

on the advice of the parties interested at a meeting convened for that purpose in the manner prescribed by the judge.

Such sale cannot take place respecting immoveables Proviso. except with the consent of all the hypothecary creditors."

## C A P . X X V I .

An Act respecting procedure in certain commercial and other matters requiring despatch.

[Assented to 12th July, 1888.]

**W**HEREAS a specially short and simple procedure is urgently needed for the despatch of cases arising from ordinary commercial transactions, as well as for the trial of various other suits of daily occurrence requiring despatch ; Therefore, Her Majesty, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

**1.** Chapter first of title second of book second of the C. C. P., B. II, second part of the Code of Civil Procedure is repealed, except for the district of Gaspé, and replaced by the following for the other portions of the Province. T. II, chap. I, replaced, except for district of Gaspé.

## CHAPTER FIRST.

### SUMMARY MATTERS.

**" 887.** The following are deemed to be summary matters and tried as such according to the rules set forth in this chapter. What are deemed summary matters.

**1.** Actions to annul or to rescind a lease, or to recover damages resulting from the contravention of any of the stipulations of the lease or the non-fulfilment of any of the obligations which the law attaches to it or arising from the relation of lessee and lessor ; Actions arising out of leases, &c.

**2.** Actions founded on bills of exchange, notes to order or bearer, cheques or orders for payment, *bons* or acknowledgments of debt ; Actions on bills of exchange, &c.

**3.** Claims of traders for the price and value of goods or articles sold in the ordinary course of their commercial operations ; Claims for goods sold and delivered.

**4.** Claims for salary or wages of clerks, employees, workmen, laborers or servants, payable by the day, week or month, as well as claims that may arise from the relations between the latter and their masters ; Claims for wages, &c.

**5.** Claims for board and lodging by hotel and boarding-house keepers ; Claims for board and lodging.

Claims for fitting out vessels.  
Claims for freight, &c.

6. Claims arising from the purchase or sale of rigging and for fitting out and provisioning vessels;

Claims for hiring crews.

7. Claims arising from freighting, chartering and loans upon respondentia;

Claims for hiring seamen.

8. Those arising from engagements or agreements for wages and hiring of crews;

9. Those arising from engagements of seamen for service in merchant shipping."

Suits before what courts taken.

"**888.** The actions mentioned in the first paragraph of the preceding article are instituted either in the Superior Court or in the Circuit Court, according to the value or the amount of the rent or the amount of the damages alleged.

Certain demands may be included in action for rent.

The lessor may join with his action for rescission a demand for such rent as he is entitled to, with or without an attachment for rent, attachment in recaption, if necessary, and also an ordinary attachment in the hands of the lessee or of garnishees."

Jurisdiction of courts in suits.

"**889.** The actions mentioned in the second, third, fourth and fifth paragraphs of article 887 are within the jurisdiction of the Superior Court or of the Circuit Court, according to the amount of the demand."

Powers of courts out of term in certain cases.

"**890.** All the powers which the Superior Court or the Circuit Court can exercise in term in the matters mentioned in paragraph first of article 887, may also be exercised out of term and even during the vacation between the thirtieth of June and the first of September."

Delays upon summons in suits for rent, &c.

"**891.** In the actions mentioned in paragraph first of article 887, the delay upon summons is only one intermediate day when the place of service is within a distance of five leagues, with the ordinary extension when the distance is greater.

Delays in other summary proceedings.

In the actions mentioned in the other paragraphs of the same article, the delays upon summons are five days when the place of service is within a distance of fifteen miles, with the ordinary extension when the distance is greater."

Appearance by defendant.

"**892.** The defendant is bound to appear on the day fixed in the writ; if he does not, default is recorded against him and the plaintiff may proceed accordingly.

Pleading by defendant.

If he appears, he is bound to plead within two days after the appearance, in default whereof the plaintiff may proceed *ex parte*.

Answers to pleas.

The plaintiff is bound to file his answer within the delay of two days after the filing of the pleas, on pain of being foreclosed."

**"893.** Any other pleading which may be necessary to complete the issues must be filed on the following juridical day, on pain of foreclosure." Further pleas.

**"894.** As soon as issue is joined the case may be inscribed upon the roll for proof for any subsequent juridical day, and the parties proceed to proof on the day appointed and continue on from day to day until the proof is closed on both sides." Inscription after issue joined.

**"895.** Either party's proof may be declared closed as soon as he ceases to produce evidence." Closing of proof.

**"896.** The evidence of witnesses must be taken down in writing in cases before the Superior Court or before the Circuit Court, appealable side, unless the parties agree to take it otherwise; and in the latter case, notes of such evidence must be taken down and filed in the record as forming part thereof, and such notes are considered to be the evidence adduced in the case." Evidence to be in writing. Proviso, if consent, notes to be taken in such case.

**"897.** When the proof is closed on both sides, the case may be inscribed on the roll for hearing on the merits on the next following juridical day, without any notice being required; but, if it is inscribed for any other day, notice must be given to the opposite party." Inscription for hearing. Notice in certain cases.

**"898.** Judgment may be rendered either in term or out of term. It is executory eight days after it is rendered." Judgment, Rendering of, Execution of.

The delay for ejectment, however, in the actions mentioned in the first paragraph of article 887, is within the discretion of the court." Delay for ejectment.

**"899.** The delays respecting summons and pleadings also apply to all interventions, oppositions or other incidental proceedings of the same nature." Delays for incidental proceedings.

**"900.** The writs of summons, of attachment, of execution and of possession are addressed to the ordinary officers of the court, like all other writs of the same nature, and by them executed." Writs to whom to be addressed, &c.

**2.** This act shall come into force on the first of September, 1888, and shall apply only to suits instituted after that date." Coming into force and application of act.