

An Act to amend the practice of Court of Chancery for Upper Canada.

WHEREAS it is expedient further to facilitate proceedings, and Preamble.
to prevent unnecessary delays and expenses, in Her Majesty's
Court of Chancery for Upper Canada; Therefore, Her Majesty, by and
5 with the advice and consent of the Legislative Council and Assembly
of Canada, enacts as follows:—

1. Whenever a defendant cannot, after due diligence, be found, to Defendant
be served with the Bill of Complaint, the Court shall order such person may be served
to be served by publication, according to the present practice of the by publication
10 Court; and an application to the defendant's nearest relatives, or those in certain
with whom he last resided before he disappeared, for information as to cases.
his present residence or place of abode, shall be deemed due diligence,
without examining any party under oath.

2. A married woman shall, in all cases, sue by her next friend, save Suits by mar-
15 that, in a suit against her husband, the Court may allow her to sue ried women.
alone, upon being satisfied that she is rightly entitled so to do. But Interim ali-
in no case shall any order be made, directing the husband to pay mony, &c.
interim alimony or any costs of suit to the wife, before decree, unless
the Court shall be satisfied by the evidence given, that the application
is just and reasonable, under the circumstances.

3. In the case of infant defendants, it shall not be necessary to Service in the
20 serve a copy of the Bill of Complaint on any of them; and it shall be case of infant
sufficient, before applying for an order to appoint a guardian *ad litem*, defendants.
to serve a copy of the Bill and the notice required by the practice of
the Court, upon the party with whom the infants or some of them
25 reside. After a guardian *ad litem* has been appointed, a copy of the
Bill shall be served on him, along with the order appointing him
guardian; and this shall be deemed good service on the infant.

4. It shall not be necessary, before making an application for the Sale or lease
30 sale or leasing of land in which an infant is interested, that the infant of land of
consent to such application; but the Court shall decide as to the infant;
propriety of such sale or leasing, and the second clause of the fifty-
second section of the Consolidated Statutes for Upper Canada, chapter Con. Stat. U.
twelve, requiring such consent, is hereby repealed. C., cap. 12,
sec. 52, sub-
section 2, re-
pealed.

5. Whenever the answer of the defendant sets forth matter to which Replication
35 the plaintiff may desire to reply, he shall do so by a Replication, as at instead of
the Common Law, and not by amending his Bill of Complaint. The amendment
defendant may also set forth any defence which he may have to the of Bill.
Replication by a Rejoinder; and so on, each party having the right to
answer the last preceding pleading of his opponent, by a new pleading,
40 according to the practice at the Common Law. But this section shall