## Technical and Bibliographic Notes / Notes techniques et bibliographiques

L'Institut a microfilmé le meilleur exemplaire qu'il lui a

28x

32x

The Institute has attempted to obtain the best original

Ce document est filmé au taux de réduction indiqué ci-dessous.

16x

12x

copy available for filming. Features of this copy which été possible de se procurer. Les détails de cet exemmay be bibliographically unique, which may alter any of plaire qui sont peut-être uniques du point de vue biblithe images in the reproduction, or which may ographique, qui peuvent modifier une image reproduite, significantly change the usual method of filming are ou qui peuvent exiger une modification dans la méthochecked below. de normale de filmage sont indiqués ci-dessous. Coloured covers / Coloured pages / Pages de couleur Couverture de couleur Pages damaged / Pages endommagées Covers damaged / Couverture endommagée Pages restored and/or laminated / Pages restaurées et/ou pelliculées Covers restored and/or laminated / Couverture restaurée et/ou pelliculée Pages discoloured, stained or foxed / Pages décolorées, tachetées ou piquées Cover title missing / Le titre de couverture manque Pages detached / Pages détachées Coloured maps / Cartes géographiques en couleur Showthrough / Transparence Coloured ink (i.e. other than blue or black) / Encre de couleur (i.e. autre que bleue ou noire) Quality of print varies / Qualité inégale de l'impression Coloured plates and/or illustrations / Planches et/ou illustrations en couleur Includes supplementary material / Comprend du matériel supplémentaire Bound with other material / Relié avec d'autres documents Pages wholly or partially obscured by errata slips, tissues, etc., have been refilmed to ensure the best Only edition available / possible image / Les pages totalement ou partiellement obscurcies par un feuillet d'errata, une Seule édition disponible pelure, etc., ont été filmées à nouveau de façon à obtenir la meilleure image possible. Tight binding may cause shadows or distortion along interior margin / La reliure serrée peut causer de l'ombre ou de la distorsion le long de la marge Opposing pages with varying colouration or intérieure. discolourations are filmed twice to ensure the best possible image / Les pages s'opposant ayant des colorations variables ou des décolorations sont Blank leaves added during restorations may appear within the text. Whenever possible, these have been filmées deux fois afin d'obtenir la meilleure image omitted from filming / II se peut que certaines pages possible. blanches ajoutées lors d'une restauration apparaissent dans le texte, mais, lorsque cela était possible, ces pages n'ont pas été filmées. Cover title page is bound in as last page in Additional comments / book but filmed as first page on fiche. Commentaires supplémentaires: This item is filmed at the reduction ratio checked below /

10x 14x 18x 22x 26x 30x

24x

20x

1st Session, 4th Parliament, 16 Victoria, 1852.

## BILL.

An Act to increase the Jurisdiction of the County Courts in Upper Canada, to amend the Acts regulating their Practice, expediting and simplifying the proceedings of the said Courts, and for the settlement of disputes without litigation.

Received and read a first time, Tuesday, 31st August, 1852.

Second reading, Wednesday, 8th September, 1852.

MR. W. H. BOULTON.

QUEBEC:

PRINTED BY JOHN LOYELL, MOUNTAIN STREET.

## BILL.

An Act to increase the Jurisdiction of the County Courts in Upper Canada, to amend the Acts regulating their practice, expediting and simplifying the proceedings of the said Courts, and for the settlement of disputes without litigation.

WHEREAS it is expedient to alter and amend the Acts regulating Terms abolthe Practice of the County Courts in Upper Canada, and to expe-ished. dite and simplify the proceedings of the said Courts; Be it therefore enacted, &c.,

5 That such provisions of the Act or Acts now in force as require the hold-. Judges to have ing of Terms of the said Courts, he repealed, and that the Terms of the same powers said Courts be abolished: Provided always, that any Judge of the said as in Term at Courts shall have and exercise the same powers at all times and in all proceedings not inconsistent with the provisions of this Act, that have 10 heretofore appertained to the said Courts in Term time, and shall have power to make Rules of Practice in cases rendered necessary by the abolition of the said Terms.

II. And be it enacted, That after the close of each of the sittings of the Time given said Courts, (fourteen) days shall be allowed for motions to set aside after verdict for motions for 15 verdicts or non-suits, or in arrest of Judgment, or for new trials, or for newtrials, &c. Judgment of non-suit, or for all such proceedings as have heretofore in Term time followed the sittings of the said Courts; Provided always, Judgments that any Judge of the said Courts may upon sufficient cause shown by immediate in affidavit, order immediate Judgment upon any verdict obtained, and certain causes. 20 also that any Judge of the said Courts may upon sufficient cause shown by affidavit, extend the time for levying under execution, for a period not Judges may exceeding (three) months beyond the return day mentioned in the Writ extend time of Execution.

der execution.

III. And be it enacted, That all writs issued out of the said Courts All writs test-25 shall bear Teste on the day on which they issue, and that every Writ of ed on day of Execution not being a Writ of Capias ad Satisfaciendum or an original Writ against Lands and Tenements, shall be returnable on a day at least (twenty) days after, and not later than three calendar months from the Writs to be in issuing thereof; Provided always, That a Sheriff or other proper officer force for three 30 shall not be liable to attachment for not returning or improperly returning a Writ of Execution, unless he shall have been required to execute the Sheriff when same at least (fourteen) days before the return day thereof, or in case of liable to be an original Writ of Execution against Lands, at least six calendar return. months before the return day thereof.

Actions where brought.

IV. And be it enacted, That all actions in the County Courts shall be brought either in the County in which the plaintiff or plaintiffs, or one or more of them, or the defendant or defendants, or one or more of them, shall reside at the time of the commencement of the action, or in the County in which the debt was contracted or made payable, or the contract was made, in the option of the plaintiff or plaintiffs, and in default thereof the whole proceedings may, on the application of the defendant or defendants, or any one or more of them, made at any time before plea pleaded, or any interlocutory judgment or other judgment signed, be set aside with costs.

Ca: Res:—Ca: of attachment ble.

V. And be it enacted, That all Writs of Capias ad Respondendum, Sa: and writs and of Capias ad Satisfaciendum, and of Attachment against person or when returns. estate shall bear Teste on the day on which they issue, and shall be returnable either forthwith or on a day not later than (thirty) days from the issuing thereof.

15

10

When Non Pros: for not declaring. Judge may give time to declare or plead.

VI. And be it enacted, That unless the plaintiff in any action shall file his declaration within (three) calendar months next ensuing the last return day of the process served, the defendant may enter judgment of Non-pros: Provided always, that the time for declaring or pleading may be extended by the Judge of the Court.

Sci: fa:abolished and judgments renary Judge's Summons.

VII. And be it enacted, That the proceedings by Writ of Scire Facias be abolished, and instead thereof that a party or parties to a suit or any vived by ordi one of them desirous of reviving a judgment obtained therein, may obtain a Judge's Summons, calling upon the opposite and proper party or parties to shew cause why the judgment should not be revived and pro- 25 ceedings had thereon, and that it shall be in the power of any Judge of the said Courts, sufficient cause to the contrary not being shown, to order that such Judgment be revived and Execution, Certificate of Judgment or other usual proceedings be obtained thereon.

Courts to have inherent jurisdiction to remedy technical difficulties.

VIII. And be it enacted, That the said Courts shall be held to possess 30 inherent jurisdiction to carry out to final judgment and determination, any suit properly instituted within their jurisdiction, and that on the occurrence of any point of practice involving doubt or technical difficulty in Law, it shall be competent to any Judge of the said Courts, to decide upon the same as shall appear to him to be just and agreeable to 35 equity and good conscience.

Vacation abolished.

And be it enacted, That such provisions of the Act or Acts now in force, as require that no declaration or pleading after declaration shall be filed or delivered in any action in the said County Courts, between the first day of July and the twenty-first day of August, in each 40 and every year, be repealed, and that declarations, pleadings and all proceedings therein, may be filed, served and taken at all usual legal times.

X. And be it enacted, That in any suit to be brought in the Court of As to suits brought in Q. Queen's Bench or Common Pleas after this Act shall come into effect, 45 and within the which suit may be of the proper competence of the said County Courts,

no more costs shall be taxed against the defendant than would have been competence of incurred in the County Court in carrying on the same action, unless the Courts. Judge who presides at the trial of such suit or action, shall certify in open Court, immediately after the verdict is recorded, that it was a fit cause 5 to be withdrawn from the County Court and to be commenced in the said Court of Queen's Bench or Common Pleas; Provided also, that so Proviso. much of the costs of the defendant to be taxed as between client and Attorney in any such suit, wherein the Judge shall not certify as aforesaid, as shall exceed the costs of defence taxable, and which would have 10 been incurred in the County Court in defending the same action, shall be set off and allowed by the master in entering judgment, against the costs to be taxed for the plaintiff and recoverable from the defendant.

XI. And be it enacted, That whenever the parties in a matter of dispute Parties may within the jurisdiction of the Court, shall sign and file an agreement in by agreement to writing to abide the event, it shall be competent to the Judge to appoint obtain a hearing and judge. a day of hearing, whereto witnesses may be subposned if necessary, and ment before that the said Judge may proceed to such hearing, either before the action brought commencement of any action or during suit, and may enlarge the time or while pendfor such hearing, and may examine the parties or either of them on oath 20 if he think fit, and a copy of the entry made by the Judge of the evidence if any taken, and of his decision in the matter, with the amount of costs if any taxed, and added to the sum if any awarded, shall become a judgment roll of the said Court, whereupon judgment shall be entered, and the said judgment shall be final, and may be 25 followed by execution or certificate of judgment in the usual manner.