

been made by a Bailiff for the District in which such writ, subpoena or other process, opposition, judgment, rule, order, judgment, notice or other proceeding originated, if the party or person on whom the service is made had been resident or had been then present in such District.

LIII. In any suit or action brought or to be brought against any person who shall have left his domicile in Lower Canada, or against any person who shall have had no domicile in Lower Canada, but when such person shall have personal or real property therein, or the cause of such suit or action shall have arisen within Lower Canada, then if such person be a resident of or is known to be then in Upper Canada, it shall be lawful for any Judge of the Superior Court, or for the Prothonotary of the Superior Court or Clerk of the Circuit Court at the place where the action is brought, on being satisfied of the facts by affidavit or otherwise, to sign an order to be indorsed on the Writ of Summons in such suit or action, in the following words, "this Writ may be served in Upper Canada," and such Writ may then be served in Upper Canada by any Bailiff entitled to serve process of the County Court of the County in which the service shall be made, and the affidavit of such bailiff made before some Commissioner authorized to receive affidavits to be used in the Superior Court for Lower Canada, in the form of the Schedule D, to this Act, or to the like effect, shall be evidence of the service, and the person so served shall be bound to appear according to the exigency of the Writ, and if he fails so to appear, the plaintiff may proceed as in case of default, and as if the service had been made within the limits of the ordinary jurisdiction of the Court :—

Provided always, that there shall be between the day of service of the Writ and that on which the plaintiff is commanded to appear, at least ten days if the action is in the Superior Court, and at least five days if the action is in the Circuit Court, and one day more in either Court, for every five leagues of the distance of the place where the service is made from that where the sittings of the Court are held :—And provided also, that nothing in this section shall oblige the plaintiff to adopt the proceeding hereinabove mentioned, or prevent such defendant from being notified to appear by advertisement in the manner provided by the ninety-fourth section of the Lower Canada Judicature Act of 1849, if the plaintiff prefers to proceed under the said section.

Writs of Summons may be served in Upper Canada in certain cases.

Proviso.

Proviso.

LIV. The tenth section of the *Act to amend the Act to amend the Laws relative to the Courts of original Civil Jurisdiction in Lower Canada*, passed in the sixteenth year of Her Majesty's Reign, shall apply to parties in appealable cases in the Circuit Court at Montreal and Quebec, and to non-appealable cases therein returnable in vacation,—and also to parties to cases in the Superior Court, or to appealable cases in the Circuit Court, or non-appealable cases therein returnable in vacation, in every

Sect. 10 of 16 V. c. 194, to apply to certain cases in the Circuit Court.