

then on the succeeding day; and such opening shall be as effectual to all intents and purposes as if the same had been opened on the very day appointed for that purpose, and shall be deemed and taken to be an opening thereof on the day for that purpose appointed; and all records and other proceedings under or relating to the said Courts which may be opened and read by virtue of this Act, shall and may be drawn up, entered and made out under the same date, and in the same form in all respects, as if such Circuit Courts had been opened on the day originally appointed for that purpose.

Chief Justice or some Justice of the Supreme Court to preside.

Sheriffs, Jurors, &c. to attend, and be liable as at the terms of the Supreme Court.

Provision for the travelling expenses and charges of the Judges holding the Courts.

Limitation.

IV. And be it enacted, That the Chief Justice or some one of the Justices of the Supreme Court for the time being shall attend, be present and preside at such Circuit Court respectively; and the respective Sheriffs for the time being of the several Counties shall make return of all writs and precepts directed to them respectively, returnable at such Circuit Courts; and such Sheriffs and all Coroners, Bailiffs, Constables, and all officers and ministers of the Law in such Counties respectively, and also all Jurors to be summoned, and all parties and witnesses in the causes to be heard and tried at such respective Circuit Courts shall give their attendance at such respective Circuit Courts, and shall be charged and bound in the like manner and under the like pains and penalties for non-appearance and non-attendance, or for any misdemeanor or default at such Circuit Courts respectively, as if at the terms of the Supreme Court.

V. And be it enacted, That there be allowed and paid out of the Treasury of this Province a sum not exceeding two hundred and fifty pounds annually, to defray the travelling charges and expenses of the Judges holding such Circuit Courts; the same to be paid by warrant of the Lieutenant Governor or Commander in Chief, by and with the advice and consent of His Majesty's Executive Council, on the Province Treasury, out of any monies which may be in the same.

VI. And be it enacted, That this Act shall continue and be in force for ten years from the thirty first day of December last.

CAP. V.

An Act relating to Landlord and Tenant.

Passed 22d July 1837.

6 WHEREAS the present mode of proceeding by action of ejectment in order to dispossess tenants wilfully holding over premises after the expiration of their lease, is attended with great inconvenience, delay and expense, and it is considered expedient to give in certain cases a more summary and less expensive remedy;

I. Be it therefore enacted by the Lieutenant Governor, Legislative Council and Assembly, That when any tenant of premises, under a lease for years or less period shall after the expiration of such tenancy, and on due notice to quit having been given, refuse to deliver up such possession to the lessor or person entitled thereto, it shall be lawful for such lessor or person to apply to two of the Justices of the Inferior Court of Common Pleas of the County or City and County within which such premises are situate, and having made oath before such Justices that such tenant has held and occupied such premises (particularly designating in the affidavit whether a messuage or other premises, and where situate,) for a certain period then last past, as tenant to such person, under a demise which had then expired, and that due notice to quit has been given, such Justices shall and may thereupon summon such tenant, giving at least six days notice, to be served either personally

Preamble.

When a tenant shall refuse to give up possession after the expiration of his term, the lessor may apply to two Justices of the Common Pleas, who shall summon the tenant to shew cause, &c.

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personally on the tenant, or in case he cannot be found by leaving the same with his wife, servant or other adult member of the family on the premises, to shew cause at a time and place in such summons to be specified, before such Justices, why such tenant holds over such premises; and in case such tenant shall neglect or refuse to attend such summons, or attending shall not shew sufficient cause to the satisfaction of such Justices for so holding over, they shall issue their warrant in the nature of a writ of possession and execution, directed to the Sheriff of the County or City and County within which such premises may be situate, requiring him forthwith to put such person claiming such premises in possession, and to levy the costs of such proceedings, which execution as to costs shall be regulated and enforced by the provisions of the Act to regulate proceedings before Justices of the Peace in civil suits, and it shall be the duty of such Sheriff to execute such writ agreeably to the direction therein contained.

On neglect to attend, &c. they shall issue a warrant in the nature of a writ of possession and execution.

II. And be it enacted, That if such tenant or other person having an interest in such premises should consider himself aggrieved by the judgment of such Justices, it shall be lawful for the Supreme Court of Judicature in this Province, in term time, on the application of such tenant or other person, and upon sufficient cause shewn therefor by affidavit, to award a *Certiorari* for the removal of such proceedings before such Court, and upon the return of such proceedings such Court shall examine into the matter, and may admit affidavits on either side, and may in case that in the opinion of such Court may require it, direct an issue for trial of facts, and shall order and determine in the matter either by confirming or quashing the proceedings as to justice shall appertain; and such Court may make such orders and rules as may be necessary to carry their proceedings and determination into effect: Provided always, that no such *Certiorari* shall in the meantime stay or suspend the execution of the judgment of such Justices.

Supreme Court may award a *Certiorari* for removing proceedings before such Court, on application of a party considering himself aggrieved.

III. And be it enacted, That in all proceedings had under the provisions of this Act, the party prevailing shall recover his costs and have process therefor, that is to say, for proceedings had before such Justices, the like costs to be by them taxed and allowed as are recoverable for similar services by the Act to regulate proceedings before Justices of the Peace in civil suits, except the Sheriff's fees on the execution of such writ of possession, which shall be the same as for executing a writ of *Habere facias possessionem*, issuing out of the Supreme Court, and all proceedings upon *Certiorari* in the Supreme Court, costs to be levied and recovered in the usual manner.

No *Certiorari* to suspend execution.

Party prevailing to recover costs, and have process therefor.

IV. And be it enacted, That when such proceedings are quashed by the Supreme Court, the said Court may award a writ of restitution, and such tenant or other person may recover against the adverse party in such proceedings any damage which such person may have sustained by reason of such proceedings with costs in an action on the case.

When the proceedings are quashed, the Court may order a writ of restitution.

V. And be it enacted, That in the construction of this Act, words importing the singular number or masculine gender only, shall be understood to include several matters as well as one matter, and several persons as well as one person, and female as well as male, and bodies corporate as well as individuals.

Construction of this Act.

VI. And be it enacted, That the summons and writ of possession and execution shall be in form given by the schedule to this Act annexed, or in words to the like effect.

Form of summons and writ of possession and execution.

VII. And be it enacted, That this Act shall continue and be in force until the first day of April one thousand eight hundred and forty and no longer.

Limitation.

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SCHEDULE.
FORM OF SUMMONS.

Form of sum-
mons.

ss. To
Whereas of hath this day on oath made it appear to us that you have as his tenant occupied [*here describe premises*] for last past under a demise which has expired, and that after being duly notified to quit, you hold over and refuse to give up the possession of said premises; We do therefor, agreeably to the directions of the Act of Assembly in such case made and provided, summon you to appear before us [*here describe day, hour and place*], to shew cause, if any you have, why you should not deliver up to said the possession of said premises. Given under our hands this day of 183 .

L. M.
N. O.

FORM OF WRIT OF POSSESSION AND EXECUTION.

Form of writ of
possession and
execution.

By A. B. and C. D. two of the Justices of the Inferior Court of Common Pleas in and for the County of

To the Sheriff of

Whereas G. H. claiming as lessor of certain premises situate [*here describe premises*] now in the occupation of hath on oath made it appear to us, that the said holds over and refuses to give up the possession of said premises after his demise thereof has expired, and due notice to quit given, and the said having been duly summoned to appear before us agreeably to the direction of the Act of Assembly in such case made and provided, to shew cause why &c., We have adjudged that the said shall be forthwith put in possession of said premises, and shall also recover his costs of proceeding being besides your fees on executing this writ; and we do hereby command you, that without delay you cause the said to have possession of said premises: We also command you that you levy of the goods and chattels of said the sum of adjudged to him for his costs, besides you fees, and for want of goods and chattels whereon to levy, you are required to take the body of said and deliver him to the keeper of the gaol of said County, and the said keeper will take the said into his custody and him safely keep for days, unless the said and your fees be sooner paid; and how you shall have executed this writ, return to us within days from the date hereof. Given under our hands this day of 183 .

A. B.
C. D.

CAP. VI.

An Act to prevent the issue of Private Bank Notes in this Province.

Passed 22d July 1837.

Making, issuing
or passing bills,
notes or drafts
as a circulating
currency de-
clared unlawful.

Exceptions.

I. **BE** it enacted by the Lieutenant Governor, Legislative Council and Assembly, That from and after the passing of this Act it shall not be lawful for any person or persons whomsoever to make, issue, circulate or pass in this Province, any bill, note, draft, check or undertaking for the payment of money, struck from a steel, copper, brass, zinc or other plate of metal, or lithographed, engraved or printed in any way or manner whatsoever, as and for or to serve the purposes of Bank notes or a circulating currency: Provided always, that