

CAP. XX.

An Act to amend the Practice of the Law.

Section.

1. Writs may bear teste on the day of issue.
2. Bill of York abolished.
3. Appearance; judgment by default; special bail.

Section.

4. Common bail pieces unnecessary; sufficient appearance, what.
5. Declaration in trespass, or trespass on the case.
6. Signing Judgment in summary cases.

Passed 6th April 1858.

BE it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. That from and after the passing of this Act, all Writs to be issued from any of the Courts in this Province, may bear teste on the day on which such Writs shall be issued, any law, usage or custom to the contrary thereof in any wise notwithstanding.

2. That writs of *capias*,ailable or non-ailable, may issue and take effect in the County of York in like manner as in other Counties; and the Bill of York is hereby abolished.

3. That the defendant in all cases shall have thirty days to appear to a non-ailable process, and to enter special bail to aailable process, from the return day of such process; and in summary actions, if the defendant do not enter his appearance and plead within the time aforesaid, judgment may be entered against him by default; or, if the case beailable, and the defendant should fail to enter special bail within thirty days after the return day of the writ, the plaintiff may proceed against the Sheriff, or on the bail bond, as in ordinary cases.

4. That common bail pieces shall not be necessary in any case, nor shall any costs be taxed for the same; that notice of appearance served on the plaintiff's attorney, and a copy of the same filed in the office of the Clerk of the Court out of which the process issued, for which copy to be filed a charge of six pence only shall be allowed, shall be deemed a sufficient appearance.

5. That in all actions of trespass and trespass on the case, the declaration shall be equally good and valid to all intents and purposes, whether the same shall be in form a declaration in trespass, or trespass on the case.

6. That the party in whose favour the verdict may be given in summary actions, shall be entitled to sign judgment thereon

immediately after the verdict, any thing in the Act passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled *An Act to provide for the more convenient administration of Justice in the Supreme Court*, to the contrary notwithstanding.

CAP. XXI.

An Act relating to the Action of Ejectment.

Section.

1. Present mode of proceeding abolished.
2. Proceedings to commence by summons; form and service.
3. Form of declaration in ejectment.
4. Mesne profits, when recoverable.
5. Leave by a Judge to defend, though not named in the Writ.
6. Defence may be limited to a part of the property.
7. Description of property in declaration may be amended.
8. Appearances and defences by persons not in possession.
9. Plaintiff to recover if no appearance is entered or defence is limited;
10. Special case by consent.
11. Plea by defendant, and question at trial.
12. Judge may order trial to be had in other County than where venue is laid.

Section.

13. Judgment and execution for either party.
14. Action and defence by joint tenants, &c.; ouster an additional question.
15. One of several plaintiffs may discontinue.
16. Plaintiff may discontinue as to one or more of the defendants.
17. Effect of judgment to be as heretofore.
18. Tenants having knowledge of Writ of Ejectment, to notify Landlord or Receiver.
19. Improvements may be set off against mesne profits.
20. Not necessary to prove right of entry, unless, &c.
21. Title obtained while another in possession, no preclusion.
22. Tenant not barred from defending.
23. Form of Execution in ejectment. Schedule.

Passed 6th April 1858.

BE it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. That the mode of proceeding in Ejectment as at present practised in this Province, be and the same is hereby abolished; provided always, that nothing herein contained shall extend or be construed to extend to actions of Ejectment now pending, but the same may be prosecuted in all respects as if this Act had not been passed, any thing herein contained to the contrary thereof in any wise notwithstanding.

2. In the action of Ejectment the proceedings shall be commenced by a writ of summons as given in the Schedule of this Act and numbered 1, which shall be made returnable and served as other writs, but in cases of vacant possession it shall be served by posting a copy thereof upon the door of the dwelling house or other conspicuous part of the property, and by publishing a copy of the same for at least one month in some Newspaper published in the County where the property is situate, and if no Newspaper be published in such County, then for a like space of time in the Royal Gazette.