that whenever it may appear to any commissioner that there is no bailiff nor serjeant of militia, residing in the parish, seigniory, township or extra parochial place, wherein the said process is to be served, qualified or willing to make a return in writing, it may be lawful for the commissioner or commissioners to address such writ of summons, subpœna, execution, or any other instrument done in conformity to this Act, to be served or executed in such place, to the nearest bailiff or serjeant of militia, or to any other person residing therein, to be named in the same writ, who shall make oath

Proviso.

Proviso.

oath to the due service and execution thereof. Provided, also that no writ of execution shall be addressed to any person other than a bailiff.

Witnesses not to attend on the day of return, but in cases of default, a subsequent day may be named.
Proviso.

XIX. Provided always and be it further enacted by the authority aforesaid, that during the continuance of this Act, it shall not be lawful to cause the witnesses to be summoned to attend on the day of the return, but that in all cases of default or plea to the action on the part of the Defendant, a subsequent day shall be named for receiving evidence. Provided, however, that if the Defendant should make default when the service has been personal, it shall then be lawful for the Plaintiff to proceed immediately to prove his case by witnesses if necessary, and the commissioner or commissioners in such cases, as well as in all cases of default as above-mentioned, wherein sufficient written evidence shall be adduced on the day of the return, may give judgment *instanter*.

Commissioners to fix costs in such actions as may be adjudged by them.

XX. And whereas it is proper to fix the costs of such causes as shall be adjudged under this Act, by such commissioner or commissioners;—Be it further enacted by the authority aforesaid, that it shall be lawful for such commissioner or commissioners to allow to the clerk or other person doing the duty of clerk, under the direction of such commissioner or commissioners, for every summons which such clerk or other person doing the duty of such clerk shall make and deliver to a suitor or suitors by direction of such commissioner or commissioners, one shilling and six-pence currency, when the amount demanded shall be more than four pounds, three shillings and four-pence currency; and when under that sum, one shilling currency;—For every copy of a summons, six-pence currency;—For every subpoena, one shilling currency;—For every copy of a subpoena, six-pence currency;—For every judgment and copy thereof, one shilling and three-pence currency;—For every writ of execution, one shilling and three-pence currency;—For every attachment in the hands of a third person, (*entiercement*) one shilling and six-pence currency;—For every copy thereof, six-pence currency;—For entering every opposition, six-pence currency;—and that the bailiff or serjeant of militia shall have for every service of process and certificate thereof, the sum of one shilling currency, and at the rate of one shilling currency, per league, for the distance he shall have gone to perform such service, the distance in returning not entitling him to any allowance. Provided always, that the bailiff or serjeant of militia, by whom any such service shall be made as aforesaid, upon one and the same Defendant, shall not be entitled to travelling expences, on more than one journey, although he may have several writs to serve. Provided also, that every Plaintiff who having given several writs to one bailiff or serjeant of militia to be by him served, shall compound with him for a less sum than that to which he would be entitled, and every bailiff or serjeant of militia who shall consent to any such composition,

Fees and allowances to the Clerks, Bailiffs, &c.

Proviso.

Proviso.

(unless

(unless the same be made for the advantage of the Defendant) shall, on being thereof legally convicted in any Court of competent jurisdiction, be liable to the punishment assigned to the offence of extortion.

When judgment does not exceed ten shillings, expences not to exceed the principal sum for which judgment is given.

XXI. Provided always, and be it further enacted by the authority aforesaid, that when the judgment rendered upon the matter in dispute shall not exceed the sum or value of ten shillings currency, the costs and expences, (exclusive of travelling expences and of the arbitration) which shall be adjudged against the Defendant, shall not exceed the principal sum for which judgment shall be given, any provision to the contrary thereof notwithstanding.

Penalty on persons refusing to pay the amount of judgment against them.

XXII. And be it further enacted by the authority aforesaid, that if any person or persons shall refuse or neglect to pay and satisfy such sum or sums of money, within eight days after judgment is obtained, together with such costs as upon such complaint as aforesaid shall be adjudged, such commissioner or commissioners shall, by warrant of distress and sale under his or their hand and seal, (which warrant of distress and sale shall be in the form hereinafter mentioned in the Schedule hereunto annexed under number three) cause the same to be levied, after public notice thereof shall be given according to Law, by sale of the goods of the party or parties so refusing or neglecting as aforesaid, together with all costs and charges attending such distress and sale, but which shall not, in any case exceed the sum of seven shillings and six-pence currency. Provided also that when the seizure only of the goods shall have taken place, the said costs and charges shall not exceed the sum of three shillings and nine-pence currency, travelling expences and the expences of feeding any cattle seized, excepted in all cases.

Proviso.

Commissioners to issue writs, &c.

XXIII. And be it further enacted by the authority aforesaid, that it shall be lawful for the said commissioners to issue Writs or Warrants of *saisie gagerie* and of *saisie arrêt* after judgment, in all cases where such Writs are allowed by Law, and that such Writs or Warrants shall respectively be in the forms prescribed in the Schedules hereunto annexed, under the numbers four and five.

Commissioners to enforce their judgments.

XXIV. Provided always, and be it further enacted by the authority aforesaid, that in all cases where any resistance shall be offered to the execution of any summons, warrant of execution, or any other process, issued by any commissioner or commissioners, under and by virtue of the authority of this Act, the said commissioner or commissioners are hereby empowered to enforce the due execution of the same, by the means provided by the laws of the country in like cases.

Writs of execution, &c.

XXV. And be it further enacted by the authority aforesaid, that every writ of execution, *saisie arrêt* and *saisie gagerie*, shall be made returnable and returned with proceedings

when returnable.

proceedings thereon certified, on the day therein named for the return of the same, not being less than fifteen, nor more than sixty days from the date of such writ.

Commissioners may grant a stay of execution.

XXVI. And be it further enacted by the authority aforesaid, that it shall be lawful for the said commissioner to grant a stay of execution, and to order that the payment of the amount awarded, be paid in two or three instalments, at intervals of not more than one month each ; Provided that if any one of the said instalments shall not be paid at the time appointed, execution may issue for so much as shall then remain due. Provided always that when any poor Defendant shall before judgment, offer good and sufficient security to the satisfaction of the said commissioners for the amount of the debt and costs, the said commissioners may order that the amount of the said judgment be paid by weekly instalments, the last of which shall not be made more than six months after the date of the judgment.

Oppositions &c. to be decided summarily.

XXVII. And be it further enacted by the authority aforesaid, that all oppositions, interventions and saisies-arêts shall be heard and decided summarily before the commissioner or commissioners in the same manner as the causes originally instituted before such commissioner or commissioners.

Commissioners to keep Registers of their proceedings.

XXVIII. And be it further enacted by the authority aforesaid, that such commissioner or commissioners shall keep a register of all suits which shall be instituted before them under this Act, and of all proceedings had before them, and of all judgments by them rendered under this Act, and of every matter and thing concerning the same, which register shall contain a succinct statement of the names, addition and residence of the parties, the nature of the demand and the defence set up by the parties, and shall specify what papers were produced as evidence in the cause, and the date of such papers. and when any Notarial instrument shall so be produced, shall state the names of the Notaries before whom such instrument shall have been executed, and shall give a copy of such entries to any person demanding the same, and for every such copy there shall be allowed to the clerk or other person acting as such, at the rate of six-pence currency, for every hundred words, under a penalty of ten pounds currency, for any clerk who shall refuse or neglect to give a copy thereof, to be recovered by the party to whom such copy shall have been refused, one moiety of which penalty shall belong to His Majesty, and the other half to the party complaining.

Commissioners ceasing to perform their duties, to deposit their Registers with their successors.

XXIX. And be it further enacted by the authority aforesaid, that when any commissioner shall cease to perform the duties of his office by reason of any cause other than his decease he shall forthwith deposit the said register and all the records of his office in the hands of his successor, and in case of the decease of any such commissioner, his heirs or legal representatives shall be held so to do, and in case of non-continuance

non-continuance of the said office by reason of any cause whatsoever, then and in that case, such commissioner or clerk, their heirs or legal representatives shall deposit such register and records in the manner hereinbefore prescribed, in the office of the Prothonotary of the Court of King's Bench for the District in which such commissioner or clerk shall have acted, and this under a penalty of twenty-five pounds currency. Provided that every clerk to such commissioner or commissioners, who shall cease to perform the duties of his office, or in case of death, his heirs or legal representatives shall, under the same penalty deliver the records in his or their possession to the said commissioner or commissioners.

Proviso.

Any Notarial Instrument, &c. produced in evidence before the commissioners alleged to be forged, such allegation to operate as an evocation of the suit to the Court of King's Bench.

XXX. And be it further enacted by the authority aforesaid, that when any Notarial instrument or record or copy of the same, or writing under private signature, produced in evidence in action before such commissioners shall be alleged to be forged or falsified, such allegation shall operate as an evocation of the suit to the Court of King's Bench for the District, sitting in Inferior Term, and such Court shall do therein what to Law and justice may appertain, as well with regard to the allegations of forgery or falsification as to the merits of the cause.

When any such evocation shall occur, the commissioner or clerk to transmit copies of all documents to the Prothonotary of the Court.

XXXI. And be it further enacted by the authority aforesaid, that whenever any such evocation as is herein last mentioned shall occur, the commissioner before whom such document shall have been alleged to be forged or falsified, or his clerk, shall within fifteen days next thereafter, transmit to the Prothonotary of the Court of King's Bench, the document impugned, all the other documents produced in the cause, and a certified copy of the entries in the register respecting the same. Provided always, that no commissioner or clerk shall so transmit any such document, unless good and sufficient security for the payment of the costs of the "*Inscription en faux*," shall have been given before him by the party making such inscription.

Proviso.

The Court of King's Bench shall determine the matter of the *Inscription en faux*, &c.

XXXII. And be it further enacted by the authority aforesaid, that upon such evocation such Court of King's Bench shall hear, try and determine the matter of the "*Inscription en faux*," and the whole matter in issue between the parties, and may award such costs against the party making such Inscription, if he fail to substantiate the charge thereby made, as might in the like case be awarded on an inscription *en faux* originally commenced and determined before such Court.

Fines and penalties how recoverable, &c.

XXXIII. And be it further enacted by the authority aforesaid, that all the fines and penalties hereby imposed and incurred for offences committed against this Act, and respecting which no other provision is herein made, shall be sued for and recovered before any Court of competent jurisdiction in the District in which the offence shall have been committed, and the moiety of such fines shall go to the person prosecuting, and the other moiety shall be paid into the hands of the Receiver General, and shall remain at the disposal of the Provincial Parliament for the public use

A detailed account to be laid before the Legislature.

use of the Province, and shall be accounted for to His Majesty, his heirs and successors through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, his heirs and successors shall direct, and a detailed account thereof shall be laid before the several Branches of the Provincial Legislature within the first fifteen days of each Session thereof.

Commissioners to receive printed copies of this Act.

XXXIV. And be it further enacted by the authority aforesaid, that the commissioners now appointed or who shall be hereafter appointed, shall be entitled to receive printed copies of this Act, in the manner by law provided for the distribution of the printed Acts of the Legislature.

This Act not to derogate from the rights of the Crown &c.

XXXV. Provided always and it is declared and enacted by the authority aforesaid, that nothing herein contained shall be construed in any manner to derogate from the right of the Crown to erect, constitute and appoint Courts of civil or criminal jurisdiction within this Province, and to appoint from time to time the Judges and officers thereof, as His Majesty, his heirs or successors shall think necessary or proper for the circumstances of this Province, or to derogate from any other right or prerogative of the Crown whatsoever.

Continuance of this Act.

XXXVI. And be it further enacted by the authority aforesaid, that this Act shall continue and be in force until the first day of May, one thousand eight hundred and thirty-five, and no longer.

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SCHEDULE No. 1.

Form of Summons.

Form of Summons.

PROVINCE OF }
LOWER-CANADA. }

Parish, (extra parochial place, Seigniori or Township) of

To all and every the Bailiffs and Serjeants of Militia within the Parish, (Seigniori, Township or extra parochial place) of

GREETING :

In His Majesty's name you are hereby commanded to summon A. B. of
if he may be found within the Parish, (Seigniori
or

or Township or extra parochial place) of
 to be and appear before His Majesty's
 Commissioners, for the Summary Trial of certain actions, residing in the said Parish,
 (Seigniory or Township or extra parochial place,) at the dwelling house of
 on the day of
 at of the clock in
 the noon, then and there to answer C. D. of
 who demands of A. B. the sum of for
 and do you make your return on this summons with
 your doings thereon, on or before the said day.

Witness hand and seal, this
 day of in the year of His Majesty's
 reign, and in the year of our Lord

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SCHEDULE No. 2.

Form of Subpœna.

Form of Sub-
pœna.

PROVINCE OF }
LOWER CANADA. }

Parish, (Seigniory or Township, or extra parochial place.)

To

GREETING :

I command you that laying aside all and singular business and excuses, you
 and each of you, be and appear in your proper person before
 commissioner for the Summary Trial of Small Causes, at
 in the Parish (Seigniory or Township or extra
 parochial place) of in the County of
 the day of
 at o'clock in the noon of the same day, then and there to testify
 all and singular those things which you or either of you know in a cause between
 Plaintiff, and Defendant, before
 commissioner, and this you or either of you shall
 by no means omit, under the penalties of Law.

Given under my hand seal, this

at

SCHEDULE.

SCHEDULE No. 3.

Form of Warrant of Execution.

PROVINCE OF }
 LOWER-CANADA : }

Parish, (Seigniori or Township or extra parochial place) of

To all and every the Bailiff's within the said Parish, (Seigniori or Township, or extra parochial place) of

Form of War-
 rant of Exe-
 cution.

Whereas A, B. of _____ did on the _____
 day of _____ before _____ of His Majesty's
 commissioners for the Summary Trial of certain Causes, residing at _____
 recover judgment against C, D. of _____
 for the sum of _____ for his debt, and _____ for
 his costs, of which execution remains to be done. You are therefore hereby com-
 manded, in His Majesty's name, to levy of the goods and chattels and effects of the
 said C, D. (except his beasts of the plough, his implements of husbandry, the tools
 of his trade, unless the other goods and chattels shall prove insufficient, and except-
 ing always his bed and bedding and those of his family, and the clothes, the neces-
 sary linen which serve as clothing for himself and his family, and also one cow,
 three sheep, a single stove and one cord of firewood) the aforesaid sum and costs,
 together with costs of this execution, returning to the said C. D. the overplus, if
 any there be, after having satisfied the aforesaid sums, and you are further command-
 ed to make return of this Writ with your doings thereon, before
 the said commissioners, at _____ on or before the
 day of _____ next.

Witness
 day of _____
 year of our Lord

_____ hand and seal, this
 _____ year of His Majesty's Reign, and in the

SCHEDULE No. 4.

Form of a Warrant of Simple Saisie en main tierce.

PROVINCE OF }
LOWER-CANADA : }

Parish, (Seigniory, Township or extra parochial place.)

To A, B. of the Parish of

Bailiff.

I command you at the instance of C. D. of the Parish, (Seigniory, Town-ship, or extra parochial place) of in the District of in the County of for the security, safe-keeping and pay-ment of the due by E. F. under judgment (state briefly the subject and to the said C. D. (state briefly the subject and the date of the judgment and by whom rendered) to seize and attach in the hands of G. H. of all sums and things generally whatsoever, which he owes or shall owe on any account whatsoever to the said E. F. strictly prohibit- ing him from parting with the same, on pain of paying the same twice, and of be- ing personally liable to the demand in the matter in which this Warrant is issued.

Form of a
Warrant of
simple saisie
en main tierce

I further command you to summon the said E. F. and G. H. to appear before the court of commissioners in the Parish, Seigniory, Township or extra parochial place, on the day of at the hour of in the forenoon, the said E. F. to show cause, (if any he has) why this attachment (*saisie arrêt*) should not be declared good and valid, and that the said G. H. may make his declaration under this Warrant, and have you then there this Warrant with your doings thereon.

Given at

the

day of

SCHEDULE No. 5.

Form of a Warrant of Saisie Gagerie.

PROVINCE OF }
 LOWER-CANADA : }

Parish, (Seigniory, Township, or extra parochial place) of

To A. B. of the Parish of Bailiff.

I command you at the instance of C. D. of (Parish, Seigniory, Township, or extra parochial place) of in the County of

in the District of to distraint by

Saisie Gagerie, all the goods and chattels belonging to E. F.

Form of a
 Warrant of
 saisie gagerie.

of him occupied (or) (the produce and effects in the barns and other buildings occupied by the said E. F.) or (the produce on the ground occupied by the said E. F.) for the surety and payment of the sum of

due by the said E. F. to the said C. D. for (the rent under his lease) or (for the premises by him occupied.

I command you further to summon the said E. F. to appear before commissioners, in the Parish, Seigniory, Township, or extra parochial place) of the day of to answer the demand of the said C. D. and to shew cause (if any he hath,) why the said Saisie-Gagerie should not be declared good and valid, and have you then there this Warrant with your doings thereon.

Given at this day of

B. C. Commissioner.