

may think proper, provided always that hereafter it shall be no ground for granting a certificate for County Court or Superior Court costs in any suit within the jurisdiction of a Division Court, that it was necessary to issue a commission in such suit.

#### *Absconding Debtors*

6. In order to facilitate the recovery of debts and judgments in the Division Courts by attachment against absconding debtors, the sections of the Consolidated Statutes Upper Canada, chapter twenty-five, numbered from twenty-three to twenty-eight, both inclusive, are hereby extended to the Division Courts.

7. When a bailiff of a Division Court sues to recover the outstanding debts of an absconding debtor, the action or suit may be brought in any Court of competent jurisdiction.

8. The one hundred and ninety-ninth section of the Division Court Act is hereby extended to any debt or demand within the jurisdiction of the Division Courts, as increased by this Act, and to any person or persons so indebted.

#### *Executions.*

9. Every writ of execution (if unexecuted) may at any time, and from time to time before its expiration be renewed by the party issuing it for thirty days from the date of such renewal, by being marked in the margin with a memorandum to the effect following: renewed for thirty days from the — day of — A.D. 18 —, signed by the clerk of the Division Court, who issued such writ, or by his successor in office; and a writ of execution so renewed shall have the effect and be entitled to priority according to the time of the original delivery thereof to the bailiff. 22 Vic. c. 22, s. 249, Consolidated Statutes Upper Canada.

10. The production of a writ of execution, marked as renewed in manner aforesaid, shall be sufficient evidence of its having been so renewed, 22 Vic., c. 22, s. 250, Con. Stat. U. C.

11. The cost of a renewal of an execution shall be the same as for the original writ of execution.

#### *New Trials.*

12. Except in cases of appeal under the Municipal Assessment Act, the judge, upon the application of either party, within fourteen days after the trial, and upon good grounds being shewn, may grant a new trial upon such terms as he thinks reasonable, in all matters, complaints, suits, controversies, or questions which shall have been or may be tried before him, and may in the meantime stay proceedings therein.

#### *Jury in Interpleader and other cases.*

13. Either party may require a jury to try any fact controverted in any case under the one hundred and seventy-fifth section of the Act respecting Division Courts, or any fact controverted in any action of replevin brought in a Division Court, or any fact arising under any proceeding under this Act, or the judge before whom any such fact is controverted may, if he thinks proper, order the same to be tried by a jury.

14. If either of the parties require such jury, he shall proceed in the manner pointed out by the one hundred and twentieth section of the Act respecting Division Courts, or may make a request to have a jury impanelled, at any sittings of the Court, and if the judge requires a jury, such jury shall be summoned under the one hundred and thirty-second section of the said Act respecting Division Courts.

15. Any jury summoned and returned to try any controverted fact under this Act, or under the said one hundred and thirty-second section of the said Act respecting Division Courts, shall be sworn or affirmed (in cases where affirmation is allowed by law instead of an oath) "well and truly to try such controverted fact or facts as may be in dispute or issue between the parties, and to give a true verdict according to the evidence," and such jury shall not be sworn under the one hundred and thirty-first section of the said Act.

#### *Affidavit.*

16. The affidavit or affirmation referred to in the one hundred and third section of the Act respecting Division Courts may, if made out of Upper Canada, be taken before the judge of any Court

of Record, or before the mayor of any city or town, or before a notary public.

#### *Appeals.*

17. Appeals shall be allowed from the Division Courts to a Superior Court of Common Law in all actions or suits brought on promissory notes or bills of exchange, where the debt or damages claimed exceed one hundred dollars.

18. The sections of the Consolidated Statutes for Upper Canada, chapter fifteen, numbered sixty-seven and sixty-eight, are hereby extended to the Division Courts, and also to actions or suits therein, and to parties thereto (within the meaning of the preceding section) in so far as the same can be made applicable.

19. Whenever the words "Superior Court" or "County Court," or "Superior" or "County" or "Sheriff" or Court," are or is made use of and occurs in either of the said sections of the Common Law Procedure Act, or in either of the said sections of the Consolidated Statutes for Upper Canada, enumerated in this Act, they shall be taken to mean "Division Court," or "Division" or "Bailiff of Division Court," as may best suit the context so as to apply the provisions of the said sections to the purpose of this Act, and the objects contemplated hereby.

20. This Act and the said Division Courts Act, and the several sections of the Common Law Procedure Act, and the several sections of the Consolidated Statutes for Upper Canada, chapter fifteen, chapter twenty-five and chapter thirty-two enumerated in this Act, in so far as any suit, plaint or proceeding authorised by this Act is concerned, shall be read as if they formed one Act, or part of the said Division Courts Act.

21. This Act shall apply to Upper Canada only, and shall come into force on the first day of January, A.D., 1864, and not before.

#### CONVEYANCING BY COUNTY JUDGES.

Hon. Mr. Currie has introduced a bill having for its object the prevention of conveyancing by county judges. We are surprised to find that such a bill is deemed necessary. It enacts that

No judge of a County Court in Upper Canada, shall, during the continuance of his appointment as such judge, directly or indirectly, practice or do any manner of conveyancing or prepare or draft wills for any person or persons whomsoever, or draw or prepare any papers or documents to be used or filed in any Court presided over by such judge or any other county judge, under the penalty of forfeiture of office, and the further penalty of four hundred dollars, to be recovered by any person who may sue for the same by action of debt or information in either of the Superior Courts of Common Law, one-half of which pecuniary penalty shall belong to the party suing, and the other half to Her Majesty.

Hon. J. H. Cameron and Mr. McConkey have both introduced bills (No. 69 and 74), which are as nearly as possible copies of each other and of the following:—

#### AN ACT TO AMEND CHAPTER NINETEEN OF THE CONSOLIDATED STATUTES FOR UPPER CANADA, INTITLED "AN ACT RESPECTING DIVISION COURTS."

Whereas it is desirable to lessen the expense of proceedings in Division Courts in Upper Canada, and to provide, as far as may be, for the convenience of parties having suits in these Courts: Therefore, Her Majesty, by and with the advice and consent of the Legislative Council and Assembly of Canada, enacts as follows:—

1. Any suit cognizable in a Division Court may be entered and tried and determined in the Court the place of sitting whereof is the nearest to the residence of the defendant or defendants, and such suit may be entered and tried and determined irrespective of where the cause of action arose, and notwithstanding that the defendant or defendants may at such time reside in a county or division other than the county or division in which the Division Court is situate, and such suit entered.