

## ACTS OF LAST SESSION.

from year to year, and tenancies at will, as well as to all other terms, tenancies, holdings or occupations.

3. If, upon such affidavit, it appears to such County Judge that the tenant wrongfully holds, without colour of right, and that the landlord is entitled to possession, such Judge shall appoint a time and place at which he will enquire and determine whether the person complained of was tenant to the complainant for a term or period which has expired, or has been determined by a notice to quit or otherwise, and whether the tenant without any colour of right holds the possession against the right of the landlord, and whether the tenant does wrongfully refuse to go out of possession, having no right to continue in possession, or how otherwise.

4. Notice in writing of the time and place so appointed by the County Judge for holding such inquiry, shall be, by the landlord, served upon the tenant or left at his place of abode, at least three days before the day so appointed, if the place so appointed be not more than twenty miles from the tenant's place of abode, and one day in addition for every twenty miles above the first twenty, reckoning any broken number above the first twenty as twenty miles, to which notice shall be annexed a copy of the affidavit on which the appointment was obtained, and of the papers attached thereto.

5. If at the time and place appointed, as aforesaid, the tenant, having been duly notified, as above provided, fails to appear, the County Judge, if it appears to him that the tenant holds without color of right, may order a writ to issue to the sheriff, in the Queen's name, commanding him forthwith to place the landlord in possession of the premises in question; but if the tenant appears at such time and place, the County Judge shall, in a summary manner, hear the parties, and examine into the matter, and shall administer an oath or affirmation to the witnesses adduced by either party, and shall examine them; and if after such hearing and examination it appears to the County Judge that the case is clearly one coming under the true intent and meaning of the second section of this Act, and that the tenant holds without color of right against the right of the landlord, then he shall order the issue of such writ, as aforesaid, otherwise he shall dismiss the case; and the proceedings, in any such case, shall form part of the records of the County Court: and the said writ may be in the form or to the effect of forms number one or number two, in Schedule A, forming part of this Act, according as the tenant is ordered to pay costs or otherwise, and on any such examination the parties shall be competent witnesses.

6. Where any such writ has been issued, either of the superior courts of common law for the Province of Ontario, may, on motion, before the end of the second term after the issue of such writ, command such County

Judge to send up the proceedings and evidence in the case to such superior court certified under his hand, and may examine into the proceedings, and if they find cause may set aside the same, and may, if necessary, order a writ to issue to the sheriff, commanding him to restore the tenant to his possession, in order that the question of right, if any appear, may be tried, as in other cases of ejectment.

7. The judges of the superior courts of common law, for the Province of Ontario, may, from time to time, make such orders respecting costs, in cases under this Act, as to them may seem just; and the County Judge, before whom any such case is brought, may, in his discretion, award costs therein, according to any such order then in force, and if no such order is in force, reasonable costs, in his discretion, to the party entitled thereto; and in case the party complaining is ordered to pay costs, execution may issue out of the county court for such costs as in other cases in the county court wherein an order is made for the payment of costs.

8. The County Judge may cause any person to be summoned as a witness to attend before him in any such case, in like manner as witnesses are summoned in other cases in the county court, and under like penalties for non-attendance, or refusing to answer, or wilfully swearing, or affirming falsely in such case.

9. Nothing herein contained shall prevent any landlord from proceeding under the sixty-third, and ten next following sections of the Act respecting ejectment, chapter twenty-seven of the Consolidated Statutes of Upper Canada, if he thinks it advisable to proceed under the said sections, or shall in any way affect the powers of any judge or judges of the superior courts under the same, or under sections fifty-seven, fifty-eight and fifty-nine of the said Act, or shall prejudice or affect any other right or right of action or remedy which landlords may possess in any of the cases herein provided for.

10. In the case of tenancies from week to week and from month to month, a week's notice to quit and a month's notice to quit respectively, ending with the week or the month, as the case may be, shall be deemed sufficient notice to determine, respectively, a weekly or monthly tenancy.

11. The proceedings under this Act shall be entitled in the County Court of the County or union of Counties in which the premises in question are situate, and shall be styled "In the matter of (giving the name of the party complaining) Landlord against (giving the name of the party complained against) Tenant."

12. Service of all papers and proceedings under this Act shall be deemed to have been properly served if made as required by law, in respect of writs and other proceedings in actions of ejectment.