Colonist.

Legislative Council,
May 29th, 1865.

AMENDMENTS TO "A BILL TO GRANT JURISDICTION TO JUSTICES OF THE PEACE AND STIPENDIARY MAGISTRATES IN CIVIL CASES."

In the Title of the Bill strike out the words "Justices of the Peace and."

Strike out the preamble, enacting clause and clauses 1 to 251, and in lieu thereof insert the following;

WHEREAS, an Inferior or Summary Court of Civil Justice hath been established in the Colony of Vancouver Island and its dependencies, which hath heretofore sat at Victoria in the said Colony and at no other place. And whereas it is desirable that the said Inferior or Summary Court should sit at other places in the said Colony and that justice should be administered therein by the Officers hereinafter mentioned, and that the jurisdiction and procedure in the said Inferior Court should be modified in certain particulars; be it therefore enacted by the Governor of the Colony of Vancouver Island and its dependencies, by and with the advice and consent of the Legislative Council and Assembly thereof as follows;

I. It shall be lawful for the Governor from time to time, to erect any portion or portions of the said Colony into Inferior or Summary Court districts, and to give to such districts distinguishing names, and to define the limits and boundaries of the same.

II. Courts shall be held in the said districts for the purpose of trying actions brought in the Inferior or Summary Court of Civil Justice of Vancouver Island, and such actions may be brought and decided either in the district in which the cause of action shall have arisen, or in a district in which the defendant or one of the defendants shall dwell or carry on his business at the time of the action brought, or by leave of the Court in a district in which the defendant or one of the defendants shall have lived or carried on his business at some time within six calendar months next before the time of the action brought.

III. The said District Courts may sit concurrently and the sittings shall be fixed by the Judge or Judges of such District Court, and the sitting of every District Court shall be held at least once in every calendar month, or at such other interval as the Governor for the time being shall appoint.

IV. In any District Court as well in the district in which the said City of Victoria is situated as in other districts, any Stipendiary Magistrate having authority to act in the said district, may be appointed by the said Governor to act as Judge and in any such District Court the Clerk of the said Stipendiary Magistrate or other the person specifically appointed by the Governor for that purpose, may act as Clerk of the said District Court, and any Constable or other person specifically appointed by the Governor for that purpose, may act as Bailiff of the said District Court.

V. The Judge or Judges of the Supreme Court of Civil Justice may, if occasion shall require, act as Judges of the said Inferior or Summary Court of Civil Justice, having power either to sit with the Stipendiary Magistrate in any District, or to sit for him or concurrently with him and dispose of the business from time to time pending in any District Court.

VI. The said District Courts shall have authority to try all pleas of personal actions where the debt or damage claimed is not more than $250, whether on balance of account or otherwise, without writ, and all such actions shall be tried in a summary way. Provided always that no such Court shall have cognizance of any action in which the validity of any devise, bequest or limitation under a Will or Settlement may be disputed, or for any malicious prosecution, or for any Libel or Slander, or for Criminal Conversation, or for Seduction, or for Breach of Promise of Marriage. Provided also, that with respect to all actions which may be brought in the Supreme Court of the said Colony, except actions for Criminal Conversation, if both parties shall agree by a memorandum signed by them or their attorneys, that any District Court named in such memorandum shall have power to try such action, such said District Court shall have jurisdiction to try the same.

VII. If either party in any cause where the sum recovered is not less than $100 shall be dissatisfied with the determination or direction of any District Court in point of law or upon the admission or rejection of any evidence, such party may appeal from the same to the Supreme Court of Civil Justice of the said Colony, provided that such party shall within four days after such determination or direction give notice of such appeal to the other party or his attorney, and also give security to be approved by the Clerk of such District Court for the costs of the appeal whatever be the event of the appeal and for the amount of the judgment if he be the defendant and the appeal be dismissed, provided nevertheless that such security so far as regards the amount of the judgment shall not be required in any case where the Judge of such District Court shall have ordered the party appealing to pay the amount of such judgment into the hands of the Clerk of the Court in which such action shall have been tried and the same shall have been paid accordingly, and the said Court of Appeal may either order a new trial on such terms as it thinks fit or may order judgment to be entered for either party as the case may be, and may make such order with respect to the costs of the said appeal as such Court may think proper, and such order shall be final.

VIII. Such appeal shall be in the form of a case agreed on by both parties or their attorneys, and if they cannot agree the Judge of such District Court upon being applied to by them or their attorneys shall settle the case and sign it and such case shall be transmitted by the appellant to the Registrar of the said Supreme Court.

IX. No judgment order or determination if given or made by any Judge of a District Court as aforesaid, nor any cause or matter brought before him or pending in his Court, shall be removed by appeal motion, writ of error, certiorari or otherwise into any Court whatever, except in the manner and according to the provisions herein mentioned.

X. No appeal shall lie from the decision of any such District Court as aforesaid if before such decision is pronounced both parties shall agree in writing signed by themselves or their attorneys or agents that the decision of the Judge shall be final.

XI. Whenever a party is required to give security on any appeal as aforesaid, such security shall be at the cost of the party giving it and in the form of a Bond with sureties to the other party or intended party in the action or proceedings. Provided always that the Court in which any action on the Bond shall be brought may by rule or order give such relief to the obligor as may be just,

and such rule or order shall have the effect of a defeazance of such Bond.

XII. Whenever on any such appeal as aforesaid a party is required to give security he may in lieu thereof deposit with the Clerk of such District Court as aforesaid or with the Registrar of the Supreme Court, if the security is required to be given in such Court, a sum equal in amount to the sum for which he would be required to give security, together with a memorandum to be approved of by such Clerk or Registrar and to be signed by such party, his attorney or agent, setting forth the conditions on which such money is deposited, and the said Clerk or Registrar shall give to the party paying a written acknowledgment of such payment, and the Judge of the said District Court where the money shall have been deposited in such Court, or the Judge of the said Supreme Court where the money shall have been deposited in the said Supreme Court, may on the same evidence as would be required to enforce or avoid such Bond as hereinbefore is mentioned, order such sum so deposited to be paid out to such party or parties as to him may seem just.

XIII. All rules and orders of the hon. the Chief Justice of the Supreme Court of the said Colony heretofore made and relating to the said Inferior or Summary Court of Civil Justice are, except in so far as the same are inconsistent with this Act, hereby ratified and confirmed.

XIV. It shall be lawful for the Chief Justice or other the Judge or Judges of the Supreme Court or a majority of the same of whom the Chief Justice shall be one with the approbation of the said Governor from time to time to regulate by special rule in that behalf the period which at present by law elapses between the time of serving the process in action in the said Inferior Court and the time of hearing of the same and all intermediate matters in all or any of the said District Courts in order that speedy justice may be done between parties to any plaint or action.

XV. It shall be lawful for the Judge for the time being of any District Court on special application supported by oath or affidavit made before him establishing reasonable ground for the same to shorten the period which at present or by any special rule in that behalf ought to elapse between the time of serving the process in actions in the said Inferior Court and the time of hearing the same or of any intermediate matter in any particular case so that speedy justice may be done between the parties to any plaint or action.

XVI. The Chief Justice or other the Judge or Judges of the Supreme Court or a majority of the same of whom the Chief Justice shall be one with the approbation of the said Governor shall from time to time frame rules for the procedure and practice of the said Inferior Courts.

E. J. NESBITT,
Clerk of the Council.