

2. This act shall come into force on the day of its sanction. Coming into force.

CAP. VIII.

An Act to amend the acts respecting the holding of the Superior and Circuit Courts, and the Code of Civil Procedure.

[Assented to 10th June, 1884.]

HER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows :

1. Sections 1, 2 and 3 of the act 46 Victoria, chapter 26, are repealed. 46 V., c. 26, s. 1, 2 and 3 repealed.

2. Sections 16, 17 and 18 of chapter 78 of the Consolidated Statutes for Lower Canada, and sections 14, 15, 16, 17 and 18 of chapter 79 of the said Consolidated Statutes, and the articles of the Code of Civil Procedure and the other laws which affect them, are hereby amended so as to include the following provisions :

a. In the district of Quebec :

1. The first five juridical days of each month and the five juridical days following the fifteenth day of each month shall be days on which the Superior and Circuit Courts shall sit ; Sittings of the courts in the district of Quebec.

2. The last four juridical days of each month are days on which the Superior Court shall sit for cases inscribed in review ;

3. All other juridical days shall be days on which the Superior Court shall be held for cases inscribed for proof or cases inscribed for proof and hearing ; and, if on the termination of the said days a case inscribed for proof and hearing shall be proceeding, the days for proof and hearing shall be continued *de die in diem* for that case only.

4. The third paragraph of article 243 of the Code of Civil Procedure, which enacts that : " cases inscribed for proof and hearing have precedence on the days appointed for that purpose over those inscribed otherwise and fixed for such days," is repealed as far as regards the district of Quebec. C. C. P., art. 243, repealed for Quebec.

b. In the districts of Montreal, Three Rivers, and St. Francis :

Every juridical day is deemed to be a term day for the trial and hearing of cases, before the Superior Court and the Circuit Court, whether they are inscribed for proof or for hearing, or for proof and hearing at the same time. Sittings of the courts in the districts of Montreal, Three Rivers, and St. Francis.

Superior Court not to sit at same time as Circuit Court in certain districts.

However, in the districts of Three Rivers and St. Francis, and in the other districts to which this provision may be made applicable by proclamation of the Lieutenant-Governor, the Superior Court cannot sit during the days fixed for the terms of the Circuit Court in the district.

Inscription of cases for proof and hearing in district of Montreal.

In the district of Montreal only, the cases inscribed for proof and hearing at the same time, in the Superior Court, and those inscribed in the Circuit Court cannot be inscribed except during the days now fixed as days for the sittings in each of these courts respectively, or which may be so fixed in the future, in the manner by law established.

C. C. P. art. 1, amended as to sittings of courts.

3. Article 1 of the Code of Civil Procedure is amended so that in all the districts of the Province, except in the cases therein mentioned, the courts cannot sit between the thirtieth day of June and the first day of September in each year; and that in addition, they shall not be obliged to sit between the twentieth day of December and the fifteenth day of January, nor between the thirty first day of August and the tenth day of September.

C. C. P., arts. 263 and 264, amended as to certain districts.

4. With respect to *enquêtes* in the districts of Quebec, Montreal, Three Rivers and St. Francis, articles 263 and 264 of the Code of Civil Procedure, and the acts 33 Victoria, chapter 18, 34 Victoria, chapter 4, and 35 Victoria, chapter 6, in so far as they may affect such articles, are amended so that proof may be adduced, as follows:

Evidence may be taken by stenography.

a. Without prejudice to articles 263 and 264 of the Code of Civil Procedure, as to the manner of proceeding and the power given to the judge by those articles, the judge may order, and either of the parties may require, that the evidence be taken by means of stenography.

Appointment of stenographers.

b. The stenographers employed shall be appointed by the council of the section of the bar, upon the report of a committee of examiners appointed by the council.

Stenographers officers of court, tariff and how paid.

c. Such stenographers after their appointment are considered to be officers of the court, and are paid according to the tariff established by the council of the section, by means of fees advanced by the party producing the witnesses.

Deposit may be required.

d. The judge or the prothonotary has the right, before the witnesses are heard, to require from each party a deposit sufficient to meet the payment of the stenographer's fees, and further to require, if necessary, an additional deposit.

Notes of evidence, how taken. Power of judge to increase stenographer's fees.

e. The notes of evidence are taken by the stenographer under the direction of the judge, and whenever the judge finds the tariff established by the council of the section insufficient to properly cover the stenographer's fees, he may himself establish such fees as he deems sufficient.

*f.* The judge may order that the notes of evidence be read and corrected, sitting the court, if necessary.

Reading and  
correction of  
notes.

A copy of these notes is made by the stenographer's notes, who then certifies it and it forms part of the record.

Copy of notes.

*g.* Upon application by the interested party, the judge who heard the evidence may order the errors which may be found in the copy so transcribed to be corrected, in the manner he may deem proper.

Errors may be  
corrected.

The costs of revising and correcting such copy shall be paid by the party found to be in default.

Costs of correction,  
by whom  
paid.

*h.* The judge has power to render judgment without waiting for the transcription of the notes of the evidence.

Judgment may  
be rendered  
before evi-  
dence trans-  
cribed.

**5.** Article 91 of the said Code is amended so that, in future, the judge, both in the Superior and Circuit Courts, shall have the same powers as the prothonotaries and clerks respecting the rendering of judgments upon the plaintiff's affidavit, in the cases specified in the said article.

C. C. P., art.  
91 amended  
so that judge  
has same  
powers as pro-  
thonotary to  
render certain  
judgments.

**6.** Articles 89, 90, 91, 92 and 93 of the said Code, in so far as concerns the powers of prothonotaries and clerks of rendering judgment in vacation upon the plaintiff's affidavit, in the cases therein mentioned, are hereby declared never to have been affected by section 1 of the act 46 Victoria, chapter 26, nor shall they be affected by section 2 of this act.

Arts. 89, 90,  
91, 92 and 93  
declared not  
to be affected  
by 46 V., c. 26,  
s. 1, nor by  
section 2 of  
this act.

This section shall not affect pending cases.

Proviso as to  
pending cases.

**7.** Article 92 of the said Code is hereby amended by adding the words "or in term," after the words "the prothonotary in vacation."

Article 92  
amended.

**8.** Article 264 of the said Code is hereby amended by adding after the words "they are finally signed by the judge," the words "or by the prothonotary."

Article 264  
amended.

**9.** Article 1054 of the said Code, as amended by section 9 of the act 34 Victoria, chapter 4, and section 31 of the act 35 Victoria, chapter 6, is further amended by adding thereto, after the word "Montreal," in the third line of section 9 of the act 34 Victoria, chapter 4, the following words: "and in the cities of Three Rivers and Sherbrooke."

Article 1054  
amended.

**10.** In consequence of the preceding amendment, all appealable cases commenced in the Circuit Court, sitting either at the city of Three Rivers or the city of Sherbrooke, cases not ad-

Effect of pre-  
ceding section  
as to pending  
cases not ad-

judicated upon.

in which judgment has not yet been rendered, shall, from the date of the passing of this act, cease to be within the jurisdiction of such Circuit Court.

Future proceedings.

The proceedings to be taken and judgments to intervene in such cases shall be taken and rendered before the Superior Court; and the books, archives and records of the Circuit Court, respecting any such case, shall, immediately after the coming into force of this act, belong to the Superior Court, and shall be thereto transmitted within a short delay.

Article 1097 amended.

**11.** Article 1097 of the said Code is hereby amended by striking out all the words after the words "if the case is returnable in term," and by substituting therefor the following words:

Article 1099 to apply to certain cases.

"The proceedings with respect to appearance, default, judgment by default, and relief therefrom, confession of judgment, written pleadings and the inscription of the case are the same as in actions returnable in vacation under article 1099."

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## C A P . I X .

An Act respecting the Judges of the Sessions of the Peace of Montreal and Quebec.

[Assented to 10th June, 1884.]

**H**ER MAJESTY, by and with the advice and consent of the Legislature of Quebec, enacts as follows:

Judges of sessions to hold office during good behavior.

**1.** The judges of the sessions of the peace, for the districts of Montreal and Quebec, now appointed, shall hold office during good behavior, and the commissions to be hereafter granted, shall contain that condition.

May be removed on joint address of both Houses.

**2.** The Lieutenant-Governor in council may, however, remove any such judge of the sessions of the peace upon a joint address from the Legislative Council and Legislative Assembly.

Jurisdiction of judges of the sessions.

**3.** Each of the said judges of the sessions shall have jurisdiction as such over the whole Province.

Coming into force

**4.** This act shall come into force on the day of its sanction.

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