

any instrument to the validity of which attestation is not requisite, and such instrument may be proved by admission or otherwise, as if there had been no attesting witness thereto.

19. Comparison of a disputed writing with any writing proved to the satisfaction of the Judge to be genuine, shall be permitted to be made by witnesses; and such writings, and the evidence of witnesses respecting the same, may be submitted to the Court and Jury as evidence of the genuineness or otherwise of the writing in dispute.

20. Upon motions founded upon affidavits, it shall be lawful for either party, with leave of the Court or a Judge, to make affidavits in answer to the affidavits of the opposite party, upon any new matter arising out of such affidavits, subject to all such rules as shall hereafter be made respecting such affidavits.

21. Upon the hearing of any motion or summons it shall be lawful for the Court or a Judge thereof, at their or his discretion, and upon such terms as they or he shall think reasonable, from time to time to order such documents as they or he may think fit to be produced, and such witnesses as they or he may think necessary to appear, and be examined *viva voce* either before such Court or Judge; and upon such evidence to make such rule or order as may be just.

22. The Court or Judge may by such rule or order, or any subsequent rule or order, command the attendance of the witnesses named therein, for the purpose of being examined, or the production of any writings or other documents, to be mentioned in such rule or order; and such rule or order shall be proceeded upon in the same manner, and shall have the same force and effect as other rules or orders of the said Court now have, and be enforced in like manner; and it shall be lawful for the Court or Judge to adjourn the examination from time to time as occasion may require; and the proceedings upon such examination shall be conducted, and the depositions taken down as nearly as may be in the mode now in use with respect to the *viva voce* examination of witnesses.

23. Any party to any civil action or other civil proceeding in the said Court, requiring the affidavit of a person who refuses to make an affidavit, may apply by summons for an order to such person to appear and be examined upon oath before a Judge, or a person to whom it may be most convenient to refer such examination, as to the matters concerning which he has refused to make an affidavit; and a Judge may, if he think fit, make such order for the attendance of such person before himself or before the person therein appointed to take such examination, for the purpose of being examined as aforesaid, and for the production of any writings or documents to be mentioned in such order, and may therein impose such terms as to such examination, and the costs of the application and proceedings thereon, as he shall think just.

24. Such order shall be proceeded upon in like manner as other orders are now proceeded in, and the examination thereon shall be conducted, and the depositions taken down and returned, as nearly as may be in the mode now used in *viva voce* examinations.

25. Upon the application of either party to any cause or other civil proceeding in the said Court, upon an affidavit by such party of his belief that any document to the production of which he is entitled for the purpose of discovery or otherwise, is in the possession or power of the opposite party, it shall be lawful for the Court or a Judge to order that the party against whom such application is made, or if such party is a body

corporate, that some officer to be named of such body corporate, shall answer on affidavit, stating what documents he or they has or have in his or their possession or power, relating to the matters in dispute, or what he knows as to the custody such documents or any of them are in, and whether he or they objects or object (and if so on what ground) to the production of such as are in his or their possession or power, and upon such affidavit being made, the Court or Judge may make such further order therein as shall be just.

26. The provisions of an Act passed in the third year of the Reign of Her present Majesty, intituled *An Act to amend the Law of Evidence in regard to the proof of Records and Letters Patent*, are hereby extended to all inquisitions, surrenders, escheats, leases, licences, judgments, and conveyances by, to, or from, or in favour of or against the Crown, and to the Records or Rolls of judgment and decrees heretofore had or obtained in the Court of Chancery by or against the Crown in this Province, or which may hereafter be had or obtained on the Equity side of the Supreme Court by or against the Crown.

27. The first four Sections of this Act shall not come into operation until the first day of January in the year of our Lord one thousand eight hundred and fifty seven.

CAP. XLII.

An Act for better securing the liberty of the Subject.

Section.

1. On cause, Judge may order keeper of a gaol to return to him whether a prisoner is detained, with the date and cause.
2. Return to be as to a Writ of Habeas Corpus, and to include specified particulars.
3. Upon return made, Judge to proceed.
4. Keeper to inform his prisoner of the order, and obey it.

Section.

5. Wilful disobedience, a misdemeanor.
6. Case may be decided by other than the Judge who issued the order.
7. No order to discharge a prisoner for cause not specified; additional returns by the keeper.
8. Act not to preclude remedy for false imprisonment.

Passed 1st May 1856.

WHEREAS the present practice of bringing up prisoners on Writs of Habeas Corpus, is attended with delay, expense, and inconvenience, not in general necessary to the purposes of justice;—

Be it therefore enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. Upon sufficient cause shewn to any Judge of the Supreme Court, by or on behalf of any person confined in any gaol or prison, such Judge may and is hereby empowered, (instead of granting his fiat for a Writ of *Habeas Corpus cum causa*, requiring the keeper of such gaol or prison to bring the prisoner before him in order that the legality of such imprisonment may be inquired into, and discharge, bailment, or recommitment had thereon,) by order in writing signed by him, with his name, addition of office, and place of residence, to require and direct such keeper to return to him whether or no such person is detained in prison, together with the day and cause of his having been taken and detained.

2. It shall be the duty of such keeper immediately upon the receipt of such order, to make a true and full return in writing to such Judge, of the day and cause of such taking and detention to the same effect as a return to a Writ of Habeas Corpus would now be made, such return always to include a copy of the process, warrant, or order upon which the said prisoner is held, where the same is of a criminal nature, or upon any summary complaint or conviction before any Justice of the Peace; and such Judge may enforce obedience to such order by process of contempt, in the same manner as he may now compel proper return to be made to a Writ of Habeas Corpus.