

Sheriffs and Coroners acting as such disqualified from acting as Justices of the Peace.

XVI. And be it further enacted by the authority aforesaid, that no person or persons having, using, or exercising the Office of Sheriff or Coroner, in and for any District in this Province, shall be competent or qualified to be a Justice of the Peace, or to act as such, for any District wherein he or they shall be Sheriff or Coroner, during the time that he or they shall have used or exercised such Office, under the penalties aforesaid; and that all and every act and acts to be done by any such Sheriff or Sheriffs, Coroner or Coroners, by the authority of any commission of the Peace during the time aforesaid, shall be absolutely void and of non-effect.

Fines and penalties to be payable to His Majesty, and be at the disposal of the Provincial Parliament & to be accounted for to His Majesty.

XVII. And be it further enacted by the authority aforesaid, that the fines and penalties which shall be incurred and payable to His Majesty, His Heirs and Successors, by virtue of this Act, shall be paid into the hands of the Receiver General, and shall remain at the disposal of the Provincial Parliament for the public uses 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.

Continuance of this act.

XVIII. And be it further enacted by the authority aforesaid, that this Act shall be and remain in force, until the first day of May, one thousand eight hundred and forty, and no longer.

C A P. XVII.

An ACT to provide for the Summary Trial of Small Causes.

[21st March, 1836.]

Preamble.

WHEREAS an easy and expeditious mode of recovering small debts in the Parishes, Seigniories and Townships, and other Settlements reputed such, would prove materially beneficial to the inhabitants of this Province;—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

Governor to
appoint the
Commissioner
under this Act.

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

If Commis-
sioner be recu-
sed, the suit to
be transmitted
to the Commis-
sioner of the
nearest parish.

“ of the Province of Quebec, in North America ;” And to make further provi-
sion 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 passing of this Act,
it shall and may be lawful for the Governor, Lieutenant Governor, or Person ad-
ministering the Government, to appoint as Commissioners, such and so many fit
and proper persons as he shall think fit, in any Parish, Seigniory, Township, or
extra Parochial place, to hear, try, and determine, in a summary way, according to
the facts as proved, 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, Seigniory,
Township, or extra Parochial place, wherein such Commissioner or Commissioners
may respectively reside, ; and it shall be lawful for such Commissioner or Com-
missioners, upon request or application to them or any of them made, to grant and
issue, or cause to be issued, a summons or summonses against one or more person
or persons, as the case may require, which summons shall be in the form herein-
after mentioned and described in the Schedule annexed to this Act, under the
number one, and shall not be returnable 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, Seigniory, Town-
ship, 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, Seigniory, 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 Com-
missioner’s Court nearest to the residence of the defendant, although such Court
be not within the same Parish, Seigniory, or Township, or extra Parochial Place,
provided it be within the same County ; and if in any suit the Commissioner should
be recused by either party, (which recusation and the grounds thereof shall be re-
duced to writing,) such suit shall immediately be transmitted to the Commissioner
of the nearest Parish, Township, or Seigniory, or extra Parochial Place, 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 Commis-
sioner,

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 of King's Bench and to the Court of Appeals.

Proviso.

No Commissioner to be appointed unless a Petition has been presented, praying for such appointment.

sioner, 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 judgement 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, which arbitrators shall have power to hear the parties and witnesses, and the report and award of any two of them shall be final and conclusive to all intents and purposes, and judgement 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 Commissioners, 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. Provided always, that in all cases where any action, suit, or prosecution against any person residing within the jurisdiction of any Court established by this Act, for any cause or matter cognizable before such Court, shall be brought before the Provincial Court, or the Court of King's Bench, the plaintiff shall not be entitled to recover any greater amount of costs than if such action, suit or prosecution had been brought before the Court established by this Act. Provided also, that this limitation of costs shall not apply to any action, suit, or prosecution, after evocation from the Court hereby established.

II. And be it further enacted by the authority aforesaid, that no Commissioner shall be appointed for any Parish, Seignior, or 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, Seignior, Township, or extra Parochial Place, to the Governor, Lieutenant Governor, or Person administering the Government of the Province for the time being. Provided always, that no appointment of a Commissioner or Commissioners shall be made upon such petition, unless it shall be certified thereupon to the Governor, Lieutenant Governor, or Person administering the Government, by three of the principal inhabitants of such Parish, Seignior, Township, or extra Parochial Place, that the persons whose names are thereunto subscribed, are really inhabitants of such Parish

Parish, Seignior, Township, or extra Parochial Place, and proprietors of lands and tenements therein.

Whenever inhabitants of the Parish of Quebec and Montreal, and those of Three Rivers, may be desirous of having Commissioners, they are to apply by petition for that purpose.

III. And be it further enacted by the authority aforesaid, that whenever the inhabitants, proprietors of real property, of the Parishes of Quebec and Montreal, including the Cities situated within the same, or those of the Town and Parish of Three Rivers, shall be desirous of having Commissioners for the purposes of this Act, it shall be lawful for two hundred, or any greater number of them, to apply by petition in the manner hereinbefore prescribed for the establishment thereof, and it shall be lawful for the Commissioners appointed in consequence thereof, to hear and determine, (conforming in all respects to the provisions of this Act,) all suits 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 the Commissioners to be appointed in and for the said Parishes, shall hold a Court once every week, in the said Cities respectively, any thing in this Act contained to the contrary notwithstanding.

Jurisdiction of Commissioners limited to certain actions.

IV. 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 to assault or battery, nor to such as shall relate to paternity, or to the civil estate of persons in general, or for seduction, or lying-in expenses, or for any fine or penalty whatever.

Commissioners before the exercise their functions, to take an oath for the performance of their duty, and the Clerk also to take an oath.

Proviso.

V. Provided always, and be it further enacted by the authority aforesaid, that every Commissioner before proceeding to exercise his functions as such, shall make 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 this Act ; which oath shall by such Commissioner be entered upon his register as aforesaid. Provided also, that no bailiff, serjeant of militia, or person keeping a house of public entertainment as tavern-keeper, or vending spirituous to be drank in their house or houses, or on their premises, be elected as Commissioner or, appointed his Clerk ; and provided also that the person who shall act as clerk to such Commissioner or Commissioners shall have reached the age of legal majority, and no Justice of the Peace, or any person being the father, son, brother, brother in law, 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.

The Clerk to have a certain property.

VI. And be it further enacted by the authority aforesaid, that no person shall be capable of being appointed Clerk, or of acting as such within any District of this Province, who shall not have to and for his own use and benefit, and in his actual possession, a freehold estate, either in fief, *en roture*, or in free and common socage, 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. Provided always, that every person who, although he be not so qualified, shall give good and sufficient security, before such Commissioners, for the due performance of his duties, 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.

Times at which Commissioners to hold their respective Courts.

VII. And be it further enacted by the authority aforesaid, that the 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 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.

Provisc.

Commissioners vested with authority to preserve order in their Courts.

VIII. 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 by the Judges thereof respectively, during the sittings thereof.

IX.

Extension of
the powers of
the Commis-
sioners after
the expiration
of this Act.

IX. And be it further enacted by the authority aforesaid, that the Commissioners appointed under the authority of this Act, shall and may during the six months next after the expiration thereof, cause the judgments, rendered in the Summary Courts hereby established, to be executed, and hear, and determine all oppositions to the same, and shall and may generally do and order all things and proceedings necessary in Law, to the full and entire execution of the said judgments.

No more than
one Clerk to be
employed in
any Parish.

X. And be it further enacted by the authority aforesaid, that in any one Parish, Seignior, 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, Seignior, 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, Seignior, Township, or extra Parochial Place, until he shall be removed in the manner hereafter mentioned; and when it may 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, Seignior, Township, or extra Parochial Place, as aforesaid, and when there are no more than two Commissioners in such Parish, Seignior, 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 name shall be first on the list. Provided always that any Clerk, or Person or Persons acting as such, who 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, Seignior, Township or extra Parochial Place as aforesaid, or a majority of them, such removal being sanctioned by the Governor, Lieutenant Governor, or the Person administering the Government of the Province, and another Clerk may be appointed in his stead, in the manner hereinbefore provided.

Provided.

No recom-
pense granted
to Commis-
sioners.

Clerk not to
serve process.

XI. And be it further enacted by the authority aforesaid, that no Commissioner or Commissioners shall be entitled to, or receive any recompense or remuneration whatever, for any thing by any of them done under this Act; nor shall the 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,

Penalty on
Commissioner
or Clerk mis-
demeaning
themselves.

Bailiff, Peace Officer, Sergeant 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.

XII. Provided always, and be it further enacted by the authority aforesaid, that no more than one Court shall be held in any Parish, Seignior, or Township, 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, Seignior, Township, or extra Parochial Place, and when there are no more than two Commissioners in the same Parish, Seignior, Township, or extra Parochial Place, then the Commissioner whose name is the first on the list, 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
Sergeant of
Militia to act
as Attorney.

XIII. Provided always, and be it further enacted by the authority aforesaid, that no Bailiff, or Sergeant of Militia, shall act in any case whatsoever, as Attorney before such Commissioner or Commissioners, nor shall any other 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 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

No person,
other than an
Attorney, to
act as such,
without a pow-
er of Attorney.

Penalty.

Proviso.

neration whatsoever, shall for every such offence be liable to 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 of such Commissioner or Commissioners shall not deliver any summons to any Bailiff or Sergeant of Militia who shall be personally interested in the suit.

Commissioners may issue Subpœnas.

XIV. And be it further enacted by the authority aforesaid, that it shall be lawful for the 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 not exceeding thirty shillings, nor less than ten shillings current money of this Province, for each and every default; 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 or affirmation in the usual manner.

Writs of Summons, by whom to be served.

Proviso.

Proviso.

XV. 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 Sergeant of Militia, residing in the Parish, Seigniori, Township, or extra Parochial Place, wherein the defendant or witness may respectively reside, unless such Bailiff or Sergeant of Militia not residing with such Parish, Seigniori, 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 Sergeant of Militia, residing in the Parish, Seigniori, 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 made in conformity to this Act, to be served or executed in such place, to the nearest Bailiff or Sergeant of Militia residing out of such place, or to any other person residing therein, to be named in the Writ, who shall make 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 compellable to appear at the

XVI. 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

day of return,
but in cases of
default another
day may be
named.

Proviso.

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*.

Commis-
sioners to fix
costs in actions
adjudged by
them.

Proviso.

XVII. And whereas it is proper to fix the costs in such causes as shall be adjudged under this Act, by such Commissioner or Commissioners;—Be it therefore further enacted by the authority aforesaid, that 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 one hundred livres, old currency; and when under that sum, one shilling currency; for every copy of a Summons, six pence currency; for every Subpœna, one shilling currency; for every copy of Subpœna, 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 Sergeant 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 Sergeant of Militia, by whom 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 Sergeant 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 Sergeant of Militia who shall consent to any such composition, (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.

XVIII. 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 expenses (exclusive of travelling expences and the arbitration) which shall be adjudged against the defendant, shall not exceed the principal sum for which judgment shall be given, in case it shall appear just to the Court to make an order to that effect, any provision to the contrary thereof notwithstanding.

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

XIX. And be it further enacted by the authority aforesaid, that if any person or persons shall refuse or neglect to pay and satisfy such judgment within eight days after it is obtained, together with such costs as shall be adjudged thereon, 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 expences of feeding any cattle seized, excepted in all cases.

Proviso.

Commissioners to issue writs, &c.

XX. 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 judgement, 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.

XXI. 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, when returnable.

XXII. And be it further enacted by the authority aforesaid, that in every writ of execution, *saisie arrêt* and *saisie gagerie*, (mention shall be made of the day on which it is to be returned, and it shall be returned with the proceedings thereon, duly 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.

XXIII.

Commissioners
may grant a
stay of execu-
tion.

Proviso.

XXIII. And be it further enacted by the authority aforesaid, that it shall be lawful for the said Commissioners, 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 de-
cided summa-
rily.

XXIV. And be it further enacted by the authority aforesaid, that all oppositions, interventions and *saisies arrêts* 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 Regis-
ters of their
proceedings.

XXV. 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, on 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 per-
form their du-
ties, to deposit
their Registers
with their suc-
cessors.

XXVI. 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 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 de-
posit

posit such Register and Records 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.

XXVII. 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. Proviso.

XXVIII. And be it further enacted by the authority aforesaid, that when ever 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.

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

XXIX. 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 hereby imposed, how recoverable, &c.

XXX. 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 one 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 of the Province,

A detailed account to be laid before the Legislature.

vince, 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 or printed copies of this Act.

XXXI. And be it further enacted by the authority aforesaid, that the Commissioners who shall be appointed under the authority of this Act, 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.

XXXII. Provided always, and it is declared, and further 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.

Registers, &c. of the Summary Courts heretofore in existence, to be delivered to the Clerks of the Courts of the Commissioners

XXXIII. And be it further enacted by the authority aforesaid, that the Registers and Records of the Summary Courts heretofore in existence, which have been deposited in the Offices of the Courts of King's Bench shall, so soon as they shall be demanded by the Clerks of the Commissioners' Courts of the Parishes, Seigniories, and Townships, who shall be appointed under the authority of this Act, be delivered to the said Clerks of the Parishes, Seigniories, or Townships, from which they shall have been transmitted respectively.

Continuance of this Act.

XXXIV. 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 forty-two, and no longer.

SCHEDULE No. 1.

Form of Summons.

PROVINCE OF }
LOWER CANADA. }

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

To all and every the Bailiffs and Sergeants of Militia, within the Parish, (Seigniory, Township, or extra Parochial place) of

GREETING :

In His Majesty's name, you are hereby commanded to summon A. B. if he may be found within the Parish, (Seigniory, 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
day of in the
Reign, and in the year of Our Lord

hand and seal, this
year of His Majesty's

SCHEDULE No. 2.

Form of Subpœna.

PROVINCE OF }
LOWER CANADA. }

Parish, (Seigniority 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 Commissioners for the Summary Trial of Small Causes, at the residence of _____ in the Parish (Seigniority 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 and seal, this _____

at _____

SCHEDULE

SCHEDULE No. 3.

Form of Warrant of Execution.

PROVINCE OF }
LOWER CANADA. }

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

To all and every the Bailiffs and Sergeants of Militia within the said Parish,
(Seigniory, or Township, or extra Parochial place) of

Whereas A. B. of _____ did on the _____
day of _____ before _____ of His Majesty's Com-
missioners 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
excepting always his bed and bedding, and those of his family, and the clothes, the
necessary 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 _____ for the 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 commanded to make return of this Writ with your
doings thereon, before _____ the said Commissioners, at
_____ on or before the _____ day of
next.

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

SCHEDULE

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 or Sergeant of Militia,
I command you at the instance of C. D. of the Parish, (Seigniory,
Township, or extra Parochial place) of _____ in the County of
_____ in the District of _____ for the security,
safe-keeping, and payment of the _____ due by E. F. under judg-
ment to the said C. D. _____ (state briefly the subject and 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, or shall have in his hands
belonging to the said E. F., strictly prohibiting him from parting with the same,
on pain of paying the same twice, and of being personally liable to the demand in
the matter in which this Warrant is issued.

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 Paro-
chial place, on the _____ day of _____ at the hour
of _____ in the _____ noon, the said E. F. to show cause (if any he has)
why this attachment (*saisie-arret*) should not be declared good and valid, and
that the said G. H. may make his declaration under this warrant, and have you
then and there this warrant, with your doings thereon.

Given at

the

day of

SCHEDULE

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
 or Sergeant of Militia.

I command you at the instance of C. D. of the Parish, (Seigniory, Town-
 ship, 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. of
 in the said County, and being in the house by him occupied (or) (the produce and
 effects in the barns and other buildings 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 oc-
 cupied.)

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 show cause (if
 any there be) 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.

SCHEDULE