

XVII. *Enquêtes* in suits or actions instituted under this Act in the Circuit or Superior Court, shall be taken in writing unless the parties shall otherwise consent; and if in any case by consent of parties the *Enquête* is not taken in writing, it shall be the duty of the Court or Judge before whom such case proceeds, to take minutes of the evidence, which minutes shall be deposited of record, and in the event of such case being appealed, such minutes of evidence shall for the purposes of such appeal, be treated as the evidence adduced in such case.

Enquêtes to be in writing, except by consent, in which case Judge shall take notes.

XVIII. Whenever a writ of *saisie gagerie* shall issue either under this Act or under the common law, to seize the effects of a tenant, the same shall not be left in the guardianship of the defendant without the consent of the plaintiff, or unless he shall offer securities to be approved by the Sheriff or bailiff as the case may be, for the production of the said effects, who shall be liable to the same penalties and obligations therefor as guardians now are under ordinary writs of execution.

*Defendant not to be guardian under *saisie-gagerie*, except by consent or on giving security.*

XIX. The proprietor or lessor may proceed to recover possession of the property leased, if the lessee shall hold over at any time after the expiration of three days after the lease has expired, or after the term of holding has expired.

Holding over for three days to give right of action.

XX. It shall be lawful for the Court or Judge in cases under this Act, to award and tax costs according to the tariff of the Superior Court, in actions instituted in the Circuit Court wherein the amount of all the matters in contestation exceed fifty pounds, and in all cases the costs shall be taxed according to the amount in contestation: Provided that in no case shall the costs be less than what is allowed in an appealable case of the lowest class in the Circuit Court.

Costs in cases under this Act. Proviso:

XXI. Nothing in this Act shall affect any cause or proceeding instituted or commenced before this Act shall have become law, but all proceedings of such nature shall be continued and finally determined and enforced in the same manner as if this law had not been passed.

Pending suits not affected

XXII. This Act shall apply to Lower Canada only.

Extent of Act.

C A P . C I X .

An Act to amend the Judicature Laws with respect to the qualification and appointment of Bailiffs in Lower Canada.

[Assented to 30th May, 1855.]

WHEREAS great inconvenience arises in the administration of justice in Lower Canada, from the want of capacity on the part of a certain number of bailiffs who act as such before the civil tribunals, and it is expedient to subject future

Preamble:

future bailiffs to a more strict examination than that to which bailiffs are at present subject: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, as follows :

- Bailiffs must write English or French grammatically.**
Examination. I. No person shall hereafter be admitted as a bailiff of the Superior Court of Lower Canada and registered as such, unless he be able, at the time of his admission, to write with sufficient grammatical correctness the French or English language ; Every petition addressed to the said Court for the purpose of getting the Petitioner included in the number of bailiffs of such Court, shall be by the Justices thereof, or one of them, referred to the Clerk, who shall examine the candidate and report to the said Court touching his qualifications, both as regards those now required and that required by this Act : and the prayer of such petition shall not be granted, unless it shall appear by the Report of the Clerk that the petitioner can write with sufficient grammatical correctness as aforesaid.
- Report.**
- Fee on examination.** II. The Clerk shall receive from each Petitioner the sum of one pound for each examination, which sum shall include the cost of his Report to the Court.
- Candidate may be rejected tho' qualified as above.** III. Nothing herein contained shall exempt a candidate from the qualification at present required, nor deprive the Court of its discretionary power to reject such Petition, even though the Petitioner should possess the qualification above mentioned.
- Inconsistent provisions repealed.** IV. The provisions of the several Judicature Acts now in force, which may be inconsistent with the provisions of this Act, are hereby repealed.
- Act not to apply to Gaspé.**
Commencement. V. This Act shall apply to Lower Canada only, with the exception however of the District of Gaspé, which shall not be subject to its operation ; and it shall come into force on the first day of September, one thousand eight hundred and fifty-five.

C A P . C X .

An Act to regulate the Proceedings on Forced Licitations, and to give them the effect of Sheriff's Sales
(*Décrets.*)

[Assented to 30th May, 1855.]

Preamble.

WHEREAS it is necessary to provide a more simple and less expensive mode of proceeding to the forced licitation of immovables held *par indivis* in Lower Canada : Be it therefore enacted by the Queen's Most Excellent Majesty, by and