

*The Provincial Statutes of Canada*, passed in the year 1841. Kingston: Stewart Derbshire & George Desbarats, 1841.

4 & 5 Victoria – Chapter 20

**An Act to provide for the more easy and expeditious administration of Justice in Civil Causes, and matters involving small pecuniary value in that part of this Province heretofore Lower Canada. 18th September, 1841.**

Whereas it is expedient and necessary to provide better 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 that part of this Province which formerly constituted the Province of Lower Canada, 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 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, that the portion of this Province called Lower Canada, except the Inferior District of Gaspé, shall for the purposes of Judicature and of this Act, be divided into such number of Inferior 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 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 that portion of this Province aforesaid, shall be divided into such Inferior Districts, and the limits of such Interior District shall be fixed and appointed, and in such Proclamation it shall also be lawful for the Governor of this Province, with such advice as aforesaid, to appoint the place, in each such Inferior District, at which the District Court hereinafter mentioned shall be held, and also the places in each such Inferior District, at which the Division Courts also hereinafter mentioned shall be held.

II. And be it enacted, that in each of the said several Inferior Districts, into which the portion of this Province aforesaid 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 Judge of each of the said Inferior Districts, at such times and at such place in the said Districts, respectively, as the Governor of this Province, in his said Proclamation shall appoint as aforesaid.

III. And be it enacted, that it shall be lawful for the Governor of this Province for the time being, to appoint a District Judge for each and every of the said Inferior Districts in which a Court shall be established as aforesaid, except the Inferior Districts in which the Borough of Three Rivers, and the Town of Sherbrooke shall be respectively included; and excepting also the Inferior District, in which the City of Montreal shall be included, so long as a certain Ordinance of the Legislature of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled *An Ordinance to facilitate the despatch of the business now before the Court of King's Bench for the District of*

*Montreal*, shall remain in force, as hereinafter provided; and from time to time to remove such Judges, and appoint others in the places of such of them as may be removed, or may die, or resign their offices: Provided always, that until a certain Ordinance of the Legislature of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled *An Ordinance to establish new Territorial Divisions in Lower Canada, and to alter and amend the Judicature, and to provide for the better and more efficient administration of Justice throughout this Province*, shall come into force, the resident Judge of the present District of Three Rivers, shall be also the District Judge of the Inferior District, in which the Town of Three Rivers shall be included, and the Provincial Judge of the District of Saint Francis, shall be also the District Judge of the Inferior District, in which the Town of Sherbrooke shall be included.

IV. And be it enacted, that the said District Courts to be held as aforesaid, shall severally have, except in the cases hereinafter mentioned, cognizance of (and upon, from and after the first day of January next, after the passing of this Act, shall have exclusive 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 exceed six pounds five shillings, currency, and shall not exceed Twenty Pounds, Sterling: Provided always, that if any such Suit or Action shall relate to any fee of office, duty or rent, revenues, 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 Court of King's Bench, for the present District in which such District Court shall sit, or in the Court of Common Pleas of this Province, in that Division thereof, which may sit in the Territorial Division in which such District Court shall sit; and every such exception shall be filed and entered on record, and the suit shall thereupon be removed into the said Court of King's Bench or into the said Court of Common Pleas; which Court shall proceed to determine, in a summary manner, whether the said Exception be well founded, and if it should maintain the said Exception and adjudge the same to be well founded, proceedings shall thereupon be had in such Court, to trial, judgment and execution, according to the rules of the Court; and if the said exception should be overruled, the said Action shall be remitted to the said District Court, there to be heard, tried, and finally determined: Provided always, that nothing herein contained shall be construed to prevent any Court of King's Bench, or any Division of the Court of Common Pleas sitting in Superior Term, from taking cognizance of, hearing, trying and determining any Suit or Action in which a Writ of Capias ad respondendum, shall be sued out, or which shall be of such a nature as that either of the parties may demand that the issue therein be tried by a Jury, or to prevent any such Court from continuing to judgment and execution any Suit or Action commenced and pending therein on the day last above mentioned, although the sum or value of the thing demanded in any such case may be less than twenty pounds sterling.

V. And be it enacted, that no person shall be appointed to be a District Judge, in pursuance of and under the authority of this Act, unless such person be, at the time of his appointment, as aforesaid, an Advocate of five years standing at the Bar in that part of this Province heretofore

Lower Canada; and no such District Judge shall be competent to sit or vote either in the Legislative Council or in the Legislative Assembly of this Province, so long as he shall hold the said Office.

VI. And be it enacted, that every District Judge, except the resident Judge of the present District of Three Rivers, and the Provincial Judge of the present District of St. Francis, and the Commissioner of the Inferior Term of the Court of King's Bench for the District of Montreal, shall within ten days after his appointment, and before proceeding to exercise any authority under this Act, take the following Oath, before one of the Justices of King's Bench or Common Pleas in Lower Canada, who is hereby authorised 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 District Judge of the District of \_\_\_\_\_ by an Act passed in the fifth year of Her Majesty's Reign, intituled, *An Act to provide for the more easy and Expeditious Administration of Justice in Civil Causes and Matters involving small pecuniary value in that part of this Province heretofore Lower Canada*, So help me God:" Which Oath shall be reduced to writing and signed by such District Judge, 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 District Judge after taking the same.

VII. And be it enacted, that it shall and may be lawful for the Judges of the said several Inferior Districts, in which a District Court shall be established as aforesaid, to hold such District Courts as aforesaid, at the places to be appointed by the Governor of this Province as aforesaid, on the days to be appointed by him in the proclamation aforesaid, with regard to each Inferior District, respectively.

VIII. And be it enacted, that the District Judge of the said Inferior Districts, 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 removable by the said Judges, respectively, for culpable neglect or misconduct, and shall be entitled, while engaged in the said Office, to the fees and emoluments specified in the Schedule, to this Act subjoined; and no other or greater fees or emoluments shall be taken or received by them or any of them.

IX. And be it enacted, that every person to be appointed a Bailiff as aforesaid, before he shall act as such, shall enter into a Bond with two sufficient sureties, to Her Majesty, Her Heirs and Successors, in the penalty of one hundred pounds, conditional for the due performance of the duties of the said Office; and it shall be incumbent on the said District Judges of the said Districts, respectively, to enquire 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.

X. And be it 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 District Judge; 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 District Judge of the Inferior District, in which such District Court shall be held, and shall be signed by the Clerk of the said District Court, whose duty it shall be to prepare and make out the same.

XI. And be it 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 action, shall be a summons, in which shall be briefly stated the Cause of Action of the Plaintiff.

XII. And be it enacted, that the said Summons to be issued as aforesaid, shall be served at least three days before the day fixed for the return thereof, with an additional delay proportioned to the distance at which the Defendant shall reside from the place where the Court is held, in the same manner as by Law required for the service of a summons issuing out of Her Majesty's Superior Courts of Civil Jurisdiction in Lower Canada, in Actions instituted therein.

XIII. And be it 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 Inferior District in which such Court shall be established: Provided always, that all the said Defendants be served with such process; and such process issuing out of any District Court, may be served in any other Inferior District by a Bailiff of the Court in such other Inferior District, or of the Court out of which it issued, after it shall have been in either case indorsed by the District Judge of the Inferior District, in which it shall be served; and the Bailiff so serving such process may validly return it and certify the service: And provided also, that where any debt or demand recoverable under this Act, against two or more persons, partners in trade, or otherwise jointly answerable, but of whom one or more shall not reside within the District, it shall be sufficient if one such person be served with the process as hereinbefore directed, and Judgment may be obtained and execution issued against such person notwithstanding others jointly liable may not have been served or sued, reserving always to the person against whom execution may issue, any right which he may have against any other person jointly liable with him.

XIV. And be it 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, (or on one of the Defendants in the cases in which such service is hereby made sufficient) in a summary manner to receive evidence and hear the Plaintiff in support of his demand in such action, and thereupon to 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 suit, such suit 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, and costs against the Defendant.

XV. And be it enacted, that it shall be lawful for the District Judge by whom any such District Court shall be held as aforesaid, in any action depending in the said Court, to authorise 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 examination may lawfully be required and had in other Her Majesty's Courts of Civil Jurisdiction in Lower Canada, 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 Inferior 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, and under and subject to the rules of law in such cases provided.

XVI. And be it enacted, that it shall be lawful for the District Judge of the several Districts in which a District Court is established as aforesaid, in civil causes and matters legally cognizable in such District Court, to issue writs of attachment, against the moveable estate, *Saisie Arret*, *Arret Simple*, *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: Provided always that no writs of *Capias ad Respondendum* shall be issued out of any District Court.

XVII. And be it enacted, that each District Judge shall have power and authority in all cases in which a writ of attachment against the body or against the moveable effects can now by law be issued before Judgment in Lower Canada, to issue writs of *Capias* or attachment against the body or moveable effects or monies according to Law, and to make the same returnable in the Court of King's Bench or in the Division of the Court of Common Pleas within the Jurisdiction whereof he shall hold his District Court.

XVIII. Provided always, and be it enacted, that in cases where such writ of *Capias*, or attachment against the body or effects may issue as aforesaid, the Defendant or Defendants shall be entitled to such relief, on giving security or otherwise to the Sheriff of the District or of the Inferior District (if there be then such Officer) in which such writ shall be executed as he or they would or might be entitled to by law if the same had issued from any Court of King's Bench, or out of any division of the Court of Common Pleas; and in case security be not given the Defendant or Defendants may be committed to the prison of the District (or of the Inferior District if there be then a Sheriff for the same) in which he shall have been attached, until the cause be duly heard or determined, or otherwise settled or disposed of by the parties, and such Defendant or Defendants be released in due course of Law.

XIX. And be it 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 District Judge by whom such District Court shall be held, at the expiration of fifteen days after the rendering of any such judgment, to issue a Writ of Execution attested by him and under the seal of the Court, in the nature of a writ of *Fieri Facias* against goods and chattels; which Writ shall be directed to any of the Bailiffs of the District Court in which such judgment shall have been rendered, who is hereby authorised to levy the sum or sums of money mentioned in such writ, 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 Lower Canada.

XX. And be it enacted, that if to any such writ of execution, as aforesaid, there shall be a return of *Nulla Bona*, or if sufficient goods and chattels of the Defendant cannot be found in the Inferior District to satisfy the judgment and costs, an *Alias* writ of the same nature may issue, directed to the Bailiffs of any other Inferior District named therein, and such writ being indorsed by the District Judge of the Inferior District so named, may be executed within such Inferior District by any Bailiff thereof, and may be by him returned as it might have been in the District out of which it issued: and so of any *Pluries* writ which may be issued thereafter in the same cause.

XXI. And be it enacted, that in all cases where a final judgment for any sum or sums of money exceeding ten pounds sterling, shall have been rendered in any such District Court, it shall and may be lawful for any Court of King's Bench, or for the Court of Common Pleas, in any of its Divisions, upon affidavit made and filed in such Court to its satisfaction, to cause the record of every such judgment to be removed into the said Court of King's Bench or Common Pleas in any of its Divisions as aforesaid, and to issue a writ of execution thereupon to the Sheriff of the District or of any place within the Territorial Division in which the division of the said Court so resorted to shall sit, against the goods and chattels, lands and tenements of the Defendant or Defendants, or against the person of the Defendant in the same manner as upon judgments recovered in any such Court, and the Sheriff to whom any such writ of execution shall be directed shall, and he is hereby authorised to levy such sum as shall be allowed by the said Court or one of the Judges thereof for the ordinary costs of the Plaintiff, subsequent to the said judgment, and of the execution in the said District Court, over and above the money for which such writ of execution shall be issued.

XXII. And be it enacted, that in cases where the District Judge of any Inferior District, by whom a District Court shall be held, shall be a party or interested in any suit to be brought, or disqualified by relationship or otherwise, from taking cognizance of any suit, which suit would otherwise be brought and be cognizable in such District Court, it shall be lawful for the District Court nearest to the District Court so disqualified as aforesaid, to take and have cognizance of such suit, in like manner as of ordinary suits and causes properly cognizable therein, and the service of process in such cases on such District Judge, within his Inferior District, or on any other party there resident, shall have the same effect as if made within the Inferior District in which such District Court shall be held.

XXIII. And be it enacted, that whenever any District Judge of any Inferior District shall, by reason of sickness, absence, or other cause, be rendered incapable or incompetent to sit and exercise judicial functions in the District Court to be held by him in pursuance of this Act, it shall be lawful for the Governor of this Province, by warrant or instrument under his hand and seal, to nominate and appoint a fit and proper person to be and act as the substitute and in the place and stead of such District Judge so disqualified or rendered incompetent as aforesaid; and such substitute so appointed shall have the same powers and authority, during the continuance and in execution of such appointment, as the said District Judge so disqualified or rendered incompetent would otherwise have had.

XXIV. And be it enacted, that in all actions in any District Court, in which the sum of money, or the value of the thing demanded, shall be less than fifteen pounds sterling, 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.

XXV. And be it enacted, that an appeal shall lie from the judgments of the said District Courts hereby constituted to the Court of King's Bench for the present District within which the District Court appealed from shall sit, and to the Court of Common Pleas for this Province, in the division thereof sitting in the Territorial Division in which any such District Court shall sit, in all suits and actions in which the sum of money, or the value of the thing demanded, shall be above fifteen pounds sterling.

XXVI. Provided always, and be it 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 District Judge, 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 District Judge, 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 Court appealed to, if the Judgment appealed from should be affirmed.

XXVII. And be it enacted, that for the purpose of obviating delay and expense in the prosecution of such appeals from the Judgments of the 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 Court to which such appeal shall be as aforesaid, setting forth succinctly the grounds of appeal, and praying for 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 Attornies, 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 Court appealed to 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.

XXVIII. And be it enacted, that it shall be the duty of the District Judge 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 Court to which such appeal may lie, and cause to be filed in the Office of the Prothonotary of such Court, the Judgment, record and proceedings to which such appeal shall relate, together with the evidence which shall 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.

XXIX. And be it enacted, that after the filing of such petition by and on the part of the Appellant as aforesaid, and the transmission of the judgment, record, proceedings, and 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.

XXX. And be it enacted, that the judgments to be rendered by the Court appealed to as aforesaid, on appeals from the District Courts, as aforesaid, shall be final and conclusive, and from such judgments no other or further appeal shall lie.

XXXI. And be it 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.

XXXII. And be it enacted, that the said District Courts, respectively, and the said District Judges, respectively, as well in Court as out of Court, shall have the same power and authority within the said Inferior Districts, respectively, as any Judge of any Court of King's Bench or of the Court of the Common Pleas in Lower Canada, 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.

XXXIII. And be it enacted, that the District Judges, respectively, shall not, during their continuance in office, practise as Advocates, Proctors, or Attornies, and the Clerks of the said District Courts, respectively, shall not, while they hold the said office, practice as Advocates, Proctors, or Attornies in any such Court or in any other Court of Law in this Province.

XXXIV. And be it enacted, that in all actions and proceedings in the said District Courts, respectively, and under their authority, the fees specified in the Schedule to this Act 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 Act; 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 actor service done or performed, as aforesaid, he shall forfeit and pay the sum of fifty 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 Lower Canada, and one half of such penalty shall belong to Her Majesty, Her Heirs, and Successors, and the other half thereof, to the person who shall sue for the same.

XXXV. And be it enacted, that every Cleric 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 is held, a fair and legible table of the fees aforesaid, payable in all actions and proceedings in the said District Court, and such table shall likewise shew 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 such Clerk shall be deemed to be guilty of a misdemeanor, and be liable to be punished accordingly.

XXXVI. And be it enacted, that from and after the first day of January next, after the passing of this Act, so much of a certain Act of the Legislature of Lower Canada, passed in the thirty fourth year of the Reign of His late Majesty King George the Third, and intituled *An Act for the division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned*; or of a certain other Act passed in the tenth and eleventh years of the Reign of His late Majesty King George the Fourth, and intituled *An Act to repeal in part and amend an Act passed in the thirty fourth year of the Reign of His late Majesty, intituled An Act for the Division of the Province of Lower Canada, for amending the Judicature thereof, and for repealing certain Laws therein mentioned, in certain matters relating to the District of Three Rivers*, or of any other Act or Law as requires or makes it lawful, that Inferior Terms or Circuit Courts of the Courts of Kings Bench for the Districts of Quebec, Montreal and Three Rivers, be held by any Judge or Judges thereof, or as vests any power in any Judge or Judges so sitting in Inferior Term, or in any such Circuit, shall be and are hereby repealed.

XXXVII. And be it enacted, that from and after the said first day of January, so much of a certain Act of the said Legislature passed in the third year of the Reign of His late Majesty King George the Fourth, intituled *An Act to erect certain Townships therein mentioned into an Inferior District, to be called the Inferior District of St. Francis*; or of another Act of the said Legislature, passed in the third year of the Reign of His late Majesty King William the Fourth, intituled *An Act to continue for a limited time, and to amend a certain Act therein mentioned relating to the Inferior District of St. Francis*; or of any other Act of the said Legislature as authorises or requires the holding of a Provincial Court, or of any Circuit of such Provincial Court, within the District or Inferior District of St. Francis, shall be, and so much of the said Acts is hereby repealed: Provided always, that nothing herein contained shall be construed to repeal or affect any part of any such Act relating to the Court of King's Bench in and for the said District of St. Francis, or any power of the Provincial Judge in eras a Member of, or with regard to, the said Court.

XXXVIII. And be it further enacted, that a certain Act of the Legislature of the late Province of Lower Canada, 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 the said late 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 Quebec, Montreal and Three Rivers, and for other purposes*, shall from and after the said first day of January, be and the same are hereby repealed.

XXXIX. And be it enacted, that no Suit, Action, Cause or Proceeding which shall be pending in the Inferior Term of any of the said Courts of King's Bench, or in the Provincial Court of the District of St. Francis, on the said first day of January, shall be therefore abated, discontinued or annulled; but the same shall be transferred in their present condition into the District Court for the Inferior District within which, respectively, the places where such Courts of King's Bench and Provincial Court are now held shall be included, and other and further proceedings shall be had therein, as if the same had originally commenced in such District Court.

XL. And be it 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 said first day of January, be transmitted into and make part of the records, registers, muniments and judicial and other proceedings of the District Courts of the Inferior Districts, in which the place at which they shall have been respectively brought shall be situate, or to the Division Court nearest to the said places, respectively, that is to say: to the said District Court, in all cases where the sum of money, or thing demanded shall exceed six pounds five shillings, currency, and to the said Division Court when it shall not exceed that sum.

XLI. And be it enacted, that no judgment, order, rule or act of the said respective Circuit Courts of Requests, legally pronounced, had or done before the said first day of January next, shall be hereby avoided; but shall remain in full force as if this Act 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 shall subsist and depend in the several and respective District Courts or Division Courts, 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 District Courts, and Division Courts, to judgment and execution, as might have been had in the said District Courts or Division Courts if the suit had commenced therein.

XLII. And be it enacted, that at the place where the District Court shall be held in each Inferior District, and at each of the places appointed by the Proclamation aforesaid, as those at which Division Courts, shall be held, there shall be held by the District Judge a Division Court which shall have the jurisdiction and powers, hereinafter mentioned; and the Division Courts in each Interior District shall be distinguished by numbers assigned to them respectively in the said Proclamation,

that which shall be held at the same place with the District Court being called the Division Court number one.

XLIII. And be it enacted, that the several Division Courts in each District, shall be held at such times as the Governor of this Province shall appoint in the Proclamation hereinbefore mentioned.

XLIV. And be it enacted, that in case of the illness or unavoidable absence of the Judge of any such Division Court it shall be lawful for such Judge to appoint some other person who would be otherwise qualified to be appointed a Judge of such Division Court to act as his Deputy, and every person so appointed, shall, during the time for which he shall be so appointed have all the powers and privileges and be subject to all the duties of the Judge by whom he shall have been so appointed, as to the Division Courts only; and notice of every such appointment shall be forthwith sent by the Judge or Deputy Judge to the Governor of this Province, and such notice shall specify the name and residence of the Deputy Judge, and the cause of his appointment., and no such appointment shall be continued for more than one calendar month without a renewal of the like notice, and it shall be lawful for the Governor to annul any such appointment of which he shall disapprove.

XLV. And be it enacted, that for every Division Court holden under the authority of this Act there shall be a Clerk, and the Judge of the District Court shall from time to time appoint, and at his pleasure remove the Clerks of the Courts holden by him: Provided always, that the Clerk of the District Court shall be the Clerk of the Court, for the Division within which his office is situate; and the Bailiffs of the District Court, shall be the Bailiffs of each Division Court in the District, and the security given by them shall extend to their Acts as Bailiffs of such Division Courts.

XLVI. And be it enacted, that it shall be lawful for the Clerk of any such District or Division Court, (with the approval of the Judge thereof,) to appoint from time to time, a Deputy to act for him in the office of Clerk of the Court, at any time when he shall be prevented by illness or other unavoidable accident from acting in such office, and to remove such Deputy at his pleasure: and such Deputy, during the time for which he shall be so appointed, shall have the like powers and privileges, and be subject to the like duties as if he were the Clerk of the Court for the time being: and the Clerk of the Court shall be civilly responsible for all the Acts and Omissions of his Deputy.

XLVII. And whereas it is not expedient, that the emoluments of any Judge, should be increased or diminished in consequence of any increase or diminution in the number of suits brought before him and the amount of litigation in the Courts and District for which he may be such Judge: Be it therefore enacted, that the Clerk of every District Court, shall be the receiver of the Judge's Fees in the District Court, and in the several Division Courts within his District; and every such Clerk, shall be paid a percentage of five pounds on every hundred pounds of the gross produce of the Fees of the Courts of which he is Receiver; and every District Judge shall be paid by a certain salary; the salary of a Judge being in no case more than five hundred pounds, or less than three hundred pounds, yearly; and the Bailiffs of the Court shall be paid by the Fees hereby allowed to them; and the Governor in Council shall fix the remuneration to be paid to the District Judges, having due regard to the population of the several Inferior Districts and Divisions; and the remuneration to be

paid to the Judges, may be increased, or as vacancies shall occur may be diminished by the same authority by which they shall be first fixed: Provided always, that nothing in this section shall extend to the Resident Judge of the District of Three Rivers, the Provincial Judge of the District of St. Francis or the Commissioner of the Inferior Term aforesaid, each of whom shall receive the salary attached to their said offices and no other, although they be at the same time District Judges, and in the Inferior Districts in which they shall be such District Judges, the fees payable to the Fee Fund shall, after deducting any authorised charges thereon, be paid to the Receiver General, and shall form part of the consolidated Revenue Fund of this Province.

XLVIII. And be it enacted, that the Clerk of each District or Division Court shall issue all summonses, warrants, precepts, and writs of execution, and register all orders and judgments of the Court, and keep an account of all such summonses, executions, and other process of the Court, and shall take charge of and keep an account of all Judge's Fees and Fines payable or paid into Court, and of all suitors' money paid into and out of Court, and shall enter an account of all such Fees, Fines and Monies in a book to be kept by him for that purpose, which book shall be open to all persons desirous of searching the same on payment of sixpence for each search, and shall from time to time, and at such time as shall be directed and appointed by the Governor, submit his accounts to be audited or settled by the Inspector General, or such other person as the Governor shall appoint to audit the same; and the Bailiffs of the Division Court shall serve all summonses and execute all such orders, warrants, precepts and writs.

XLIX. And be it enacted, that there shall be payable on every proceeding in the Division Courts holden in pursuance of this Act, and to the Bailiffs of the Court, such Fees as are set down in the Schedule to this Act annexed, or which shall be set down in any Schedule of reduced Fees under any power to be hereafter given for that purpose, and none other; and a table of such Fees shall be hung up in some conspicuous place in the offices of the several Clerks of Division Courts, and the Fees on every proceeding shall be paid in the first instance by the Plaintiff on or before such proceeding, and the Bailiff's Fees upon executions shall be paid to the Clerk of the Court, at the time of the issue of the precept of execution, and shall be paid over by such Clerk to the Bailiff upon the return of the precept of execution and not before: Provided always, that if the Bailiff shall neglect to make a return of any summons, process or execution within the time required by Law, he shall for each such neglect forfeit his Fees on such summons, process or execution; and all Fees so forfeited shall be accounted for and paid by the Clerk of the Court, to the Clerk of the District Court, to form part of the General Fee Fund.

L. And be it enacted, that the Clerk of each Division Court shall from time to time, and as often as he shall be required so to do by the Clerk of the District Court, deliver to him a full account in writing of the Judge's Fees received in such Court under the authority of this Act, and a like account of all fines levied by the Court, (accounting for and deducting the reasonable expenses of levying the same, and any allowance which the Judge may have made out of any such fine in pursuance of the power herein given,) and a like account of the monies paid into and received out of any Court by the Defendants and Plaintiffs in the said Court, under any orders and decrees of the Court, or under process of the Court, and of the balance then remaining in Court belonging to the Plaintiffs or Defendants in the Court: and the amount of such Fees from time to time received

by such Clerk, shall be paid over from time to time to the Clerk of the District Court, (such payment being made at least once in every three months,) and shall with the Judge's Fees and the fines paid into the District Courts as aforesaid, form part of a fund to be called the District Fee Fund, which fund shall be applied for or towards the payment of the salary of the Judge.

LI. And be it enacted, that the Clerk of every District Court, shall on or before the 30th day of June, and the 31st day of December, in every year, render to the Inspector General of this Province, a true account in writing of all monies received, and of all monies disbursed by him on account of the District Court and of the Division Courts, holden under the authority of this Act, during the period comprised in such account, (in such form and with such particulars as the said Inspector General shall from time to time require,) after first paying over to the Judge, the amount due to him for his salary up to the time which the account is rendered; and shall within ten days after the rendering of every such account, pay over any balance of such Fees and Monies to the Receiver General of this Province to form part of the consolidated Revenue Fund thereof; and if default shall be made in such payment, the amount due by the said Clerk shall be deemed a privileged debt to Her Majesty.

LII. And be it enacted, that in case the amount of Fees received in the District Court and Division Courts in any District shall not be sufficient to defray the disbursements required on account of such Courts, and the salary of the Judges during the periods comprised in the said account, it shall be lawful for the Governor of this Province, forthwith to issue his warrant on the Receiver General of this Province in favour of the Clerk of the District Court, for the amount which shall be required to make up the deficiency, and the amount of such warrant shall be charged upon the consolidated Revenue Fund of this Province.

LIII. And be it enacted, that the accounts to be kept by the several Clerks of the District Courts, on account of the said District Court and of the Division Courts, shall be deemed public accounts, and shall be enquired into and audited, as such, and shall be within any provision of law now in force or hereafter to be in force for auditing public accounts.

LIV. And be it enacted, that if any person having resigned or having been removed from the office of Clerk of a District Court, or of a Division Court, shall neglect after twenty one days notice to such person, to account for and pay to the Clerk of the District Court for the time being, or to such person as he shall appoint to receive the same, all such sums as shall remain in his hands of monies received under the authority of this Act, it shall be lawful for such Clerk of the District Court, for the time being, in his own proper name only, or by his name and description of office, to sue for and recover the same from such person with double costs of suit, in any Court of Record in this Province having competent jurisdiction, in which action it shall be sufficient for such Clerk of the District Court to declare as for money had and received to the use of such Clerk of the District Court, for the purposes of this Act; and the Court in which the action shall be brought may at the instance of either of the parties, refer the account in dispute in a summary manner, to be audited by any officer of the Court or other fit person, who shall have power to examine both Plaintiff and Defendant upon oath: and upon the report of the referee, (unless either of the parties shall shew good cause to the contrary,) the Court may make a rule either for the payment of such sum as

upon the report shall appear to be due, or for staying the proceedings in the action, and upon such terms and conditions as to the Court shall appear reasonable; or the Court may order judgment to be entered, as by confession, for such sum as upon the report shall appear to be due.

LV. And be it enacted, that in case of the death of any person during the time that he shall be holding the office of Clerk of a District Court or of Clerk of any Division Court, or after he shall have resigned, or be removed from such office, the Clerk of the District Court for the time being, may in his own proper name and description of office, sue for and recover from the executors or administrators of such person deceased, all such sums as shall have been remaining in his hands, of money received under the authority of this Act, in any Court of Record in this Province having competent jurisdiction, in which action it shall be competent for the Plaintiff, to declare that the deceased was indebted to the Plaintiff for money had and received to his use for the purposes of this Act, or that the deceased died possessed of money had and received for the purposes of this Act, whereby an action hath accrued to the Plaintiff to demand and have the same from such executors or administrators; and a like action may be brought against any executors, or administrators of executors or administrators; and in all such actions the Defendant or Defendants may plead in like manner, and avail themselves of the like matters in the defence as in any action founded upon simple contracts of the original testator or intestate, and the Court may refer the account in dispute to be audited by any officer or person, and may proceed upon the report of such referee in like manner as in the case mentioned in the next preceding section.

LVI. And be it enacted, that in all actions to be brought as well as in all proceedings whatsoever to be instituted or carried on, as aforesaid, by any Clerk of a District Court, by virtue of this Act, proof of his acting in the execution of the office of the Clerk of the District Court, shall be sufficient evidence of his holding such office, unless the contrary shall be shewn in evidence by the Defendants in such action, or the parties against whom such proceeding shall be instituted and carried on.

LVII. And be it enacted, that the Clerk of each District Court and also every Clerk of a Division Court who shall receive monies in the execution of their duties, shall give security for such sum, and with so many sureties, and in such manner and form as the Governor of this Province shall see reason to direct, for the due performance of their several offices, and for the due payment of all monies received by them under any provision of this Act.

LVIII. And be it enacted, that the Judge at every Division Court established under this Act, shall have power, jurisdiction and authority to hold plea of all debts or contracts of the nature of those cognizable in the District Courts, when the subject matter of the demand shall not exceed the sum of six pounds five shillings, currency, and to hear and determine the same in a summary way; and every such Judge shall have power to make such orders, judgments and decrees thereupon, as shall appear to him to be just, and agreeable to equity and good conscience; and that upon any contract for the payment of a certain sum in labour, or in any kind of goods or commodities, or in any manner otherwise than in money, it shall be lawful for the Judge, after the day has passed on which the goods and commodities should have been delivered, or labour or other things performed, to give judgment for the amount in money, as if the contract had been so originally

expressed, and this provision shall extend also to matters brought before any District Court: Provided always, that no action shall be brought in any such Division Court for any gambling debt nor for any spirituous or malt liquors drunk in a tavern or ale house: Provided also, that nothing contained in this Act shall be construed to constitute and create the said Division Courts, Courts of Record.

LIX. And be it enacted, that the Plaintiff, in any suit brought in any Division Court, shall enter a copy of his account or demand in writing, which shall be numbered according to the order in which it shall be entered, and thereupon a summons bearing the number of the account or demand on the margin thereof, shall be issued, which shall be in substance, in the form of the Schedule to this Act annexed, according to the nature of the demand; and a copy of such summons to which shall be attached a copy of such account or demand, shall be served on the Defendant three days at least before the day on which the Division Court shall be holden at which the cause shall be tried, and delivery of such copies of summons and account or demand to the Defendant, or delivery thereof to his wife or servant or any grown person, being an inmate of his dwelling house, or usual place of abode, trading or dealing, shall be deemed a good service of such summons.

LX. And be it enacted, that no such summons shall be issued, unless the Plaintiff shall, at the time of entering his account or demand, deposite with the Clerk of the Court for every claim not exceeding twenty shillings, the sum of one shilling; and for every claim exceeding twenty shillings, one twentieth part thereof, (neglecting any sum less than six pence, in estimating such twentieth part,) and if upon the day of the return of any such summons or at any continuation or adjournment of the said Court or of the cause for which the said summons shall have issued, the Plaintiff shall not appear in person or by some other person in his behalf, or appearing shall not make proof of his demand to the satisfaction of the Court, it shall be lawful for the Judge, if he shall think fit, to award to the Defendant a part or the whole of such deposite money, by way of costs and as satisfaction for his trouble and attendance, with such further sum as the Judge, in his discretion shall, think fit, and to order and compel the Plaintiff to pay such further sum, by such ways and means as any debt ordered to be paid by the said Court, can be recovered; but so much of the said deposite money as shall not be awarded to the Defendant, shall be returned on demand to the Plaintiff.

LXI. And be it enacted, that any suits brought under this Act, and of a nature to be tried at a Division Court, may be brought and tried at any Division Court within the Inferior District, at the District Court for which it might be brought if the sum demanded were more than six pounds five shillings; but if any such suit be brought at any Division Court other than that nearest to the place where the Defendant or Defendants actually served with process shall reside, no more costs shall be recovered by the Plaintiff, than if the suit had been brought at the nearest Division Court; and if judgment be given for the Defendant such additional sum may be awarded to him for his trouble and attendance as the Judge in his discretion may deem meet.

LXII. And be it enacted, that it shall not be lawful for any Plaintiff to divide any cause of action into two or more suits for the purpose of bringing the same within the jurisdiction of any Division

Court; but any Plaintiff having a Cause of Action above the value of six pounds five shillings, for which a suit might be brought at a Division Court, if the same were not above the value of six pounds five shillings, may abandon the excess, and thereupon the Plaintiff shall, on proving his case, recover to an amount not exceeding six pounds five shillings; and the judgment of the Court upon such suit shall be in full discharge of all demands in respect of such Cause of Action, and the Entry of Judgment shall be made accordingly.

LXIII. And be it enacted, that it shall and may be lawful for any person under the age of twenty-one years, and above sixteen years, to prosecute any Suit in a Division Court, under this Act, for any sum of money not exceeding six pounds five shillings, which may be due to him or her for wages, in the same manner as if he or she were of full age.

LXIV. And be it enacted, that on the day named in the Summons, the Plaintiff shall appear in the Division Court in person, or by some person in his or her behalf, and thereupon the Defendant shall be required by himself or herself, or by some person in his or her behalf, to answer, and on answer being made in Court, the Judge shall proceed in a summary way to try the cause, and give judgment without further pleading or formal joinder of issue.

LXV. And be it enacted, that no evidence shall be given by the Plaintiff, on the trial of any such cause aforesaid, of any cause of action except such as shall be stated and contained in the demand or account entered as hereinbefore directed.

LXVI. And be it enacted, that in any Division Court all Defendants shall be allowed, without filing any incidental demand, to set off any debt or demand not exceeding six pounds five shillings, claimed to be due to them from the Plaintiff, or to set up by way of defence, and claim and have the benefit of any prescription of the debt: Provided always, that if the Defendant's set off as proved, exceed the claim proved by the Plaintiff, the Court may give judgment in favour of the Defendant for such balance, as may appear due from the Plaintiff, with costs of suit: Provided also, that no such defence shall be admitted on the hearing or trial of any cause under this Act, unless notice thereof in writing shall have been delivered to the Plaintiff, or left for him at his usual place of abode or business, three days at least before the trial.

LXVII. And be it enacted, that if on the day named in the summons the Defendant shall not appear as aforesaid, or sufficiently excuse his or her absence, or shall neglect to answer, the Judge, on proof of the service of the summons, may proceed to the hearing or trial of the cause on the part of the Plaintiff; and the order or judgment thereupon which shall be given, made or rendered after hearing the evidence to be adduced on the part of the Plaintiff shall be final and absolute, and as valid as if both parties had attended: Provided always, that the Judge may make any order for granting time to the Plaintiff or Defendant to proceed in the prosecution or defence of the suit.

LXVIII. And be it enacted, that it shall and may be lawful for the Defendant in any action brought at any Division Court, at any time before the day appointed for the trial thereof, to pay into Court such sum of money as he shall think a full satisfaction for the demand of the Plaintiff, together with the costs incurred by the Plaintiff up to the time of such payment; and notice of such



payment shall be forthwith communicated by the Clerk of the said Court to the Plaintiff, by Post or by sending the same to his usual place of abode or business, and the said sum of money shall be paid to the Plaintiff, and all proceedings in the said action shall be stayed unless the Plaintiff shall within three days after the receipt of notice of such payment, signify to the Clerk of the said Court his intention to proceed for the remainder of the demand claimed; and in such case the action shall proceed as if it had been brought originally for such remainder only: Provided always, that if the Plaintiff shall recover no further sum in the action than such sum as shall have been paid into Court under the provision hereinbefore contained, the Plaintiff shall pay to the Defendant all costs, charges and expenses incurred by him in the said action after such payment as aforesaid, and such costs, charges and expenses shall be settled by the Court, and shall be recovered by the Defendant by such ways and means as any debt ordered to be paid by the Court can be recovered.

LXIX. And be it enacted, that on the trial of any such suit, the parties thereto, being credible persons, and all other credible persons whosoever may be examined upon oath or affirmation (being of any of the classes allowed by Law to affirm in any judicial proceedings,) which the Judge shall openly cause the Clerk to administer to each party or witness at the time of his giving his evidence touching the matters in dispute, without regard to any objection on the ground of incompetence from interest, relationship or other like cause: Provided always, that judgment shall in no case be given for either party in any action for any sum, on the oath or affirmation of the Plaintiff or Defendant respectively, without other sufficient evidence, except where the matter may have been referred by one party to the oath of the other, or the Judge may have required the suppletory oath of the party to perfect the evidence.

LXX. And be it enacted, that every person who in any examination shall wilfully and corruptly give false evidence, shall be liable to the penalties of wilful and corrupt perjury.

LXXI. And be it enacted, that either of the parties to the suit may obtain from the Clerk of the Division Court, wherein the same shall be brought, summons to witness, with or without a clause requiring the production of books, papers and writings in their possession or controul; and in any such summons any number of names may be inserted, and service of any such summons by any Bailiff of the District Court, shall be valid and effectual service; and every person, whether a party to the suit or not, on whom any such summons shall have been served, either personally or at his or her usual place of abode, and to whom at the same time, a tender of payment of his or her reasonable expenses shall have been made, and who shall refuse or neglect, without sufficient cause, to appear or produce any books, papers, or writings required by such summons to be produced, and also every person in Court called upon to give evidence and who shall refuse to be sworn and give evidence, shall forfeit and pay such fine not exceeding six pounds five shillings, currency, as the Judge shall set on him or her; and such fine shall be recoverable in any Division Court (in whatever District it may be) in the jurisdiction of which the party so refusing shall then be; and the whole or any part of such fine, in the discretion of the Judge (after deducting the costs) shall be applicable towards indemnifying the party injured by such refusal or neglect, and the remainder thereof shall form part of the District Fee Fund before mentioned.

LXXII. And be it enacted, that any fine imposed under the authority of this Act, may be levied by the same process as any debt recovered in the same Court, and shall be accounted for as herein provided.

LXXIII. And be it enacted, that no action brought in any Division Court holden according to the provisions of this Act, nor any order, judgment or proceeding therein, shall be removed into any Superior Court, by any writ or process whatever; but every such order, and judgment made by the Judge in any Division Court, shall be final and conclusive between the parties; saving always, that if the Defendant shall plead that the suit is not of the nature of those cognizable at a Division Court, such exception may be brought, heard and determined as exceptions of a like kind may be if made in suits brought, in a District Court.

LXXIV. And be it enacted, that the Clerk of each Division Court, shall cause a note of all summonses, and of all orders, and of all judgments and executions, and returns thereto, to be fairly entered from time to time, in a book which shall be kept at his office: and such Clerk shall sign his name on every page of such book; and the entries in the said book so signed, or a copy thereof purporting to be signed and certified as a true copy by such Clerk, shall at all times be admitted in all Courts and places whatsoever, as evidence of such entry or entries and of the proceeding referred to by such entry or entries, without any further proof.

LXXV. And be it enacted, that the Judge may make orders concerning the time or times, and the proportion in which any sum and costs recovered by Judgment of any Division Court, shall be paid, and at the request of the party entitled to the same, may order such sums to be paid into Court: Provided always, that in any such order for time, reference shall be had to the day on which the summons was served on the Defendant, and the issuing of execution shall not be postponed without the consent of the party entitled to the same, for a longer period than thirty days from the service of the summons.

LXXVI. And be it enacted, that if there be cross judgments between the parties, execution shall be taken out by that party only, who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the remainder shall be entered as well as satisfaction on the judgment for the smaller sum; and if both sums shall be equal satisfaction shall be entered upon both judgments.

LXXVII. And be it enacted, that no suit shall be brought in any Court for the recovery of any sum awarded by any judgment in a Division Court held under this Act.

LXXVIII. And be it enacted, that whenever the Judge of any Division Court shall have made an order for the payment of money, it shall be lawful for the said Judge immediately, or in case of default or failure of payment thereof, at the times and in the manner thereby directed, to award execution against the goods and chattels of the party against whom such order shall be made, and thereupon the Clerk of the Court, at the request of the party prosecuting such order for the payment of money, shall issue a precept in the nature of a writ of *Fieri Facias* to one of the Bailiffs of the Court, who, by virtue of such precept, shall levy by distress and sale of the goods and

chattels of such party, being within the Inferior District in which the said Court was holden, such sum of money-and costs as shall be so ordered.

LXXIX. And be it enacted, that it shall be lawful for any Bailiff of the Court, to whom a precept of execution, issuing out of any Division Court, shall be directed against the goods of any party according to the provisions of this Act, in case he shall not find sufficient goods and chattels of such party within the Inferior District in which such Division Court is holden, to apply to any Justice of the Peace acting for and within any other Inferior District in Lower Canada, in which the goods and chattels of such Defendant shall be, and such Justice of the Peace is hereby authorised and required upon such Bailiff producing the precept and making oath (which such Justice is hereby empowered to administer) that the same has been duly issued out of the said Division Court and that the goods and chattels of the Defendant are not to be found within the District in which such Division Court is held, but are believed by such officer to be within the District where such Justice acts, to sign his name on the back of such precept, and thereupon, such Bailiff shall have power to take the goods and chattels of such Defendant wheresover the same shall be found within such Inferior District, and deal therewith in like manner as if the same had been taken within the Inferior District within which the said Division Court is held, and all constables and other Peace officers are hereby required to be aiding within their respective Jurisdictions, in the execution of the precept so endorsed.

LXXX. And be it enacted, that no sale of any goods which shall be taken in execution on process issuing out of any District or Division Court, shall be had until after the end of eight days at least next following the day on which such goods shall have been so taken, unless upon the request in writing under the hand of the party whose goods shall have been taken; and public notice in writing shall be given (in the manner by law provided in like cases with regard to execution issuing out of other Courts) within the City, Town, Parish, or Township where such goods were taken, of the time and place of such sale, at least eight days before the same shall take place.

LXXXI. And be it enacted, that upon every precept of execution awarded against the goods and chattels of any person whomsoever, the Clerk of the Division Court, out of which such execution shall issue, shall cause to be endorsed the sum of money and costs adjudged: and if the party against whom such execution shall be awarded, shall before an actual sale of the goods and chattels pay or cause to be paid or tendered, to the Bailiff to whom the precept shall have been delivered such sum of money as aforesaid, or such part thereof as the Plaintiff shall agree to accept in full of his debt, together with the fees herein directed to be paid, the execution shall be superseded, and the goods and chattels shall be released and restored to the said party.

LXXXII. And be it enacted, that every opposition to any seizure or proceeding on any process of execution issued out of any District or Division Court under the authority of this Act, shall be heard and determined in the Court out of which such process shall have issued, and in a manner as nearly as may be possible similar or analogous to the mode of proceeding in such Court in other cases where the sum in dispute is of the like class in amount.

LXXXIII. And be it enacted, that if any person shall willfully insult the Judge of any Division Court, during his sitting or attendance in Court, or shall willfully interrupt the proceedings of such Court, it shall be lawful for any Bailiff or Officer of the Court, with or without the assistance of any other person but by order of the Judge, to take such offender into custody; and the Judge may impose upon such offender a fine and may also in his discretion commit such offender to Gaol.

LXXXIV. And be it enacted, that if any Bailiff or Officer of any District Court, acting under colour or pretence of the process of such Court, shall be guilty of extortion or misconduct, or shall not duly pay or account, for any money levied or received by him, under the authority of this Act, it shall be lawful for the Judge, at any sitting of the Court or of any Division Court, if the party aggrieved shall think lit to complain to him, to enquire into such matter in a summary way and for that purpose to summon and enforce the attendance of all necessary parties, and to make such order thereupon for the repayment of any money extorted, or for the due payment of any money so levied or received as aforesaid, and for the payment of such damages and costs to the parties aggrieved, as the Judge shall think just; and in default of any money so ordered to be paid by such Bailiff within the time specified for the payment thereof in such order, it shall be lawful for the Judge, by warrant under his hand and seal, to cause such sum to be levied by distress and sale of the goods of the Offender, together with the reasonable charges of such distress and sale, and in default of such distress, to commit the Offender to the Common Gaol of the District, for any period not exceeding three Calendar months.

LXXXV. And be it enacted, that if any Clerk, Bailiff or other Officer, employed in putting this Act, or any of the powers thereof into execution, shall exact, take or accept any fee or reward whatsoever, other than, and except such fees as are or shall be appointed and allowed respectively, as aforesaid, for or on account of any thing done or to be done by virtue of this Act, or on any account whatsoever relating to putting this Act into execution every such person so offending shall, upon proof thereof before the District Court, be for ever incapable of serving or being employed under this Act, in any Office of profit or emolument, and shall also be liable in damages to the party aggrieved.

LXXXVI. And be it enacted, that in case any action shall be prosecuted after the commencement of this Act in any Superior Court of Record, for any cause which might have been entered in a District or Division Court under this Act or in any District Court for any cause which might have been entered at a Division Court, and the Judgment shall be for the Plaintiff, such Plaintiff shall have judgment to recover such sum awarded only, and no costs, and shall have execution only against the goods and chattels of the Defendant, and shall not at any time be allowed to maintain any action on such judgment, in any Court; and if a Judgment shall not be found for the Plaintiff, the Defendant shall be entitled to his costs as between Attorney and Client, unless in either case, the Judge who shall try the cause shall certify on the back of the Record, that the Plaintiff had a probable cause of action for the debt, or damages sought to be recovered in such action, to an amount exceeding the Jurisdiction of a District Court or of a Division Court as the case may be.

LXXXVII. And be it enacted, that when any levy or seizure shall be made, for any sum of money to be levied by virtue of this Act, the seizure itself shall not be deemed unlawful, nor the party or

parties making the same, be deemed a trespasser or trespassers on account of any defect or want of form in the information, summons, conviction, warrant, precept or other proceeding relating thereto: nor shall the party or parties seizing, be deemed a trespasser or trespassers from the beginning on account of any irregularity which shall afterwards be committed in so seizing; but the person or persons aggrieved by such irregularity, shall and may recover full satisfaction for the special damage.

LXXXVIII. And be it enacted, that no order or Judgment, or other proceedings made in any Division Court, concerning any of the matters aforesaid, shall be quashed or vacated for any matter of form.

LXXXIX. And for the protection of persons acting in the execution of this Act, be it enacted, that all actions and prosecutions to be commenced against any person for any thing done in pursuance of this Act, shall be laid and tried in the District where the fact was committed, and shall be commenced within six calendar months after the fact was committed and not afterwards or otherwise: and notice in writing of such action, and of the cause thereof shall be given to the Defendant, one calendar month at least before the commencement of the action, and no Plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought, or if after action brought a sufficient sum of money shall have been paid into Court with costs, by or on behalf of the Defendant.

XC. And be it enacted, that in construing this Act, the word "person" shall be taken to comprehend a body politic or corporate as well as an individual: and that every word importing the singular number, shall when necessary to give full effect to the enactments herein contained, be deemed to extend and be applied to several persons or things, as well as one person or thing; and that every word importing the masculine gender shall where necessary extend and be applied to a female as well as a male: and that the words "Lower Canada" shall be taken to mean that portion of the Province formerly constituting the Province of Lower Canada.

XCI. And be it enacted, that a certain Ordinance of the Legislature of the late Province of Lower Canada, passed in the fourth year of Her Majesty's Reign, and 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*, shall be and is hereby repealed.

XCII. And be it enacted, that so much of a certain Ordinance of the said Legislature passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to amend a certain Ordinance of the Legislature of this Province, made and passed in the fourth year of the Reign of Her Majesty, intituled, An Ordinance to establish New Territorial Divisions of Lower Canada, and to alter and amend the Judicature, and provide for the better and more efficient administration of Justice throughout this Province*, and also a certain other Ordinance, of the same Legislature, made and passed in the same year, intituled, *An Ordinance to provide for the more easy and expeditious administration of Justice in civil causes and matters involving small pecuniary value and interest throughout this Province*, or of a certain Ordinance of the said Legislature passed in the same year, and intituled, *An Ordinance for the better regulation of the office of Sheriff*, or of a certain

Ordinance of the said Legislature passed in the same year and intituled, *An Ordinance to amend two certain Ordinances therein mentioned relative to the administration of Justice in this Province and to make other and further provision on the same subject*, as vests any judicial power in any Sheriff or Deputy Sheriff, or relates in any way to the exercise of any such power, or to the Division of Lower Canada into Districts for the purposes of Judicature, or to the jurisdiction of any District Court, and so much of the said Ordinances or of any of them, or of any other Act or Law as may be in any way repugnant to or inconsistent with the provisions of this Act, shall be and is hereby repealed.

XCIII. And be it enacted that it shall be lawful for the Governor of this Province, by Proclamation under the great Seal thereof to fix and appoint the day from and after which a certain Ordinance passed in the fourth year of Her Majesty's Reign and intituled, "*An Ordinance to establish New Territorial Divisions of Lower Canada, and to alter and amend, the Judicature, and provide for the better and more efficient administration of Justice throughout this Province*" and also such parts of the several Ordinances mentioned in the next preceding section as are not yet in force and are not repealed by this Act, shall come into force and the same shall have force and effect from the day appointed for that purpose in such Proclamation and not before; any tiling in any of the said Ordinances or in any Law, to the contrary notwithstanding: Provided always, that the day so to be fixed by such proclamation shall not be later than the thirty-first day of December, which, will be in the year of Our Lord one thousand eight hundred and forty-two: Provided also that whenever the said Ordinance shall be brought into force, it shall be lawful for the Governor, Lieutenant Governor, or Person administering the Government, to appoint a Sheri if for each of the Inferior Districts into which this Province shall be divided, and by a Proclamation issued as aforesaid to divide the District of Gaspé into Inferior Districts, or to constitute the same an Inferior District for the purposes of this Act, and to appoint the times and places of holding District and Division Courts in such Inferior District or Districts to which all the provisions of this Act shall thenceforward apply.

XCIV. And be it enacted, that a certain Ordinance of the Legislature of Lower Canada, passed in the fourth year of Her Majesty's Reign, and intituled, *An Ordinance to facilitate the despatch of the business now before the Court of King's Bench for the District of Montreal*, shall remain in force until the Thirty-first day of December, in the year of our Lord, One Thousand Eight Hundred and Forty-two, and no longer: Provided always, that if the Ordinance mentioned in the next preceding section should be brought into force before the day last mentioned, then the Ordinance continued by this Section shall cease and determine: And provided also, that the Commissioner appointed under the authority of the said first mentioned Ordinance shall, from and after the issuing of the Proclamation mentioned in the first section of this Act, he the District Judge of the Inferior District in which the City of Montreal shall be included; but, shall also, while the said Ordinance shall remain in force, have all such powers and perform all such duties as are vested in or assigned to him by the said Ordinance, and shall not be repugnant to or inconsistent with the provisions of this Act, or with the due performance of his duties as such District Judge.

XCV. And be it enacted, that all the provisions and enactments of a certain Ordinance of the said Legislature, passed in the fourth year of Her Majesty's Reign and intituled *An Ordinance to provide for the erection and establishment of Court Houses and Gaols in certain Judicial Districts in this*

*Province*, shall, so far as the same may not be inconsistent with or repugnant to the provisions of this Act, be applied to the Inferior Districts to be constituted under the authority of this Act, in the place and stead of the Judicial Districts in the said Ordinance mentioned.

Schedule Referred to in This Act.

Forms to be Used in Division Courts.

Summons.

Demand £ \_\_\_\_\_

Costs £ \_\_\_\_\_

The \_\_\_\_\_ Division Court, of the Inferior District of \_\_\_\_\_

You are hereby summoned to appear at the next sitting of this Court to be holden at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ of the clock of the same day, to answer the complaint of \_\_\_\_\_ who claims from you the payment of the account, a statement whereof is hereunto annexed: and in case you fail to appear by yourself or some person on your behalf, the Plaintiff will obtain judgment and execution against you by your default.

Take notice, that if on the trial of this cause you mean to set off any debt which you claim to be due to you from the Plaintiff in this cause, or to take the benefit of any prescription you must give to the Clerk, or leave at his office, notice in writ- day of \_\_\_\_\_ dated the \_\_\_\_\_ day of \_\_\_\_\_ in the year of Our Lord one thousand eight hundred and \_\_\_\_\_

Entered No.

To Mr. \_\_\_\_\_ }  
the Defendant, }

By the Court,  
Clerk.

Summons to a Witness.

The \_\_\_\_\_ Division Court of the Inferior District of \_\_\_\_\_

You are hereby summoned to appear at the sittings of the said Court to be holden at \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ at \_\_\_\_\_ o'clock of the same day to give evidence on the part of the \_\_\_\_\_ in the cause between \_\_\_\_\_ Plaintiff and \_\_\_\_\_ Defendant \_\_\_\_\_

(If the witness be required to produce any paper, etc., add the words necessary to describe the same and to command him to produce it.)

Dated the \_\_\_\_\_ day of \_\_\_\_\_ one thousand eight hundred and \_\_\_\_\_ By the  
Court

Clerk.

Absolute Order for Payment of a Sum Recovered.

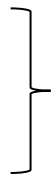
The \_\_\_\_\_ Division of the Inferior District of \_\_\_\_\_ holden on, etc., between  
\_\_\_\_\_ Plaintiff and \_\_\_\_\_ Defendant. It is ordered, that the Defendant do pay to the  
Plaintiff the sum of £\_\_\_\_\_ debt and £\_\_\_\_\_ costs on the day of \_\_\_\_\_ next,  
after notice of this order.

Entered \_\_\_\_\_ By the Court,

Clerk.

Precept or Warrant Against Goods.

Debt, £  
Costs, \_\_\_\_\_  
£ \_\_\_\_\_  
Paid, £  
Levy, £



The \_\_\_\_\_ Division Court of the  
Inferior District of \_\_\_\_\_ to  
\_\_\_\_\_ a Bailiff of the said Court.

In the Cause, Etc.

You are hereby commanded to levy, and cause to be made, of the goods and chattels of  
\_\_\_\_\_ the sum of \_\_\_\_\_ and your lawful fees on the execution of this precept, so that  
you have the said money, within twenty days after the receipt hereof, to satisfy \_\_\_\_\_ for  
the debt and costs adjudged to \_\_\_\_\_ by the said Court.

Herein fail not at your peril. Given under my hand and Seal, this \_\_\_\_\_ day of \_\_\_\_\_  
on thousand eight hundred and \_\_\_\_\_ Judge of the Division Court, \_\_\_\_\_

Entered.

T



## Schedule of Fees. *In the District Courts.*

To the Fee Fund for the Judge.	1st Class, under £10 sterling,		2d Class, under £15 currency,		3d Class, under £20 sterling,		In every case,	
	s.	d.	s.	d.	s.	d.	s.	d.
On every Summons or attachment, ( <i>Saisie Arret, Saisie Gagerie, or Saisie Revendication.</i> ) . . . .	5	0	7	6	10	0	..	..
For taking any recognizance . . . . .	..	..	..	..	..	..	2	6
For taking any affidavit . . . . .	..	..	..	..	..	..	1	0
On the entry of any final Judgment and Taxing Costs . . . . .	2	6	5	0	7	6	..	..
On every writ or precept of Execution . . . . .	..	..	..	..	..	..	1	0
On every rule or motion in open Court . . . . .	..	..	..	..	..	..	1	0
On every other rule . . . . .	..	..	..	..	..	..	0	6
On every Witness sworn . . . . .	..	..	..	..	..	..	0	6
On every <i>Avis de parents</i> . . . . .	..	..	..	..	..	..	5	0
On every Comission in the nature of a <i>Commission Rogatoire</i> . . . . .	..	..	..	..	..	..	1	3
On the closing of any Inventory . . . . .	..	..	..	..	..	..	5	0
On every <i>Insinuation</i> . . . . .	..	..	..	..	..	..	2	6
On affixing or taking off seals of safe custody . . . . .	..	..	..	..	..	..	5	0
On any other Ministerial Act, for the performance of which the presence or signature of the Judge may be necessary . . . . .	..	..	..	..	..	..	1	0
On every Subpœna . . . . .	..	..	..	..	..	..	5	0
On the entry of any opposition or invention . . . . .	..	..	..	..	..	..	2	0
On the entry of any final Judgment on the same . . . . .	..	..	..	..	..	..	5	0
To the Attorney.	..	..	..	..	..	..	..	..
Taking instructions to sue or defend . . . . .	6	8	12	6	20	0	..	..
For conducting the case of the Plaintiff to final Judgment . . . . .	5	0	..	..	..	..	..	..
If not contested . . . . .	..	..	7	6	..	..	..	..
If contested . . . . .	..	..	12	6	..	..	..	..
If not contested . . . . .	..	..	..	..	10	0	..	..
If contested . . . . .	..	..	..	..	20	0	..	..
Drawing, engrossing, and filing any declaration, specially required by an order of the Court . . . . .	5	0	7	6	10	0	..	..

For filing appearance for Defendant, general issue and proceedings to final Judgment . . . .	11	8	17	6	25	0	..
For every special plea, copy and filing . . . . .	5	0	7	6	10	0	..
For suing out any Commission in the nature of a <i>Commission Rogatoire</i> , including the interrogatories and incidental trouble . . . . .	10	0	12	6	15	6	..
For every necessary notice . . . . .	..	..	..	..	..	..	1 0
For drawing and engrossing any Affidavit and Copy thereof . . . . .	..	..	..	..	..	..	1 0
For drawing and engrossing Bill of Costs and attendance at taxation . . . . .	1	0	1	8	3	4	..
On oppositions and interventions, and proceedings relative to oppositions and interventions . . . . .	12	6	..	..	..	..	..
If not contested . . . . .	..	..	13	4	..	..	..
If contested . . . . .	..	..	20	0	..	..	..
If not contested . . . . .	..	..	..	..	20	0	..
If contested . . . . .	..	..	..	..	25	0	..
For drawing any Bond or recognizance . . . . .	..	..	..	..	..	..	2 0
On every special motion made in open Court . . .	2	0	3	4	6	8	..
For any Copy of any paper per 100 words . . . . .	..	..	..	..	..	..	0 6
To the Clerk.							
For every summons or attachment ( <i>Saisie Gagerie, Saisie Arret or Saisie Revendication</i> ) and filing precipe for it . . . . .	1	6	2	0	3	0	..
For every copy of the same . . . . .	..	..	..	..	..	..	..
For every Subpœba. . . . .	..	..	..	..	..	..	..
For every copy of Subpœna. . . . .	..	..	..	..	..	..	..
For every commission for the examination of witnesses . . . . .	..	..	..	..	..	..	2 0
For entering and filing any opposition or intervention . . . . .	1	6	..	..	..	..	..
If not contested . . . . .	..	..	5	0	..	..	..
If contested . . . . .	..	..	7	6	..	..	..
If not contested . . . . .	..	..	..	..	7	6	..
If contested . . . . .	..	..	..	..	15	0	..
For entering Judgment on any opposition or intervention, and copy thereof . . . . .	1	0	1	3	3	0	..
For entering cause, proceedings up to final Judgment, and copy thereof . . . . .	1	6	..	..	..	..	..
If not contested . . . . .	..	..	5	0	7	6	..
If contested . . . . .	..	..	7	6	15	0	..

For entering Writ of Execution and filing precipe	..	..	..	2	0
On every appointment of a Tutor or Guardian, or of a <i>Subrogé Tutor (Acte de Tutelle ou Curatelle)</i> and copy thereof .....	..	..	..	4	0
On any other Act founded on <i>avis de parents</i> and copy thereof .....	..	..	..	4	0
On the closing of any Inventory .....	..	..	..	2	0
On enregistration of written instruments subject to enregistration ( <i>insinuation</i> ) per one hundred words .....	..	..	..	0	6
On certificate of such registration .....	..	..	..	1	0
On any office copy of any document, and certificate per hundred words .....	..	..	..	0	6
And for certificate .....	..	..	..	1	0
To the Bailiff.					
For each service of process, rules or orders, and a certificate thereof .....	1	0	1	0	1
For the seizure of goods & chattels, under execution, and all incidental trouble, travelling not included .....	5	0	5	0	5
For the sale of goods and chattels under execution, and all incidental trouble, including publication of notices, travelling not included .....	5	0	5	0	5
For returning the writ of execution .....	1	3	1	3	1
For milage on the service of process, at the rate of one shilling per mile, without any charge for the distance in returning, and without any charge for milage, on more than one process against the same Defendant .....					
To the Crier.					
For calling each cause .....	0	6	0	6	0

In the Division Courts.

To the Fee Fund for the Judge.	1st Class, under £2 10 currency		2d Class, not exceeding £6 5 currency	
	s.	d.	s.	d.
On every summons or attachment ( <i>Saisie Gagerie, Saisie Arret, or Saisie Revendication</i> ) . . . . .	1	3	2	0
On every affidavit . . . . .	1	0	1	0
On every final Judgment . . . . .	1	6	2	0
On every execution . . . . .	0	6	0	9
On every subpœna . . . . .	0	3	0	6
On all proceedings on oppositions and interventions . . . . .	5	0	7	6
To the Attorney.				
Taking instructions to sue and defend . . . . .	1	3	2	0
For conducting the cause of the Plaintiff to final Judgment	6	8	10	0
For filing appearance for Defendant, and proceedings to final Judgment . . . . .	6	8	10	0
For every necessary notice . . . . .	1	0	1	0
For drawing every affidavit . . . . .	1	0	1	0
On oppositions and interventions, and proceedings relative to oppositions and interventions, the same fees as for similar acts in the principal cause . . . . .				
To the Clerk.				
For every summons or attachment ( <i>Saisie Gagerie, Saisie Arret or Saisie Revendication</i> ) . . . . .	1	3	1	6
For every copy of the same . . . . .	0	6	0	6
For every Subpœna . . . . .	0	6	0	6
For every copy of a Subpœna . . . . .	0	3	0	3
For entering every Judgment and copy thereof . . . . .	1	3	2	0
For every precept of execution . . . . .	1	0	1	3
For entering and filing every opposition or intervention . . . . .	1	0	1	3
For every judgment on an opposition or intervention and copy thereof . . . . .	0	3	0	6

To the Bailiff.			
For service of process, rules or orders on each person, and certificate thereof .....	1	0	2 0
For the seizure of good and chattels under execution, and all incidental trouble, except travelling .....	4	0	4 0
For the sale of goods and chattels under execution, and all incidental trouble, including publication of sale, notices, &c., except travelling .....	4	0	4 0
For returning the writ of execution .....	0	3	0 6
For milage on the service of process or in execution of any rule or order of the Court, at the rate of one shilling per mile, without any charge for the distance in returning, and without any charge for milage, on more than one process against the same Defendant .....	0	6	0 6
To the Crier.			
For calling each cause .....	0	6	0 6