

Defendant to be deemed in Court, and Plaintiff may proceed accordingly without formal appearance by Defendant.

As to filing pleas.

Where there are several defendants, plaintiff may amend declaration if some be not served, by striking out their names, &c.

Proviso: Defendant not served may plead voluntarily, until so struck out.

Act of U. C. 59 Geo. 3, c. 25, to apply to actions under this Act.

Certain actions to be commenced as heretofore.

defendant in such action so served, shall be deemed and taken to be in Court for all the purposes of proceeding with such action, without the necessity of any formal or other appearance being entered for any such defendant, and in default of a plea within the time specified in the notice for pleading, the plaintiff may sign judgment, and proceed therein to execution according to the course of proceeding and practice hitherto pursued in such Courts respectively in similar cases, and in the event of a plea or pleas being put in, the same shall be filed in the office mentioned in the notice only, and a copy thereof shall be served and all subsequent proceedings in the cause shall be conducted agreeably to the rules of pleading and practice prevailing before the passing of this Act in the particular Court wherein the action may be brought.

III. And be it enacted, That in actions against two or more defendants severally liable, the plaintiff, in any case, in the event of any defendant named in the declaration, not being served, where the declaration is intended to be the commencement of the action under the provisions of this Act, at the expiration of eight days from the service thereof upon any defendant or defendants, may, without any application to the Court for that purpose, amend either by entering a *nolle prosequi* as to the defendant or defendants not served or in cases of tort, by striking out the name of any defendant or defendants not served, and proceed in the same manner as if the names so struck out had never been inserted therein. Provided always, that any defendant named in the declaration, and not served therewith, may plead to any such action at any time before his name shall be so struck out, or before the entry of a *nolle prosequi* as aforesaid.

IV. And be it enacted, That the provisions of the Act of the Parliament of Upper Canada passed in the fifty-ninth year of the Reign of King George the Third, and intituled, "*An Act to prevent the abatement of any action against a joint obligor, contractor or partner, on account of the other joint parties not being made defendants,*" shall be extended and held to apply to actions to be commenced under this Act, and actions may be commenced and prosecuted under the provisions thereof and of this Act, by filing a declaration and proceeding to judgement thereon against one or more of several persons jointly liable upon a contract, when one or more of the joint obligors, contractors or partners reside out of the jurisdiction of the Courts of Upper Canada, or cannot be served with such declaration.

V. And be it enacted, That the mode of commencing and proceeding in actions of ejectment, and by *scire facias*, shall be and remain as before the passing of this Act.