A BILL

Entitled "An Act to facilitate the recovery of Small Debts, and other Demands."

WHEREAS, an Inferior or Summary Court of Civil Justice is 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 to extend the benefits of the same to other places; 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 Court Districts and to give to and distinguish such districts respectively by name and to define the boundaries thereof.

II. Courts shall be held in the said districts for the purpose of trying actions brought in the said Inferior Court, 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 six calendar months next before the time of the action brought: Provided that any such action may be removed from the District Court in any district to the District Court in any other district or to the Supreme Court by order of the Chief Justice of the Supreme Court, if he shall think the justice of the case requires it.

III. The sittings of the said District Courts shall be held as often as the circumstances of each district shall require, upon such day or days as shall be fixed by the Judge or Judges of such Courts respectively or upon such day or days as shall be appointed by the Governor.

IV. In any District Court, as well in the district in which the city of Victoria is situated as in other districts, any Stipendiary Magistrate or Justice of the Peace 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 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. Any Judge of the Supreme Court of Civil Justice may, if he shall think fit, act as Judge of the said Inferior Court in any of such districts, and shall have power to sit either with or without the Judge of such Court or concurrently with him, and dispose of the business from time to time pending in any such District Court.

VI. The said District Courts shall have power to issue plaints and hear and determine pleas of personal actions where the debt or damage claimed is not more than Two Hundred and Fifty Dollars, whether on balance of account or otherwise: Provided 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, nor where the title to land comes in question, 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 conversations if both parties shall agree by a memorandum signed by them or their Attorneys or Agents, to have such actions tried in any of the said District Courts, then such District Court shall have jurisdiction to try the same.

VII. If either party, in any cause where the sum recovered is not less than One Hundred Dollars, shall be dissatisfied with the determination or directions 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, 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 or Agent, and also within ten days after such determination or di-

rection give security, to be appoved of by the Judge of such District Court, for the costs in such action and of the appeal, and for the amount of the judgment if he be the defendant, provided nevertheless that such security, so far as regards the amount of 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 Court and the same shall have been paid accordingly, and the said Supreme Court may either order a new trial on such terms as it shall think 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 from such order there shall be no appeal.

VIII. Such appeal shall be in the form of a case agreed on by both parties or their Attorneys or Agents, and if they cannot agree the Judge of such District Court, upon being applied to by them or their Attorneys or Agents, 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 in such District Court as aforesaid a sum equal in amount to the sum for which he would be required to give security subject to the order of such Supreme Court on the hearing of the appeal.

XIII. All Rules and Orders 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, and all such Rules and Orders shall apply to and be observed by such District Courts.

XIV. 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 District Courts.

XV. In any cause brought in the Supreme Court which might have been brought in the Summary Court it shall be lawful for the Chief Justice if he shall think fit to certify by order or otherwise to deprive the plaintiff of costs, or in case of the plaintiff being successful to order the payment by him of the extra costs incurred by the defendant by the said cause being brought in the Supreme Court and not in the Inferior Court.

XVI. And for the interpretation of this Act the word "Governor" shall be held to mean the Governor or other the Officer Administering the Government of this Colony for the time being, and whenever in this Act in describing or referring to any person or party, matter or thing, any word importing the masculine gender or singular number is used the same shall be understood to include and shall be applicable to several persons and parties as well as one person or party, and females as well as males, and bodies corporate as well as individuals, and several matters and things as well as one matter or thing, unless it otherwise be provided or there be something in the subject or context repugnant to such construction.

XVII. This Act may be cited as "The District Court Act, 1866."

Passed the Legislative Council the first day of February, 1866.

E. J. NESBITT.