

*The Provincial Statutes of Lower-Canada, Being the second session of the fifteenth Provincial Parliament of Lower-Canada.* Quebec: John Carleton Fisher & William Kemble, Law Printer to the King's Most Excellent Majesty, 1836.

6 William IV – Chapter 17

**An Act to provide for the Summary Trial of Small Causes. (21st March, 1836.)**

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 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 passing of this Act, 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, Seignior, 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, Seignior, Township, or extra Parochial place, wherein such Commissioner or Commissioners may respectively reside,; 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 against 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 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, 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 reduced to writing,) such suit shall immediately be transmitted to the Commissioner of the nearest Parish, Township, or Seignior, 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 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 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 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 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, Seignior, Township, or extra Parochial Place, and proprietors of lands and tenements therein.

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.

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.

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, sergeant of militia, or person keeping a house of public entertainment as tavern-keeper, or vending spirituous to be drunk 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, 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.

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 soccage, in absolute property, or by emphyteose, 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.

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.

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. 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.

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.

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, 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.

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.

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 whatsoever, shall for every such offence be liable to the pains and penal, ties of the crime of extortion, and shall forever 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 Pieces 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.

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 Subpoena, 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 Subpoena 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.

XV. And be it further enacted by the authority aforesaid, that no Writ of Summons, Subpoena 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, Seignior, 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, Seignior, 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, Seignior, 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, Subpoena, 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.

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 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.

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 sixpence 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 Subpoena, one shilling currency; for every copy of Subpoena, sixpence 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, sixpence 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.

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.

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 alter it is obtained, together with such costs as shall be adjudged thereon, such Commissioner or Commissioners shall, by warrant of dis. tress 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 sixpence 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.

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 arret, 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.

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.

XXII. And be it further enacted by the authority aforesaid, that in every writ of execution, saisie arrett and saisie gagerie, (mention shall be made of the day on which 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. 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.

XXIV. And be it further enacted by the authority aforesaid, that all oppositions, interventions and saisies arrets 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.

XXV. And be it farther 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.

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 deposit 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.

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.

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 (he 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.

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.

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 far the public 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.

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.

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.

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.

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. Seigniority, or Township) of

To all and every the Bailiffs and Sergeants of Militia, within the Parish, (Seigniority, 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, (Seigniority, 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, (Seigniority, 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.

SCHEDULE No. 2.

Form of Subpoena.

PROVINCE OF }  
LOWER CANADA. }

Parish, (Seigniori 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 (Seigniori 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 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 Bailiffs and Sergeants of Militia within the said Parish, (Seigniori, or Township, or extra Parochial place) of \_\_\_\_\_

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 commanded, 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 \_\_\_\_\_ hand and seal, this \_\_\_\_\_ day of  
In the \_\_\_\_\_ year of His Majesty's Reign, and in the year of our Lord

SCHEDULE No. 4.  
Form of a Warrant of Simple Saisie en main tierce.

PROVINCE OF }  
LOWER CANADA. }

Parish, (Seigniori, 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, ( Seigniori, 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 judgment 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, Seigniori, Township, or extra Parochial 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 No. 5.

Form, of a Warrant of Saisie-Gagerie.

PROVINCE OF        }  
LOWER CANADA.    }

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

To A. B. of the Parish                        of                        Baliff or Sergeant of  
Militia.

I command you at the instance of C. D. of the Parish, (Seigniori, 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. 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 occupied.)

I command you further to summon the said E. F. to appear before                        Commissioners, in the Parish, (Seigniori, 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.