

in the year of Our Lord one thousand eight hundred and forty.

By His Excellency's Command,

W. B. LINDSAY,

Clerk Special Council.

C A P. XLIII.

An Ordinance to provide for the easy and expeditious administration of Justice in Civil Causes and matters involving small pecuniary value and interest throughout this Province.

Preamble.

WHEREAS it is expedient and necessary to provide for the efficient administration of Justice in civil causes and matters, involving small pecuniary value and interest, by the establishment of limited local jurisdictions throughout this Province, to which easy access may be afforded to Her Majesty's subjects, for the attainment of justice in such cases, expeditiously and at little expense;—Be it therefore Ordained and Enacted by His Excellency the Governor of this Province of Lower Canada, by and with the advice and consent of the Special Council for the affairs of this Province, constituted and assembled by virtue and under the authority of an Act of the Parliament of the United Kingdom of Great Britain and Ireland, passed in the first year of the Reign of Her present Majesty, intituled, "*An Act to make temporary provision for the Government of Lower Canada,*" and also by virtue and under the authority of a certain other Act of the same Parliament, passed in the Session held in the second and third years of the Reign of Her present Majesty, intituled, "*An Act to amend an Act of the last Session of Parliament, for making temporary provision for the Government of Lower Canada;*" and it is hereby Ordained and Enacted by the authority of the same, that this Province of Lower Canada, shall for the purposes of Judicature and of this Ordinance, be divided into such number of districts as by the Governor of this Province, by and with the advice of the Executive Council for the same shall be deemed fit and expedient; and to this end it shall be lawful for the said Governor with such advice

The province to be divided into districts for the purposes of judicature.

advice as aforesaid, on or before the first day of December, now next ensuing, to issue a Proclamation under the Great Seal of this Province, whereby this Province shall be divided into such districts as aforesaid, and the limits of such districts shall be fixed and appointed.

District Courts to be established, and to be held before the sheriff and his deputy.

II. And be it further Ordained and Enacted, that in the said several districts into which this Province shall be divided as aforesaid, there shall be a Court of Record of Civil Jurisdiction to be called the District Court, which Court shall be held by and before the Sheriff of each of the said Districts, or his Deputy, at such places in the said districts respectively, as the Governor of this Province, in his said Proclamation, to be issued as aforesaid, shall appoint.

A sheriff to be appointed for each district.

III. And be it further Ordained and Enacted, that it shall be lawful for the Governor of this Province, for the time being, to appoint a Sheriff for each and every of the said Districts, in which a Court shall be established as aforesaid, and from time to time to remove such Sheriffs, and appoint others in the places of such of them as may be removed, or may die, or resign their offices.

The Courts to have cognizance of actions not exceeding £20 sterling.

Defendants may make exception to the jurisdiction of said Courts, in certain actions.

IV. And be it further Ordained and Enacted, that the said District Courts to be held as aforesaid, shall severally have cognizance of and full power, jurisdiction and authority to hear, try and determine in a summary manner, all Civil Suits or Actions (those purely of Admiralty jurisdiction excepted) wherein the sum of money, or the value of the thing demanded, shall not exceed twenty pounds, sterling. Provided always, and be it further enacted, that if any such suit or action shall relate to any fee of office, duty, or rent, revenue, or any sum of money payable to Her Majesty, titles to lands or tenements, annual rents, or such like matters or things, where the rights in future may be bound, it shall be lawful for the defendant or defendants, before making his or their defence to any such action, to make and tender an exception to the jurisdiction of the said Court, and thereby require that the said action be removed and carried to hearing, trial, and judgment in the Superior Terms of the Court of Common Pleas of this Province, in the division thereof that may sit in the Territorial division in which such District Court shall be established; and every such exception shall be filed and entered of record, and the said action shall thereupon be removed into the Superior Terms of the said Court of Common Pleas; which last mentioned Court shall proceed to determine, in a summary manner, whether the said exception be well founded, and if the said last mentioned Court should maintain the said exception and adjudge the same to be well founded, proceedings shall thereupon

thereupon be had in the said last mentioned Court, to trial, judgment and execution, according to the rules of the said last mentioned Court; and if the said exception should be over-ruled, the said action shall be remitted to the said District Court, there to be heard, tried, and finally determined.

Deputy Sheriffs to be advocates of 5 years standing, and to be approved by the Governor.

V. And be it further Ordained and Enacted, that no person shall be appointed by any Sheriff of a District, to be or act as the Deputy of such Sheriff, in pursuance of and under the authority of this Ordinance, unless such person be, at the time of his appointment as aforesaid, an Advocate of five years standing at the Bar in this Province, and unless he shall first have been approved by the Governor of this Province for the time being.

Sheriffs and their Deputies to take an oath of office.

The oath.

VI. And be it further Ordained and Enacted, that every Sheriff of a District and every Deputy Sheriff, shall within ten days after his appointment, and before proceeding to exercise any authority under this Ordinance, take the following Oath, before one of the Justices of the Court of Queen's Bench or Common Pleas for this Province, who is hereby authorized to administer the same, that is to say:—"I, A. B., do swear that I will well and truly, according to the best of my skill and knowledge, fulfil and execute the trust, powers and authority vested in me, as Sheriff of the District of (or Deputy Sheriff, as the case may be) by an Ordinance or law passed in the fourth year of Her Majesty's reign, intituled, "An Ordinance to provide for the easy and expeditious administration of Justice in civil causes and matters involving small pecuniary value and interest throughout this Province." and that I will not deny or delay justice, and will not by myself or knowingly by any other person or persons receive or take, or cause, or permit, or suffer to be received or taken, any greater or other fees, in my said office, than such as are directed to be taken in and by the said Ordinance or Law; so help me God:" which Oath shall be reduced to writing and signed by such Sheriff, or Deputy Sheriff, and being attested by the Justice before whom it shall be taken, shall be filed and enregistered in the first District Court, to be held by such Sheriff or Deputy Sheriff, after taking the same.

To be registered.

(In what days the Courts are to be held.

VII. And be it further Ordained and Enacted, that it shall and may be lawful for the Sheriffs of the said several Districts, in which a District Court shall be established as aforesaid, or their Deputies respectively, to hold such District Courts as aforesaid, at the places to be appointed by the Governor of this Province as aforesaid, on the first six Juridical days of each and every month, in each and

and every year, save and except in the districts in which the Cities of Quebec and Montreal shall be situated, in which last mentioned districts respectively, it shall be lawful for the Sheriffs thereof or their Deputies respectively to hold such District Courts on the first ten juridical days of each and every month in each and every year.

Bailiffs to be appointed by the Sheriffs or their deputies.

VIII. And be it further Ordained and Enacted, that the Sheriffs of the said Districts, or their Deputies respectively, shall, from time to time, appoint a sufficient number of responsible, fit and proper persons to be and act as Bailiffs, for the service and execution of the process of the said District Courts respectively, which Bailiffs shall be removeable by the said Sheriffs or their Deputies, for culpable neglect or misconduct, and shall be entitled, while engaged in the said office, to the fees and emoluments specified in the second schedule, to this Ordinance subjoined; and no other or greater fees or emoluments shall be taken or received by them or any of them.

And to enter into a bond.

IX. And be it further Ordained and Enacted, that every person to be appointed a Bailiff as aforesaid, before he shall act as such, shall enter into a bond with two sureties, to Her Majesty, Her Heirs and Successors, in the penalty of two hundred pounds, conditional for the due performance of the duties of the said office; and it shall be incumbent on the said Sheriffs of the said Districts, or their Deputies, respectively, to inquire and ascertain, when such sureties may die or become insolvent, and in such case or cases to require such Bailiffs to give other and further security as aforesaid; and the Bond and Bonds so given shall stand and be as and for a security to the amount thereof, for the damages which may be sustained by any person or persons by reason of the culpable negligence, or misconduct of any such Bailiff.

Each of the said Courts to have a seal.

Manner in which writs, &c., are to be made out.

X. And be it further Ordained and Enacted, that the said District Courts hereby established, shall severally have and use as occasion may require, a Seal bearing a device and impression of Her Majesty's Royal Arms, with an inscription thereon, expressing that it is the Seal of the particular District Court to which it may belong, which seal shall be kept in the custody of the Sheriff of the District in which every such District Court shall be held, or of his Deputy; and all precepts, writs, and processes to be issued from the said District Courts respectively, shall run and be in the name and style of Her Majesty, Her Heirs or Successors, and shall be sealed with the Seal of the District Court, from which the same shall issue, and shall bear the attestation of the Sheriff of the District

District in which such District Court shall be held, or his Deputy, and shall be signed by the Clerk of the said District Court, whose duty it shall be to prepare and make out the same.

A summons to be the first process issued in all actions.

XI. And be it further Ordained and Enacted, that in all actions to be brought in the said District Courts hereby established, the first process to be issued for bringing the defendant before the said Courts to answer such actions, shall be a summons, in which shall be briefly stated the cause of action of the plaintiff, which summons may be in the form contained in the first Schedule to this Ordinance subjoined.

Within what time, and how to be served.

XII. And be it further Ordained and Enacted, that the said summons to be issued as aforesaid, shall be served at least six days before the day fixed for the return thereof, in the same manner as is by law required for the service of a summons issuing out of Her Majesty's Superior Courts of Civil Jurisdiction in this Province, in actions instituted therein.

What shall be sufficient to give jurisdiction over two or more defendants in any action.

XIII. And be it further Ordained and Enacted, that if there be two or more defendants in any such action, it shall be sufficient to give jurisdiction over all the defendants to the District Court in which such action may be brought, that any one of the said defendants be domiciliated, or have been legally served with process within the district in which such Court shall be established: Provided always, that all the said defendants be served with such process.

Manner of proceeding when defendants make default.

XIV. And be it further Ordained and Enacted, that if the defendant in any such action should not appear personally, or by his Attorney or agent, on the day fixed for the return of the said summons, his default shall be recorded, and it shall be lawful for the said District Courts respectively, after due proof of the service of the said summons on the defendant, in a summary manner, to receive evidence and hear the plaintiff in support of his demand in such action, and thereupon make and render such judgment as law and justice may require; and if the defendant should appear in any such action, and the plaintiff should not appear personally, or by his Attorney or agent, or appearing should not prosecute his action, or prosecuting it should fail in establishing his demand, such action shall be dismissed with costs to the defendant against the plaintiff; and if the plaintiff in any such action should establish his demand, he shall be entitled to recover the sum of money or thing by him demanded, with costs against the defendant.

When costs are to be awarded either to or against defendant.

XV.

Trial by Jury
may be had in
actions above
£10 sterling.

XV. And be it further Ordained and Enacted, that all and every the issue and issues of fact joined in any action instituted in, and cognizable by the said District Courts hereby constituted, wherein the sum of money or value of the thing demanded shall exceed ten pounds sterling, may be tried and determined and damages thereon assessed by the verdict of a Jury, at the option and choice of any or either of the parties in any such action; and the trial by Jury, when so chosen and required, shall be had, and the verdict of the Jury rendered and taken in conformity with the provisions of law by which trials by Jury in the cases wherein they are now allowed in Her Majesty's Courts of Civil Jurisdiction in this Province are regulated, and in like manner as such trials are now had, in so far as the provisions aforesaid are applicable to the said District Courts, except in the particulars which are differently regulated by this Ordinance.

How Jurors are
to be summoned
and paid.

XVI. And be it further Ordained and Enacted, that for the trial of issues of fact and the assessment of damages thereon, in the said District Courts respectively, in cases where Trial by Jury shall be chosen as aforesaid, and appointed by the Court, it shall be lawful for the Sheriff of each and every District in which a District Court is established as aforesaid, or his Deputy, at such times as it may by him be deemed necessary, to issue his precept to one of the Bailiffs of any such District Court, requiring him to summon, and such Bailiff shall and is hereby required, on the receipt of such precept, to summon not less than twenty-four nor more than thirty-six Jurors living within the District, to be and appear before the said District Court, on a day in such precept to be appointed, from whom a Jury shall be taken for the trial of each of the issues of fact, in respect of which trial by jury shall have been chosen as aforesaid, and appointed by the Court; and each juror for the trial of every issue as aforesaid, shall be entitled to receive one shilling and no more for his service, to be paid by the plaintiff, and included in the subsequent taxation of costs, if costs should be awarded to him.

Manner of
choosing a
Jury.

XVII. And be it further Ordained and Enacted, that the Clerks of the said District Courts respectively, shall make a list of the Jurors summoned as aforesaid, with their places of abode and additions, and shall cause their names to be written, severally, on slips of paper and put into a box; and the names of the jurors for the trial of causes in the said District Courts shall be drawn out of the box by the Clerks of such District Courts respectively, and each party may, until no more than twelve remain, object to any person whose name shall be drawn out, without assigning any cause; and if any objection be made to the twelve so remaining, the same shall be allowed or overruled as by such Court may be deemed legal and proper; and if any such objection be allowed, the names of the jurors
rejected

rejected without cause assigned shall be returned to the box and drawn again, until a sufficient number be found to make a jury of twelve, and such jury of twelve shall be the jury sworn for the trial: Provided always, that if there shall not be twelve persons attending as jurors, or against whom no objection shall have been allowed, it shall be lawful for every such Court to order the requisite number of persons from among the by-standers, to be summoned by the Clerk of such Court, and sit on the said jury, subject to any objections which may be made, or causes assigned, except for want of qualification or want of summons.

How Jurors
may be requir-
ed to attend
and serve.

XVIII. And be it further Ordained and Enacted, that it shall be lawful for every such District Court, if it shall see fit, to direct the Clerk of such Court, to divide the list of the jurors summoned as aforesaid, into two lists, and to require the persons in the one list, to attend and serve for so many days, at the beginning of the sittings, as the said Court shall order, and those in the other list to attend and serve for the residue of the sittings, according as the said Court shall think fittest for the convenience of the said jurors.

The Court may
grant a new
trial or arrest
judgment.

XIX. And be it further Ordained and Enacted, that it shall be lawful for the said District Courts respectively, after a verdict in any suit or suits therein depending, to grant a new trial, or arrest judgment, in such suit or suits, for sufficient legal cause.

May examine
either of the
parties on in-
terrogatories.
&c., and may
issue Commis-
sions Rogatoire

XX. And be it further Ordained and Enacted, that it shall be lawful for the Sheriff or his Deputy, by whom any such District Court shall be held as aforesaid, in any action depending in the said Court, to authorize and require the examination of any or either of the parties, on interrogatories, on facts and articles (*Faits et Articles*) or on the *juramentum litis decisorium*, or on the *juramentum judiciale*, in the same, and like cases and circumstances in which such examinations may lawfully be required and had in other Her Majesty's Courts of Civil jurisdiction in this Province, and under and subject to the rules of law in such cases provided; and in like manner to issue Commissions *Rogatoires*, or Commissions in the nature of Commissions *Rogatoires*, for the examination of witnesses not resident within the District in which such District Court shall be held, in the same and like cases and circumstances in which such Commissions may lawfully be issued, by other Her Majesty's Courts of Civil Jurisdiction in this Province, and under and subject to the rules of law in such cases provided.

May issue writs
of attachment.

XXI. And be it further Ordained and Enacted, that it shall be lawful for the Sheriffs of the several Districts in which a District Court is established as aforesaid

said, and their Deputies respectively, in civil causes and matters, legally cognizable in such District Courts, to issue Writs of Attachment, *Saisie-Arret*, *Saisie-Gagerie*, *Saisie-Revendication*, to be made returnable in the said District Courts respectively, in the same and like cases and circumstances in which such Writs may lawfully be issued from and be made returnable in other Her Majesty's Courts of Civil Jurisdiction in this Province, and under and subject to the rules of law in such cases provided.

And writs of
Fieri Facias.

XXII. And be it further Ordained and Enacted, that in every case where judgment shall be rendered by any such district court as aforesaid, awarding or adjudging the payment of any sum or sums of money, it shall and may be lawful for the Sheriff or his Deputy, by whom such district court shall be held, at the expiration of eight days after the rendering of any such judgment, to issue a precept under his hand and the seal of the said court, in the nature of a writ of *Fieri Facias* against goods and chattels, which precept shall be directed to any of the bailiffs of the said district court in which such judgment shall have been rendered, who is hereby authorized to levy the sum or sums of money mentioned in such precept, upon and from the goods and chattels of the party against whom such judgment shall have been rendered, in the same manner and according to the same rules and regulations of law, by and under which any Sheriff may levy money by virtue of a writ of *Fieri Facias* issuing out of Her Majesty's Courts of Civil Jurisdiction in this Province.

Witnesses to be
examined *viva*
voce in certain
actions.

XXIII. And be it further Ordained and Enacted, that in all actions in which the sum of money or the value of the thing demanded shall be above ten pounds sterling, and shall not exceed twenty pounds sterling, and in which neither of the parties shall make the option of trial by jury, it shall not be necessary to reduce the depositions of the witnesses examined in any such action to writing, but the said witnesses shall be examined *viva voce*, in open Court, and sufficient notes of their evidence shall be taken in writing, by the Sheriff or his Deputy, by and before whom such District Court as aforesaid shall be held, in like manner as notes are taken by a Judge presiding at a trial by jury, which notes shall be kept and preserved by such Sheriff or his Deputy, to answer the purposes of justice, in the event of an appeal from the judgment to be rendered in any such action, as hereinafter is provided.

Cases liable to
appeal to the
court of com-
mon pleas.

XXIV. And be it further Ordained and Enacted, that an appeal shall lie from the judgments of the said District Courts hereby constituted to the Court of Com-
mon

mon Pleas for this Province, in the division thereof sitting in the Territorial division in which any such district Court shall be established, in all suits and actions in which the sum of money, or the value of the thing demanded shall be above ten pounds sterling, and shall not exceed twenty pounds sterling, and in which neither of the parties shall have made the option of trial by Jury.

Parties appealing to give security.

XXV. Provided always, and be it further Ordained and Enacted, that the party desirous of appealing from any such judgment as aforesaid, shall within ten days after the rendering of the same, make known to the Sheriff of the District, or his Deputy, by and before whom such judgment shall have been rendered, his intention to appeal from the same, and shall at the same time give good and sufficient security, to the satisfaction of such Sheriff or his Deputy, that he will effectually prosecute the said appeal and answer the condemnation, and also pay such costs and damages as shall be awarded by the said Court of Common Pleas, if the judgment appealed from should be affirmed.

How appeals are to be prosecuted.

XXVI. And be it further Ordained and Enacted, that for the purpose of obviating delay and expense in the prosecution of such appeals from the judgments of District Courts as aforesaid, the said appeals shall be prosecuted and proceedings thereon had, in a summary manner, by petition of the appellant to the said Court of Common Pleas in the division thereof to which such appeal shall lie as aforesaid, setting forth succinctly the grounds of appeal, and praying for the reversal of the judgment appealed from, and the rendering of such judgment as by the Court below ought to have been rendered, a copy of which petition with a notice of the time at which it is to be presented, shall be served on the adverse party or parties, or his or their attorney or attorneys, within fifteen days from the rendering of any such judgment so appealed from; and the said petition shall be presented on the first day of the term of the said division of the said Court of Common Pleas, next succeeding the rendering of any such judgment, if there shall be an interval of twenty days between the rendering of such judgment and the said first day of the said Term, and if not, then on the day of the said Term next following the expiration of such interval.

All proceedings on appealed cases to be filed in the office of the Prothonotary of the court to which such appeal may lie.

XXVII. And be it further Ordained and Enacted, that it shall be the duty of the Sheriff or his Deputy, by and before whom any judgment appealed from as aforesaid shall have been rendered, within fourteen days after the giving of security on any appeal as aforesaid, to certify under the Seal of the District Court held by him, to the Division of the Court of Common Pleas to which such appeal may lie, and cause to be filed in the office of the Prothonotary of such Division, the judgment

ment, record and proceedings to which such appeal shall relate, together with the notes of the evidence which may have been taken in any such case as aforesaid, to the end that hearing and judgment on every such appeal may be had and obtained without delay.

Appeals to be summarily heard.

XXVIII. And be it further Ordained and Enacted, that after the fying of such petition by and on the part of the appellant as aforesaid, and the transmission of the judgment, record and proceedings, and notes of evidence as aforesaid, every such appeal shall, without any other or further formality, be summarily heard and judgment thereon rendered, as to law and justice may appertain.

And judgments thereon to be final.

XXIX. And be it further Ordained and Enacted, that the judgments to be rendered by the said Court of Common Pleas, on appeals from the District Courts as aforesaid, shall be final and conclusive, and from such judgments no other or further appeal shall lie.

In actions above £10. plaintiffs may be required to file a declaration setting forth the grounds of their actions.

XXX. And be it further Ordained and Enacted, that in any action which shall or may be brought in the said District Courts, in which the sum of money or the value of the thing demanded shall exceed ten pounds sterling, it shall be lawful for the said courts respectively, in their discretion, when they may deem it expedient or proper for the ends of justice, to require the plaintiffs in such actions, at or after the return of the summons therein, to file a declaration setting forth, in a sufficient manner, the grounds and causes of action of such plaintiffs, to which declaration the defendant in every such action shall be held to plead, and on which other and further proceedings shall be had in due legal course.

Respecting the appointment of tutors and curators, closing of inventories, &c., and other acts requiring despatch.

XXXI. And be it further Ordained and Enacted, that the said district courts respectively, and the said Sheriffs and Deputy Sheriffs respectively, as well in court as out of court, shall have the same power and authority within the said districts respectively, as any Judge of the Court of Common Pleas for this Province, in the several divisions of the said court hath and may lawfully exercise in what respects the election and appointment of tutors or guardians, and curators, and the taking of the counsel and opinion of relations and friends in cases where the same are by law required to be taken, the closing of inventories, attestations of accounts, *insinuations*, affixing and taking off seals of safe custody, and other acts of the same nature requiring despatch.

XXXII.

The sheriffs &c.
of said courts,
not to practice
as advocates.

XXXII. And be it further Ordained and Enacted, that the Sheriffs of the said District Courts and their Deputies respectively, shall not, during their continuance in office, practice as advocates, proctors, or attornies, and the clerks of the said courts respectively, shall not while they hold their said offices, practice as advocates, proctors, or attornies in any such court, or in any other court of law in this Province.

Penalty on any
officer or per-
son taking
greater fees
than specified
in the second
Schedule sub-
joined.

XXXIII. And be it further Ordained and Enacted, that in all actions and proceedings in the said District Courts respectively, and under their authority, the fees, specified in the second Schedule to this Ordinance subjoined, shall be deemed and taken to be the lawful fees, for the discharge of the several duties therein-mentioned, and no other fees or emoluments shall be received or taken, upon any pretence whatever for any act or service done or performed under the authority of this Ordinance; and if any officer or person shall receive any other or greater fee, emolument, or other consideration than is specified in the said Schedule for the duties aforesaid, or any of them, or for any act or service done or performed as aforesaid, he shall forfeit and pay the sum of twenty pounds sterling for every such offence, which penalty shall and may be recovered in such district courts respectively, or in any court of record in this Province, one half of which penalty shall belong to Her Majesty, her heirs and successors, and the other half thereof to the person who shall sue for the same.

Every clerk to
keep a table of
the fees expos-
ed in his office
&c.

XXXIV. And be it further Ordained and Enacted, that every clerk of a district court established as aforesaid, shall cause to be continually exposed, as well in his office as also in some conspicuous place in the hall or apartment in which such district court shall be held, a fair and legible table of the fees aforesaid, payable in all actions and proceedings in the said district court, and likewise the penalty to which any person may become liable for receiving any other or greater fee than is set forth in the said Schedule; and in default of so doing, shall be deemed and held to be guilty of a misdemeanor, and be punished accordingly.

In default to be
guilty of a mis-
demeanor.

The offices of
the present
sheriffs to be
abolished and
their duties
to be performed
by the sheriffs
of the districts.

XXXV. And be it further Ordained and Enacted, that from and after the commencement of this Ordinance, the offices of Sheriffs for the districts of Quebec, Montreal, Three Rivers and Saint Francis, and for the Inferior district of Gaspé, shall be, and they are hereby abolished, and all and every the powers and duties which might lawfully be exercised and performed by the said Sheriffs respectively, within

within the respective Districts and Inferior District aforesaid, shall and may be exercised and performed by the Sheriffs of the Districts into which this Province shall be divided by Proclamation as aforesaid, in like manner as the same might, up to the time of the commencement of this Ordinance, be exercised and performed by the said Sheriffs of the said districts of Québec, Montreal, Three Rivers and Saint Francis, and of the said Inferior district of Gaspé respectively, within the same; and all writs and process issuing out of the courts of judicature in this Province, which up to the time of the commencement of this Ordinance, ought to be directed to and executed by the Sheriffs of the said last mentioned districts and Inferior district respectively, shall thenceforward be directed to and executed by the Sheriffs of the said respective districts into which this Province shall be divided by Proclamation as aforesaid.

Compensation
for loss of office
to be determin-
ed by the
Governor.

XXXVI. And be it further Ordained and Enacted, that it shall be lawful for the Governor of this Province, on any claim which may be made by any of the persons holding offices which will become and be abolished under the provisions of this Ordinance, for compensation for loss by reason of such abolition of the said offices, to determine, by and with the advice of the Executive Council of this Province, whether such claim have or have not a reasonable and just foundation, and if such claim be admitted to be well founded and just, to assess and award thereupon such compensation as by the said Governor, with such advice as aforesaid, may be deemed reasonable and proper, regard being had to the tenure under which the said offices have been held, and to the appointment which might be made of the said persons, if qualified to offices of a similar nature to be filled under the provisions of this Ordinance, and to all such circumstances as may and ought to be considered in relation to such claim; and the compensation that may be assessed and awarded as aforesaid, shall be paid out of any of the unappropriated monies for public uses in the hands of the Receiver General of this Province.

Act 6. Will. 4,
cap. 17 and
Ordin. 2 Viet
cap. 55. repeal-
ed.

XXXVII. And be it further Ordained and Enacted, that a certain Act of the Legislature of this Province, passed in the sixth year of the reign of His late Majesty King William the Fourth, intituled, "An Act to provide for the summary trial of small causes," and also a certain Ordinance made and passed by the Governor of this Province, by and with the advice of the Special Council for the affairs thereof, in the second year of Her Majesty's Reign, intituled, "An Ordinance to establish Circuit Courts of Requests in the Districts of Québec, Montreal and Three Rivers, and for other purposes," shall, from and after the commencement of this Ordinance, be and the same are hereby repealed.

XXXVIII.

All registers, records &c. of the courts of Requests to make part of the records &c. of the court of common pleas in the inferior terms thereof

XXXVIII. And be it further Ordained and Enacted, that the registers, muniments, recorded official acts and papers, judicial and other proceedings of the Circuit Courts of Requests in the several districts of Quebec, Montreal and Three Rivers, shall forthwith after the period appointed for the commencement of this Ordinance, be transmitted into and make part of the records, registers, muniments and judicial and other proceedings of the Court of Common Pleas for this Province, in the inferior terms thereof, that is to say, all the registers, muniments, recorded official acts and papers, judicial and other proceedings of the Circuit Court of Requests for the district of Quebec, shall be transmitted into the Court of Common Pleas for this Province, in the division thereof appointed to sit in the territorial division of Quebec; and all the registers, muniments, recorded official acts and papers, judicial and other proceedings of the Circuit Court of Requests for the districts of Montreal and Three Rivers, shall be transmitted into the said Court of Common Pleas, in the division thereof appointed to sit in the territorial division of Montreal.

All legal acts of the courts of Requests to remain in force; and other proceedings depending thereon to be discontinued.

XXXIX. And be it further Ordained and Enacted, that no judgment, order, rule or act of the said respective Circuit Courts of Requests, legally pronounced, had or done before the period appointed for the commencement of this Ordinance, shall be hereby avoided, but shall remain in full force as if this Ordinance had not been passed; nor shall any action, suit, cause or proceeding depending in the said Circuit Courts of Requests respectively, be abated, discontinued or annulled, but the same shall be transferred in their present condition respectively to, and subsist and depend in the several and respective divisions of the said Court of Common Pleas into which the registers, muniments, recorded official acts and papers, judicial and other proceedings of the said circuit courts of requests are to be transmitted as aforesaid; and other and further proceedings shall be thereon had in the said respective divisions of the said court of common pleas, in the inferior terms thereof, to judgment and execution, as might have been had in the said Circuit Courts of Requests respectively, or in the Inferior terms of the said divisions of the said Court of Common Pleas, in causes or proceedings commenced and depending before the said Court of Common Pleas, in the said Inferior terms thereof.

This ordinance not to affect any prerogative of the crown

XL. Provided always, and be it further Ordained and Enacted, that nothing in this Ordinance contained, shall derogate from or in any manner abridge or affect the prerogative of the Crown to erect, constitute and appoint Courts of Civil and Criminal

Criminal Jurisdiction within this Province, as Her Majesty, her heirs or successors shall think proper, or any other prerogative or right of the Crown whatsoever.

The term "Governor of this Province," defined.

XLI. And be it further Ordained and Enacted, that the words " Governor of this Province," wherever they occur in the foregoing enactments, are to be understood as meaning and comprehending the Governor or the person authorized to execute the Commission of Governor within this Province, for the time being.

This ordinance
to have effect
from 1st Decr.
1840.

LXII. And be it further Ordained and Enacted, that this Ordinance and the several provisions herein contained, shall commence and have execution and effect from and after the first day of December now next ensuing.

And to be per-
manent.

LXIII. And be it further Ordained and Enacted, that this Ordinance and the provisions herein contained, shall not cease or expire on the first day of November, which will be in the year of Our Lord one thousand eight hundred and forty-two, but shall be and remain a permanent law, and in full force until the same shall be repealed or altered by competent Legislative authority.

Form of the summons referred to in the 11th section.

SCHEDULE No. 1, referred to in the foregoing Ordinance :—

VICTORIA, by the Grace of God, of the United Kingdom of Great Britain and Ireland, Queen, Defender of the Faith :—

To the Bailiffs of our District Court, in and for the District of
severally and respectively, Greeting :

We command you and each of you, that you summon A. B., of
to appear, in person or by his Attorney, in our District Court, in and for the
District of _____ to be holden at _____ in the said District,
on the _____ day of _____ to answer C. D., on a plea of
(nature of action.) For that, &c., (here set forth briefly the Plaintiff's cause of
action.) Herein fail not.

Witness E. F., Esquire, Sheriff, (or Deputy Sheriff, as the case may be,) of
our District of _____ at _____ in our said District, this
day of _____ in the year of our Lord _____ and in the
year of our Reign _____

SCHEDULE

Table of fees to
be taken in
actions under
£10 sterling.

SCHEDULE No. 2, referred to in the foregoing Ordinance:—

Table of Fees to be taken in actions under ten pounds sterling.

BY THE JUDGE.

On every Summons or Attachment, (<i>Saisie-Gagerie</i> , <i>Saisie-Arrêt</i> , or <i>Saisie-Revendication</i> ,) one shilling and six pence,.....	1	6
On every Affidavit, one shilling,.....	1	0
On every final Judgment, two shillings and six pence,.....	2	6

BY THE CLERK.

For every Summons or Attachment, (<i>Saisie-Gagerie</i> , <i>Saisie-Arrêt</i> , or <i>Saisie-Revendication</i> ,) one shilling and six pence,.....	1	6
For every copy of the same, six pence,.....	0	6
For every Subpœna, one shilling,.....	1	0
For every copy of Subpœna, six pence,.....	0	6
For entering every Judgment and copy thereof, one shilling and six pence,.....	1	6
For every Precept of the nature of a <i>Fieri Facias</i> , one shilling and six pence,.....	1	6
For entering and fying every Opposition or Intervention, one shilling,	1	0
For every Judgment on an Opposition or Intervention, and copy there- of, one shilling and six pence,.....	1	6

BY THE BAILIFFS.

For service of Process, Rules or Orders, and certificate thereof, one shilling,.....	1	0
For the seizure of goods and chattels under execution, and all inciden- tal trouble, travelling not included, three shillings and nine pence,	3	9
For the sale of goods and chattels under execution, and all incidental trouble, including publications of sale, notices, &c., travelling not included, three shillings and nine pence,.....	3	9
Returning Writ of Execution, one shilling,.....	1	0
Mileage on the service of Process, at the rate of four pence per mile, without any charge for the distance gone over in returning, and		

without any charge for mileage on more than one Process against the same defendant,.....

BY THE CRIER.

For calling each cause, six pence,..... 0 6

In actions
above £10 and
under £20.

Table of Fees to be taken in actions above ten pounds, and under twenty pounds sterling.

BY THE JUDGE.

On every Summons or Attachment, (<i>Saisie-Gagerie, Saisie-Arrêt, or Saisie-Revendication</i>) two shillings and six pence,.....	2 6
On every verdict of a Jury, seven shillings and six pence,.....	7 6
For taking a Recognizance, two shillings,.....	2 0
For taking every Affidavit, one shilling,.....	1 0
On entering every final Judgment, and taxing costs, seven shillings and six pence,.....	7 6

BY THE ATTORNEY.

Taking instructions to sue or defend, five shillings,.....	5 0
For conducting the case of the plaintiff to final Judgment, in cases in which trial by Jury is not required, five shillings,.....	5 0
Drawing, engrossing, serving and fying declaration, when specially required by an order of the Court, five shillings,.....	5 0
For fying appearance for defendant, general issue, and on proceedings to final Judgment, five shillings,.....	5 0
For every Special Plea, copy, service and fying, five shillings,.....	5 0
For every Replication, or other pleading, rendered necessary by a Special Plea, copy, service and fying, five shillings,.....	5 0
For suing out a Commission for the examination of witnesses, including the interrogatories and all incidental trouble, seven shillings and six pence,.....	7 6
Every necessary notice, one shilling,.....	1 0
Every necessary Attendance, one shilling,.....	1 0

Drawing

Drawing and engrossing Affidavit, copy thereof and service, two shillings and six pence,	2 6
For conducting a case of plaintiff or defendant on a trial by Jury, ten shillings,	10 0
Drawing and engrossing bill of costs, copy, service and attendance at taxation, two shillings,	2 0

BY THE CLERK.

For every Summons or Attachment, (<i>Saisie-Gagerie</i> , <i>Saisie Arrêt</i> , or <i>Saisie-Revendication</i>) and fying Præcipe for it, two shillings and six pence,	2 6
For every copy of the same, one shilling and six pence,	1 6
For every Subpœna, one shilling,	1 0
For every copy of Subpœna, six pence,	0 6
For a Commission for the examination of witnesses, two shillings and six pence,	2 6
For swearing Jury and taking verdict, three shillings,	3 0
For fying every exhibit or paper, four pence,	0 4
For entering and fying every opposition or intervention, two shillings and six pence,	2 6
For entering Judgment on every opposition or intervention, and copy thereof, three shillings and six pence,	3 6
For entering final Judgment and copy thereof, three shillings and six pence,	3 6
For every precept of the nature of a <i>Fieri Facias</i> , and fying Præcipe, three shillings and six pence,	3 6

BY THE BAILIFF.

For the service of process, rules or orders, and a certificate thereof, two shillings,	2 0
For the seizure of goods and chattels under execution, and all incidental trouble, travelling not included, five shillings,	5 0
For the sale of goods and chattels under execution, and all incidental trouble, including publications of notices, travelling not included, five shillings,	5 0
Returning Writ of Execution, one shilling,	1 0
Mileage on the service of process, at the rate of four pence per mile, without any charge for the distance gone over in returning, and without	

out any charge for mileage on more than one process against the same defendant.

BY THE CRIER.

For calling each cause, six pence,.....	0	6
On the swearing of a Jury, one shilling,.....	1	0

Fees to be taken by the Clerks of the District Courts on certain extra Judicial proceedings.

Fees to be
taken by the
clerks on cer-
tain extra
judicial pro-
ceedings.

On the appointment of a Tutor or Guardian, and <i>subrogé</i> Tutor, or a Curator, (<i>Acte de Tutelle ou Curatelle</i>) and copy thereof, seven shillings and six pence,.....	7	6
On the closing of every Inventory, five shillings,.....	5	0
For the registration of written instruments, subject to registration, (<i>Insinuation</i>) at the rate of six pence for every hundred words.		
For certificate of Registry, one shilling,.....	1	0

C. POULETT THOMSON.

Ordained and Enacted by the authority aforesaid, and passed in Special Council, under the Great Seal of the Province, at the Government House, in the City of Montreal, the Twenty-fifth day of June, in the Fourth year of the Reign of Our Sovereign Lady Victoria, by the Grace of God, of Great Britain and Ireland, Queen, Defender of the Faith, and so forth, and in the year of Our Lord one thousand eight hundred and forty.

By His Excellency's Command,

W. B. LINDSAY,

Clerk Special Council.

C A P.