

No polling place to be opened in Lower Canada in parishes, &c., having less than 100 voters.

VII. In Lower Canada that provision of the election laws which directs that when only part of any Parish, Township or place shall lie within a County, no polling place shall be opened within such part, unless there be therein at least one hundred proprietors qualified to vote, shall be understood and taken to dispense with the necessity of opening a poll in a whole Parish or Township or other place when there may not be therein at least one hundred proprietors of lands or tenements qualified to vote; and electors qualified to vote in any such place where no polling place may be opened, may vote at such election at the polling place which shall to them appear most convenient.

Recovery of penalties.

VIII. The penalties imposed by this Act shall be recoverable before or applied by any of Her Majesty's Courts in this Province having competent jurisdiction, in the manner already provided by law for other penalties of a like nature established concerning offences against the laws of elections.

Duration of Act, &c.

IX. This Act shall be in force until the first day of January, in the year one thousand eight hundred and fifty-six, and no longer; but the same may be varied, amended or repealed during the present session.

C A P . I X .

An Act to enable the Superior Courts of Law and Equity to issue process to compel the attendance of Witnesses out of their jurisdiction, and to give effect to the service of such process in any part of Canada.

[Assented to 18th December, 1854.]

Preamble.

WHEREAS great inconvenience arises in the administration of justice from the want of a power in the Superior Courts of Law and Equity to compel the attendance of witnesses resident in one jurisdiction of Canada at a trial or *enquête* in another jurisdiction, and the examination of such witnesses by commission is not in all cases a sufficient remedy for such inconvenience: 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:

Witnesses may be summoned from any part of Canada to attend the Superior Courts in

I. If in any action or suit now or at any time hereafter depending in any of Her Majesty's Superior Courts of Law or Equity in Canada, it shall appear to the Court in which such action is pending, or if such Court is not sitting to any Judge of any such Courts, that it is proper to compel the personal attendance at any trial or *enquête* or examination of witnesses,

of

of any witness who may not be within the jurisdiction of the Court in which such action or suit is pending, it shall be lawful for such Court or Judge, if in their or his discretion it shall so seem fit, to order that a writ called a writ of *subpœna ad testificandum* or of *subpœna duces tecum* shall issue in special form, commanding such witness to attend such trial or *enquête* or examination of witnesses wherever he shall be in Canada; and the service of any such writ or process in any part of Canada, shall be as valid and effectual to all intents and purposes, as if the same had been served within the jurisdiction of the Court from which it issues, according to the practice of such Court; Provided always, that no such writ shall be issued in any case in which an action is now pending or shall be hereafter, or has been already brought for the same cause of action, in that section of the Province, whether Upper or Lower Canada respectively, within which such witness or witnesses may reside.

Civil Cases in either section of the Province, and how.

Proviso.

II. Every such writ shall have at the foot or in the margin thereof, a statement or notice that the same is issued by the special order of the Court or Judge making such order, and no such writ shall issue without such special order.

Special Order to be made.

III. In case any person so served shall not appear according to the exigency of such writ or process, it shall be lawful for the Court out of which the same issued, upon proof made of the service thereof, and of such default, to the satisfaction of such Court, to transmit a certificate of such default, under the Seal of the same Court, to any of Her Majesty's Superior Courts of Law or Equity in that part of Canada in which the person so served shall reside, being out of the jurisdiction of the said Court so transmitting such certificate, and the said Court to which such certificate is so sent, shall and may hereupon proceed against and punish such person so having made default, in like manner as they might have done if such person had neglected or refused to appear to a writ of *subpœna* or other similar process issued out of such last mentioned Court: Provided always, that no such certificate of default shall be transmitted by any Court, nor shall any person be punished for neglect or refusal to attend any trial or *enquête* or examination of witnesses, in obedience to any such *subpœna* or other similar process, unless it shall be made to appear to the Court transmitting and also to the Court receiving such certificate, that a reasonable and sufficient sum of money, according to the rate per diem and per mile allowed to witnesses by the law and practice of the Superior Courts of Law within the jurisdiction of which such person shall be found, to defray the expenses of coming and attending to give evidence and of returning from giving such evidence, had been tendered to such person at the time when such writ of *subpœna*, or other similar process, was served upon such person: And provided also, that the service of such writs of *subpœna*

Punishment of persons not attending in obedience to such summons.

Proviso: reasonable expenses must have been tendered.

Proviso :
Proof of ser-
vice how
made.

subpcena or other similar process in Lower Canada, shall be proved by the certificate of a Bailiff within the jurisdiction where the service is made, under his oath of office, and such service in Upper Canada by the affidavit of service endorsed on or annexed to such writ by the person or persons serving the same.

Costs of at-
tendance how
taxable.

IV. The costs of the attendance of any such witness shall not be taxed against the adverse party to such suit, beyond the amount that would have been allowed on a commission *rogatoire*, or to examine witnesses, unless the Court or Judge before whom such trial or *enquête* or examination of witnesses is had, shall so order.

Act to apply
to cases in
Circuit Court
for Lower
Canada.

V. The several provisions of this Act shall apply to the summoning of witnesses residing within the jurisdiction of the Circuit Court held at any one place, to attend at any trial or *enquête* before the Circuit Court at any other place in Lower Canada.

Act not to
affect power
to examine by
commission.

VI. Nothing herein contained shall alter or affect the power of any such Courts to issue a commission for the examination of witnesses out of their jurisdiction, in any case in which, notwithstanding this Act, they shall think fit to issue such commission.

Act not to
affect admis-
sibility of
evidence.

VII. Nothing herein contained shall alter or affect the admissibility of any evidence at any trial or proceeding, where such evidence is now by law receivable on the ground of any witness being beyond the jurisdiction of the Court, but the admissibility of all such evidence shall be determined as if this Act had not been passed.

C A P . X .

An Act to regulate the time of payment of Bills and Promissory Notes, which may fall due on legal holidays.

[Assented to 18th December, 1854.]

Preamble.

12 Vict. c. 22.

WHEREAS it is expedient to provide for the regulation of Bills of Exchange and Promissory Notes which may fall due on Sundays, legal Holidays, or any of the Holidays mentioned in the twenty-sixth section of an Act passed in the twelfth year of Her Majesty's Reign, chapter twenty-two, intituled, *An Act to amend the law regulating Inland Bills of Exchange, and Promissory Notes, and the protesting thereof, and Foreign Bills, in certain cases*, in Upper or Lower Canada: 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