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No. 97.

3d Session, 3d Parliament, 13 Victoria, 1850.

BILL.

An Act to alter and amend the Practice
of the several Courts of Law in Upper
Canada, and to reduce the Costs of
the same.

Received and Read a first time, Monday, 17th
June, 1850.

Second Reading, Wednesday, 19th June, 1850.

MR. NOTMAN.

BILL.

An Act to alter and amend the Practice of the several Courts of Law in Upper Canada, and to reduce the Costs of the same.

WHEREAS it is desirable and necessary that the Preamble.
 proceedings in the several Courts of Law in Upper Canada should be made more simple and less expensive than they now are, and such alterations effected
 5 as may tend to relieve suitors from the heavy expense heretofore borne by them, without impairing the efficiency of the said Courts, or interfering with the due administration of Justice: Be it therefore enacted, &c.

That from and after the passing of this Act no Fees shall No fees to be recoverable by attorneys, &c.
 10 be recoverable by any Attorney, Solicitor, Barrister or Counsel, for or in respect of any service, work or labour rendered, done or performed by him as such Attorney, Solicitor, Barrister or Counsel, in any Court of Law or Equity in Upper Canada; nor shall any such Fees be
 15 chargeable or taxable against any defendant or plaintiff in any cause, suit or proceeding in the said Courts whatever: Provided nevertheless, that all necessary disbursements heretofore usually taxable may be recovered by Proviso.
 the party entitled thereto, but according to the tariff or
 20 rate hereinafter mentioned.

II. And be it enacted, That the several Rules and New Rules of Q. B. repealed
 Orders made by the Judges of Her Majesty's Court of Queen's Bench, (commonly called the New Rules of Pleading,) under the authority of the Act of the Parli-
 25 ment of Upper Canada, passed in the seventh year of the Reign of His late Majesty, and intituled, "*An Act for the* U. C. 7 Wm. 4, c. 3.
 "*further amendment of the Law and the better advancement of Justice,*" and confirmed by the Act passed in the
 sixth year of Her Majesty's Reign, and intituled, "*An* 6 Vict. 19.
 30 "*Act to confirm certain Rules, Orders and Regulations made by the Chief Justice and Judges of Her Majesty's Court of Queen's Bench for Canada West,*" be and the same are hereby repealed and declared to be no longer
 in force.

III. And be it enacted, That from and after the passing Form of pleading to be adopted hereafter.
 of this Act the several pleadings in any suit at law or equity shall be in the English language, drawn and framed
 in a plain, simple and intelligible form, and with as much
 brevity and conciseness as may be necessary to present

the matter at issue between the parties, and that the subject matter of defence may, with or without the general issue, be specially pleaded.

No writ of summons to issue in non-bailable cases, &c.

IV. And be it enacted, That it shall not be necessary, in non-bailable cases, for the purpose of bringing a party into Court, to cause him to be served with a writ, process, or summons, but that a declaration, stating the cause of action, and appended to which shall be a copy of the account, note, bill, bond or other instrument on which the claim is founded, shall be personally served in the first instance upon the defendant, together with a notice to plead thereto in *ten* full days after such service, otherwise Judgment by default may be thereupon signed; and that eight days' notice of computation or assessment of damages shall be given to the defendant.

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Pleading set-off.

V. And be it enacted, That the defendant on pleading a set off shall, with the same, deliver to the plaintiff a copy of the account, note, bill, bond or other written instrument on which his set off is founded.

Any one may be employed as an attorney, &c. in any Court.

VI. And be it enacted, That it shall and may be lawful for any plaintiff or defendant to employ any person not duly admitted to practice in the Courts of Law or Equity, as his Attorney, Solicitor or Counsel to sue, appear and act for him or her and conduct all business of the suit, on producing to the Court, if required, a written authority from the plaintiff or defendant so to appear and act.

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Reasonable agreements with attorneys &c. to be valid.

VII. And be it enacted, That nothing herein contained shall be construed to render void any reasonable agreement made by a suitor with his, her or their Attorney, Solicitor or Counsel, or one acting as such, in respect of any fee, reward or hire, paid or to be paid in consideration of such services, so that such agreement or bargain shall not be in contravention of any law of this Province, nor against sound policy.

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Proceedings in ejectment in outer Counties &c. to be valid.

VIII. And be it enacted, That all proceedings in actions of ejectment may be carried on to final judgment in the outer counties, in like manner as they are now conducted in the City of Toronto; and that the declaration shall contain a simple statement of the property sought to be recovered, rejecting all such redundant and unnecessary words as have no reference to the merits of the case, or to the title to the land and premises in dispute.

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Jurisdiction of Division Court raised.

IX. And be it enacted that the Jurisdiction of the Division Courts shall be increased, and that it shall and may be lawful for each of the Courts to hold plea in all matters of debt, covenant and contract, where the sum is liquidated and ascertained by the act of the parties, to the ex-

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tent of one hundred pounds, and in cases where the sum is disputed to the amount of fifty pounds, with the right to either party, if he shall so desire, to have a jury of persons summoned : and also shall hold plea in
 5 all matters of tort, trespass on the case, and trespass to persons and personal property, and wherein the title to Land shall not come in question, to the amount of twenty pounds, excepting however actions for slander and libel, debauching plaintiff's wife or daughter, and infringing
 10 patents : Provided always, that it shall be lawful for either party aggrieved to appeal to any of the superior Courts of Law at or during the next term thereafter, on entering into security to prosecute such appeal with effect.

Proviso :
 Appeal given.

X. And be it enacted, That the Judgments of the said
 15 Division Courts may be enregistered in the office of the County Registrar, on payment of a fee to him of *one shilling and three pence*, and shall have the same effect in binding lands as the registration of judgments recovered in any of the Courts of Record of this Province; and that
 20 the said Division Courts shall have power to issue writs of execution against goods and chattels, lands and tenements, to the Sheriff of any County or United County, in like manner as is now practised by the Superior Courts of Queen's Bench and Common Pleas at Toronto; and
 25 that the said Superior Courts shall have the like summary jurisdiction over Sheriffs, in respect of such writs, as they now possess in other cases.

Judgments of
 Division
 Courts may be
 registered, &c.

XI. And be it enacted, That the Deputy Clerks of the
 Crown, in the several Counties or United Counties, shall
 30 perform all the duties of Marshal and Clerk of Assize on receiving *twenty shillings* for each day of the assize.

Deputy Clerks
 of the Crown
 to act as Mar-
 shals of
 Assize.

XII. And be it enacted that all laws, statutes, rules and
 orders, in so far as the same or any part or parts thereof,
 are or may be repugnant to or inconsistent with the
 35 intent and meaning of this Act, shall be and are hereby declared to be void and repealed.

Inconsistent
 laws repealed.

TABLE OF FEES REFERRED TO :

Sheriff.

Clerk.

Crier.

Jury.

Witness.