

## INTERPRETATION.

- Yearly value of leased property, how calculated if not assessed.** **50.** If the assessed annual value is referred to in this act, as a test of qualification, and any property occupied by a lessee is not assessed as to its annual value upon the appropriate valuation roll, the annual value of such property shall be held to be in the proportion of ten per centum upon the total value of such property as shewn by the valuation roll.
- "Municipality"** **51.** The word "municipality" includes towns and cities and every kind of municipal corporation whatsoever; and the words "the court" shall mean the court having criminal or civil jurisdiction (as the case may be) which shall be sitting at the time and place when and where any provision of this act in which those words occur requires to be applied and enforced.
- "Court."**
- Act to apply to criminal matters only.** **52.** This act shall apply only to criminal matters, except where the context plainly extends the provisions thereof to their matters.

## CAP. XXIII.

An Act respecting District Magistrates in this Province.

[Assented to 5th April, 1869.]

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

- District magistrates may be appointed.** **1.** The lieutenant-governor in council may, from time to time, appoint, by commission under the great seal, one or more persons, who shall be advocates of at least five years' standing, and shall thereupon cease practising, as a district magistrate, or as district magistrates, within any one or more districts in this province.
- Powers of district magistrates.** **2.** Every district magistrate appointed under this act shall have, within the district or districts for which he is appointed, all the powers, authority, rights and privileges by law vested, or which may hereafter be vested, in any one or more justices of the peace, and all the powers, authority, rights and privileges by law vested, or which may be hereafter vested, in any judge of the sessions of the peace.
- They need not possess property qualification.** **3.** It shall not be necessary for any district magistrate appointed under this act to possess any property qualification.
- Where they shall reside.** **4.** The said district magistrates shall respectively reside in the district or in one of the districts for which they have been named, and at such places, as shall be assigned

to them respectively, from time to time, by the lieutenant-governor.

5. Every such magistrate shall receive, and be paid out of the consolidated revenue fund, a salary to be fixed by the lieutenant-governor in council, but not exceeding the sum of twelve hundred dollars, yearly. Salary.

6. Every such district magistrate may appoint, in the different localities within the limits of his jurisdiction, as many clerks, other than the clerk of the magistrate's court, and as many constables as he may require, and the remuneration of such clerks and of such constable shall consist solely of such fees as are allowed by chapter one hundred of the consolidated statutes for Lower Canada, to the clerks and constables employed by justices of the peace. They may appoint clerks and constables. Remuneration of the latter. C. S. L. C. c. 100.

7. Every bailiff of the superior court may, and, when required so to do, shall, act as a constable under the orders of any district magistrate, without any special appointment for the purpose. Bailiffs of superior court to be constables.

8. Every such district magistrate shall keep minutes of every proceeding had by and before him, shall keep books of account, and shall make returns of the proceedings had before him, of the state of his accounts, or of any information collected by him in the fulfilment of his duties, whenever thereunto required by the lieutenant-governor. Minutes to be kept and returns to be made.

9. Each of the said district magistrates shall have all the powers of justices of the peace, in virtue of section twenty-nine of the Lower Canada consolidated municipal act, as amended by the first section of the act twenty-ninth and thirtieth Victoria, chapter thirty - two, and shall also have and exercise all the powers vested in any recorder, sheriff, or stipendiary magistrate, or in any two justices of the peace, under the *Act respecting the prompt and summary administration of criminal justice in certain cases*, chapter one hundred and five of the consolidated statutes of Canada, or under the *Act respecting the trial and punishment of Juvenile Offenders*, chapter one hundred and six of the said consolidated statutes of Canada, with respect to the offenders and offences mentioned in the said acts respectively; and the said acts shall apply to each such district magistrate and to all acts done and proceedings had by him in virtue thereof in the same manner as to any recorder, sheriff or stipendiary magistrate in the said acts mentioned, or to any acts or proceedings of such recorder, sheriff or stipendiary magistrate done or had in virtue thereof. D. magistrates to have powers mentioned in C. S. L. C. c. 24, s. 29 as amended by 29, 30 V. c. 32 s. 1 and in C. S. C. cc. 105 and 106.

10. The act chapter one hundred and two of the consolidated statutes of Canada respecting the duties of justices of the peace out of sessions, in relation to persons charged with indictable offences, and the act chapter one hundred and three of the said consolidated statutes of Canada, re- C. S. C. cc. 102 & 103 to apply to proceedings before district magistrates.

specting the duties of justices of the peace in relation to summary convictions and orders, shall apply, in so far as may be consistent with the provisions of this act, to all proceedings had before such district magistrates.

Power to try certain indictable offences.

11. Every such district magistrate shall have power and jurisdiction to hear, try, and determine any charge for indictable offences other than those mentioned in the next following section, in such manner and according to such mode of procedure, as may hereafter be prescribed by the parliament of Canada.

Certain offences excluded.

12. Such district magistrate shall not summarily hear and determine any charge of treason, murder, manslaughter, rape, sodomy, arson, burglary, forgery, perjury, libel, bigamy, or any of the offences enumerated in the act twenty-ninth Victoria, chapter thirteen.

29 V., c. 13.

Lieut. gov. may establish & fix terms of magistrate's courts to be held by dist. magistrates.

13. The lieutenant-governor in council, whenever he thinks proper, may, by proclamation, establish in and for any county in this province a court to be called the "Magistrate's Court of the county of (*naming the county*)" which court shall be held by the district magistrate within whose jurisdiction such county is situate, and may also by proclamation, fix or alter, from time to time, the days on which such courts shall be held in any county.

At what places magistrate's court shall be held and who shall be clerk.

14. If the circuit court be held in one place only in the county, the magistrate's court shall be held at that place; if the circuit court be held in more than one place in the county, the magistrate's court shall be held in one of such places to be fixed by the lieutenant-governor in council; and in either of such cases, the clerk of the circuit court of the locality shall be the clerk of the magistrate's court. If the circuit court is not held in the county, the lieutenant-governor in council may fix the place where the magistrate's court shall be held, and may appoint a clerk of the court for such place.

Remuneration of the clerk.

15. The clerks of the magistrate's courts shall receive no other remuneration as such than such fees as they may be entitled to receive under the tariff or tariffs of fees hereinafter mentioned.

Jurisdiction of magistrate's court.

16. Every such magistrate's court shall have an ultimate jurisdiction to hear, try and determine :

Suits under §25, &c.

1. All suits purely personal, or relating to movable property, which arise from contracts or quasi-contracts and wherein the sum or value demanded does not exceed twenty-five dollars, and all suits for the recovery of tithes or arrears thereof;

Taxes, penalties, &c.

2. All suits for the recovery of school rates, taxes, assessments or contributions, or of rates, taxes, assessments, penalties, damages, or sums of money whatever, due or payable in virtue of the Lower Canada consolidated municipal act, or any acts amending the same, or under the act re-

specting abuses prejudicial to agriculture, or any acts amending the same, or in virtue of any special act incorporating any city or town municipality or of any act amending the same, or in virtue of any by-laws or regulations made under the authority of such acts;

3. All suits for the recovery of all penalties incurred, of sums due or payable to the treasury of this province under either of the chapters six, seven or eight of the consolidated statutes for Lower Canada as amended by the act of the present session, intituled: *An Act to amend the law respecting Tavern Keepers, Hawkers, Pedlers, and Billiard Tables* or of sums due for licenses under the statute of this province, thirty-first Victoria, chapter three, or any other law.

Provided, however, that in all such suits the defendant resides within the county for which the court is held, or that the debt was contracted therein and the defendant resides within the district.

17. Articles 1184, 1190, 1191, 1192, (except the part thereof contained within brackets), 1193, 1194, 1195, except the words "the signature of the commissioner," 1196, 1197, 1203, 1204, 1205, 1206, 1207, 1208, 1209, 1210, 1211, the first and last paragraphs of article 1212, and articles 1213, and 1214, of the code of civil procedure shall apply to every magistrate's court established under this act, in the same manner as if the words "commissioners' court," "commissioner" or "commissioners" meant and included respectively the words "magistrate's court" or "district magistrate."

18. All writs issuing from the said court shall be signed either by the district magistrate, or by the clerk of the court; and all certificates or copies of proceedings of the court signed by the clerk, shall be *prima facie* evidence of their contents.

19. The proceedings mentioned in article 1191 of the said code of civil procedure, when issued from the said magistrate's court, may be executed any where within this province; but in the case of attachments by garnishment, either before or after judgment, the garnishee, within three days after the service of the writ upon him, may make his declaration on oath before the nearest clerk of the circuit court, who shall have power to administer such oath and be entitled to receive from such garnishee the sum of five shillings for taking such declaration, and shall transmit the same forthwith by post, in a registered and prepaid letter, to the clerk of the magistrate's court from which the writ of attachment issued, together with his receipt for the said sum of five shillings.

20. The said sum of five shillings shall be taxed by the district magistrate or the clerk of the magistrate's court, as forming part of the costs of the suit; and the

Revenue suits, &c.

C. S. L. C. cc. 6, 7 & 8,

32 V. c. 24.

31 V. c. 3.

Proviso.

Arts. 1184, 1190, to 1197, 1203 to 1214, C. P. C. to apply to magistrate's courts.

Writs to be signed.

Copies &c. signed by clerk to be evidence.

Where certain proceedings may be executed.

Garnishee may declare in another district on paying \$1.

How the \$1 may be recovered back.

receipt of the clerk of the circuit court for the said sum, transmitted to the clerk of the magistrate's court as aforesaid, shall stand as a judgment of the said court in favor of the garnishee, against the plaintiff in the suit, and may be enforced by execution, after the same delay, and in the same manner as any other judgment of the said court.

Court may be adjourned from day to day.

In absence of district magistrate certain proceedings may be had and court adjourned.

**21.** The district magistrate, whenever the business before the court requires it, may adjourn the court from day to day until the said business is disposed of.

**22.** Whenever on any day fixed for the holding of the magistrate's court the district magistrate owing to illness or any other cause is not present at the place, where such court should be held, or is unable to attend, the clerk of the court may receive all returns to be made on such day and cause any defendant, party or witness summoned to appear on such day to be called and to enter his appearance or record his default, notwithstanding the absence of the district magistrate, and may adjourn the court to the next following day appointed for the holding of such court.

Court and additional courts for the county of Saguenay.

**23.** In and for the county of Saguenay, the lieutenant-governor in council may establish one magistrate's court, to be called the magistrate's court of the county of Saguenay, but the territorial jurisdiction of which shall not extend further eastward than the Jeremy Islands exclusively, and as many additional magistrate's courts as he may deem necessary.

When additional courts shall be held.

**24.** Such additional courts shall be held at such places, and shall have jurisdiction within such territorial limits as the lieutenant-governor in council shall fix and describe.

Powers of additional courts.

**25.** Such additional courts shall have all the powers and jurisdiction of other magistrate's courts, and the amount of such jurisdiction shall further extend to all sums or values not exceeding two hundred dollars; and the district magistrate for the district of Saguenay appointed to hold such courts need not be an advocate.

Name of additional courts.

**26.** Every such additional court shall be called the Local Magistrate's Court for (*naming the place at which it is to be held*) and may be held on any juridical day, upon which the district magistrate is present, and which has been notified, or is otherwise known as such, to the parties to the suits or proceedings before the court.

Civil and criminal jurisdictions not to affect each other.

**27.** The jurisdictions which such district magistrates are empowered to exercise, either in civil or in criminal matters, shall not interfere the one with the other; they may exercise either or both of them on the same day, and the holding of any court or sitting, in the exercise of one jurisdiction, shall not prevent their suspending the same to do any act or perform any duty belonging to the other.