

appearance and plea, his or their name or names shall be considered and taken to have been substituted in the declaration of ejectment in the place and stead of the name of the casual ejector, and it shall not be necessary to file any new declaration, but in making up the issues and record for trial, the same shall be made up and the record shall be examined and passed, the same as if the name or names of the person or persons so defending had been originally in the said declaration instead of that of the casual ejector, making such alterations only as shall be necessary to render the language grammatically correct.

stituted for casual ejector.

No new declaration required.

VII. And be it enacted, That it shall be the duty of the Clerks of the Crown and Pleas, from time to time, to furnish their respective Deputies in the several Counties and United Counties of Upper Canada, with all necessary blank consent rules, writs of possession and of *Fieri Facias*, in all actions of Ejectment hereafter to be brought, sued or prosecuted, in any of the said several Counties.

Deputy clerk to be furnished with certain writs, rules, &c., in blank.

SCHEDULE.

To Mr. _____ The tenant (or tenants, if more than one,) in possession of the premises.

I am informed that you are in possession of or claim title to the premises in this declaration mentioned, or to some part thereof; and I being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear in next _____ Term, in Her Majesty's Court of Queen's Bench, (or Common Pleas, as the case may be) by some Attorney of that Court, by filing your appearance in the office of the Clerk of the Crown and Pleas in the Court of Queen's Bench (or Common Pleas, as the case may be or of the Clerk of the Common Pleas), at Toronto, in the County of York, (if proceedings are had in that County) or in the office of the Deputy Clerk of the Crown and Pleas in the Court of Queen's Bench (or Common Pleas, as the case may be) at _____ in the County of _____ (or in the United Counties of _____ as the case may be) and then and there by rule of the same Court to cause yourself to be made Defendant in my stead: And take notice, that unless the person intending to defend, shall, within eight days, inclusive, after the end of _____ Term next, enter into the customary consent rule, plead to this declaration of Ejectment, file the said consent rule and plea in the office of the said Clerk of Crown and Pleas, (where declaration filed) or the said Deputy Clerk of the Crown and Pleas in the County of _____ or of the United Counties of _____ (where declaration filed)—judgment will be signed against the casual ejector by default, and you will be turned out of possession.

Dated this _____ day of _____ A. D. 185 _____ Yours, &c.

RICHARD ROE.

CAP. LVIII.

An Act to alter the Practice of the Law in actions of Dower, in Upper Canada.

[10th August, 1850.]

WHEREAS it is expedient and necessary to alter the Practice of the Law for the recovery of Dower, and to give a more easy and less expensive remedy for the recovery thereof, than now exists in Upper Canada: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, the action of Dower at Law shall be commenced by filing a declaration or

Preamble

How actions of Dower shall be commenced.

plaint

plaint (in the form heretofore used) in the Office of the Clerks of the Crown, or Common Pleas, or of any Deputy Clerk of the Crown or Common Pleas, in any County where the action is brought: Provided always, that any action of Dower shall be brought in the County or United Counties wherein the lands or tenements of which Dower is sought to be recovered in such action are situate, and that the declaration may be served on the tenant of the freehold in any part of Upper Canada, either within or without the limits of the County or United Counties in which the action is brought.

Proviso: where the action shall be brought, &c.

Copy of declaration, &c. to be served on tenant, and how.

II. And be it enacted, That a copy of such declaration and of the notice to this Act annexed (marked Schedule A) may be served by any literate person personally, within one year from the filing thereof, on the tenant of the freehold, if within the jurisdiction of the Court, and if not, then upon the tenant of the land of which Dower is demanded, and if such tenant do not plead agreeably to the notice, the demandant therein, upon affidavit of the due service of such declaration, and notice being made and filed, shall be entitled to proceed thereon as in personal actions.

If the land be vacant, and tenant cannot personally served.

III. And be it enacted, That if the land of which Dower is demanded is vacant, and the tenant of the freehold cannot be personally served with declaration as hereinbefore provided, then and in such case, service may be made as in actions of ejectment: Provided always, that such service when not personal upon the tenant, shall be allowed by the Court or a Judge thereof, and after filing such declaration and affidavit of service, and the order or rule of allowance thereof, the demandant may after the time for pleading has expired proceed thereon, as if personal service had been effected.

What must be proved if tenant be not personally served.

IV. And be it enacted, That whenever the tenant of the land shall not be personally served with declaration and the demandant shall proceed to the trial of the right of Dower in the land, the said demandant before the entry of any verdict in favor of such right shall prove the marriage *seisin* and death of the husband in the same manner as if the tenant had pleaded, traversing such marriage *seisin* and death of the husband.

Costs allowed to demandant.

V. And be it enacted, That costs shall be allowed to the demandant in all cases, whether damages be recoverable or not, in the same manner as costs are now allowed to a plaintiff or defendant in personal actions; provided it shall be made appear on the trial that a demand in writing had been made of the Dower claimed from the tenant one month before action brought, the action to be brought within a year from demand as aforesaid; provided also, that the tenant shall not make it appear on the trial, that he or she offered to assign the Dower demanded before action brought.

Proviso.

VI. And be it enacted, That every tenant to whom any declaration or plaint in Dower shall be delivered, shall forthwith give notice thereof to his Landlord, or to the Servant, Attorney, Agent, Bailiff or Receiver of his Landlord, under the penalty of forfeiting three years improved or rack rent of the premises so demised, holden, or in the possession of such tenant to the person of whom he holds, to be recovered by action of debt to be brought in any of Her Majesty's Courts of Record in this Province: Provided always, that a recovery had against a mere occupier of the land, and without notice to the *Terre Tenant* shall have no greater effect than a recovery in ejectment would have had for the quantity of land assigned as Dower in such recovery.

Tenant served to give notice to his landlord.

Penalty for not doing so.

Proviso.

SCHEDULE A.

In the Queen's Bench, Common Pleas, &c.,

A. B. who was (or is, as the case may be) the widow of C. D. deceased, demandant, and E. F. tenant.

Take notice, that a declaration of which the annexed is a true copy, was this day filed in the Office of the Clerk (or Deputy, as the case may be) at _____ in the County of _____ (or United Counties of _____ as the case may be) and unless you plead thereto within twenty days from the service hereof, judgment will be signed against _____

against you by default, and subsequent proceedings and execution thereof follow thereon, according to law.

Dated the _____ day of _____ 18
 J. K. Attorney, &c., residing at
 in the County of _____ (or United Counties of
 as the case may be)

To E. F. of the Town of _____ (as the
 case may be) the above tenant.

C A P. L I X.

An Act to amend an Act passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to prevent the unnecessary multiplication of Law-suits, and increase of costs in actions on Notes, Bonds, Bills of Exchange and other Instruments.*

[24th July, 1850.]

WHEREAS it is expedient to extend the provisions of an Act of the Parliament of Upper Canada, passed in the fifth year of the Reign of His late Majesty King William the Fourth, intituled, *An Act to prevent the unnecessary multiplication of Law-suits, and increase of costs in actions on Notes, Bonds, Bills of Exchange and other instruments*: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, so much of the second and twelfth sections of the said recited Act as prevents the application of the said Act and all or any of the provisions thereof, as to Promissory Notes, Bonds, Bills of Exchange, Recognizances or other Instruments wherein or whereby the sum expressed to be payable exceeds the sum of one hundred pounds, be and the same is hereby repealed.

Preamble.

Part of Sections 2 and 12 of the Act of U. C. 5 W. 4, c. 1, repealed.

II. And be it enacted, That this Act shall not apply to any action or suit on any Bond, Promissory Note, Bill of Exchange or other Instrument wherein or whereby the sum expressed to be payable shall exceed the sum of one hundred pounds, which shall have been commenced or brought by mesne process having been issued therein before the passing of this Act, but any such action or suit may be conducted to judgment and execution as if this Act had not been passed.

Repeal not to affect suits now commenced.

C A P. L X.

An Act to amend the Law relating to Slander and Libel.

[24th July, 1850.]

WHEREAS it is expedient and necessary to alter and amend the Law relating to Slander and Libel: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That from and after the passing of this Act, it shall and may be lawful on the trial of any action, indictment or information, for the making or publishing any libel, on the plea of not guilty pleaded, that the jury sworn to try that issue may give a general verdict of guilty or not guilty upon the whole matter put in issue in such action, or upon such indictment or information, and shall not be required or directed by the Court or Judge before whom such action, indictment or

Preamble.

Jury not to be directed to return a verdict of guilty on the mere proof of the publication, and of the sense ascribed.

or