

tario, and that Court v. Scott is therefore no longer applicable.

The contention of defendant's counsel that Court v. Scott is no longer applicable is, in my opinion, well founded, if the hypothesis on which that contention is based—that 22 Vict. ch. 5, sec. 58, is no longer in force—is also well founded.

As I understand the judgment in that case, it is determined that the effect of sec. 129 of the British North America Act was to continue in force both as to Ontario and Quebec the provisions of 22 Vict. ch. 5, sec. 58, which were subsequently, with some unimportant verbal changes, incorporated in the Consolidated Statutes of Quebec as sec. 63 of ch. 83, and that therefore persons in Ontario who might under its provisions be served with the writ of summons were under an obligation to submit to the jurisdiction created by these enactments in the Quebec Courts, and were bound to obey judgments obtained against them there in the manner thereby authorized.

It is necessary, and it may be as well at this point, to refer to 23 Vict. ch. 24; by it provision was made that in an action, in either section of the province of Canada, brought on a judgment or decree obtained in the other section, where service of the process was personal, no defence that might have been set up to the original suit could be pleaded (sec. 2), and that where the service was not personal and no defence was made, any defence that might have been set up to the original suit could be made to the action on the judgment or decree (sec. 4), and by sec. 1, a similar provision to that contained in sec. 4 was made applicable to actions upon a foreign judgment or decree described as a judgment or decree not obtained in either section of the province.

The effect of this statute was, as far as it applied to judgments obtained in either of the two provinces when sued on in the other, to take away from the judgment, if service of the summons was not personal, its conclusive character, by enabling the defendant to make any defence to the action on the judgment which might have been set up in the original action.

Before dealing with this branch of the case, and tracing the subsequent legislation in the two provinces, in order to ascertain whether the provisions of 22 Vict. ch. 5, sec.