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2nd Session, 8rd Parliament, 12 Victoria, 1849.

BILL.

An Act to amend and extend the provisions of the Act of this Province, intituled "*An Act to allow the issuing of Testatum Writs of Capias ad Respondendum in the several Districts of Upper Canada, and for other purposes therein mentioned.*"

Received and Read a first time, Monday, 12th
March, 1849.

Second Reading, Thursday, 15th March, 1849.

Mr. SMITH of Durham.

PRINTED BY LOVELL AND GIBSON.

BILL.

An Act to amend and extend the provisions of the Act of this Province, intituled "*An Act to allow the issuing of Testatum Writs of Capias ad Respondendum, in the several Districts of Upper Canada, and for other purposes therein mentioned.*"

WHEREAS it is expedient to extend the provisions of the Act of the Parliament of this Province, passed in the eighth year of the Reign of Her Majesty Queen Victoria, intituled "*An Act to allow the issuing of Testatum Writs of Capias ad Respondendum in the several Districts of Upper Canada, and for other purposes therein mentioned;*" Be it therefore enacted, &c.

And it is hereby enacted by the authority of the same, That it shall and may be lawful for the Deputy Clerk of the Crown, in each of the Districts of Upper Canada, at the election of the party entitled to judgment, to tax costs, and enter final judgment in all suits in which the venue shall be laid, and the proceedings carried on, and the original pleadings fyled within such District, whether such judgment be upon verdict, computation, *cognovit*, Warrant of Attorney or otherwise, and whether such *cognovit* be given in the first instance or after other proceeding had in the suit or cause wherein the same shall have been taken; and to issue all original *testatum* writs or *alias* or *pluries* writs of *ñeri facias*, or *capias ad satisfaciendum*, according to the practice of the Court of Queen's Bench: Provided always, that it shall be lawful for the opposite party,

Preamble.

Act 8 Vict. c. 36.

Deputy Clerks of the Crown may tax costs and enter final judgement in certain cases.

Proviso. a rule may be had to

tax at Toron- in any case, to sue out a rule from the prin-
to. cipal office at Toronto, for the taxation of
costs in such suit by the Master thereat, and
thereupon such costs shall be taxed, and
final judgment entered at the principal office 5
at Toronto.

Recital. II. And whereas in some instances judg-
ments in outer Districts have been held to be
irregular, and the same and proceedings there-
upon have set aside in consequence of the 10
cognovits upon which the same were entered
having been taken in the first instance, and
before other proceeding had in the cause:
Certain judg- For remedy thereof, be it enacted, That
ments upon every judgment upon *cognovit actionem*, 15
cognovit de- heretofore entered by the Deputy Clerk of
clared regular. the Crown in any District of Upper Canada,
and regular in other respects, shall be
deemed and held to be regular to every in-
tent, whether the *cognovit* upon which the 20
same was so entered, was given in the first
instance or otherwise.