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2nd Session, 3rd Parliament, 12 Victoria, 1849.

BILL.

An Act to amend and extend the provisions of the Act of the Province, intituled, "*An Act to amend, consolidate and reduce into one Act the several laws now in force, establishing and regulating the practice of the District Courts of the several Districts of that part of this Province formerly Upper Canada,*" and to increase the jurisdiction of the said District Courts.

Received and Read a first time, Wednesday, 28th
February, 1849.

Second Reading, Monday, 5th March, 1849.

MR. SMITH, (Durham.)

BILL.

An Act to amend and extend the provisions of the Act of this Province, intituled, "*An Act to amend, consolidate and reduce into one Act the several Laws now in force, establishing and regulating the practice of the District Courts of the several Districts of that part of this Province formerly Upper Canada,*" and to increase the jurisdiction of the said District Courts.

WHEREAS it is advisable to make further provision, regulating the practice of the several District Courts in Upper Canada; Be it therefore enacted, &c.:

Preamble.

5 And it is hereby enacted by the authority of the same, That the fifth, seventh, and eighth clauses of the Act of the Parliament of this Province, passed in the eighth year of Her Majesty's Reign and intituled "*An Act to amend, consolidate, and reduce into one Act the several Laws now in force, establishing and regulating the practice of the District Courts of the several Districts of that part of the Province formerly Upper*"
 10 "*Canada,*", be and the same are hereby re-
 15 pealed.

Sect. 5, 7 and 8, of 8 Vict. c. 13, repealed.

16 And be it enacted, That the said Courts, respectively shall, hold plea of all causes or suits relating to debt, covenant on contract, to the amount of fifty pounds, and in cases of contract or debt on the common counts, when the amount is ascertained by the signature of the Defendant, to one hundred pounds, and also, in all matters of tort,
 20 relating to personal chattels, when the da-
 25

Jurisdiction of the District Courts enlarged and defined.

gages shall not exceed forty pounds, and when title to lands shall not be brought in question.

Original process to be a writ in the form of Schedule A.

How to be served.

Notice on the writ.

Proceedings if the Defendant makes default.

Recital,

III. And be it enacted, That the original process for compelling the appearance of the Defendant in any suit to be brought in the said Courts respectively, shall be a writ of summons in the form of the Schedule to this Act annexed, marked A, which shall bear *teste* on the day on which it issues, and be returnable immediately after the service thereof, and which shall be considered to all intents and purposes the commencement of the action, a copy of which in actions not bailable, shall be personally served upon the Defendant, or on each of the Defendants if more than one, by some literate person ; and that upon every copy of such process there shall be endorsed an English notice, addressed to the Defendant or Defendants, of the intent and meaning thereof to the effect following: " You are served with this Process to the intent that you may, either in person or by your Attorney, enter an appearance in the office of the Clerk of the District Court for the District, within days after the service hereof upon you, in order to your defence in this action," which Writ shall be served within three months from the date thereof: And that in case the Defendant shall not appear within eight days after such service, it shall be lawful for the Plaintiff, upon affidavit being made and fyled of the service of such Process, to enter an appearance for such Defendant, and thereupon to fyle his declaration, and to proceed thereupon, according to the practice of the said Court of Queen's Bench, in actions not bailable.

IV. And whereas doubts have arisen respecting the jurisdiction of the said Courts in actions against Attorneys, and Members of the Legislative Assembly and Legislative Council of the Province; be it therefore

enacted, That from and after the passing of this Act it shall be lawful for any person or party having a cause of action within the jurisdiction of the said District Courts

5 against an Attorney or Attorneys of the said Court of Queen's Bench, or any Member of the Legislative Assembly or of the Legislative Council of this Province, to commence and prosecute an action for the

10 recovery thereof in the said District Courts, in the same manner and by the like process as against any other defendant, any custom or privilege to the contrary notwithstanding; and if in any such action the de-

15 fendant shall plead any privilege in abatement thereto, the plaintiff shall and may be at liberty to treat such plea as a nullity, and to sign judgment as for a want of a plea.

Donbts as to jurisdiction of the District Courts in certain cases removed.

V. And be it enacted, That the several

20 Judges of the said District Courts shall have and may exercise the like power in vacation to issue summonses and make orders in all matters of practice arising in suits in the same Courts respectively; as are exercised

25 in vacation by the Judges of the Court of Queen's Bench in Upper Canada in matters of practice arising in the said last mentioned Court.

Certain powers vested in the District Judges in vacation.

VI. And be it declared and enacted, That it

30 was and is the intention and true meaning of the fiftieth section of the Act aforesaid, That all recognizances of bail taken in any of the said District Courts, might and may be entered of record in the Court in which the suit shall

35 have been or shall be instituted, and that action of debt or *scire facias* should and shall lie thereupon, in the said District Courts, as in similar cases in the Court of Queen's Bench, whatever may have been or shall be

40 the amount mentioned, or for which such recognizance may have been or shall be given.

Intent and meaning of the 50th Section of 8 Vict. c. 13 declared.

SCHEDULE A.

Writ of Summons.

VICTORIA, &c.

To C. D. of in the County of;

Greeting.—

We command you (*or as before or often we have commanded you*) that within days after the service of this Writ on you, inclusive of the day of such service, you do cause an appearance to be entered for you in Our District Court of the District of , in an action on promises (*or as the case may be*), at the suit of A. B. And take notice that in default of your so doing, the said A. B. may cause an appearance to be entered for you, and proceed thereon to judgment and execution,

Witness at this day
of;

Memorandum to be subscribed on the Writ.

N. B.—This is to be served within three calendar months from the date thereof, including the day of such date, and not afterwards,