



No. 202.

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1st Session, 6th Parliament, 21 Victoria, 1858.

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**BILL.**

An Act to extend the Jurisdiction of the  
Division Courts, and to amend the laws  
relating to the said Courts.

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Received and read, first time, Wednesday, 2nd  
June, 1858.

Second reading, Monday, 7th June, 1858.

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MR. FERGUSON.

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TORONTO :

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**An Act to extend the Jurisdiction of the Division Courts,  
and to amend the laws relating to the said Courts.**

**W**HEREAS it is desirable that the jurisdiction of the Division Courts of Upper Canada should be extended, and that the law in relation to the said Courts should be amended as hereinafter mentioned ; Therefore Her Majesty, &c., enacts as follows :

Preamble.

5 I. If parties between whom differences have arisen shall agree by memorandum signed by them in presence of any Clerk of a Division Court or that the Judge of any particular Division Court to be named in such memorandum shall have power to hear and determine their cause of  
10 action, claims and demands, the Judge acting and presiding over such Division Court shall have power and jurisdiction so to do ; Provided the subject matter of difference shall be upon a cause or causes of action not exceeding Fifty Pounds in amount, and shall not be within the subjects excepted from the jurisdiction of the Division Courts by the first  
15 section of the Upper Canada Division Courts Extension Act of 1853 ; And every such memorandum shall be filed with the Clerk of the Court in which the case is to be heard ; and it shall confer upon the said Court jurisdiction, power and authority to hear and determine the matter so referred ; And upon such memorandum being filed, the plaintiff  
20 may enter his claim, and sue out a summons thereon, as in ordinary cases ; And the proceedings in such suit may be conducted and continued to judgment and execution, irrespective of the amount claimed and recovered, so as the same do not exceed Fifty Pounds, in the same manner as other suits cognizable in a Division Court may be conducted  
25 and continued under the provisions of the Upper Canada Division Courts Acts ; And the judgments in such suits shall have the same force and effect in all respects as any other judgment of the Court.

The parties to any case under fifty pounds, not being of such nature as the Division Courts are forbidden to take cognizance of, may agree that the case be determined in any Division Court in the usual manner.

II. And in amendment of the proviso in the 24th section of the Upper Canada Division Courts Act of 1850 ; Be it enacted as follows : Personal service of original, alias, or pluries summons, shall not be necessary  
30 in any case where the amount claimed shall not exceed Ten Pounds.

Sec. 24 of 13 and 15 V., c. 53, amended as regards personal service.

III. The first section of the Act of the Parliament of Upper Canada passed in the third year of the reign of King William the Fourth, chapter seven, shall extend to Division Courts and to summonses and process  
35 issued therefrom, provided that service of summons may be effected on a Railway Company by delivering a copy thereof to the Secretary, Station Master, or Clerk of the defendant, at any station or office of the defendant within the County in which the summons issues.

Sec. 1 of Act of U. C. 3 W. 4, chap. 7, extended to Division Courts. Proviso.

Service of  
process on  
board vessels.

IV. Where the defendant is living or serving on board any steamboat or vessel, it shall be sufficient service to deliver the summons issued from any Division Court to the person on board who is at the time of such service apparently in charge of such steamboat or vessel.

Barristers or  
attorneys (or  
other persons  
allowed by  
the Judge),  
may appear  
and speak in  
cases in the  
Division  
Courts :—Fee  
in such cases,  
if the person  
be a barrister  
or attorney.

V. A Barrister or Attorney retained by or on behalf of a party to any suit or proceeding in a Division Court (but without any right of exclusive or pre-audience), or by leave of the Judge any other person allowed by the Judge, may appear instead of the party and address the Court, but subject to such regulations as the Judge may from time to time prescribe for the orderly and speedy transaction of business; Provided that no Barrister or Attorney shall be entitled to recover more than five dollars for appearing or acting on behalf of any other person, in any suit or proceeding in the said Court or before the Judge thereof; and the Judge shall have power from time to time to determine in what case the expense of employing a Barrister or Attorney, should be allowed in taxation of costs, and shall settle and regulate the amount in each case, not exceeding five dollars, as aforesaid, to be so allowed, and such amount so settled shall be costs in the cause recoverable, in the same way as other costs in the said Courts.

Interpretation  
of this Act, &c.

VI. The Division Courts Acts and this Act shall be read as one Act, and the powers conferred on the Judges, under the provisions of the 10th section of the Upper Canada Division Courts Extension Act of 1853, shall extend to the framing, from time to time, of rules of practice for the said Courts under this Act.

Short titles of  
certain Division  
Courts  
Acts

VII. In citing, pleading, or otherwise referring to the Act passed in the 18th year of Her Majesty's Reign intituled "*An Act to extend the jurisdiction of the Division Courts of Upper Canada*," it shall in all cases whatsoever be sufficient to use the expression "The Division Courts Extension Act of 1855;" And in citing, pleading, or otherwise referring to this Act, it shall in all cases whatsoever be sufficient to use the expression "The Division Courts " Extension Act of 1858."

And of  
this Act.