

SESSIONAL PAPER No. 18

Manner of proceeding in Actions above the Value of £10 Sterling.

Suing out the Summons.

Attachment against the Body where a Debtor is going to leave the Province. Declaration to accompany the Writ.

Service thereof.

If Defendant does not appear.

Judgment to be entered.

If Defendant appears, he is to answer the Declaration.

Art. 1. In all cases or Matters of Property, exceeding the Sum or Value of £10 Sterling, upon a Declaration presented to any one of the Judges of the Court of Common Pleas, by any Person, setting forth the Grounds of his Complaint against a Defendant, and praying an Order to Compel him to appear and answer thereto, such Judge shall be, and hereby is empowered and required in his separate District to grant a Writ of Summons in the Language of the Defendant, issuing forth in His Majesty's Name, tested and signed by one of the Judges, and directed to the Sheriff of the District, to summon the Defendant to appear and answer the Plaintiffs Declaration on some certain future day, Regard being had to the Distance of the Defendant's abode from the Place where the Court sits ; but if the Judges, or any Two of them are satisfied, by the Affidavit of the Plaintiff, or otherwise, that the Defendant is indebted to him, and on the point of leaving the Province, whereby the Plaintiff might be deprived of his Remedy against him ; it shall be lawful for the said Judges, or any Two of them, to grant an Attachment against the Body of such Defendant, and hold him to Bail, and for Want of Bail to commit him to Prison until the Determination of the Action against him : The Declaration shall in all cases accompany the Writ, and the Plaintiff shall not be permitted to amend it until the Defendant shall have answered the matter therein contained, nor afterwards, without paying such reasonable Costs as the Court may ascertain.

Art 2. Copies both of the Writ of Summons, and the Declaration, shall be served on the Defendant personally, or left at his House with some grown Person there, otherwise the Service shall be deemed insufficient.

Art 3. If on the Day of the Return of the Writ of Summons the Defendant does not appear in Person, or by Attorney (Proof of such Service being produced or made in Court) the Plaintiff shall obtain a Default against the Defendant, and if on calling over the Action in the next Weekly Court Day the Defendant should still neglect to appear, without any good Reason for such his Neglect, the Court after hearing and receiving sufficient Proof of the Plaintiff's Demand, shall cause their final Judgment to be entered against the Defendant, and shall award such Costs thereupon as they shall think reasonable, and issue such Execution as the Law, according to the nature of the case, may direct.

Art 4. If Defendant appears at the Return of the Writ of Summons, or, having made Default on that Day, pays such Costs as the Court may think reasonable, and appears on the next Weekly Court Day after such Return, he shall, either then,