A BILL.

AN ACT to grant Jurisdiction to Justices of the Peace and Stipendiary Magistrates in Civil Cases.

WHEREAS, it is expedient to establish local Courts for the collection of small debts in the districts of the Colony of Vancouver Island and its dependencies, and to authorize the stipendiary magistrates appointed to act, and who may hereafter from time to time, be appointed to act, and the justices of the peace, for the time being, of each of the districts hereafter enumerated, to hear and determine actions and demands hereafter also enumerated, subject to the restrictions and exceptions hereinafter contained : Preamble.

Be it therefore enacted by the Governor On Her Majesty's behalf, by and with the consent of the Legislative Council and House of Assembly :

1. From and after the passage of this Act, in pleas of personal actions where the debt or damage claimed does not exceed two hundred and fifty dollars, every stipendiary magistrate shall have jurisdiction to hear and determine the same; subject always to the exceptions and restrictions herein contained ; and from and after the passage of this Act, in pleas of personal actions, where the debt or damages claimed does not exceed fifty dollars, every justice of the peace shall have jurisdiction to hear and determine the same, subject as aforesaid. Jurisdiction of Stipendiary up to $250. Jurisdiction of Justice of the Peace up to $50.

2. For the purpose of this Act the districts of Victoria City, Victoria county, Lake, South Saanich, North Saanich, Esquimalt Town, Esquimalt county, Metchosin and Highland shall constitute one Court district under the name of the Victoria Court District. The districts of Shawnegan, Cowichan, Somenos, Comiaken, Quamachan, Chemanus and Salt Spring Island shall constitute a second district under the name of Cowichan Court District. The districts of Nanaimo, Cedar, Cranberry and Mountain shall constitute a third district under the name of Nanaimo Court District. The district known as Comox, that is to say, starting from the centre of the mouth of Quallacum river, thence northerly to Willow Point, thence westerly twenty miles, thence in a straight line southerly to the western end of Home Lake, thence through the centre of the said lake and centre of the said river to the place of beginning shall constitute a fourth district under the name of Comox Court District. The district of Alberni, including a territory of twenty miles square, whose centre is Observatory Rock, in Stamp's Harbour, shall constitute a fifth district under the name of Alberni District. The district of Sooke shall constitute a sixth district under the name of Sooke Court District ; and such districts shall also include all islands opposite the coasts thereof forming part of the dependencies of Vancouver Island. Districts.

3. Each District shall bear the name of the Justice's Court for the particular District where it has jurisdiction, and such name shall be engraved on a seal, and such seal shall be attached to all documents issued from the Court. Style and seal of District Court.

4. There shall be two days fixed for the sittings of each District Court, and the days, hours, and place where and when the said first and second sittings of the said District Courts for the first month shall be held in each District shall be fixed by the Chief Justice by an order under his hand and seal of office which order shall be published in the Government Gazette one week previously at the least before the day so fixed. Chief Justice to appoint the time and place of the first month's sittings.

5. The place and hour at which the sittings of each District Court shall be held after the first month shall be determined by the justice of the peace and stipendiary magistrate of each separate District at each second meeting in the month. At the second Meeting in the first and every succeeding month the places and hours of sitting shall be determined by the justice.

Notification of time and place in the Government Gazette and the door of the place of meeting.

6. The time and place appointed by the justice or justice and stipendiary magistrate shall be notified by a notification signed by one of the justices or by a stipendiary magistrate on the same day as the same are determined on, and such notification shall on the same day be attached to the door of the place of meeting where such determination shall have been made and also by publication in the Government Gazette.

Definition of home and foreign Court.

7. In this Act the words "home court" shall be understood to mean the court from which process originally issued, and the words "foreign court" shall be understood to mean the court of the district into which process is issued from another court, and the words "home district" shall be understood to mean the district of the home court, and the words "foreign district" shall be understood to mean the "district" of the foreign court, and the word "district" shall be understood to mean the locality over which a court has jurisdiction, and the words "on oath" shall be understood to mean "on oath viva voce, or affirmation, or by affidavit."

On entering plaint Summons to issue.

8. On the application of any person desirous of bringing a suit under this Act the justice of the peace or stipendiary magistrate (or if a clerk be appointed his clerk shall enter into a book to be kept for that purpose a plaint in writing stating the names and last known places of abode of the parties and the substance of the suit intended to be brought and a statement of the particulars of demand in the form in the schedule hereunto annexed, every one of which plaints shall be numbered in every year according to the order in which it shall be entered, and thereupon a summons stating the substance of the action and bearing the number of the plaint on the margin thereof shall be issued under the seal of the said court and shall be served on the defendant seven clear days before the holding of the court when it is returnable.

On entering plaint copies of particulars to be delivered to Clerk.

9. On entering the plaint the plaintiff shall in all instances deliver to the clerk of the court as many copies of the statement of particulars of demand on cause of action as there are defendants and an additional copy to be filed and all such copies shall be sealed with the seal of the court and such particulars shall be treated as part of the summons.

Summons to issue at any time when Defendant is about to leave the jurisdiction of the Court in which it is proposed to sue.

10. Provided that a summons may be issued at any time before the holding of any court on production by the plaintiff of an affidavit of debt and showing by such affidavit that the defendants or defendant as the case may be is about to remove out of the jurisdiction of the said court and service of such summons at any time before the return day may be deemed good service if at the hearing it shall be proved to the satisfaction of the justice or stipendiary magistrate that the defendant was about to remove out of the jurisdiction of the said court, but in every such case the justice or stipendiary magistrate may in his discretion and on such terms as he shall think fit adjourn the hearing, and in case it shall appear by such affidavit that the person sought to be sued is about to leave the Colony of Vancouver Island the justice of the peace or stipendiary magistrate may order the writ to be heard peremptorily within such period as he may deem reasonable, and to issue immediate executiou upon being satisfied that the defendant was or is so going to leave and is indebted to the plaintiff.

Copy of Plaint Note to be delivered to the Plaintiff.

11. At the time of entering the plaint the clerk of the court shall give to the plaintiff or his agent a note under the seal of the court according to the form in the said schedule; and no money shall be paid out of court to the plaintiff or his agent unless on production of such note or by order of the justice or stipendiary magistrate.

Summons to appear to a Plaint.

12. The summons to appear to a plaint shall be in the form in the schedule and shall be dated of the day in which the plaint was entered, and shall correspond in substance with the plaint and the date thereof shall be the commencement of the suit.

Return day of Summons.

13. Such summons may be returnable either at the next court after the entry of the plaint or at any subsequent court within three months.

14. The clerk of the court shall issue the summons to the bailiff forthwith after the plaint is entered.

Issuance of Summons.

15. The clerk shall in all cases annex to the summons a copy of the plaintiff's particulars sealed with the seal of the court; and shall also make and deliver to the bailiff a true copy of the summons for indorsement as hereafter required, and it shall be the duty of the bailiff to ascertain by examination and comparison with the summons the correctness of the copy.

Particulars to be annexed.

16. Leave to issue a summons out of the district shall be granted if the judge is satisfied by statement on oath that the party applying has a cause of action, and not otherwise; but it shall not be necessary to enter a plaint before applying for such leave.

Leave to issue Summons out of jurisdiction on evidence that party has a good cause of action and that the Defendant is about to leave the jurisdiction of the Court.

16. Where a summons issues by leave of the court, it shall be in the form in the schedule; and no written order of the court for such leave shall be necessary.

Form of Summons to be served out of the home court jurisdiction.

17. Concurrent summonses, grounded on the same plaint, may, by leave of the Court, be issued into different districts on payment of the additional fees on such increased number of summonses; and where a previous summons or summonses have not been served, successive concurrent summonses may issue in like manner and on the same terms as successive summonses may be issued; provided, that the costs of more than one summons shall not be allowed against the other party, unless by order of the justice or stipendiary magistrate.

Concurrent Summonses.

18. Where a summons has not been served successive summonses may be issued by the clerk on the application of the plaintiff, under the circumstances and on the conditions following, unless the justice or the stipendiary magistrate shall otherwise order: If the non-service has been caused by the defective description given by the plaintiff of the defendant or of his place of business or residence, or by any other act or neglect of the plaintiff, successive summonses shall be issued only on payment of the poundage for a summons and the bailiff's fee for serving the same; if the non-service has not been so caused, and has not been caused by the neglect of the bailiff, successive summonses shall be issued only on payment by the plaintiff of the bailiff's fee for serving the same; if the non-service has been caused by the neglect of the bailiff, the poundage for such summons shall be paid by the bailiff, and such successive summons shall be served by him without further fee, and the successive summons or summonses shall bear the same date and number as the summons first issued, and shall be a continuance of the first summons; provided, the costs of such successive summons or summonses shall not be allowed against the defendant, unless the justice or stipendiary magistrate shall otherwise order.

Successive Summons.

19. Such service shall (except in the cases hereafter mentioned) be personal, or by delivering such summonses to some person apparently of 16 years of age at least, at the house or place of dwelling, or place of business of the defendant; but no place of business shall be deemed the place of business of the defendant unless he be master or one of the masters thereof.

Mode of Service

20. If the service of the summons has been personal, the bailiff who served the same shall indorse on the copy of the summons hereinbefore directed to be delivered to him by the clerk, the fact of such service; and if the service has not been personal, he shall indorse on the copy of the summons the statement which has been made by the person to whom the summons was delivered, or other circumstances from which it may be inferred that the service of the summons has come to the knowledge of the defendant, and if the summons has not been served, the reason for such non-service shall be indorsed on such copy; and the bailiff shall deliver such copy so indorsed to the clerk at the time of making the return herein required; and such copy shall be produced at the time of the trial, by the clerk, and shall be filed by the clerk.

Indorsement of Service on copy.

Service in Foreign District.

21. The summons, where required to be served in a foreign district, shall be transmitted by the clerk to the bailiff of the foreign court, and such bailiff is authorized and required to serve the same.

Foreign Bailiff to serve Summons in Foreign District.

22. The summons, where required to be served in a foreign district, shall be served by the bailiff of that district, unless by special order of the justice or stipendiary magistrate of the home court, the bailiff of the home court shall be directed to serve it; provided that in the latter case, in taxing costs between party and party, the costs of such service shall not be allowed to an amount greater than if the same had been effected by the bailiff of the foreign court, unless the judge shall otherwise order.

Copy served with accompanying affidavit to be transmitted.

23. Where the summons is required to be served in a foreign district by the bailiff of that district, he shall forthwith after serving the summons, transmit the copy thereof, with an affidavit of such service, to the clerk of the home court, which affivavit shall state the same particulars as are herein required to be indorsed on a summons which has been served; and if such affidavit be defective, it shall be amended by such bailiff at his own expense, in conformity with the directions of the home court; and if such bailiff fail so to do, the justice or stipendiary magistrate of the home court may direct the treasurer of the foreign court to withhold from the bailiff his fees in respect of such summons, and in such case the treasurer shall not pay the same without the authority, in writing, of the justice or stipendiary magistrate of the home court for the purpose.

Clerk of Foreign Court to return Summons if the time be too short for service.

24. Where the summons is required to be served in a foreign district, but cannot be served in due time by the bailiff of that district, he shall forthwith transmit the summons to the clerk of the home court with the reason indorsed thereon why the same could not be served.

Home Clerk in all cases to demand fees for the affidavit and swearing.

25. Where the summons is required to be served in a foreign district the clerk of the home court shall in all cases demand and receive from the plaintiff the fee to be paid to the person before whom the affidavit is sworn, as well as the fee to the bailiff for swearing such affidavit; and in case the summons is not served, such fees shall be returned to the plaintiff, if demanded, and if not so demanded within one calendar month, shall be paid over to the treasurer, and shall become part of the general fund of the home court.

Fee for swearing an affidavit to be taken by the Clerk and accounted for to Treasurer and applied as Justices' fees are applicable.

26. Where an affidavit of service is sworn before a justice or stipendiary magistrate of a district court the fee on such affidavit shall be taken by the clerk and accounted for to the Treasurer at his audit; and shall be applied as the justice or stipendiary magistrate's fees are applicable.

Rules herein contained to apply to the service of all Summonses.

27. The above rules as to the mode, but not as to the time of service of summonses to appear to a plaint shall apply to the mode of service of all notices and processes whatsoever, except where otherwise directed herein.

No service on certain days.

28. No summons, order or other process or notice shall be served on Sunday, Christmas Day, or Good Friday, or any day appointed by Royal Proclamation for a public fast or thanksgiving, but such days shall be counted in the computation of the time required by these rules.

Summons in the district where defendant dwells or where defendant has carried on business or dwelt six months before action brought.

29. Such summons may issue in any district in which the defendant or one of the defendants dwells or carries on business at the time of the action brought or by leave of the court for the district in which the defendant or one of the defendants shall have dwelt or carried on his business at some time within six calendar months neat before the time of action brought or in which the cause of action arose, such summons may issue in either of such last mentioned courts.

30. When the defendant does not reside in any of the districts enumerated in this Act but resides contiguous to any one of such districts and where the debt was not contracted in either of the said districts the justice residing nearest to the said defendant or the stipendiary magistrate holding his court in the district nearest to the residence of the said defendant shall have jurisdiction subject always to the exceptions and provisioms aforesaid.

Defendant resident outside a district to be sued in the contiguous district.

31. No misnomer or inaccurate description of any person or place in any vitiate if the person or place be therein described so as to be commonly known.

Misnomer not to vitiate.

32. If any plaintiff is unacquainted with the Christian name of any defendant the defendant may be described by his surname only or by his surname and the initial of his Christian name, and such defendant may be so described in the summons, and in the case of the defendant or plaintiff not appearing the same steps may be taken as are herein provided for the happening of the same event where the name of the defendant is given at full length, and all subsequent proceedings thereon may be taken in conformity with such description.

Defendant may be sued by surname or by surname and initials if plaintiff is ignorant of his Christian name.

33. In cases where the debtor damage sought to be recovered exceeds $50 before a justice of the peace, or $250 before a stipendiary magistrate, if both parties shall agree by a memorandum in the form in the said schedule signed by them or their attorneys, that the court of the district in which the defendant resides, or in which the cause of action has arisen, shall have power to try the action between the plaintiff and defendant, the said action shall be tried in such district court as if the sum did not exceed $50 or $250 if tried before a stipendiary magistrate; provided, that such memorandum shall be filed by the plaintiff at the time of entering his plaint, and upon such filing a summons shall issue immediately.

Actions for more than $50 may be tried by consent of both parties.

34. The court shall not have authority to try any action of ejectment. Any action against executors and administrators, any action in which the title to any corporeal or incorporeal hereditaments, toll, fair, market or franchise, shall be in question, unless the parties or their attorneys consent by a memorandum signed by them or their attorneys in the form in the said schedule hereto, and filed pursuant to the clause herein contained for the filing of consent. Any action in which the validity of any devise, bequest or limitation under any will or settlement may be disputed; any action for malicious prosecution, or false imprisonment; any action for libel or slander; for criminal conversation; for seduction, or for breach of promise of marriage.

Restriction on the jurisdiction of the court in certain cases.

35. If any party shall sue another in a district court for debt or other cause of action, for which he has already sued, and have obtained judgment in any other court, the proof of such former suit having been brought and judgment obtained may be given, and the party so suing shall not be entitled to recover in such second suit, and shall be adjudged to pay three times the costs of the second suit to the opposite party.

Prior judgment in any court may be pleaded.

36. Where either party proposes to give a judgment of a superior court or any other document, whether printed or written, in evidence he may, by a demand in writing, make a reasonable time before the hearing, require the other party to admit (saving all just exceptions to the admissibility of such document in evidence) the document to be read in evidence without proof; and if such demand be not complied with, and the justice or stipendiary magistrate think it reasonable that the admission should have been made, the party refusing shall bear the expense of proving such document, whatever may be the event of the cause.

Notice to admit.

37. All actions of debt or damages authorized by this act, either before a justice of the peace or stipendiary magistrate, where any defendant is an officer of the court shall be brought before the stipendiary magistrate sitting in Victoria City, except actions against such stipendiary magistrate or his clerk or bailiff, in which latter case the action may be brought before the supreme court only.

Actions against officers of the court in the court of the stipendiary magistrate of Victoria.

No division of causes of action.

38. It shall not be lawful for any plaintiff to divide any cause of action for the purpose of bringing two or more suits in any of the courts established under this Act, but any plaintiff having a cause of action for more than $50 which he may seek to recover before a justice of the peace.

Husband's and wife's claims may be joined.

39. Claims by husbands in their own rights may be joined with claims in respect of which the wife must be joined as a party.

Actions for penalties to secure the performance of covenants.

40. In actions for penalties to secure the performance of covenants within the meaning of the statute 18 and 19 William III., chap. 11, the plaintiff shall deliver particulars of the breaches on which he relies in the same manner as required by the last rule, which when delivered shall be taken to be and treated as, part of the summons; and if the court shall be of opinion that the plaintiff is entitled to recover, judgment shall be entered for the penalty not exceeding the amount over which the court has jurisdiction and an entry shall be made on the minutes of the damages awarded to the plaintiff and execution may issue for the amount of such damages; and in case of subsequent breaches, the plaintiff may enter a plaint and sue out a summons in the nature of a scire facias on such judgment and shall deliver particulars of such subsequent breaches in the manner before mentioned and which shall be taken to be and treated as part of such summons.

Any plaintiff having a cause of action over $250 may recover on abandoning the excess if before a stipendiary magistrate or if more than $50 before a justice of the peace by also abandoning the excess.

41. Any plaintiff having a cause of action for more than $250 which he may seek to recover before a stipendiary magistrate for which a plaint might be entered or if the cause of action be more than $50 before a justice of the peace for which a plaint might have been entered under this Act may abandon the excess and thereupon proving the case may recover the sum of $50 or any less sum before a justice of the peace or a sum of $250 or any less sum before a stipendiary magistrate and the judgment of the court upon such plaint shall be in full discharge of all demands in respect of such cause of action and entry of judgment shall be made accordingly.

Endorsement of abandonment and judgment final.

42. Such abandonment of the excess shall be indorsed upon the particulars of demand in the form in the schedule hereto.

Mode of signing by infant.

43. When an infant applies to enter a plaint for any cause of action (other than for wages or piece work or for work as a servant) he must procure the attendance of a next friend at the office of the clerk at the time of entering the plaint and no plaint shall be entered until the next friend has undertaken in the form in the schedule to be responsible for costs and on entering into such undertaking, he shall be liable in the same manner and to the same extent as if he were a party in an ordinary suit, and the cause shall proceed in the name of the infant by such next friend and such undertaking shall be filed by the clerk and no order of the court shall be necessary for the appointment of such next friend. If the plaintiff fail in or discontinue his suit and shall not pay the amount of costs awarded by the court to be paid by him to the defendant such proceedings may be taken for the recovery of such amount from the next friend as for the recovery of any debt or damage ordered to be paid by the same court.

Mode of service in particular cases.

44. When a person is living or serving on board of any ship or vessel it shall be sufficient service to deliver the summons to the person on board who has at the time of such service charge of such ship or vessel. Where a defendant is residing or quartered at any barracks and serving Her Majesty as a soldier or marine it shall be sufficient service to deliver at such barracks the summons to the Adjutant of the corps or any officer or sergeant of the company to which such soldier or marine belongs. When the defendant is a prisoner in gaol it shall be sufficient service to deliver the summons at such gaol to the Governor or head officer in charge thereof.

Service of a summons may be effected on a corporation by delivering the summons at any office of the defendant within the district of the court in which the summons is to be served; to a secretary or clerk of the defendant; where a defendant keeps his house or place of dwelling or place of business closed in order to prevent a bailiff from serving the summons and such summons shall have been affixed on the door of such house or place of dwelling or place of business such affixing shall be good service.

Where a bailiff is prevented by the violence or threats of the defendant or by any other person or persons in concert with him from personally serving such summons and the bailiff leaves the same as near the defendant as practicable the leaving shall be good service.

Where the summons has not been personally served and the defendant does not appear in person or by his attorney at the return day it must be proved on oath to the satisfaction of the judge that the service of such summons has come to the knowledge of the defendant before the return except in case of service on a corporation or person keeping his house as aforesaid or where the bailiff is prevented by the violence or threats of the defendant as aforesaid.

One of several persons liable may be sued.

45. Where any plaintiff shall have any demand recoverable under this act against two or more persons jointly answerable it shall be sufficient if any of such persons be served with process, and judgment may be obtained and execution issued against the person or persons so served notwithstanding that others jointly liable may not have been served or sued, or may not be within the jurisdiction of the court, and every such person against whom judgment shall have been obtained under this Act, and who shall have satisfied such judgment, shall be entitled to demand and recover, in the district court, under this Act, contribution from any other person jointly liable with him.

The justice of the peace or stipendiary magistrate alone to determine all questions unless a jury be summoned.

46. The justice of the peace or the stipendiary magistrate of the district court shall be the sole judge in all actions brought in the said court, and shall determine all questions as well as fact as of law, unless a jury shall be summoned as hereafter mentioned, and no suitors shall in any case be summoned to hold or have any jurisdiction in court holden under this Act.

Actions may be tried by jury when parties require it.

47. Provided always, that the party requiring a jury to be summoned shall give to the clerk of the court, or leave at his office, three days' notice thereof in the form contained in the said schedule, and the said clerk shall cause notice of such demand of a jury, made either by the plaintiff or defendant, to be communicated to the other party to the action either by post or by causing the same to be delivered at his usual place of abode or business; but it shall not be necessary for either party to prove on the trial that such notice was communicated to the other party by the clerk.

Party requiring jury to make a deposit

48. Every party requiring any jury to be summoned shall, at the time of giving the said notice, and before he shall be entitled to have such jury summoned, pay to the clerk of the court the sum of five dollars for payment of the jury, and such sum shall be considered as costs in the cause, unless otherwise ordered by the justice of the peace or stipendiary magistrate.

Who shall be jurors.

49. The sheriff of Vancouver Island and its dependencies shall cause to be delivered to the clerk of each district court a list of persons qualified and liable to serve as jurors in the court of assize and nisi prius for Vancouver Island, residing in the district of such court within fourteen days from the receipt of the jury book from the clerk of the district, for which list the said sheriffs and high bailiffs shall be entitled to receive out of the general fund of the court a fee after the rate of twelve and a half cents for every folio of seventy-two words. and whenever a jury shall be required the clerk of the court shall cause so many of the persons named in the list as shall be needed in the opinion of the justice of the peace or stipendiary magistrate to be summoned to attend the court at a time and place to be mentioned in the summons, and shall administer or cause to be administered to such of them as shall be impannelled to try any cause or

causes on oath to give true verdicts according to the evidence, and the persons so summoned shall attend at the court at the time mentioned in the summons, and in default of attendance shall forfeit such sum of money as the justice of the peace or stipendiary magistrate shall direct, not being more than ten dollars for each default, and the delivery of such summons to the person whose attendance is required on such jury, or delivery thereof to his wife or servant, or any inmate at his usual place of abode, trading or dealing, shall be deemed good service ; provided always, that no person shall be summoned or compelled to serve on such jury more than twenty times within one year.

Number of jury.

50. Whenever there are any jury tried, five jurymen shall be impannelled and sworn, as occasion shall require, to give their verdicts in the cause which shall be brought before them in the same court ; and being once sworn, shall not need to be resworn in, in each trial, and either of the parties to any such cause shall be entitled to his challenge for cause against all or any of the said jurors, and the jurors so sworn shall be required to give an unanimous verdict.

Where notice of a jury has been given in an undue time or both parties wish for a jury the justice of the peace or stipendirry magistrate may adjourn to take the necessary steps.

51. Where notice of a demand of a jury has not been made in due time, or if at the hearing both parties desire to try by a jury, the judge may, on such terms as he shall think fit, adjourn the cause, in order that the necessary steps for such trial may be taken, and the trial shall take place accordingly.

Interpleader or replevin may be tried by jury at the instance of either party.

52. Cases of interpleader and of replevin may, at the instance of either party, be tried by a jury, and in the same manner as ordinary actions.

Poundage fee on summons not payable on a jury summons, but bailiff's fees equal to fees for service of summons.

53. The poundage fee upon summonses shall not be payable upon any summons to a jury or juryman, but the bailiff's fees for service on each juryman, shall be payable, as upon the service of a summons to appear to a plaint.

Ten jurymen to be summoned.

54. In all cases to be tried by a jury, the number of jurymen summoned shall be ten, unless the justice of the peace, or stipendiary magistrate shall otherwise order.

Proceedings on hearing the plaint.

55. On the day in that behalf named in the summons, the plaintiff shall appear, and thereupon the defendant shall be required to appear to answer such plaint ; and on answer being made in court, the judge shall proceed in a summary way to try the cause, and give judgment without further pleading, or formal joinder of issue.

Non-appearance of both parties no hearing fee.

56. Where a cause is struck out in consequence of the non-appearance of both parties no hearing fee shall be payable.

Costs may be awarded to defendant if plaintiff does not appear, but no hearing fee shall be charged.

57. If at the return day of a summons, or at any continuation or adjournment of the court at which it is returnable, the plaintiff does not appear, the justice of the peace or stipendiary magistrate may in his discretion award to the defendant costs in the same manner and to the same amount as to counsel, attorney, witnesses, and other matters as if the cause had been tried, but no hearing fee shall be charged.

Attorney disqualified till he has signed a roll or book kept for that purpose.

58. No attorney shall be allowed to appear for any person in a district court until he has signed a roll or book to be kept by the clerk for that purpose, but no fee shall be payable for that purpose.

No notice of intention to employ a barrister or attorney required.

59. It shall not be necessary for either party, previous to the hearing, to give notice to the other or to the court of his intention to employ a barrister or attorney to act as his advocate at the hearing, and the allowance of costs for such barrister or attorney shall not be effected by such want of notice.

60. Where an infant defendant appears at the hearing and names a person willing to act as guardian, and who there assents so to act such person shall be appointed guardian accordingly ; but if the defendant do not name a guardian the justice of the peace or stipendiary magistrate may appoint any person in court willing to become guardian or in default of such person the justice of the peace or stipendiary magistrate shall appoint the clerk or bailiff of the court to be guardian and the case shall proceed thereupon as if another person had been appointed guardian, and the name of the guardian appointed shall be entered in the form in the schedule, and no responsibility shall attach to the person so appointed guardian.

Appointment of guardian for infant defendant.

61. Where a plaintiff proceeds against only one or more several persons jointly answerable, the defendant or defendants sued may avail himself or themselves of any set-off or other defence to which he or they would be entitled if all the persons liable were made defendants.

When proceedings are taken against one defendant without jointure other persons as defendants, may raise any defence which they might have raised had the other defendants been parties.

62. Where a person other than the defendant appears as defendant at the hearing and admits that he is the person whom the plaintiff intended to charge his name may be substituted for that of the defendant if the plaintiff consents and thereupon the cause shall proceed as if such person had been originally named in the summons and if necessary the hearing may be adjourned on such terms as the justice of the peace or stipendiary magistrate shall think fit and the costs of the person originally named as defendant shall be in the discretion of the justice of the peace or stipendiary magistrate.

Where a person admits that he is the person intended to be charged his name may be substituted in the place of the defendant if the plaintiff consent and the cause shall proceed as if the person had been originally named as defendant, the case may be postponed and the costs of the original defendant shall be in the discretion of the court.

63. Where a party sues or is sued in a representative character but at the hearing it appears that he ought to have sued or been sued in his own right the justice of the peace or stipendiary magistrate may at the instance of either party and on such terms as he shall think fit amend the proceedings accordingly ; and the case shall then proceed in all respects as to set off and other matters as if the proper description of the party had been given in the summons.

Where a party has been sued in a representative character instead of his own right the court may amend the proceedings and the case proceed.

64. Where a party sues or is sued in his own right and it appears at the hearing that he should have sued or been sued in a representative character the justice of the peace or stipendiary magistrate may at the instance of either party and on such terms as he shall think fit amend the proceedings accordingly and the case shall then proceed in all respects as to set off and other matters as if the proper description of the party had been given in the summons.

Where a party is sued or sues in his own right when he should sue or be sued as a representative the justice of the peace or stipendiary magistrate may amend the proceedings and the case shall go on in the usual way.

65. Where the name or description of a plaintiff in the summons is insufficient or incorrect it may at the hearing be amended at the instance of either party by order of the justice of the peace or stipendiary magistrate on such terms as he shall think fit and the cause may then proceed as to set off and other matters as if the name or description has been originally such as it appears after the amendment had been made.

Where the name or description of the plaintiff is insufficient or inaccurate the court may order amendment.

66. Where the name or description of a defendant in the summons is insufficient or incorrect and the defendant appears and objects to the description it may be amended at the instance of either party by order of the justice of the peace or stipendiary magistrate on such terms as he shall think fit and the cause may proceed as to set off and other matters as if the name or description had been made, but if no

Where the description or name of the defendant is insufficient or incorrect and the defendant objects amendment may be made and the case proceed.

such objection is taken the cause may proceed and in the judgment and all subsequent proceedings founded thereon the defendant shall be described in the same manner.

Wife improperly joined or omitted amendment may be made.

67. In actions by or against a husband if the wife is improperly joined or omitted as a party the summons may at the hearing be amended at the instance of either party by order of the justice of the peace or stipendiary magistrate on such terms as he shall think fit and the cause may proceed as to set off and other matters as if the proper person had been made party to the suit.

The names of any unnecessary plaintiffs to be struck out at the instance of either party.

68. Where it appears at the hearing that a greater number of persons have been made plaintiffs than by law required the name of the person improperly joined may at the instance of either be struck out by order of the justice of the peace or stipendiary magistrate on such terms as he shall think fit and the cause may proceed as to set off and other matters as if the proper party or parties only had been made plaintiff.

Where a less number of plaintiffs than are necessary are made plaintiffs in the suit the proper parties may be added.

69. Where it appears at the hearing that a less uumber of persons have been made plaintiffs than by law required the name of the omitted person may at the instance of either party be added by order of the justice of the peace or stipendiary magistrate on such terms as he shall think fit and the case shall proceed as to set off and other matters and judgment shall be pronounced as if the proper persons had been originally made parties and unless the person whose name is so added shall assent thereto either at the hearing or some adjournment thereof personally or by writing signed by him or his attorney proceedings on the judgment shall be stayed until the court next after five clear days from the day of hearing and if the person whose name is added shall at the hearing or on an adjournment thereof consent to become a plaintiff such consent being consent to become a plaintiff such consent being in writing signed by him or his attorney execution shall issue as the justice of the peace or stipendiary magistrate shall think fit, but if such party shall not consent to become a plaintiff in manner aforesaid either at the hearing or at an adjournment thereof judgment of nonsuit may be entered.

Unnecessary defendants' names may be struck out.

70. Where it appears at the hearing that more persons have been made defendants than by law required the name of the party improperly joined may at the instance of either party be struck out by order of the justice of the peace or stipendiary magistrate on such terms as he shall think fit and the cause shall proceed as to set off and other matters as if the party or parties liable had been sued and judgment shall be given for the par y improperly joined.

Chief Jutice may make rules of court for the district courts not inconsistent or contrary to this act.

71. The Chief justice of Vancouver Island and its dependencies shall make and issue under the seal of the Supreme Court of Civil Justice any rules or orders not inconsistent or contrary to this act and regulating the jurisdiction of this court given under this act to justice of the peace or stipendiary magistrates.

If plaintiff shall not appear cause to be struck out.

72. If upon the day of the return of any summons or at any continuation or adjournment of the said court, or if the cause for which the said summons shall have been issued, the plaintiff shall not appear, the cause shall be struck out; and if he shall appear, but shall not make proof of his demand to the satisfaction of the court, it shall be lawful for the justice of the peace or stipendiary magistrate to nonsuit the plaintiff or give judgment to the defendant, and in either case where the defendant shall appear and shall admit the demand to award to the defendant by way of costs and satisfaction for his trouble and attendance such sum as the justice of the peace or stipendiary magistrate shall think fit, and such sum shall be recoverable from the plaintiff by such ways and means as any debt or damage ordered to be paid by the same court can be recovered; provided always, that if the plaintiff shall not appear when called upon, and the defendant or someone duly authorized on his behalf shall appear and admit the cause of action to the full amonnt claimed and pay the fees payable in the first instance by the plaintiff; the court if it shall think fit may proceed to give judgment as if the plaintiff had appeared.

73. If on the day so named in the summons, or at a continuation or adjournment of the court or cause in which the summons was issued, the defendant shall not appear or sufficiently excuse his absence, or shall neglect to answer when called in court, the justice of the peace or stipendiary magistrate upon due proof of the service of the summons may proceed to the hearing or trial of the cause on the part of the plaintiff only, and the judgment thereupon shall be as valid as if both parties had attended ; provided always, that the justice of the peace or stipendeary magistrate in any such case at the same or any subsequent court may set aside any judgment so given in the absence of the defendant, and the execution thereupon, and may grant a new trial of the cause upon such terms, if any, as to payment of costs, giving security for debt or costs, or such other terms as he may think fit, on sufficient cause shown to him for that purpose.

Proceedings if the defendant does not appear.

74. The justice of the peace or stipendiary magistrate may in any case make orders for granting time to the plaintiff or defendant to proceed in the prosecution or defence of the suit, and also from time to time adjourn any court, or the hearing or further hearing of any cause in such manner as to the judge may seem fit.

Justice of the Peace or Stipendiary Magistrate may grant time or adjourn the case.

75. Where a summons has been served the parties may by consent, at any time before the cause is called on, on payment to the clerk of the court the fee on an adjournment, postpone the hearing to such subsequent court as the justice of the peace or stipendiary magistrate shall direct ; but where a cause is called on the hearing fees shall be forthwith payable, and if the plaintiff on being required thereto, do not pay such fees he shall be deemed not to have appeared, and if the cause be adjourned after being called on and the hearing fees paid, the fee on an adjournment shall then be paid by the party requiring the adjournment, and at the adjourned hearing or hearings of such cause no further hearing fee shall be payable ; but the cause may from time to time be adjourned on payment of the fees on an adjournment.

Parties may adjourn or postpone the hearing.

76. Where a cause is adjourned no order of adjournment shall be served on either party unless by direction of the justice of the peace or stipendiary magistrate.

No order of adjournment need be served.

77. When anything required by the practice of the court to be done by either party before or during the hearing, has not been done the justice of the peace or stipendiary magistrate may in his discretion and on such terms as he shall think fit adjourn the hearing to enable the party to comply with the practice.

Justice of the Peace or Stipendiary Magistrate may adjourn to supply anything left undone.

78. It shall be lawful for defendant in any action brought under this Act, within five days of the return day of the writ, to pay into court such sum of money as he shall think a full satisfaction for the demand of the plaintiff, together with the costs incurred by him in the said action after payment, and such costs shall be settled by the court and an order shall be thereupon made by the court for the payment of such costs by the plaintiff.

Payment into court by the defendant.

79. Where the defendant is desirous of paying money into court it must be so paid with costs proportionate to the amount paid in together with the fee for paying in and for notice of payment to the plaintiff and the clerk shall within twenty-four hours from the time of such payment send to the plaintiff notice thereof by prepaid post-letter, provided that at any time before the hearing of the cause the defendant may pay money into court with such costs as aforesaid and the clerk shall give notice thereof to the plaintiff as aforesaid, but where money is not paid in less than five clear days before the return day of the summons it shall be lawful for the court to order the defendant to pay such costs as the plaintiff shall have incurred in preparing for trial before the notice of such payment was received by him or in attending the court.

Mode of paying into court.

The plaintiff electing to accept the money paid into court to notify the defendant.

80. If the plaintiff elect to accept in full satisfaction of his claim such money as shall have been paid into court by the defendant and shall send to the defendant by prepaid post-letter or leave at the defendant's place of dwelling or place of business a written notice stating such acceptance two clear days or within such reasonable time as the time of payment by the defendant has permitted before the return day of the summons the action shall abate and the plaintiff shall not be liable to any further costs. But in default of such notice from the plaintiff the cause may proceed.

Fees of paying in and taking out.

81. The fee on paying money into court shall be paid by the party paying the same and the fee on paying money out of court shall be paid by the party receiving the same.

Who may be witnesses.

82. On the hearing or trial of any action or any other proceeding under this act the parties, their wives and all other persons called by either party may be examined upon oath or solemn affirmation in those cases in which persons are by law to make affirmation instead of taking an oath to be administered by the proper officer of the court.

Persons under examination false swearing wilfully and corruptly shall be guilty of perjury.

83. Every person who in any examination upon oath or solemn affirmation before any justice of the peace or stipendiary magistrate shall wilfully and corruptly give false evidence shall be deemed guilty of perjury.

Summonses for witnesses.

84. Either of the parties to the suit or any proceedings under this Act may obtain at the office of the clerk of the court summonses to witnesses to be served by one of the bailiffs of the court with or without a clause requiring books, deeds, papers and writings in their possession or control and in any such summons any number of names may be inserted.

Witness may be served within reasonable time and either party may call the wife of the other party.

85. It shall be sufficient if a summons to a witness be served a reasonable time before the actual hearing and either party may call the wife of the other party as a witness and appearance may be enforced by summons as in case of any other witness.

Recalcitrant witnesses to be liable to a fine of $50.

86. Every person on whom any such summons shall have been served either personally or in such other manner as is herein directed and to whom at the same time payment or tender of payment of his expenses shall have been made on the scale of allowances by this Act provided and who shall refuse or neglect without sufficient cause to appear or to produce any books, papers or writings required by such summons to be produced and also every person present in court who shall be required to give evidence shall forfeit such fine not exceeding Fifty Dollars as the justice of the peace or stipendiary magistrate shall set on him and the whole or any part of such fine in the discretion of the justice of the peace or stipendiary magistrate after deducting the costs shall be applicable towards indemnifying the party injured by such refusal or neglect and the remainder thereof shall form part of the general fund of the court in which the fine was imposed.

Fine may be enforced in the same manner as a judgment.

87. The payment of any fine enforced by the court under the authority of this Act may be enforced by the justice of the peace or stipendiary magistrate in like manner as payment of any debt adjudged in the said court and shall be accounted for as herein.

Costs be paid to the successful party unless otherwise specially directed by the justice of the peace or stipendiary magistrate.

88. All the costs of any action or proceeding in the court not herein specially provided for shall be paid by or apportioned between the parties in such manner as the justice of the peace or stipendiary magistrate shall think fit and in default of any special direction shall abide the event of the action and execution may issue for the recovery of any such costs in like manner as for any debt adjudged in the said court.

Costs may be taxed by the clerk of the court and may be reviewed by the justice of the peace or stipendiary magistrate.

89. All costs between party and party shall be taxed by the clerk of the court but his taxation may be reviewed by the justice of the peace or stipendiary magistrate upon the application of either party and it shall not be necessary that the costs shall be taxed in court or during the sitting of the court at which judgment is given.

90. The justice of the peace or stipendiary magistrate shall in each case direct what number of witnesses are to be allowed on taxation of costs and their allowance for attendance shall be according to the scale in the schedule unless otherwise ordered but shall in no case exceed the allowance therein mentioned.

Justice of the peace or stipendiary magistrate shall determine what witnesses expenses are to be allowed.

91. The costs of witness whether they have been examined or not may in the discretion of the justice of the peace or stipendiary magistrate be allowed though they have not been summoned by the plaintiff he must give notice thereof in writing to the clerk of the court and deliver to such clerk a particular of such set off at least five clear days before the return day of the summons.

Witnesses' costs may be allowed whether they have been examined or not.

92. Where a defendant intends to rely on the defence of infancy, he must give notice thereof in writing to the clerk of the court at least five clear days before the return day of the summons, setting forth in such notice the date of his birth.

Notice of defence of infancy to be given to the clerk at least five clear days before the return day.

93. Where a defendant intends to rely on the defence of any statute of limitations, he shall give notice thereof in writing to the clerk of the court at least five clear days before the return day of the summons.

Notice of defendance by statute of limitations to be given to clerk five clear days before return day.

94. In all cases. unless otherwise expressly ordered, when any notice or statement is required to be given by any party, such party shall at least five clear days before the day of hearing deliver to the clerk as many copies thereof as there are opposite parties and an additional copy to be filed, and all the said copies shall be signed by the party giving such notice, his attorney or agent, and the clerk shall, within twenty.four hours from the time of receiving the same, transmit by prepaid post-letter one copy of such notice to each of the said parties.

Where statement or notice is required it shall be delivered five clear days before return day to the clerk.

95. Where the defence is a tender such defence shall not be available unless before or at the hearing of the cause the defendant pays into court (which may be without costs) the amount alleged to have been tendered.

Where tender is pleaded payment to be made before or at the hearing of the cause is required.

96. The justice of the peace or stipendiary magistrate may in any case with the consent of both parties to the suit, order the same with or without other matters within the jurisdiction of the court in dispute between such parties, to be referred to arbitration to such person or persons, and in such manner and on such terms as he shall think, and such reference shall not be revokable by either party, except by consent of the justice of the peace or stipendiary magistrate ordering the same, and the award of the arbitrator or arbitrators, or umpires, shall be entered as the judgment in the cause and shall be as binding and effectual to all intents as if given by the justice of the peace or stipendiary magistrate ; provided that the justice of the peace or stipendiary magistrate, may he think fit, on application to him at the first court held after the expiration of one week after the entry of such award, set aside any such award so given as aforesaid, or may with the consent of both parties aforesaid, the reference or order and reference to be made in manner aforesaid.

Suits may be settled by arbitration.

97. Where at the hearing a variance appears between the evidence and the matters stated in any of the proceedings in the district court such proceedings may at the discretion of the justice of the peace or stipendiary magistrate, and on such terms as he shall think fit, be amended, and such amendment as well as amendments as to parties when ordered shall be made in open court and during the sitting of the court.

Variance may be amended.

98. In all cases of amendment a corresponding amendment shall be made in the presence of the justice of the peace or stipendiary magistrate in the proceedings of the court antecedent to such amendment, and the subsequent proceedings shall be in conformity therewith.

In cases of amendment a corresponding amendment shall be made in the presence of the justice of the peace or stipendiary magistrate.

No evidence to be given by plaintiff unless covered by the summons.

99. No evidence shall be given by the plaintiff on the trial of any such cases as aforesaid of any demand or cause of action except on such matter as shall be stated in the summons hereby directed to be issued.

No defence of set off, infancy, coverture, statute of limitations or discharge in bankruptcy or insolvency without leave of the plaintiff to be raised unless the necessary notice has been given.

100. No defendant in any court holden under this Act shall be allowed to set off any debt or demand claimed or recoverable by him from the plaintiff, or to set up by way of defence, and to claim and have the benefit of infancy, coverture, or any statute of limitations, or of his discharge under any statute relating to bankrupts, or any act for relief of insolvent debtors without the consent of the plaintiff, unless notice thereof in the form in the said schedule shall have been given to the clerk of the court, and in every case in which such notice is given the clerk of the court shall, as soon as conveniently may be after receiving such notice, communicate the same to the plaintiff by the post or by causing the same to be delivered at his usual place of abode or business, but it shall not be necessary for the defendant to prove on the trial that such notice was communicated to the plaintiff by the clerk. Where the defendant intends to rely on a set-off, infancy, coverture, statute of limitations, or discharge under a bankrupt or insolvent act, his notice shall contain the particulars hereinafter mentioned ; provided, that in case of non-compliance with this rule or those rules applying to such six grounds of defence, and the plaintiff will not consent at the hearing to permit the defendant to avail himself of such defence, the justice of the peace may on such terms as he shall think fit, adjourn the hearing of the cause to enable the defendant to give such notice.

Notice in writing to be given of a defence of set off by the defendant to the clerk.

100. Where a defendant intends to set off any debt or demand alleged to be due to him

Application of moneys paid into court.

101. Money paid into court on a judgment shall be appropriated first, in satisfaction of the costs, and afterwards in satisfaction of the original demand.

Scale of fees to be governed by schedule.

102. The calculation of fees payable for the issuing and execution of warrants by a justice of the peace shall be governed by the direction given in the table of fees that where the sum demanded is above Fifty Dollars the poundage shall be taken on Fifty Dollars only, provided that this rule shall not apply to cases in which jurisdiction is given by consent. Costs of execution or unproductive warrants against the goods shall not be allowed against the defendant unless the justice of the peace or stipendiary magistrate shall otherwise direct.

No payment to be made for ineffectual warrant against the person of the defendant unless directed by the court.

103. Costs of warrants of commitment on which the defendant has not been taken shall not be allowed against the defendant unless the justice of the peace or stipendiary magistrate shall otherwise direct.

Costs of executed warrants allowed unless otherwise ordered.

104. Costs of executed warrants whether of commitment or against the goods shall be allowed unless the justice of the peace or stipendiary magistrate shall otherwise direct.

Order of judgment to be final except where duly appealed. Court to have power to nonsuit the plaintiff and court may order a new trial.

105. Every order and judgment of any court holden under this Act except as herein provided shall be final and conclusive between the parties but the justice of the peace and stipendiary magistrate shall have power to nonsuit the plaintiff in every case in which satisfactory proof shall not be given to him entitling either plaintiff or defendant to the judgment of the court and shall also in every case whatever have the power if he shall think fit to order a new trial to be had upon such terms as he shall think reasonable.

No plaint to be removed or to be removable from the district court unless exceeding $50.

106. No plaint entered in any court under this Act shall be removed or removable from the said court into any of Her Majesty's courts of record by any writ or process unless the debtor damage claimed shall exceed Fifty Dollars American currency and then only by leave of the Judge of the Supreme Court in cases in which it shall

appear to the judge fit to be tried in the Supreme Court and upon such terms as to payment of costs, giving security for debts, costs, or such other terms as he shall think fit.

Orders of adjournment and orders for payment of money to be served by home bailiff who is to be paid mileage for two miles and shall prepay the postage if he elect to serve by post.

107. Orders for payment of money or costs or both and orders of adjournment when directed to be served shall in all cases be served by the bailiff of the home court or be sent by him in a prepaid post-letter to the party and mileage shall be allowed but the bailiff shall be entitled to be paid only as upon a service within two miles of the court-house and if the bailiff elect to serve by post he shall at his own expense prepay the letter.

No proof of service of order required from party in whose favor such order is made.

108. Provided always that it shall not be necessary for the party in whose favor such order was made to prove that it was served previous to taking proceedings thereon.

Any proceeding allowed by the court shall not require an order to be drawn up.

109. Where the court gives leave to take any proceeding it shall not be necessary to draw up any order nor shall any order be drawn up to warrant such proceeding.

No persons shall be entitled to appear for any party except a barrister or attorney.

110. No person shall be entitled to appear for any other party to any proceeding in any of the said district courts unless he be an attorney enrolled on the Roll of Attorneys of the Supreme Court of Civil Justice or a barrister at law and the expense of employment of a barrister or attorney either by plaintiff or defendant shall not be allowed on taxation of costs in the case of a plaintiff where less than Twenty-five Dollars is sought to be recovered or in the case of a defendant where less than Twenty-five Dollars is claimed.

The justice of the peace or magistrate may order concerning the terms and instalments on which money for debt, damages, or costs has to be paid.

111. The justice of the peace or stipendiary magistrate may make orders concerning the term or terms and by what instalments any debt or damages or costs for which judgment shall be obtained in the said court shall be paid and all such moneys shall be paid into court unless the justice of the peace or stipendiary magistrate shall otherwise order.

When debt, damages, or costs are ordered to be paid by instalments court shall direct the times of payment and if not directed the first shall be due on the 28th day from the date of the order and each other instalment on each successive 28th day and to be paid to the clerk of the court.

112. Where an order is made for the payment of any debt, damages costs or any other sum of money by instalments such instalments shall be payable at such periods as the court shall order and if no period be mentioned the first shall become due on the twenty-eighth day from the day of making the order and every successive instalment shall become due at like period of twenty-eight days from the day of the previous instalment becoming due and such instalments shall be paid at the office of the clerk and not to the party in whose favor the order was made.

Notice of order by payment of instalments to be sent to plaintiffs and fees deducted from money paid in.

113. When an order is made for payment by instalments or otherwise the clerk shall give notice to the plaintiff according to the form in the schedule of every payment made and the fee allowed for such notice may be deducted from the amount paid in whether such sum is paid out to the plaintiff or not and such fee shall not be paid by the defendant: provided that such notice shall not be given nor the fee taken where the instalment does not amount to Five Dollars unless the plaintiff shall by writing under his hand require the clerk to give him such notice.

Cross judgments the larger to be paid the difference and satisfaction to be entered on the smaller.

114. If there shall be cross judgments between the parties execution shall be taken out by the party only who shall have obtained judgment for the larger sum, and for so much only as shall remain after deducting the smaller sum, and satisfaction for the remainder shall be entered as well as satisfaction on the smaller sum, and if both sums shall be equal, satisfaction shall be entered in both judgments.

Defendant may require the production of deeds and written instruments in the possession of the plaintiff, by giving notice five clear days before the return day at a place to be appointed by the plaintiff, and if the plaintiff will not appoint a place the court may postpone the case on such terms as may be proper for the purpose of inspection.

115. Where in any action the defendant is desirous of inspecting any deed, bond or other instrument under seal, or any written contract or other instrument in which he has an interest, and which shall be in the possession, power or control of the plaintiff, the defendant may within five days from the service of the summous to appear, give notice that he desires to inspect such instrument at any place to be appointed by the plaintiff, and the plaintiff shall appoint a place accordingly, and if the plaintiff shall neglect or refuse to appoint such place, or to allow the defendant or his attorney to inspect it within three days after receiving such notice the justice of the peace or stipendiary magistrate may in his discretion on the day of hearing adjourn the cause for the purpose of such inspection and make such order as to costs as he shall think fit.

Plaintiff desirous of not proceeding may give notice to the clerk and to the defendant.

116. If the plaintiff be desirous of not proceeding in the cause he may give notice thereof to the clerk and to the defendant, and after the receipt of such notice the defendant shall not be entitled to any further costs than those incurred up to the receipt of such notice, unless the justice of the peace or stipendiary magistrate shall otherwise order.

Whenever default is made in the payment of money ordered to be paid the same shall be levied under a writ of fieri facias by high bailiff.

117. Whenever the justice of the peace or the stipendiary magistrate shall have made an order for the payment of money, the amount shall be recoverable, in case of default or failure of payment, forthwith or at the time or times in the manner thereby directed by execution against the goods and chattles of the party against whom such order shall be made, and the clerk of the said court, at the request of the party prosecutiug such order, shall issue under the seal of the court a writ of fieri facias as a warrant of execution to the high bailiff of the court wholly; such warrant shall be empowered to levy or caused to be levied by distress and sale of the goods and chattles of such party such sum of money as shall be so ordered wheresoever they may be found within the district of the said court, and also the costs of execution, and all constables and other peace officers within their several jurisdictions shall aid in the execution of every such warrant.

No warrant of execution or summons for commitment shall issue on a judgment more than a year old, unless instalment has been paid or warrant of commitment or execution has issued within one year after judgment.

118. No warrant of execution or summons for commitment shall without leave of the judge issue on a judgment more than a year old (unless an instalment has been paid on such judgment or a warrant of execution against the goods, or a warrant of commitment has been issued within a year from the time of obtaining such judgment) or if more than a year has elapsed since an instalment has been paid, or since the expiration of the warrant against the goods, nor of the last warrant of commitment, but no notice to the defendant previous to applying for such leave shall be necessary, and such leave shall be expressed on the warrant under the seal of the court.

Warrants of commitment to be dated the day of issuance and shall be in force for 3 calendar months.

119. Warrants of execution shall bear date on the day on which they are issued, and shall continue in force for three calendar months from such date aud no longer.

Where default is made as to whole or an instalment of the payment execution may issue without leave of the judge for the full amount and costs unless the order for payment shall otherwise direct.

120. Where defendant has made default in payment of the whole amount awarded by the judgment, or of an instalment thereof, execution may issue against his goods without leave of the court, and such execution shall be for the whole amount of judgment and costs then remaining unsatisfied unless in the case of instalments the judge otherwise direct at the time of giving judgment. The clerk shall on issuing a warrant of execution indorse on such warrant the amount to be levied, distinguishing the amount of the debt or damages and costs adjudged to be paid, the amount of the fees for issuing the warrant and the bailiff's fees for its execution including mileage to the place in which the bailiff is directed to take the goods, and no further mileage shall be taken by the bailiff.

121. Successive warrants of execution against the goods may be issued without leave of the court, and they may also be issued under the same circumstance and on the same conditions as in the case of successive summonses to appear to a plaint, except that the fee for issuing such warrants shall in all cases be paid, and such successive warrants shall bear date of the day on which they are issued.

Successive warrants may issue against the goods without the leave of the court.

122. Successive warrants against the goods may be issued when only a part of the judgment is satisfied on payment of fees proportioned to the amount of the judgment remaining unsatisfied.

Successive warrants may issue without the leave of the court against the goods when a judgment is partially satisfied.

123. Warrants of execution against the goods may be issued concurrently into one or more districts provided that the costs of more than one warrant shall not be allowed against the other party unless by order of the court.

Concurrent warrants against the goods may issue in one or more districts but costs of more than one warrant not allowed unless by the order of the Court.

124. If the justice of the peace or stipendiary magistrate shall have made an order for payment of any sum of money by instalments execution upon such order shall not issue against the party until after default in payment of same instalment according to such order and execution or successive executions may thereupon issue for the whole of the said sum of money and costs then remaining unpaid or for such part thereof as the justice of the peace or stipendiary magistrate shall order either at the time of making the original order or at any subsequent time under the seal of the court.

On order for payment by instalments execution shall not issue until default and successive executions may also issue for the whole sum and costs unless otherwise directed.

125. Every bailiff or officer executing any proof of execution issuing out of the said district court against the goods and chattels of any persons may by virtue thereof seize and take any of the goods and chattels of any person (excepting the wearing apparel and bedding of such person or his family and the tools and implements of his trade to the value of One Hundred Dollars which shall to that extent be protected from seizure) and may also seize and take any money or bank notes, bonds, specialties or securities for money belonging to any such person against whom such execution shall have issued as aforesaid.

What goods may be taken in execution.

126. The high bailiff shall hold any cheques, bills of exchange, promissory notes, bonds, and specialties, or other securities for money which shall have been so seized or taken as aforesaid as a security or securities for the amount directed to be levied by such execution or so much thereof as shall not have been levied or raised for the benefit of the plaintiff and the plaintiff may sue in the name of the defendant or in the name of every person in whose name the defendant might have sued for the recovery of the sum or sums of money secured or made payable thereby when the time of payment thereof shall have arrived.

Securities seized to be held by High Bailiff.

127. That it shall be lawful for any party who has obtained any unsatisfied judgment or order in any court held by virtue of this Act or under any Act repealed by this Act for the payment of any debt or damages or costs to obtain a summons from any district court within the limits of which any other party shall then dwell or carry on his business such summons to be in the form in the said schedule hereto and to be served personally upon the person to whom it is directed requiring him to appear at such time as shall be directed by this Act to answer such things as are named in such summons and if he shall appear in pursuance of such summons he may be examined upon oath touching his estate and effects and the manner and circumstances under which he contracted the debt or incurred the damages or liability which is the subject of the action in which judgment has been obtained against him and as to the means he still hath of discharging the said debt or damages or liability and as to the disposal he may have made of any property and the person obtaining

Parties having obtained an unsatisfied judgment may obtain a summons on charge of fraud.

Every summons to appear under the 124th section of this Act except in cases provided for by the 115th section and shall issue without leave of the court and served personally three days before the return day unless it is proved on oath at the hearing to the satisfaction of the court that the party to be summoned is going away out of the jurisdiction or is keeping out of the way to avoid service.

such summons as aforesaid and all other witnesses whom the justice of the peace or stipendiary magistrate shall think requisite may be examined upon oath touching the inquiries authorized to be made as aforesaid and the costs of such summons and of all proceedings thereon shall be deemed costs in the cause.

128. Every summons for a party to appear pursuant to the 124th section of this Act may issue at any time without leave of the court except in cases provided for by section 115 of this Act and shall be forthwith issued by the clerk to the bailiff and shall be served personally not less than three clear days before the day on which the party is required to appear to such summons unless it be proved on oath at the hearing to the satisfaction of the justice of the peace or stipendiary magistrate that such party was about to remove out of the jurisdiction of the court or was keeping out of the way to avoid service in which case service upon the party at any time before the time appointed for the appearance of such party shall be sufficient.

Where summons heard in a different court to the court of issuance and altered all moneys shall be paid into the court where the order was altered.

129. Where a summons for commitment is heard in a court other than that in which judgment was obtained and the order of such last mentioned court is altered by the justice of the peace or stipendiary magistrate of such other court all payments under such order shall be made into and execution thereupon against the goods shall be issued by the court which alters the order.

Where a certified copy of a judgment is obtained clerk shall note the same and no execution shall issue from such court until it is shown what proceedings have been taken in any other court.

130. Where a certificated copy of a judgment is obtained the clerk shall make a memorandum of having given such certificate on the minute of the judgment and no execution against the goods or summons for commitment shall issue upon such judgment from the court in which the judgment was obtained until it is shown to the court whether any and what proceedings have been taken thereon in any other court.

Successive commitments may issue without leave of the court in the same manner as successive summonses to appear to a plaint.

131. Successive summonses for commitment may be issued without leave of the court and they may also be issued under the same circumstances and on the same conditions as in the case of successive summonses to appear to a plaint.

Concurrent or successive summonses for commitment may be issued in different districts where the party resides or carries on his business.

132. Concurrent or successive summons for commitment may be issued in the same districts or in different districts by the several courts thereof; provided, that in no case shall a summons for commitment be issued except by the court of the district wherein the party summoned there dwells or carries on his business, and the costs of more than one summons shall not be allowed against the other party, unless by order of the justice of the peace or stipendiary magistrate.

Commitment for frauds, &c.

133. If the party so summoned shall not attend as required by such summons and shall not allege a sufficient excuse for not attending or shall, if attending, refuse to be sworn or to disclose any of the things aforesaid, or if he shall not make answer touching the same to the satisfaction of such justice of the peace or stipendiary magistrate, or if it shall appear to such justice of the peace or stipendiary magistrate, either by the examination of the party or by any other evidence that such party if a defendant in incurring the debt or liability which is the subject of the action in which judgment has been obtained, has obtained credit from the plaintiff under false pretenses or by means of fraud or breach of trust, or has willfully contracted such debt or liability without having had at the same time a reasonable expectation of being able to pay or discharge the same, or shall have made or cause to be made any gift, delivery or transfer of any property, or

shall have charged, removed or concealed the same with intent to defraud his creditors or any of them, or if it shall appear to the satisfaction of the justice of the peace or stipendiary magistrate that the party so summoned has then, or has had since the judgment obtained against him sufficient means and ability to pay the debt or damages or costs so recovered against him, either altogether or by any instalment or instalments which the court in which the judgment was obtained shall have ordered, and if he shall refuse or neglect to pay the same as shall have been so ordered, or shall be ordered pursuant to the power hereinafter provided, it shall be lawful for such judge, if he shall think fit, to order that any such party may be committed to the prison at Victoria or Nanaimo, or to any prison which shall be provided as the prison of the court for any period not exceeing twenty days.

Where defendant does not reside or carry on business in a district he shall not be committed if he does not appear.

134. When a defendant does not dwell or carry on business in the district of the court to which he has been summoned to appear to a plaint, he shall not be liable to be committed at the hearing of such summons whether he appears to such summons or not.

Warrants of commitment to bear date the day of the order.

135. Warrants for commitment, whenever issued shall bear date on the day on which the order for commitment was made and shall continue in force for three calendar months from such date and no longer, but no order for commitment shall be drawn up or served.

Amount of judgment and costs to be indorsed and the amount due to the bailiff.

136. In case of commitment under this Act the amount of the judgment and all costs payable by the defendant shall be indorsed on the warrant, and the amount due to the bailiff for execution shall be stated separately.

An order for commitment defendant may at any time satisfy it.

137. Where an order is made for commitment for non-payment of money the defendant may at any time before his body is delivered to the custody of the goaler pay to the bailiff the total amount indorsed on the warrant, and on recovering such amount the bailiff shall discharge the defendant out of custody, and shall within twenty-four hours from receiving the same pay over the amount of the judgment and costs to the clerk.

When certificate is produced showing payment of debt, costs and fees prisoner may be discharged.

138. In all cases of commitment for non-payment it may be made part of the order that on production of the clerk's certificate stating that payment or satisfaction of the sum and costs remaining due at the time of making the order for imprisonment together with the costs of obtaining such order and all subsequent costs has been paid the defendant shall be discharged.

Successive warrants may be issued.

139. Successive warrants of commitment may by leave of the justice of the peace or stipendiary magistrate without issuing a fresh summons when no previous warrant has been executed, be issued under the same circumstances and on the same conditions as in the case of successive summons to appear to a plaint, except that the fee for issuing such warrant shall in all cases be paid, and such successive warrants shall bear date of the day on which leave was given.

Concurrent warrants may be issued.

140. Warrants of commitment may be issued concurrently against the same party into the same or different districts; provided that the costs of more than one warrant shall not be allowed against the other party unless by order of the justice of the peace or stipendiary magistrate.

Power of justice of the peace or stipendiary magistrate to rescind or alter orders.

141. It shall be lawful for the justice of the peace or stipendiary magistrate of any court before whom such summons of commitment shall be heard if he shall think fit whether or not he shall make any order for the committal of the defendant to rescind or alter any order that shall have been previously made against any defendant so summoned before him for the payment by instalments or otherwise of

any debt or damages recovered and to make any further or other order either for the payment of the whole of such debt or damages and costs forthwith or by any instalments or in any other manner as such justice of the peace or stipendiary magistrate may think reasonable and just.

Power to examine and commit at hearing of the cause.

142. In every case where the defendant in any suit brought in any district court shall have been personally served with the summons to appear or shall personally appear at the trial of the same the justice of the peace or stipendiary magistrate at the hearing of the cause or at any adjournment thereof if judgment shall be given against the defendant shall have the same power and authority of examining the defendant and the plaintiff and other parties touching the several things hereinbefore mentioned and of committing the defendant to prison and of making an order as he might have and exercise under the provisions herein contained in case the plaintiff had obtained a summons for that purpose after the judgment obtained as herein mentioned.

Mode of issuing and executing warrants of commitment.

143. Whenever any order of commitment shall have been made as aforesaid the clerk of the said court shall issue under the seal of the court a warrant of commitment directed to one of the bailiffs of any district court who by such warrant shall be empowered to take the body of the person against whom such order shall be made and all constables and other peace officers within their several jurisdictions shall aid in the execution of every such warrant and the gaoler or keeper of every gaol and prison mentioned in any such order shall be bound to receive and keep the defendant therein until discharged under the provisions of this Act or otherwise by due course of law and no protection order or certificate granted by any court of bankruptcy or for the relief of insolvent debtors shall be available to discharge any defendant from any commitment under such last mentioned order.

Imprisonment not to operate as a satisfaction for the debt, &c.

144. No imprisonment under this Act shall in anywise operate as a satisfaction or extinguishment of the debt or other cause of action on which a judgment has been obtained or protect the defendant from being anew summoned and imprisoned for any new fraud or other default rendering him liable to be imprisoned under this Act or deprive the plaintiff of any right to take out execution against the goods and chattels of the defendant in the same manner as if such imprisonment had not taken place.

How execution may be had out of the jurisdiction of the court.

145. In all cases where a warrant of execution shall have issued against the goods and chattels of any party or an order for his commitment shall have been made under this Act and such party or his goods and chattels shall be out of the jurisdiction of the court it shall be lawful for the high bailiff of the court to send such warrant of execution or of commitment to the clerk of any other court constituted under this Act within the jurisdiction of which such party or his goods and chattels shall then be or believed to be with a warrant thereto annexed under the hand of the high bailiff and seal of the court from which the original warrant issued requiring execution of the same and the clerk of the court to which the same shall be sent shall seal or stamp the same with the seal of his court and issue the same to the high bailiff of his court and thereupon such last mentioned high bailiff shall be authorized and required to act in all respects as if the original warrant of execution or commitment had been directed to him by the court of which he is the high bailiff and shall within such time as is herein specified return to the high bailiff of the court from which the same originally issued what he shall have done in the execution of such process and in case a levy shall have been made shall within such time as herein specified pay over all moneys received in pursuance of the warrant to the high bailiff of the court from which the same shall have originally issued retaining the fees for execution of the process and where any order of commitment shall have been made and the person apprehended he shall be forthwith conveyed in custody of the bailiff or officer apprehending him to the debtors' prison or other prison of the court within the jurisdiction of which he shall have been apprehended

and kept therein for the time mentioned in the warrant of commitment unless sonner discharged under the provisions of this Act and all constables and other peace officers shall be aiding and assisting within their respective districts in the execution of such warrant.

146 Where a summons is required to be served in a foreign district the clerk of the home court shall transmit such summons to the bailiff of the foreign court in a letter according to the form in the schedule stating therein the amount of fees due to the bailiff of the foreign court and the clerk of the home court shall account for and pay to the treasurer of his court at the time of making his monthly return of fees to such treasurer the bailiff's fees received by him for the service of the summons in the foreign district and the bailiff of the foreign court shall serve such summons and shall produce to the treasurer of his court at the time of audit the letter from the clerk of the home court transmitting the summons and thereupon such treasurer shall pay to the said bailiff the amount of the fees therein stated unless the justice of the peace or stipendiary magistrate of the foreign court or the judge of the home court shall by writing have signified to the treasurer that such fees shall not be paid and in such cases the amount of such fees shall be placed to the credit of the general fund of the foreign court.

Where a summons requires to be served in a foreign court the clerk of the home court shall tsansmit to the bailiff of the foreign court and the clerk of the home court shall pay to the treasurer the said bailiff's fees which shall be paid over by the treasurer to the said bailiff of the foreign court unless a justice of the peace or stipendiary magistrate of the foreign or home court shall by writing have signified to the treasurer shall not be paid.

In all cases of executions issued into a foreign district whether against the goods or the person the fees due for the issuing thereof in the foreign court and to the bailiff of the foreign court for execution thereof and for carrying the delinquent to prison if any shall be paid and accounted for by the clerk of the home court to the treasurer of his court at the time of making his monthly return of fees to such treasurer or at such time as the treasurer shall require; and the clerk of the foreign court shall immediately on the receipt of the said warrant make an entry in the form prescribed in the schedule in a book to be called the Foreign Execution Book and after the bailiff shall have made his return as directed the amount of fees therein mensioned shall be at the time of audit divided and applied by the treasurer of his court between the foreign court and the home court applying such fees as have been paid for acts done by the clerk or bailiff of the home court to the account of the home court and such fees as have been paid for acts done by the clerk or bailiff of the foreign court to the account of the foreign court unless the justice of the peace or stipendiary magistrate of the foreign court or the justice of the peace or stipendiary magistrate of the home court shall by writing have signified to the treasurer that the bailiff's fees shall not be paid and in such case the last mentioned fees shall become part of the general fund of the foreign court.

147. Where by virtue of any process issued into a foreign district any money shall have been received by the bailiff of the foreign court such bailiff shall within twenty-four hours from the receiving of such money pay over the same to the clerk of the foreign court and shall make a return in writing of the amount received and in the case of a levy having been made the bailiff shall state in the return the gross amount produced by such levy, the particulars of the appraisers' and brokers' charges, and the fees allowed for keeping possession and pay over to the clerk of the foreign court the amount levied less such charges and fees and the clerk of the foreign court shall certify in the said return the amount paid into court and the correctness of the said charges and in all the above cases shall account for any pay over such amount to the treasurer of his court at the time of making his monthly return of fees to such treasurer or at such time as the treasurer shall require and the high bailiff shall thereupon transmit such return to the high bailiff of the home court as directed by the section of this Act and such latter bailiff shall within twenty-four hours from the receipt of such return deliver the same to the clerk of his court who shall thereupon pay out of any money in his hands to the plaintiff in the cause the amount certified in such return to have been received by the clerk of the foreign court as the proceeds of the execution and shall enter in a book the amount so certified in the form given in the schedule and the clerk of the home court shall file such return and the clerk shall be allowed by the treasurer of his court at his audit the amount so paid.

Where money is paid to the bailiff of a foreign court the bailiff shall within 24 hours pay over the same to the clerk of such foreign district.

Power to justice of the peace to suspend execution in certain cases.

148. If it shall at any time appear to the satisfaction of the justice of the peace or stipendiary magistrate by the oath or affirmation of any person or otherwise that any defendant is unable from sickness or other sufficient cause to pay and discharge the debt or damages recovered against him or any instalment thereof ordered to be paid as aforesaid it shall be lawful for the justice of the peace in his discretion to suspend or stay any judgment order or execution given made or issued in such action for such time, and on such—until it shall appear by the like proof as aforesaid that such temporary cause of disability has ceased.

Regulating the sale of goods taken in execution.

149. No sale of any goods which shall be taken in execution as aforesaid shall be until after the end of five days at least next following the day on which such goods shall have been so taken unless such goods be of a perishable nature or upon the request in writing of the party whose goods shall have been taken and until such sale the goods shall be deposited by the bailiff in some fit place or they may remain in the custody of a fit person approved by the justice of the peace or stipendiary magistrate from whose court the execution has issued to be put in possession by the bailiff and it shall be lawful for the bailiff from time to time as he shall think proper with the approval aforesaid to appoint such and so many persons for keeping possession and so many sworn brokers and appraisers for the purpose of selling or valuing any goods chattels or effects taken in execution under this Act as shall appear to him to be necessary, and to direct security to be taken from each of them for such sum and in such manner as he shall think fit for the faithful performance of their duties without injury or oppression and the bailiff with the approval of the justice of the peace or stipendiary magistrate may dismiss any person, broker, or appraiser so appointed and no goods taken in execution under this Act shall be sold for the purpose of satisfying the warrant of execution except by one of the brokers or appraisers so appointed and the brokers or appraisers so appointed shall be entitled to have out of the produce of the goods so distrained or sold twelve and a half cents in the five dollars on the value of the goods for the appraisement thereof whether by one broker or more and for advertisements, catalogues, sale, and commission and delivery of goods twenty five cents in the five dollars on the net produce of the sale.

As to the liability of goods taken in execution under.

150. So much of an act passed in the eighth year of the reign of Queen Anne, entituled an act for the better security of rents and to prevent frauds committed by tenants as relates to the liability of goods taken by virtue of any execution shall not be deemed to apply to goods taken in execution under the process of any court holden under this Act but the landlord of any tenament in which any such goods shall be so taken shall be entitled by any writing under his hand or under the hand of his agent to be delivered to the bailiff or officer making the levy which writing shall state the terms of holding and the rent payable for the same to claim any rent in arrear then due to him, not exceeding the rent of four weeks, where the tenement is let by the week, and not exceeding the rent accruing due in two terms of payment where the tenement is let for any other term less than a year and not exceeding in any case the rent accruing due in one year and in case of any such claim being so made the bailiff or officer making the levy shall distrain as well for the amount of the rent so claimed and the costs of such additional distress as for the amount of money and costs for which the warrant of execution issued under this Act and shall not proceed to sell the same or any part thereof within five days next after such distress taken, and if any replevin be made of the goods so taken such of the goods shall be sold under the execution as shall satisfy the money and costs for which the warrant of execution issued and the costs of the sale, and the overplus of such sale (if any) and also the residue of the goods shall be returned as in other cases of distress for rent and replevin thereof for every such additional distress for rent in arrear the bailiff of the court shall be entitled to have as the costs of the distress instead of the fees allowed by this Act for making such distress and keeping possession thereof the fees allowed by an act passed in the fifty-seventh year of the reign of King George the Third entituled "an act to regulate the costs of distress levied for payment of small rents."

Landlords may claim certain rents in arrear.

151. No judgment or execution shall be stayed, delayed or reversed upon or by any writ of error or supersedeas thereon to be sued for the reversing of any judgment given in any court holden under the provisions of this Act.

No execution shall be stayed by writ of error.

152. In or upon every warrant of execution issued against the goods and chattels of any person whomsoever the clerk of the court shall cause to be inserted or indorsed the sum of money and costs adjudged with the sums allowed by this Act as increased costs for the execution of such warrant, and if the party against whom such execution shall be issued shall before an actual sale of the goods and chattles pay or cause to be paid or tendered unto the clerk of the court out of which such warrant of execution has issued, or to the bailiff holding the warrant of execution such sum of money and costs as aforesaid or such part thereof as the person entitled thereto shall agree to accept in full of his debt or damages and costs together with the fees herein directed to be paid, the execution shall be superseded and the goods and chattels of the said party shall be discharged and set at liberty.

Execution to be superseded on payment of debt and costs.

153. That any person imprisoned under this act who shall have paid or satisfied the debt or demand due at the time of the order of imprisonment being made, together with the costs of obtaining such order and all subsequent costs, shall be discharged out of custody upon the certificate of such payment or satisfaction signed by the clerk of the court by leave of the justice of the peace or stipendiary magistrate in which the order of imprisonment was made.

Debtor to be discharged from custody upon payment of debt and costs.

154. The clerk of every court holden under this Act shall cause a note of all plaints and summonses, and of all orders and of all judgments and executions and returns thereto and of all fines and of all other proceedings of the court to be fairly entered from time to time in a book belonging to the court, which shall be kept at the office of the court and such entries in said book or a copy thereof bearing the seal of the court and purporting to be signed and certified as a true copy by the clerk of the court shall at all times be admitted in all courts and places whatsoever as evidence of such entries and of the proceeding referred to by such entry or entries and of the regularity of such proceedings without any further proof.

Number of proceedings to be kept.

155. The clerk or clerks of every such court shall in the month of March in each year make out a correct list of all sums of money belonging to suitors in the court, which shall have been paid into court and which shall have remained unclaimed for five years before the first day of the month of January then last past, specifying the names of the parties for whom or on whose account the same were so paid into court; and a copy of such list shall be put up and remain during court hours in some conspicuous part of the court house and at all times in the clerk's office; and that all sums of money which shall hereafter be paid into any such court to the use of any suitor or suitors thereof shall if unclaimed for the period of six years after the same shall have been so paid into court be applicable as part of the general fund of the court and shall be carried to the account of such fund, and no person shall be entitled to claim any sum which shall have remained unclaimed for six years; but no time during which the person entitled to claim such sum shall have been an infant, or feme covert, or of unsound mind, or beyond the seas, shall be taken into account in estimating the said period of six years.

Suitors' money unclaimed in six years to go to general fund.

156. If any person shall wilfully insult the justice of the peace or stipendiary magistrate, or any juror, or any bailiff, clerk or officer of the said court, for the time being during his sitting or attendance in court, or in going to or returning from the court, or shall wilfully interrupt the proceedings of the court or otherwise misbehave in court, it shall be lawful for any bailiff or officer of the court with or without the assistance of any other person by the order of the justice of the peace or stipendiary magistrate to take such offender into custody and detain him until the rising of the court and the justice of the peace or stipendiary magistrate shall be empowered, if he shall think fit, by a warrant under his hand and sealed with the seal of the court to commit any such offender to any prison to

Power of committal for contempt.

which he has power to commit offenders under this Act for any time not exceeding seven days, or to impose upon any such offender a fine not exceeding twenty-five dollars for every such offence, and in default of payment thereof to commit the offender to any such prison as aforesaid for any time not exceeding seven days, unless the said fine be sooner paid.

Penalty of assaulting bailiffs or rescuing goods taken in execution.

157. If any officer or bailiff of any court holden under this Act shall be assaulted while in the execution of his duty or if any rescue shall be made or attempted to be made of any goods levied under process of the court the person so offending shall be liable to a fine not exceeding twenty-five dollars to be recovered by order of the court or before a justice of the peace as hereinafter provided, and it shall be lawful for the bailiff of the court or any peace officer in any such case to take the offender into custody (with or without warrant) and bring him before such court or justice accordingly.

Bailiffs made answerable for escapes and neglect to levy execution.

158. In case any bailiff of the said court who shall be employed to levy an execution against goods and chattels shall by neglect or connivance or omission lose the opportunity of levying any such execution then upon complaint of the party aggrieved the reason of such neglect, connivance or omission (and the facts alleged being proved to the satisfaction of the court on the oath of any credible witness) the justice of the peace or stipendiary magistrate shall order such bailiff to pay such damages as it shall appear that the plaintiff has sustained thereby, not exceeding in any case the sum of money for which the said execution issued, and the bailiff shall be liable thereto and upon demand made thereof and on his refusal so to pay and satisfy the same, payment thereof shall be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said court,

Remedies against and penalties on bailiffs and other officers for misconduct.

159. If any clerk bailiff or officer of the court acting under color or pretence of the process of the said court shall be charged with extortion or misconduct, or with not duly paying or accounting for any money levied by him under the authority of this Act, it shall be lawful for the justice of the peace or stipendiary magistrate to inquire into such matter in a summary way, and for that purpose to summon and enforce the attendance of all necessary parties in like manner as the attendance of witnesses in any case may be enforced, and to make such order thereupon for the repayment of any money extorted or for the due payment of any money so levied as aforesaid and for the payment of such damages and costs as he shall think just, and also if he shall think fit to impose such fine on the clerk, bailiff or officer not exceeding fifty dollars for each offence as he shall deem adequate and in default of payment of any money so ordered to be paid payment of the same may be enforced by such ways and means as are herein provided for enforcing a judgment recovered in the said court.

Penalty on officers taking fees besides those allowed.

160. Every treasurer, clerk, bailiff, or other officer employed in putting this Act or any of the powers thereof in execution who shall wilfully and corruptly exact, take or accept any fee or reward whatsoever, other than and except such fees as are or shall be appointed and allowed respectively as aforesaid for or on account of anything done or to be done by virtue of this Act, or on any account whatsoever relative to putting this Act into execution, shall upon proof thereof before the said court, and in the case of a clerk, treasurer, or high bailiff on allowance of the finding of the court by the Chief Justice of the Supreme Court be forever incapable of serving or being employed under this Act in any office of profit or emolument and shall also be liable for damages as herein provided.

Claims as to goods taken in execution how to be adjudicated in court.

161. If any claim shall be made to or in respect of any goods or chattels taken in execution under the process of any court holden under this Act, or in respect of the proceeds or value thereof by any landlord for rent, or by any person not being the party against whom such process has issued, it shall be lawful for the clerk of the court upon application of the officer charged with the execution of such

process as well before as after any action brought against such officer to issue a summons calling before the said court as well the party issuing such process as the party making such claim and thereupon any action which shall have been brought in any of Her Majesty's Superior Courts of Law in Vancouver Island or in any local or inferior court in respect of such claim shall be stayed and the court in which such action shall have been brought or any justice of the peace or stipendiary magistrate thereof on proof of the issue of such summons and that the goods and chattels were so taken in execution may order the party bringing such action to pay the costs of all proceedings had upon such action after the issue of such summons out of the county court and the justice of the peace or stipendiary magistrate shall adjudicate upon such claim and make such order between the parties in respect thereof and of the costs of the proceedings as to him shall seem fit and such order shall be enforced in like manner as any order made in any suit brought in such court.

Actions of replevin may be brought without writ.

162. All actions of replevin in cases of distress for tent in arrear or damage feasant which shall be brought in the district court shall be brought without writ in a court held under this Act.

Plaints where to be entered.

163. In every such action of replevin the plaint shall be entered in the court holden under this Act for the district wherein the distress was taken,

How actions o replevin may be removed.

164. In case either party to any such action of replevin shall declare to the court in which such action shall be brought that the title to any corporeal or incorporeal hereditament or to any toll market fair or franchise is in question or that the rent or damage in respect of which the distress shall have been taken is more than the sum of one hundred dollars and shall become bound with two sufficient sureties to be approved by the justices of the peace or stipendiary magistrate in such sums as to them or him shall seem reasonable (regard being had to the nature of the claim and the alleged value or amount of the property in dispute or of the rent or damage) to prosecute the suit with effect and without delay and to prove before the court by which such suit shall be tried that such title as aforesaid is in dispute between the parties or that there was ground for believing that the said rent or damage was more than one hundred dollars then and not otherwise the action may be removed before the Supreme Court of Civil Justice.

Concurrent jurisdiction with super or courts.

165. That all actions and proceedings which before the passing of this Act might have been brought in any of Her Majesty's Superior Courts of Record where the plaintiff dwells more than twenty miles from the defendant or where the cause of action did not arise wholly or in some material point within the jurisdiction of the court within which the defendant dwells or carries on his business at the time of the action brought or where any officer of the district courts shall be a party (except in respect of any claim to any goods and chattels taken in execution of the process of the court or the proceeds or value thereof) may be brought and determined in any such superior court at the election of the party suing or proceeding as if this Act had not been passed.

Plaintiffs recovering in the superior courts sums not exceeding $100 in actions of contract or $25 in actions of tort over which the district court has jurisdiction to have no costs.

166. If any action commenced after the passing of this Act in any of Her Majesty's superior courts of record in covenant, debt, detenue, or assumpsit (not being an action for breach of promise of marriage) the plaintiff shall recover a sum not exceeding One Hundred Dollars, or if in any action commenced after the passing of this Act in any of Her Majesty's superior courts of record in trespass, trover, or tort (not being an action for malicious prosecution, or for libel, or for slander, or for criminal conversation, or for seduction) the plaintiff shall recover a sum not exceeding Twenty-five Dollars; the plaintiff shall have judgment to recover such sum only, and no costs except in the case hereinafter provided and except in the case of a judgment

by default, and it shall not be necessary to enter any suggestion on the record to deprive such plaintiff of costs nor shall any such plaintiff be entitled to costs by reason of any privilege as attorney or officer of such court or otherwise.

Justice of the peace or stipendiary magistrate at the trial may certify to entitle the plaintiff to costs.

167. Provided always, and be it enacted, That if the plaintiff shall in any such action as aforesaid recover a sum less than the sum in that behalf hereinbefore mentioned by verdict and the judge or other presiding officer before whom such verdict shall be obtained shall certify on the back of the record that it appeared to him at the trial that the cause of action was one for which a plaint could not have been entered in any such district court as aforesaid or that it appeared to him at the trial that there was a sufficient reason for bringing the said action in the court in which the said action was brought the plaintiff in such case shall have the same judgment to recover his costs that he would have had if this Act had not been paesed.

If the court or a justice at chambers made an order the plaintiff to have costs.

168. Provided also, and be it enacted, That if in any such action whether there be a verdict in such action or not the plaintiff shall make it appear to the satisfaction of the court in which such action was brought or to the satisfaction of a judge at chambers upon summons that the said action was brought for a cause in which concurrent jurisdiction is given to the superior courts by this Act or by any Act amending this Act or for which no plaint could have been entered in any such district court or that the said cause was removed from a district court by certiorari then and in any of such cases the court in which the said action is brought or the said justice at chambers may thereupon by rule or order direct that the plaintiff shall recover his costs and thereupon the plaintiff shall have the same judgment to recover his costs that he would have had if this Act had not been passed.

169. And be it enacted, That all penalties fines and forfeitures by this Act inflicted or authorized to be imposed the manner of recovering and applying whereof is not hereby otherwise particularly directed shall upon proof before any justice of the peace having jurisdiction within the district court or place where the offender shall reside or be or the offence shall be committed either by the confession of the party offending or by the oath of any credible witness be levied with the costs attending the summons and conviction by distress and sale of the goods and chattels of the party offending by warrant under the hand of any such justice and the overplus (if any) after such penalties fines and forfeitures and the charges of such distress and sale are deducted shall be returned upon demand unto the owner of such goods and chattels.

In default of security offender may be detained till return of warrant of distress.

170. That if any such penalties fines and forfeitures respectively shall not be paid forthwith upon conviction it shall be lawful for such justice to order the offender so convicted to be detained in safe custody until return can be conveniently made to such warrant of distress unless such offender shall give sufficient security to the satisfaction of such justice for his appearance before him on such day as shall be appointed for the return of such warrant of distress (such day not being more than eight days from the time of taking any such security) which security such justice shall be empowered to take by way of recognizance or otherwise as to him shall seem fit.

In default of distress offender may be committed.

171. And be it enacted, That if upon return of such warrant it shall appear that no sufficient distress can be had thereupon or in case it shall appear to the satisfaction of such justice either by confession of the offender or otherwise that he hath not within the jurisdiction of such justice sufficient goods and chattels whereon to levy all such penalties forfeitures costs and charges such justice may at his discretion without issuing any warrant of distress commit the offender to the common gaol or house of correction for any time not exceeding three calendar months unless such penalties forfeitures and fines and all reasonable charges attending the recovery thereof shall be sooner paid and satisfied.

172. And be it enacted, That the moneys arising from any such penalties forfeitures and fines as aforesaid when paid and levied shall (if not directed by this Act to be otherwise applied) be from time to time paid to the clerk of the court and shall be applied in aid of the general fund thereof.

Penalties not otherwise applied to be paid into the general fund.

173. And be it enacted, That in all cases in which by this Act any penalty or forfeiture is made recoverable before a justice of the peace it shall be lawful for such justice to summons to hear and determine the matter of such complaint and on proof of the offence to convict the offender and to adjudge him to pay the penalty or forfeiture incurred and to proceed to recover the same although no information in writing shall have been exhibited before him and all such proceedings by summons without information in writing shall be as valid and effectual to all intents and purposes as if an information in writing had been exhibited.

Justices may proceed by summons in the recovery of penalties.

174. And be it enacted, That in all cases where any conviction shall be had for any offence committed against the Act the form of conviction may be in the words or to the effect following that is to say

Be it remembered that on this day of in the year of our Lord A. B. is convicted before one of Her Majesty's Justices of the Peace for the (or before a judge appointed under an Act passed in the year of the reign of Her Majesty Queen Victoria intituled—here insert the title of this Act—) of having (state the offence) and I (or we). the said do adjudge the said to forfeit and pay for the same the sum of or to be committed to for the space of . Given under hand and seal the day and year aforesaid.

Form of conviction.

175. That no order verdict or judgment or other proceeding made concerning any of the matters aforesaid shall be quashed or vacated for want of form.

Proceedings not invalid for want of form.

176. Where any distress shall be made for any sum of money to be levied by virtue of this Act the distress itself shall not be deemed unlawful nor the party making the same be deemed a trespasser on account of any defect or want of form in the information summons conviction warrant of distress or other proceeding relating thereto nor shall the party distraining be deemed a trespasser from the beginning on account of any irregularity which shall afterwards be committed by the party so distraining but the person aggrieved by such irregularity may recover full satisfaction for the special damage in an action upon the case.

Distress not unlawful for want of form.

177. And for the protection of persons acting in the execution of this Act be it enacted, That all actions and prosecutions to be commenced against any person for anything done in pursuance of this Act shall be laid and tried except in cases where such action is commenced against an officer of the court of the stipendiary magistrate for Victoria District in the court of the stipendiary magistrate for Victoria District and if against an officer of such last mentioned court then before the Supreme Court of and shall be commenced within three calendar months after the fact committed and not afterwards or otherwise and notice in writing of such action and of the cause thereof shall be given to the defendant one calendar month at least before the commencement of the action and no plaintiff shall recover in any such action if tender of sufficient amends shall have been made before such action brought or if after action brought a sufficient sum of money shall have been paid into court with costs by or on behalf of the defendant.

Limitation of actions for proceedings in execution of this Act.

178. An application for a new trial or to set aside proceedings may be made and determined on the day of hearing if both parties are present or may be made at the first court held next after the expiration of twelve clear days from such day of hearing and the party intending to make such application shall seven clear days before the holding of such court deliver a notice in writing signed

An application for a new trial or to set aside proceedings may be made and determined on the day of hearing if both

parties be present or at the next sitting after the expiration of 12 clear days and 7 days' notice and such notice shall not operate as a stay of proceedings unless the justice of the peace or the stipendiary magistrate so order but money paid into court shall be retained to abide the event of the application.

by himself his attorney or agent stating the grounds of his intended application and also the court at which such application is proposed to be made to the clerk at his office and give a similar notice to the opposite party by serving the same personally on such party or by leaving the same at his place of abode or business and such notice shall not operate as a stay of proceedings unless the justice shall otherwise order and if money be paid into court under any execution or order in the suit the clerk shall retain the same to abide the event of the application aforesaid and if no such application be made the money shall if required be paid over to the party in whose favor the order was made unless the justice shall otherwise order and if such application be not made at the court mentioned in the notice no subsequent application for a new trial or to set aside proceedings shall be made unless by leave of the justice and on such terms as he shall think fit.

Steps to be taken when landlord claims for rent or other person than defendant claims.

179. Where any claim is made to or in respect of any goods or chattels taken in execution under the process of any district court or in respect of the proceeds or value thereof by any landlord for rent or by any person not being the party against whom such process has issued and summonses have been issued on the application of the officer charged with the execution of such process such summonses shall be served in such time and mode as hereinbefore directed for a summons to appear to a plaint and the claimant shall be deemed the plaintiff and the execution creditor the defendant and the claimant shall five clear days before the day on which the summons is returnable deliver to the said officer or leave at the office of the clerk of the court a particular of any goods or chattels alleged to be the property of the claimant and the grounds of his claim or in case of a claim for rent of the amount thereof and for what period and in respect of what premises the same is claimed to be due and the name and description and address of the claimant shall be fully set forth in such particular and any money paid into court under the execution shall be retained by the clerk until the claim shall have been adjudicated upon provided that by consent an interpleader claim may be tried although the above rule has not been complied with.

Interpleader summons to be issued on application of bailiff without leave.

180. Interpleader summons may be issued by the clerk on application of the bailiff without the leave of the court of the district in which the levy was made and the execution creditor and claimant may be summoned to such court without leave of such court.

Bailiff's fees to be retained out of amount levied when claim is dismissed.

181. Where the claim to any goods or chattels taken in execution or the proceeds or value thereof shall be dismissed the costs of the bailiff shall be retained by him out of the amount levied unless the justice shall otherwise order.

Parties aggrieved may appeal.

182. If either party in any cause of the amount to which jurisdiction is given to the district courts by this Act shall be dissatisfied with the determination or direction of the said 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 ten 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 justice or stipendiary magistrate 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 judgment shall not be required in any case where the justice shall have ordered the party appealing to pay the amount of such judgment into the hands of the clerk of the district 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 or may order the case to be set down for re-hearing in toto before the said Supreme Court and may make such order with respect to the costs of the said appeal and to the time of its being heard or other matters concerning the said trial of the said appeal as such court may think proper and such orders shall be final.

183. If both parties or their attorneys can agree upon a case such appeal shall be in the form of a case agreed on by both parties or their attorneys and signed by each of the parties or their respective attorneys but if they cannot agree upon being applied to by them or their attorneys shall settle the case and sign it and such case shall be transmitted to the registrar of the Supreme Court by the plaintiff.

Appeal to be in the form of a case agreed on by both parties but if they cannot agree justce to settle and sign it.

184. No judgment order or determination given or made by any justice of a district court nor any cause nor matter brought before him or pending in his court shall be removed by appeal motion writ of error certiorari or otherwise into any other court whatever save and except in the manner and according to the provisions herein contained.

No certificate &c., to be allowed.

185. All affidavits to be used in the courts holden under this Act shall and may be sworn before any justice of the said courts or any master extraordinary in chancery or attorney duly enrolled on the rolls of attorneys of the Supreme Court of Civil Justice or before a magistrate of the district city town or place where any such affidavit may be sworn.

Before whom affidavits may be sworn.

186. Any party dissatisfied with the determination or direction of the court in point of law or upon the admission or rejection of any evidence in any case where the sum recovered is fifty dollars or more may before the rising of the court on the day of the trial deliver to the clerk a statement in writing signed by him his counsel or attorney containing the grounds of his dissatisfaction and in default of such statement being delivered as aforesaid the successful party may proceed on the judgment unless the justice of the peace or stipendiary magistrate shall otherwise order but it shall be competent for the justice of the peace to direct proceedings to be taken on the judgment notwithstanding such statement has been delivered provided always that the party so di satisfied may appeal on grounds different from those contained in such statement and although he shall not have delivered any such statement.

Any person dissatisfied with the determination of the court may before the rising of the court deliver to the clerk a statement in writing containing the grounds of his dissatisfaction if the amount is or exceeds Fifty Dollars.

187. The ten days within which notice of appeal may be given shall be reckoned exclusive of the day of trial.

Ten days' notice to be reckoned exclusive of the day of trial.

188. The notice of appeal shall be in writing and shall state the ground on which the party appeals and shall be signed by the appellant or his attorney and such notice must be served on the clerk as well as on the successful party.

Notice of appeal in writing signed by appellant or his attorney must be served on clerk.

189. If before notice of appeal as aforesaid is served upon the clerk execution shall have issued and the amount of the judgment and costs of execution shall have been paid into the hands of the bailiff or levied and not paid over to the successful party the same shall remain in court to abide the order of the court.

Money paid on the judgment and costs of execution to the bailiff and not paid over to the successful party to be returned.

190. If before an appealing party shall have given the required security execution shall have issued the clerk shall upon the appealing party giving such security forthwith send notice thereof to the bailiff and proceedings on such execution shall forthwith be stayed.

If execution shall issue before an appealing party has given security the clerk shall upon the security being given notify the bailiff that execution is stayed.

191. The security on appeal required under this Act may in all cases be either a deposit of money or a bond executed by the appellant and two sureties conditioned in conformity with the provisions of the statute and which shall be substantially in the form in the schedule.

The security may be made by a deposit or a bond by appellant and two sureties.

In cases of appeal the appellant shall serve the successful party and the clerk with a notice of his sureties and the sureties shall verify their sufficiency by affidavit.

192. In all cases of appeal where the appellant proposes to give a bond he shall serve by prepaid post letter or otherwise on the opposite party and the clerk at his office notice of the sureties whom he proposes to submit for the approval of the clerk and such notice shall contain the matters stated in the form in the schedule hereunto annexed. The sureties shall unless by consent of the successful party make an affidavit of their sufficiency in the form in the schedule hereunto annexed.

Bond to be executed in the presence of the clerk or the persons mentoned in the 175th section

193. The bond shall be executed in the presence of the clerk or some one of the persons mentioned in section 175 of this Act provided always that if it be executed in the presence of the clerk it shall not be necessary for him to attest the same.

Appellant to be the obligee of the bond.

194. The successful party shall be the obligee of the bond and it shall be deposited with the clerk until the cause is finally disposed of.

Where appellant makes a deposit of money in lieu of giving a bond he must notify the successful party.

195. Where the appellant makes a deposit of money in lieu of giving a bond he shall forthwith give notice to the opposite party of such deposit having been made.

Acknowledgment of money paid into court to be given to the payee by the clerk.

196. Where money is paid into court to abide the event of an appeal whether by way of security or in pursuance of an order of the justice the clerk shall give the party paying it a written acknowledgment of such payment.

Cases stated by consent shall be signed by the justice at next sitting after the expiration of 12 days from date of judgment and when signed and sealed the appellant shall send a copy to the successful party and deliver one to the clerk of the court and if the appellant neglect so to do the successful party may proceed on the judgment unless otherwise ordered.

197. All cases where the parties consent to state a case for appeal shall be signed by the justice and shall be presented to him for signature unless he shall otherwise order at the court next after twelve clear days from the giving such determination or direction and sealed with the seal of the court and when signed and sealed one copy thereof shall be deposited with the clerk and another delivered by the appellant to the successful party within three clear days next after the time of signing and sealing the same, and if the appellant does not comply with this rule the successful party may proceed on the judgment unless the justice of the peace or stipendiary magistrate shall otherwise order.

The appellant shall within 3 clear days next after the case is signed and sealed transmit two copies thereof as provided by this Act and notify the successful party of such transmission and the successful party in the event of default in the transmission may proceed on the judgment and recover the amount and subsequent costs or within 28 clear days from the signing give a like notice to the plaintiff after transmitting the case.

198. The appellant shall within three clear days next after the case is signed and sealed transmit two copies thereof in conformity with the provisions of this Act and notice of such transmission shall forthwith be served by the appellant on the successful party by prepaid post letter or otherwise in default whereof the successful party may proceed on the judgment and shall on application to the court be entitled to such costs as he shall have incurred in consequence of the appellant's proceedings provided that instead of proceeding on such judgment the respondent if he thinks fit may within twenty-eight clear days from the signing of the case transmit it in the manner prescribed and give the like notice to the appellant of such transmission.

199. If after the case has been transmitted the appellant does not prosecute his appeal with due diligence according to the practice of the court of appeal the party successful in the the district court may apply to the justice of the peace or stipendiary magistrate thereof for leave to proceed on the judgment and leave for that purpose may be granted accordingly if the justice shall think fit and the successful party shall also be entitled to such costs as he shall have incurred in consequence of the appellant's proceedings which costs shall be added to the judgment.

If after transmission the appellant does not prosecute his case with due diligence the successful party may by leave of the court proceed on the judgment and shall also recover all costs occasioned by the appellant's default

200. When the court of appeal has pronounced judgment either party may deposit the original order of the court of appeal or an office copy thereof with the clerk of the district court and within forty-eight hours from the time of such deposit give notice thereof in writing to the other party by pre-paid post letter or otherwise.

Where the court of appeal has pronounced its judgment either party may deposit the order or an office copy of it with the clerk and give notice to the opposite party.

201. A new trial in pursuance of the order of the court of appeal shall be entered for trial at the district court which shall be held next after twelve clear days from the time when such order or office copy thereof shall have been deposited as aforesaid notice thereof in writing to the other party by pre-paid post letter or otherwise.

New trial by order of the court of appeal shall be entered for trial within 24 hours.

202. A new trial in pursuance of the order of the court of appeal shall be entered for trial at the district court which shall be held next after twelve clear days from the time when such order or office copy thereof shall have been deposited as aforesaid unless the parties agree that it shall take place sooner or the justice shall otherwise order and it shall be conducted in the same manner as any new trial granted by the district court itself.

A new trial in pursuance of an order on appeal shall be tried at the district court which shall be held next after 12 days from the time of deposit.

203. If the order of the court of appeal be that judgment shall be entered for either party then such judgment shall be entered accordingly and the successful party shall be at liberty to proceed on such judgment as upon a judgment of the district court.

If the order on appeal be that judgment is to be entered for either party it shall be so entered.

204. Where one or more of several plaintiffs or defendants dies before judgment the suit shall not abate if the cause of action survive to or against such parties.

Where one of several plaintiffs or defendants dies cause shall not abate if cause of action survive against or to such parties.

205. Where one or more of several plaintiffs or defendants shall die after judgment proceedings thereon may be taken by the survivors or survivor or against the survivors or survivor without leave of the court.

Defendants or plaintiffs dying after action proceedings by or against the survivors.

206. Where a married woman is sued as a femme sole and she obtains judgment on the ground of coverture proceedings may be taken thereon in the name of the wife at the instance of the husband without leave of the court.

Where femme covert is sued as femme sole and succeeds by showing coverture proceedings may be taken in the name of the wife at the instance of the husband.

207. Where the plaintiff has become bankrupt or insolvent before judgment the cause may proceed to judgment at the instance of the assignee in the name of the plaintiff.

Plaintiff bankrupt cause may go to judgment at assignee's instance.

208. Execution on a judgment shall not issue by or against any person not a party to such suit without a plaint and summons upon the judgment the proceedings in which shall be the same and shall be subject to the payment of the same fees except the general fund fee as in ordinary cases.

Execution shall not issue to one not a party to the suit unless a plaint and summons is taken out.

Jury may be summoned in all cases of scire facias.

209. In all proceedings in the nature of a scire facias a jury may be summoned in the same manner and under the like restrictions as are provided by this Act.

Notice must substantially comply with form in the schedule.

210. Where by this Act any party is required to give notice according to a form mentioned in the schedule it shall be sufficient if the notice given complies substantially with such form.

The 24 hours' notice shall be read 48 hours' notice when any part of Sunday, Good Friday, Christmas Day or a fast or thanksgiving is included in any part of the 24 hours.

211. In all cases where any notice or thing is required by these rules to be given or done within a period of twenty-four hours such period shall be understood to mean forty-eight hours if any part of Sunday Good Friday or Christmas Day or any day appointed by Royal Proclamation for a public fast or thanksgiving is included in such twenty-four hours.

Successive summonses may be issued to save the statute of limitations which shall be in force for four months.

212. Successive summonses may be issued without leave of the court for the purpose of preventing the operation of any statute whereby the time for the commencement of any action is or may be limited and such summonses shall be in force for four calendar months from the time of issuing the same including the day of such issuing and shall be issued before the expiration of the previous summons and entered in the plaint book of the court, provided that on entering the plaint in the first instance the usual fees shall be paid as if the defendant resided within two miles of the court but for every successive summons no further fee shall be paid nor shall it be necessary that any attempt be made to serve such summons unless the plaintiff requires the same when the proper bailiff's fees for such service shall be paid in addition to those already received and such successive summonses when so entered shall be a continuance of the action from and inclusive of the day on which the first summons was issued.

Order of reference may be made under the 33rd section of the Act in all cases without awaiting the return of the summons.

213. Where a plaint is entered the justice or stipendiary magistrate may with the consent of the parties as well in cases within the ordinary jurisdiction of the court as in cases of consent under the 33rd section of this Act make an order for a reference under the provisions of section 96 without awaiting the return of the summons and all the provisions in this act contained.

Concurrent jurisdiction with superior courts.

214. That all actions and proceedings which before the passing of this Act might have been brought in any of Her Majesty's superior courts of record where the plaintiff dwells more than twenty miles from the defendant or where the cause of action did not arise whereby or in some material point within the jurisdiction of the court within which the defendant dwells or carries on his business at the time of the action brought or where any officer of the district court shall be a party (except in respect of any claim to any goods and chattels taken in execution of the process of the court or the proceeds or value thereof) may be brought and determined in any such superior court at the election of the party suing or proceeding as if this Act had not been passsed.

As to actions brought for small debts in superior courts

215. That if any action shall be commenced after the passing o this Act in any of Her Majesty's superior courts of record for any cause other than those lately hereinbefore specified for which a plaint might have been entered in any court holden under this Act and a verdict shall be found for the plaintiff for a sum less than $100 if the said action is founded on contract or less than $25 if it be founded on tort the said plaintiff shall have judgment to recover such sum only and no costs and if a verdict shall not be found for the plaintiff the defendant shall be entitled to his costs as between attorney and client unless in either case the justice who shall try the cause shall certify on the back of the record that the action was fit to be brought in such superior court.

Provision for the protection of officers of the court.

216. That if any person shall bring any suit in any of Her Majesty's superior courts of record in respect of any grievance committed by any clerk, bailiff, or officer of any court holden under this Act under color or pretence of the process of the said court and the jury upon

the trial of the action shall not find greater damages for the plaintiff than the sum of $100 no costs shall be awarded to the plaintiff in such action unless the justice shall certify in court upon the back of the record that the action was fit to be brought in such superior court.

No cause of action to be joined in an action of replevin.

217. In actions of replevin no other cause of action shall be joined in the summons.

Specification of cattle, goods, and chattels taken under the distress.

218. On entering a plaint in replevin the plaintiff must specify and describe in a statement of particulars the cattle or the several goods and chattels taken under the distress and of the taking of which he complains.

Actions of replevin in cases of replevin to be tried in a summary way.

219. All actions of replevin in cases of distress for rent in arrear or damage feasant shall be tried in a summary way as other actions in the courts held under the authority of this Act and the judgment therein in ordinary cases whether for plaintiff or defendant shall be according to the forms in the schedule.

Value of the goods to be ascertained by the jury if a jury case in cases of distress for rent and if the value be less than the amount of such value judgment shall be given for the amount of such rent but if less judgment shall be for the rent.

220. Where the distress has been for rent and the defendant succeeds in the action if the defendant require the justice of the peace or stipendiary magistrate shall if the cause is tried with a jury find the value of the goods distrained and if the value is less than the amount of rent in arrear judgment shall be given for the amount of such value but if the amount of the rent in arrear is less than the value so found judgment shall be given for the amount of such rent and may be enforced in the same manner as any other judgment of the court.

Where the distress is for damage feasant and the defendant is entitled to judgment for a return if the plaintiff shall require and the case is tried without a jury and the jury shall if tried by a jury find the amount of damage sustained by the defendant and judgment shall be given in the alternative for a return or for the amount of damage sustained.

221. Where the distress was for damage feasant and the defendant is entitled to judgment for a return if the plaintiff require the justice or stipendiary magistrate shall if the cause is tried without a jury and the jury shall if the cause is tried with a jury find the amount of the damage sustained by the defendant and judgment shall then be given in favor of the defendant in the alternative for a return or for the amount of the damage so found.

Party desiring to remove a plaint for replevin to give 5 clear days' notice of his grounds for removal and deliver two copies of the same to the clerk and the clerk shall transmit one copy to the defendant or in default pay all costs and in case a reasonable time has not been allowed the clerk the cause shall be postponed at the expense of the party seeking to remove.

222. Where either party is desirous of removing any plaint in replevin in pursuance of this Act he shall at least five clear days before the return of the summons deliver to the clerk two copies of a notice signed by himself his attorney or agent stating the ground of such removal together with the names of two sureties whom he proposes to become bound with him in the form in this schedule and the clerk shall forthwith transmit one of the said copies of the said notice to the opposite party or parties and unless such notice is given the party removing shall pay all the expenses to which the opposite party has been put in consequence of such non-compliance with this section unless the justice or stipendiary magistrate shall otherwise order and in case a reasonable time has not been allowed to enable the clerk to ascertain the sufficiency of the sureties the cause shall be postponed at the expense of the party seeking to remove or upon such terms as the justice or stipendiary magistrate shall think fit.

Amount of the security to be the same as that given to the sheriff.

223. The amount of the sum for which the security is taken shall unless the judge shall otherwise order be the same as that of the security given to the sheriff and such security shall be given at the expense of the party seeking to remove.

Confession of debts or parts of debts, &c, and judgment thereupon.

224. That any person against whom a plaint shall be entered in any district court may if he think fit whether he be summoned upon such plaint or not in the presence of the clerk of the court in which such plaint shall have been entered or in the presence of an attorney of one of the superior courts sign a statement confessing and admitting the amount of the debt or demand or part of the amount of the debt or demand of which such plaint shall have been entered and such clerk shall as soon as conveniently may be after receiving such statement send notice thereof to the plaintiff by the post or by causing the same to be delivered at his usual place of abode or business and thereupon it shall not be necessary for the said plaintiff to prove the debt or demand so confessed and admitted as aforesaid but the justice or stipendiary magistrate of such court at the next sitting of such court whether either of the parties appear or not shall upon proof by affidavit of the signature of the party if such statement were not made in the presence of the clerk proceed to give judgment for the debt or demand so confessed and admitted in the same manner and subject to the same conditions as if he had tried the cause and given judgment thereupon under the provisions of this Act.

Agreement as to the amount of debt, &c., and conditions of payment.

225. That if the person against whom a plaint shall be entered in any county court can agree with the person on whose behalf such plaint shall have been entered upon the amount of the debt or demand in respect of which such plaint shall have been entered and upon the terms and conditions upon which the same shall be paid or satisfied it shall be lawful for such persons respectively in the presence of the clerk of the court in which such plaint shall have been entered or in the presence of an attorney of one of the Supreme Courts to sign a statement of the amount of the debt or demand so agreed upon between such persons respectively and of the terms and conditions upon which the same shall be paid or satisfied such clerk shall receive such statement and shall thereupon upon proof by affidavit of the signature of the party if such statement were not made in the presence of the clerk enter up judgment in for the plaintiff for the amount of the debt or demand so agreed on and upon the terms and conditions mentioned in such statement and such judgment shall to all intents and purposes be the same and have the same effect and shall be enforced and enforcible in the same manner as if it had been a judgment of the justice of the peace or the stipendiary magistrate presiding over the said court.

Confessions to be made within 5 clear days before the return day otherwise if made after the time at the costs of the defendant.

226. Confessions to be made under this Act shall be delivered to the clerk five clear days before the return day of the summons provided that at any time before the return day of the summons the defendant may make a confession and deliver the same to the clerk subject however to an order by the justice to pay such costs as the plaintiff has incurred in consequence of the defendant not having delivered such confession as hereinbefore required.

The defendant in all cases of consent may confess the amount of costs of the plaintiff besides court fees

227. In all cases of consent under this Act it shall be competent for the defendant to confess the amount of the plaintiff's costs besides the court fees and the judgment may be entered accordingly and the amount of the plaintiff's costs shall be stated separately.

Consent cases to be tried by plaint and summons.

228. Where the parties under this Act agree to try any of the questions by consent a plaint shall be entered and a summons issue thereon as in other cases and all the rules and practice of the court shall be adopted in such cases so far as the same are applicable.

Clerk to frame forms where no forms given on the model of the forms given in the schedule.

229. In proceedings for which forms are not provided in the schedule the clerk of the court is required to use as guides in framing the forms required those which are prescribed in the schedule.

230. The clerk of every court shall if at any time future the treasurer of Vancouver Island shall require transmit to such place and in such form as the said treasurer may appoint a statement of the judgments whether by consent or otherwise which have been entered for the sum of fifty dollars and upwards at every court or between that court and the court next preceeding and such statement shall be transmitted within three days from the holding of each court and the said clerk shall when required by the treasurer of Vancouver Island and its dependencies also transmit a similar return of all judgments of like amount which have been entered by consent or otherwise since the commencement of this Act.

Clerk when the treasurer requires to transmit a statement which the treasurer requires of the judgment.

231. The clerk shall in every such case certify the correctness of the return and the remuneration for making the same shall be such as the treasurer of Vancouver Island and its dependencies shall be pleased to appoint and award to be paid out of the fund produced by fees to be appointed to be taken for searches in the said register.

Clerk to certify to the correctness of the return and be remunerated as the treasurer of Vancouver Island shall determine.

232. The justice of the peace or stipendiary magistrate in each district with the sanction of the Treasurer of Vancouver Island if called on so to do by the Treasurer of Vancouver Island shall appoint some person to be treasurer and some person as clerk of such court when occasion shall require and with such sanction as aforesaid may remove any such treasurer if occasion shall so require and with the Treasurer's sanction appoint another person in his room or if the Treasurer of Vancouver Island shall so deem fit the justice of the peace or stipendiary magistrate shall act as treasurer as well as justice of the peace or stipendiary magistrate and if the justice or justices of the peace or stipendiary magistrate of any district court (if any) agree that some justice or justices or stipendiary magistrate for the district in which they act shall perform the duties or if they the justice or justices are willing to perform such duties such justice or stipendiary magistrate or the justice or justices agreed on may act as his or their own clerk and as acting treasurer and clerk shall be entitled to the clerk's fees, treasurer's fees, or the said fees belonging to the office of clerk and the fees of the treasurer and clerk shall be distributed equally between the justices and stipendiary magistrate so acting as clerk and treasurer or shall belong to such justice of the peace or stipendiary magistrate if one only is appointed anything to the contrary thereof in this Act contained notwithstanding.

Treasurer and clerk be appointed when required by justices and until then all justices and stipendiary magistrates shall perform the duties of the clerk and shall take the clerk's fees.

233. Subject to the provisions herein contained with respect to the justices or justice or stipendiary magistrate acting as clerk there shall be for every district court under the authority of this Act when occasion shall require a clerk appointed by the justices or justice of the peace or stipendiary magistrate subject to the approval of the Treasurer of Vancouver Island and in case of inability or misbehavior he or they shall have power to remove such clerk subject to the like approval and until otherwise directed by some future Act of the Legislature every such clerk shall be paid by fees as hereinafter provided and in cases requiring the same such assistant clerks as may be necessary shall be provided and paid by the clerk of the court.

Appointment of clerks vested in judges subject to approval of the Treasurer of Vancouver Island.

234. It shall be lawful for the justice of the peace or justices of the peace or stipendiary magistrate with the approval of the said Chief Justice to appoint from time to time a deputy clerk of the said court to act for the clerk of the said court at any time when he shall be prevented by illness or unavoidable absence from acting in such office and to remove such deputy at his pleasure and such deputy while acting under such appointment shall have the like powers and privileges and be subject to the like provisions, duties and penalties for misbehavior as if he were the clerk of the said court for the time being.

It shall be lawful for the justice or justices of the peace or stipendiary magistrates to appoint a deputy clerk.

235. The clerk of each court shall issue all summonses, warrants, precepts and writs of execution and register all orders and judgments of the said court and keep an account of all proceedings of the court and shall take charge of and keep an account of all court fees and fines payable or paid into court and of all moneys paid into and out

Duties of clerks.

of court and shall enter an account of all such fees, fines, and moneys in a book belonging to the court to be kept by him for that purpose and shall from time to time at such times as shall be directed by order of the court submit his accounts to be audited or settled by the treasurer.

Offices of clerk treasurer and bailiff not to be conjoined.

236. Subject to the provisions herein contained for the performance of the duties of clerk and treasurer by the justices of the peace it shall not be lawful for the clerk of any court holden under this Act or the partner of any such clerk or any person in the service or employment of such clerk or of his partner to act as treasurer or bailiff of the court or for the treasurer, his partner or clerk or any person in the service or employment of such treasurer or his partner to act as clerk or bailiff or for the bailiff, his partner, or clerk or any person in the service or employment of such bailiff or his partner to act as clerk or treasurer of the court.

Officers not to act as attorneys in the court.

245. That no clerk, treasurer, bailiff, or other officer of the court shall either by himself or his partner be directly or indirectly engaged as attorney for any party in any proceeding in the said court.

Penalty of $250 on non-observance of the two previous enactments.

238. That every person who being the clerk of any such court or the partner of such clerk or a person in the service or employment of any such clerk or of his partner shall accept the office of treasurer or bailiff of such court or who being the treasurer of any such court or the partner of any such treasurer or a person in the service or employment of any such treasurer or of his partner shall accept the office of clerk or bailiff in the execution of this Act and also every clerk, treasurer, bailiff, or other officer of any such court who shall be by himself or his partner or in any way directly or indirectly concerned as attorney for any party in any proceeding in the said court shall for every such offence forfeit and pay the sum of $250 to any person who shall sue for the same in any of Her Majesty's superior courts of record by action of debt or on the case.

Appointment of bailiff.

239. For every such court there shall be one bailiff whom the justice or stipendiary magistrate shall be empowered by order of court to appoint and in case of inability or misbehavior to remove by a like order.

Duties of the bailiff &c.

240. The said bailiffs shall attend every sitting of the court for such time as shall be required by the justice or stipendiary magistrate unless when the absence shall be allowed for reasonable cause by the justice or stipendiary magistrate and shall serve all the summonses and orders and execute all the warrants precepts and writs issued out of the court and the said bailiff shall in execution of his duties conform to all such general rules as shall be from time to time made for regulating the proceedings of the court as hereinafter provided and subject thereunto to the order and direction of the justice or stipendiary magistrate and the said bailiff shall be entitled to receive all fees and sums of money allowed by this Act in the name of fees payable to the bailiff out of which they shall provide for the execution of the duties for which such fees are allowed and for the payment of the bailiff according to such scale of remuneration as shall be from time to time approved by the justice of the peace or stipendiary magistrate and every such bailiff shall be responsible for all the acts and defaults in like manner as the sheriff of any county in England is responsible for the acts and defaults of himself and his officers.

Treasurers clerks and bailiffs to give security.

241. The stipendiary magistrates or justices of the peace if they undertake the duties of acting as treasurer the bailiff of every court holden under this Act who may receive any moneys in the execution of his duty shall give security for such sum and in such manner and form as the treasurer of Vancouver Island shall order for the due performance of their several offices and for the due accounting for and payment of all moneys received by them through this Act or which they may become liable to pay for any misbehavior in their office.

242. There shall be payable on every proceeding in the courts holden under this Act to the justices or stipendiary magistrate clerks and bailiffs of the several courts such fees as are set down in the schedule marked (D) to this Act annexed or which shall be set down in any schedule of fees reduced or altered under the power hereinafter contained for that purpose and none other and a table of such fees shall be put up in some conspicuous place in the place appointed for the sitting of the court and the fees on every proceeding shall be paid in the first instance by the plaintiff or party on whose behalf such proceeding is to be had on or before such proceeding and in default payment thereof shall be enforced by order of the justice or stipendiary magistrate by such ways and means as any debt or damage ordered to be paid by the district court can be recovered and the fees upon executions shall be paid into court at the time of the issue of the warrant of execution and shall be paid by the clerk of the court to the bailiff upon the return of the warrant of execution and not before provided always that it shall be lawful for the Chief Justice with the consent of the Treasurer of Vancouver Island aforesaid to lessen the amount of the fees to be taken in the courts holden under this Act in such manner as to him shall seem fit and again to increase such fees so that the scale of fees given in the schedule to this Act be not in any case surpassed and in every court holden under this Act in which the fees allowed to be taken by the judges clerks or bailiffs of the court shall appear to be more than sufficient it shall be lawful for the said Chief Justice to order that a certain part only of their fees shall be paid to them respectively and in such case and so long as such direction shall be in force the amount of the residue of the fees shall be accounted for and paid to the treasurer of the court and shall form part of the general fund.

Fees to be taken according to schedule (D) and tables to be exhibited in conspicuous places.

Fees may be reduced.

Appropriation of surplus fees.

243. The clerk of every court holden under this Act or the justice of the peace or stipendiary magistrate acting as such clerk shall from time to time as they or he shall be required so to do by the Treasurer of Vancouver Island and in such form as the said Treasurer of Vancouver Island shall require shall deliver to the Treasurer of Vancouver Island a full account in writing of the fees received in that court under the authority of this Act and a like account of all fines levied by the court and of the expenses of levying the same and shall pay over to the treasurer quarterly or oftener in every year by order of the court the moneys remaining in his hands over and above his own fees and such balance as he shall be allowed by order of the court to retain for the current expenditure of the court.

Fees and fines to be accounted for to treasurer.

244. The treasurer or person acting as treasurer of every court holden under this Act shall from time to time quarterly or oftener as shall be directed by order of the court audit and settle the accounts of the clerk and bailiff of the court and shall receive the balance of the various monies which such clerk and other officers shall have received under this act and shall pay over to the justice or stipendiary magistrate of the court the amount of his fees and make all such other payments as it shall be requisite to make thereout in accordance with the provisions of this Act and shall from time to time pay the balance remaining in his hands or so much thereof as he shall be directed to pay into such bank or otherwise as shall be directed by the said Treasurer of Vancouver Island.

Clerks accounts to be audited and settled by treasurer.

245. The treasurer or person acting as treasurer of every court holden under this act shall once in every year and oftener if required on such day as the Treasurer of Vancouver Island from time to time shall appoint render to the treasurer of Vancouver Island a true account in writing of all monies received and of all monies disbursed by him on account of every court holden under this act of which he is treasurer during the period comprised in such account in such form and with such particulars of receipt and disbursement or otherwise as the said Treasurer of Vancouver Island shall from time to time require.

Treasurers of the court to render accounts to audit board.

246. The said Treasurer of Vancouver Island shall from time to time make such rules as shall seem meet for securing the balance and other sums of money in the hands of any officers of every court holden under this act and for the due accounting for and application of all such balances and other sums of money.

The treasurer of Vancouver Island to direct how balances shall be applied.

Accounts of treasurers to be audited by the auditor of public accounts.

247. The accounts to be kept by the several treasurers on account of the said courts shall be examined and audited by the auditor of the public accounts.

Clerk to send to commissioners of audit an account of all sums paid by him to treasurer.

248. The clerk of every such court shall once in every year and oftener if required on such day as shall be appointed by the said Treasurer of Vancouver Island make out and send to the said auditor of public accounts an account of all sums paid over by him to the treasurer of the court including all unclaimed balances carried to the account of the general fund as hereinafter provided and every such account duly vouched by receipts given under the hand of the treasurer shall be a voucher to charge the treasurer in his account before the said auditor.

A general fund to be raised for paying off money borrowed.

249. For raising a fund for providing a court house and officers the clerk of every court holden under the authority of this act in which and while it shall be necessary to raise such fund shall demand and receive from the plaintiff in any suit brought in that court the sum of 12½ cents when the debt or damage claimed shall exceed $5 and shall not exceed $10 and for every claim exceeding $10 one twentieth part thereof neglecting any sum less than 12½ cents in estimating such twentieth part which sum if not paid in the first instance by the plaintiff upon suit brought in the court may be deducted from the sum recovered for the plaintiff and shall be considered as costs in the cause and the clerk of the court shall keep an account of all monies so paid to him and shall pay over the amount from time to time to the treasurer of the court and the amouut thereof shall be paid over monthly to the Treasurer of Vancouver Island to form a fund to be called the General fund of the district court of at and shall be applied in the first place toward paying the rent and other expenses necessarily incurred in holding the court and in the second place toward defraying the other expenses herein charged on the said general fund in such manner as the justice or stipendiary magistrate with the approval of the treasurer and the surplus which shall from time to time accumulate after providing for all the said expenses shall be paid over to the credit of the general revenue.

250. The fees taken under this act shall be distributable as follows:

Judges fees shall be every fee paid upon the issuance of a summons on a plaint every fee for hearing a case with or without a jury every fee payable for an order or judgment all fees for application for judgment or order

Clerks fees shall include all other fees chargeable under this act save the bailiffs fees.

Bailiffs fees:—Affidavit of service serving summons order or subpœna execution of a warrant keeping possession of goods till sale carrying delinquent to prison and issuing warrant to bailiff of another court.

251. Nothing in this act contained shall be deemed to affect any disqualification of any member of the House of Assembly on receiving an appointment of Justice of the Peace or continuing to fill the same office if already a Justice of the Peace.

252. This act may be cited as the Vancouver Island District Court Act 1864.

FEES IN THE DISTRICT COURT.

The fee for the general fund payable by the plaintiff in every suit in the district court is now

1. When the debt or damage claimed exceeds $5 and does not exceed $10 the fee of 12½ cents.

2. When the debt or damage claimed exceeds $10 and does not exceed $50 a fee equal to one-twentieth of the amount.

3. When the debt or damage exceeds $50 a fee equal to one-thirtieth of the amount.

TABLE OF FEES.

To be taken in the district court established by the Vancouver Island District Court Act, 1864.

N. B.—In cases within the ordinary jurisdiction of the courts the undermentioned poundage and fees are to be taken but where the sum demanded is above $100 the poundage is to be taken on $100 only.

All fractions of a dollar for the purpose of calculating the poundage shall be treated as an entire dollar.

For every summons twelve and a half cents in every Five Dollars or any smaller amount on the amount of the demand.

For every application for a summons out of the district six and a half cents in every Five Dollars or any smaller amount on the amount of the demand.

This sum to include every fee for such application.

NOTICE.—No other fee whatever is to be taken on the entry of a plaint except for service by the bailiff and for affidavit of service out of the district.

For every hearing without a jury fifty cents in every Five Dollars or smaller sum on the amount of the demand.

For every hearing with a jury seventy cents in every Five Dollars or smaller sum on the amount of the demand.

Judgments by consent and judgments upon applications in the nature of sci. fa. to be charged the same fee as on the hearing of a cause without a jury.

NOTICE.—No other fee whatever is to be taken for the hearing or trial of a cause except for the service of the order by the bailiff.

For every subpœna each witness fifty cents without reference to the amount of the demand.

For entering and giving notice of a special defence twenty-five cents without reference to the amount of demand.

For any adjournment of a cause or other matter to another court at the request of either party five cents in every Five Dollars or smaller sum on the amount of the demand.

For paying money into or out of court whether before or after judgment on each payment not exceeding two and a half dollars five cents and on each payment above two and a half dollars ten cents in every Five Dollars on the amount of the payment.

For notice to be given by letter to plaintiff of every payment whatever made into court fifty cents without reference to the amount of the payment; out of this fee the carriage of such letter is to be paid by the clerk.

For issuing any warrant attachment or execution five cents in every Five Dollars or smaller sum on the amount for which such warrant attachment or execution issues.

For taking recognizance bond or security for costs five cents in every Five Dollars or smaller sum on the amount of the demand.

For inquiry into sufficiency of sureties twelve and a half cents in every Five Dollars or smaller amount on the amount of the demand.

For application for new trial or to set aside proceedings five cents in every Five Dollars or smaller sum on the amount of the demand.

For every summons of commitment twelve and a half cents in every Five Dollars or smaller sum on the amount of the original demand then remaining due.

For every hearing of the matters mentioned in such summons for commitment twenty-five cents on every five dollars or smaller sum on the amount last aforesaid.

NOTICE.—No other fees than the above to be taken on any account whatever except the bailiff's fees for service, no application to the court is to be charged with a fee except those above mentioned, no increase of fees shall be made by reason of there being more than one plaintiff or defendant.

BAILIFF'S FEES.

For serving every summons order or subpœna within two miles of the court house two cents on every Five Dollars or smaller sum on the amount of the demand except for the service of a summons in the case of an unsatisfied payment when the poundage is to be calculated on the amount of the original demand then remaining due.

For such service if beyond two miles then extra for each additional mile five cents.

For affidavit of service of summons out of the jurisdiction twenty-five cents without reference to the amount of the demand.

For execution of every warrant or attachment against the goods or body within two miles of the court house five cents in the dollar on the amount of which such warrant or attachment issues.

For such execution if beyond two miles then extra for every additional mile five cents without reference to the amount for which such warrant of attachment issues.

For keeping possession of goods till sale per day (including expenses of removal, storage of goods, and all other expenses whatever) not exceeding five days two and a half cents in the dollar on the amount of which the execution issues. This however does not apply to cases of interpleader in which the costs and expenses of possession are in the discretion of the justice of the peace or stipendiary magistrate.

For carrying every delinquent to prison including all expenses and assistants twenty-five cents per mile without reference to the amount mentioned in the warrant.

For issuing warrant to clerk of another court half a dollar without reference to the amount mentioned in the warrant.

N. B.—Where the plaintiff recovers less than the amount of his claim so as to reduce the scale of costs the plaintiff to pay the defendant.

The several fees payable on proceedings in replevin to be regulated on the above scale by the amount distrained for but in that case the fees are not to exceed the fees payable on a demand of $100.

In cases of extraordinary jurisdiction given to the court by the consent of parties to the trial of questions under the provisions of this Act the poundage shall be taken in every such case on the sum of $250.

In cases of interpleader the summons is to be issued to the bailiff gratis and the poundage for the hearing is to be estimated on the value of the goods claimed which in case of di pute is to be assessed by the justice. The costs however of the summons estimated on the above mentioned value shall be included in the general costs which may in the discretion of the justice be awarded at the hearing.

SCALE OF WITNESS' FEES.

Gentlemen, merchants, bankers, and professional men,....	$5 00
Tradesmen, auctioneers, accountants, clerks, and yeoman,..	2 50
Journeymen, laborers, and the like,..	1 50
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156 Power of committal for contempt.

157 Penalty of assaulting bailiffs or rescuing goods taken in execution.

158 Bailiffs made answerable for escapes and neglect to levy execution.

159 Remedies against and penalties on bailiffs and other officers for misconduct.

160 Penalty on officers taking fees besides those allowed.

161 Claims as to goods taken in execution to be adjudicated in court.

162 Actions of replevin may be brought without writ.

163 Plaints where to be entered.

164 How actions of replevin may be removed.

165 Concurrent jurisdiction with superior courts.

166 Plaintiffs recovering in the superior court sums not exceeding $100 in actions of contract or $25 in actions of tort over which the district court has no jurisdiction to have no costs.

167 Justice of the peace or stipendiary magistrate at the trial may certify to entitle the plaintiffs to costs.

168 If the court or a justice at chambers made an order the plaintiff to have costs.

169 Penalties and costs to be recovered before a justice and levied by distress.

170 In default of security offender may be detained till return of warrant of distress.

171 In default of distress offender may be committed.

172 Penalties not otherwise applied to be paid into the general fund.

173 Justices may proceed by summons in the recovery of penalties.

174 Form of conviction.

175 Proceedings not invalid for want of form.

176 Distress not unlawful for want of form.

177 Limitation of actions for proceedings in execution of this Act.

178 An application for a new trial or to set aside proceedings may be made and determined on the day of hearing if both parties be present or at the next sitting after the expiration of twelve clear days and seven days' notice and such notice shall not operate as a stay of proceedings unless the justice of the peace or the stipendiary magistrate so order but money paid into court shall be retained to abide the event of the application.

179 Steps to be taken where landlord claims for rent to other person than the defendant claims.

180 Interpleader summons to be issued on application of bailiff without leave.

181 Bailiff's fees to be retained out of amount when claim dismissed.

182 Parties aggrieved may appeal.

183 Appeal to be in the form of a case agreed on by both parties but if they cannot agree justice to settle and sign it.

184 No certificate, &c., to be allowed.

185 Before whom affidavits may be sworn.

186 Any person dissatisfied with the determination of the court may before the rising of the court deliver to the clerk a statement in writing containing the grounds of his dissatisfaction.

187 Ten days' notice to be reckoned exclusive of the day of trial.

188 Notice of appeal in writing signed by ——— appellant or his attorney must be served on clerk.

189 Money paid on the judgment and costs of execution to the bailiff and not paid over to the successful party to be retained.

190 If execution shall issue before an appealing party has given security the clerk shall upon the security being given notify the bailiff that execution is stopped.

191 The security may be made by a deposit or a bond and two sureties.

192 In cases of appeal the appellant shall serve the successful party and the clerk with a notice of his sureties and the sureties shall verify their sufficiency by affidavit.

193 Bond to be executed in the presence of the clerk or the persons mentioned in the 175th section.

194 Appellant to be the obligee of the bond.

195 Where appellant makes deposit of money in lieu of giving a bond he must notify the successful party.

196 Acknowledgment of money paid into court to be given to the payee by the clerk.

197 Cases stated by consent shall be signed by the justice at the next sitting after the expiration of 12 days from date of judgment and when signed and sealed the appellant shall send a copy to the successful party and deliver one to the clerk of the court and if the appellant shall neglect so to do the successful party may proceed on the judgment unless otherwise ordered.

198 The appellant shall within three days next after the case is signed transmit two copies thereof as provided by this Act and notify the successful party of such transmission and the successful party in the event of default in the transmission may proceed on the judgment and recover the amount and subsequent costs or within twenty-eight clear days from the signing give the like notice to the plaintiff after transmitting the case.

199 If after transmission the appellant does not prosecute his case with due diligence the successful party may by leave of the court proceed on the judgment and shall also recover all costs occasioned by the appellant's default.

200 When the court of appeal has pronounced its judgment either party may deposit the order and an office copy of it with the clerk and give notice to the opposite party.

201 New trial by order of the court of appeal shall be entered for trial within twenty-four hours.

202 A new trial in pursuance of an order of appeal shall be tried at the district court which shall be held next after twelve days from the time of deposit.

203 If the order of appeal be that judgment is to be entered for either party it shall be so entered.

204 Where one of several plaintiffs or defendants dies cause shall not abate if cause of action survive against or to such parties

205 Defendants or plaintiffs dying after action proceedings by or against the survivors.

206 Where femme covert is sued as femme sole and succeeding by showing coverture proceedings may be taken in the name of the wife at the instance of the husband.

207 Plaintiff bankrupt cause may go to judgment at assignee's instance.

208 Execution shall not issue to one not a party to the suit unless a plaint and summons be taken out.

209 Jury may be summoned in all cases of scire facias.

210 Notice must substantially comply with form in the schedule.

211 The 24 hours' notice shall be read 48 hours' notice when any part of Sunday, Good Friday, Christmas Day, or a fast or thanksgiving is included in any part of the 24 hours.

212 Successive summonses may be issued to save the statute of limitations which shall be in force for four months.

213 Order of reference may be made under the 33rd section of this Act in all cases without awaiting the return of the summons.
214 Concurrent jurisdiction with superior courts.
215 As to actions brought for small debts in superior courts.
216 Provisions for the protection of officers of the court.
217 No other cause of action to be joined in a replevin suit.
218 Specification of cattle, goods and chattels taken under the distress.
219 Actions of replevin to be tried in a summary way.
220 Value of the goods to be ascertained by the jury (if a jury case) and if the value be less than the amount of such judgment shall be given for the amount of such rent but if

221 Where the distress is for damage feasant.
222 Party removing a plaint in replevin to give 5 days' notice of his intention and to deliver two copies of notice to the clerk who shall transmit one copy to the defendant stating the grounds and in default pay all costs.
223 Amount of security to be the same as that given to the plaintiff.
224 Confession of debts or parts of debts and judgment thereon.
225 Agreement as to amount of debt and condition of payment.
226 Confessions to be made within 5 clear days before the return day otherwise if made after the time at the cost of the defendant.
227 The defendant in all cases of consent may confess the amount of costs of the plaintiff besides court fees.
228 Consent cases to be tried by plaint and summons.
229 Clerk to frame forms.
230 Clerk when the treasurer requires it to transmit a statement of the judgment.
231 Clerk to certify to the correctness of the return and be remunerated as the Treasurer of Vancouver Island shall determine.
232 Treasurer if he thinks fit may call on the justice or stipendiary magistrate to appoint a treasurer and clerk for any district court to be approved and until then the justices of the peace or stipendiary magistrates or one or more of them may act as clerk and treasurer.
233 Appointment of the clerk to be subject to the approval of the Treasurer of Vancouver Island and until some Act be passed to be paid out of the clerk's fees.
234 Deputy clerk may be appointed by justices or magistrates.
235 Duties of clerk.
236 Offices of clerk, treasurer, and bailiff not to be conjoined.
237 Officers not to act as attorneys in court.
238 Penalty of $250 on non-observance of the previous clause.
239 Appointment of bailiff.
240 Duties of bailiff.
241 Treasurers, clerks, and bailiffs to give security.
242 Fees to be taken according to schedule D and table of fees to be exhibited in conspicuous places.
243 Fees and fines to be accounted for to the treasurer.
244 Clerk's accounts to be audited and settled by treasurer.
245 Treasurer of the court to render accounts to audit board.
246 The Treasurer of Vancouver Island to direct how balances shall be applied.
247 Accounts of treasurers to be audited by auditor of public accounts.
248 Clerk to send to commissioners of audit an account of all moneys paid by him to treasurer.
249 A general fund to be raised for paying off money borrowed.

No. 1.

The following is the form of plaint note :

In the District Court of
holden at
(Seal)
No. of Plaint

A. B., Plaintiff
against
C. D., Defendant.

FEES PAID.
$ c.

The above cause will be tried at on the day of at o'clock in the forenoon.

Clerk of the Court.

Office at

Hours of attendance at the office of the clerk from ten till four.

N. B.—Bring this note when you come to court or to the office of the clerk for any purpose connected with this case.

No money will be paid out of court except on production of this note.

Summonses for witnesses may be ootained at the office of the clerk.

No. 2.

The following may be the form of the particulars of breaches in debt on bond :

No. In the District Court of at

Between A. B. Plaintiff
and
C. D. Defendant.

The plaintiff seeks to obtain judgment for $ on your bond dated in the penal sum of , conditioned for (the performance of covenants in a certain deed made on between), and the plaintiff also seeks to recover damages for the following breach of a certain covenant in the said last-mentioned deed.

For that by the said deed the defendant covenanted that and that you the defendant (so assigning the breach or breaches, stating time, &c.

Where the plaintiff proceeds for further breaches the particulars may be thus :—The plaintiff having obtained judgment for , on your bond dated , conditioned for , and having recovered damages for breach of a certain covenant in the said last-mentioned deed, whereby the defendant covenanted that the plaintiff now seeks to recover damages for a further breach of the said covenant, as follows :

No. 3.

The following may be the form of the particulars of plaintiff's demand :

No In the District Court of at

Between A. B. Plaintiff
and
C. D. Defendant.

The following are the particulars of the plaintiff's demand in this action.

C. D. Dr. to A. B.

No. 4.

No. In the District Court of at

Between A. B. Plaintiff
and
C. D. Defendant.

Memorandum that the undersigned being (the attornies in this cause for) the above-named parties knowing that the sum sought to be recovered in this action exceeds the sum of $ (or that the title to certain land, &c., is in question in this action), do hereby consent and agree that the above-named district court shall have power to try the same.

Dated

E. F.,
Attorney for above named Plaintiff.
G. H.,
Attorney for above named Defendant.

No. 5.

The form of summons :

No.
No. of Plaint
In the District Court of
holden at
(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

(Name, description, and address of defendant), you are hereby summoned to appear at a district court to be holden at on the day of at the hour of in the forenoon to answer (name, description and address of plaintiff) to a claim. the particulars of which are hereunto annexed. (Where the amount of the claim does not exceed after claim strike out the words the particulars of which are hereunto annexed and state shortly the substance of the claim.

Date the day of

Clerk of the Court.

	$	c.
Debt or claim		
Cost of summons or service		
Paying in		
Total amount of debt and costs		

NOTICE.

If you are desirous of confessing the plaintiff's claim you must deliver your confession to the clerk of the court five clear days before the day of appearing to his summons ; but you must enter your confession at any time before the day of appearing, subject to the payment of further costs.

If you and the plaintiff can agree as to the amount due and the mode of payment, judgment may at any time before the court day be entered by the clerk of the court, in which case you and the plaintiff must attend at the clerk's office for that purpose, and no attendance by either of you will be necessary at the court.

If you admit the whole or any part of the plaintiff's demand by paying into the office of the clerk of the court at the amount so admitted, together with the costs, proportionate to the amount you pay in, five clear days before the day of appearance, you will avoid any further costs, unless in case of part payment, the plaintiff at the hearing shall prove a demand against you exceeding the sum so paid into court.

If you intend to rely on as a defence, a set-off infancy, cover ture, a statute of limitations or a discharge under a bankrupt of insolvent Act you must give notice thereof to the clerk of the court five clear days before the day of hearing, and your notice must contain the particulars required by the rules of the court.

You must also, in any of the above cases, then deliver to the clerk as many copies as there are opposite parties, of the notice and particulars and an additional one for the use of the court. If your defence be a set-off you must within the same time also deliver to the clerk a statement of the particulars thereof. If your defence be a tender you must pay into court before or at the hearing of the cause the amount you allege to have been tendered.

Notice of defence cannot be received unless the fees for entering and transmitting the same be paid at the time the notices are given. If the debt or claim exceed $ you may have the cause tried by a jury on giving notice thereof in writing at the said office of the clerk four clear days at least before the day of trial, and on payment of the fees for summoning, and payable to such jury. Summonses for witnesses and the production of documents may be obtained at the office of the clerk.

No. 6.

The following is the form of the letter requiring service of a summons in a foreign district:

SIR,

I have to request that you will serve the accompanying summons immediately, and return the enclosed copy of the same to me, with the affidavit of service required by the Sec.

Your obedient servant,

Clerk of the Court.

	$	c.
Service of summons . .		
Mileage		
Affidavit and Postage . .		

To the high Bailiff of the District Court
of at

No. 7.

The following is the form of the affidavit of service;

No In the District Court of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

One of the bailiffs of the District Court of at maketh oath and saith that he did on the day of 18 duly serve the above-named with a summons, a true copy whereof is hereunto annexed, marked at by delivering the same personally to the defendant (or as the case may be).

Sworn before me at the }
day of 18 }

(Indorse the summons or other process: "This paper marked is the paper referred to in the annexed affidavit.")

No. 8.

The following is the form of the affidavit of signature.

No. of Plaint

In the District Court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

E. F., of gentleman, an attorney of Her Majesty's Court of at Westminster, maketh oath and saith that he was present on the day of one thousand eight hundred and and did see the above-named defendant sign the statement hereunto annexed, marked with the letter A, and that the name set to the said statement is in the handwriting of the defendant and that the name set to the said statement as the witness attesting the same is in the handwriting of him this deponent.

Sworn at in the county of this day of one thousand eight hundred and before me.

No. 9.

The following is the form of the notice to plaintiff:

No. of Plaint

In the District Court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

I do hereby give you notice that the above-named defendant has filed a statement confessing and admitting the amount claimed by you, and that it will not be necessary for you to prove the debt on the day of hearing; but you must attend the court to apply to the judge for an order of payment.

Dated this day of one thousand eight hundred and

Clerk of the Court.

To

The above-named plaintiff.

No. 10.

The like notice of confession of part of the claim:

No. of Plaint

In the District Court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

I do hereby give you notice that the above-named defendant has filed a statement confessing and admitting $, part of the amount claimed by you, and that it will not be necessary for you to prove that part of your claim which the defendant has so admitted on the day of hearing. If however you do not consent to accept the sum so admitted in satisfaction of your demand you must be prepared to prove the excess, but at all events you must attend the court to apply to the judge for an order for payment.

Dated this day of 18

Clerk of the Court.

To the above-named plaintiff.

No. 11.

The following is the form of a confession of debt upon terms:

No. of Plaint
In the District Court of holden at

Between A. B., Plaintiff
and
C. D., Defendant.

We, the above-named A. B. and, C. D., do hereby agree that the amount of the debt or demand due from the defendant to the plaintiff is dollars and cents, and that the same and to (here insert the total amount of debt and costs) shall be paid to the clerk of the court at his office in manner following, viz.:

} Signatures of Plaintiff and defendant.

Dated this day of one thousand eight hundred and

Signed in the presence of

This paper marked A is the statement referred to in the annexed affidavit.

The following is the form of confession—

Number of plaint.

In the district court of holden at between A. B. plaintiff and C. D. defendant.

I the above named defendant do hereby confess and admit the sum of $ the amount claimed (if so add the part of the amount claimed) by the plaintiff in this action is due him from me.

Dated this day of one thousand eight hundred and

This paper marked "A" is the statement referred to in the annexed affidavit.

The following is the affidavit of signature—

No. of plaint.

In the district court of holden at between A. B. plaintiff and C. D. defendant.

E. F. of gentleman, an attorney of Her Majesty's court of at Westminster maketh oath and saith that he was present on the day of one thousand eight hundred and and did see the above named plaintiff and defendant respectively sign the statement hereunto annexed marked with the letter "A" and that the name set to the said statement is in the handwriting of the plaintiff and that the name set to the said statement in the handwriting of the defendant and that the name set to the said statement as the witness attesting the same is in the handwriting of him this deponent.

Sworn at in the county of
this day of one thousand
eight hundred and before me, }

The following is the form of judgment—

No.

In the district court of holden at
(seal)

Between A. B. plaintiff
and
C. D. defendant.

By virtue of a statement in writing signed by the above named

plaintiff and defendant respectively on the day of one thousand eight hundred and in pursuance of the provisions of it is adjudged that the plaintiff do recover against the defendant the sum of $ for his debt, and $ for costs of suit, amounting together to the sum of $. And it is ordered that the defendant do pay the same to the clerk of the court at his office on or before the day of one thousand eight hundred and

Given under the seal of the court this day of one thousand eight hundred and

By the court.

Clerk of the court.

Hours of attendance at the office from ten till four o'clock.

N. B.—For each payment made under this order not exceeding the fee of will be charged, and for each payment above in the pound on the amount of the payment.

The like of judgment by instalments.

No.

In the district court of holden at

(seal)

Between A. B. plaintiff
and
C. D. defendant.

Acknowledgment of payment into court.

Date.	$	cts.	Received by

By virtue of a statement in writing signed by the above named plaintiff and defendant respectively on the day of one thousand eight hundred and in pursuance of the provisions of it is adjudged that the plaintiff do recover against the defendant the sum of $ for his debt, and $ for costs of suit, amounting together to the sum of . It is therefore ordered that the defendant do pay the same to the clerk of the court at his office by instalments of for every days, the first instalment to be paid upon the day of one thousand eight hundred and . In case of default of payment of any one of such instalments and execution issue it shall be for the whole of the above amount then remaining due.

Given under the seal of the court this day of one thousand eight hundred and

By the court.

Clerk of the court.

N. B.—For each payment made under this order not exceeding the fee of will be charged and for each payment above in the pound on the amount of the payment.

The following is the form of summons for commitment.

No.

In the district court of holden at

Between A. B. plaintiff
and
C. D. defendant.

Whereas by virtue of a statement in writing signed by the above mentioned plaintiff and defendant respectively on the day of one thousand eight hundred and in pursuance of the provisions of an Act the above named plaintiff obtained a judgment against you for the payment of for and for costs, which said judgment still remains unsatisfied, you are therefore hereby summoned to appear at the district court to be holden at in on the day of one thousand eight hundred and at the hour of in the forenoon, to be then and there examined by the judge of the said court touching your estate and effects and the manner and circumstances under which you contracted the debt (or incurred the damages or liability) which was the subject of the action in which the said judgment was

obtained against you, and as to the means and expectations you then had and as to the property and means you still have of discharging the said debt (or damages or liability) and as to the disposal you may have made of any property. And take notice that if you do not appear in obedience to the summons you may by order of this court be committed to common gaol.

Given under the seal of the court this day of one thousand eight hundred and

By the court. (Seal.)
Clerk of the court.

To the above named defendant.

	$	cts.
Costs of this summons.....		
Amount of judgment or order..		
$		

The like of execution against goods.

Execution No.
Plaint, No.

In the district court of holden at
Between A. B. plaintiff
and
C. D. defendant.

Whereas by virtue of a statement in writing signed by the above named plaintiff and defendant respectively on the day of one thousand eight hundred and in pursuance of the provisions of the above named plaintiff by the judgment of the said court in a certain suit in which the said court had jurisdiction thereupon recovered against the defendant $ and cents for a certain debt due and owing from the defendant to the plaintiff (or for certain damages thereupon awarded to the plaintiff by the said court) and $ and cents the costs of suit by plaintiff in that behalf expended, amounting together to the sum of $ and cents and thereupon it was then and there ordered by the said court that the defendant should pay the same to the clerk of the court at his office on or before the day of one thousand eight hundred and (or by instalments of for every days).

And whereas the said sum of $ (or the sum of being part of said sum) has not been paid persuant to the said judgment. These are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the defendant wheresoever they may be found within the district of this court (excepting the wearing apparel and bedding of the defendant or his family and the tools and implements of his trade if any to the value of $25) the said sum of $ and also the costs of this execution and also to seize and take any money or bank notes and cheques, bills of exchange, promissory notes, bonds, specialties or securities for money of the defendant which may there be found or such part or so much thereof as may be sufficient for the satisfying of this execution and the costs of making and executing the same, and to pay what you shall have levied under this writ to the clerk of the court and make return of what you have done under this writ immediately upon the execution thereof.

Given under the seal of the court this day of one thousand eight hundred and

By the court.
(Seal.)
Clerk of the court.

To the high bailiff of the said court and others the bailiffs thereof.

	$	c.
Debt or damage adjudged. . . .		
Costs		
Paid		
Remaining due		

	$	c.
Poundage for issuing the warrant . . .		
Bailiff's fee for sending warrant to foreign court		
Poundage for issuing warrant in foreign court .		
Bailiff's fee execution including mileage .		
Paying money into court . . .		
Total amount to be levied .		

NOTICE.

The goods and chattels are not to be sold until after the end of five days next following the day on which they may have been taken unless they be of a perishable nature or at the request of the defendant.

(In cases of cross judgment the execution must be stated to be for the balance.)

The like of a warrant of commitment.

Execution No.
Plaint No.

In the district court of holden at

Between A. B., Plaintiff
and
C. D., Defendant.

To the high bailiff and the other bailiffs of the said court and all constables and peace officers within jurisdiction of the said court and to the governor or keeper of

Whereas by virtue of a statement in writing signed by the above mentioned plaintiff and defendant respectively on the day of one thousand eight hundred and in pursuance of the provisions of an Act the above named plaintiff by the judgment of the said court in a certain suit wherein the said court had jurisdiction recovered against the above named defendant the sum of $ for his debt and the sum of $ the costs of the said suit amounting together to the sum of $ and thereupon it was then and there ordered the defendant should pay the same to the clerk of the court at his office on or before the day of one thousand eight hundred and (or by instalments of $ for every days).

And whereas the defendant not having paid the said sum pursuant to the said judgment a summons was upon the application of the plaintiff duly issued from and out of the said court against the defendant, by which said summons the defendant was required to appear at the said district court of at on the day of one thousand eight hundred and to answer such questions as might be put to him touching his estate and effects and the manner and circumstances under which he contracted the said debt which was the subject of the action in which the said judgment was obtained against him and as to the means and expectation he then had and as to the property and means he still had of discharging the said debt and as to the disposal he had made of any property.

And whereas the defendant having duly appeared at the said court pursuant to the said summons was examined touching the above matters.

And whereas it appeared upon such examination to the satisfaction of the judge of the said court that (here insert the ground of commitment) and thereupon it was ordered by the said judge that the defendant should be committed for the term of days to the according to the form of the statute in that case made and provided or until he should be discharged by due course of law.

These are therefore to require you the said high bailiff, bailiffs, and others to take the defendant and deliver him to the governor (or keeper) of the and you the said governor [or keeper]

are hereby to receive the defendant and him safely to keep in the said for the term of days from the arrest under this warrant or until he shall be sooner discharged by due course of law. For which this shall be your sufficient warrant.

Given under the seal of the court this day of one thousand eight hundred and

By the court.

(Seal.)

Clerk of the court.

To the high bailiff of the said court and others the bailiffs thereof.

	$	c.
Debt or damage adjudged. . . .		
Costs		
Paid		
Remaining due		

	$	c.
Cost of summons for commitment and its hearing		
Poundage for issuing this warrant . .		
Bailiff's fee for sending warrant to foreign court		
Poundage for issuing warrant in foreign court .		
Bailiff's fee for conveying defendant to gaol .		
Bailiff's fee execution including mileage .		
Paying money into court . . .		
Total amount due . .		

N. B.—This warrant remains in force for three calendar months from the date thereof.

The following is the form of a notice of set-off.

No.

In the District Court of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

I, the above-named defendant, do hereby give notice that I intend at the hearing of the above cause to claim a set-off against any debt or demand to be proved against me by the plaintiff, the particulars of which set-off are annexed hereto.

Dated this day of 18

C. D., the above-named defendant.

To the Clerk of the Court.

The following is the form of the notice of infancy :

No.

(Seal)

In the District Court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

Take notice that upon the hearing of this case, I, the above-named defendant, intend to give in evidence and rely upon the following

ground of defence in answer to the action that I was an infant within the age of twenty-one years when the supposed claim arose (or the supposed contract or agreement was made) and that I was born as I believe at on the day of

Dated the day of 18

C. D., the above-named defendant.

The following is the form of an order appointing a guardian named by infant defendant :

No.

In the District Court of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

Whereas now at the hearing of this cause the defendant being an infant appears here in court and names to act as his guardian, and the said now assents to act as such guardian, I do therefore hereby appoint the said to be guardian of the defendant in this case.

Given under the seal of the court this day of

of the Court.

The like appointing guardian for infant defendant not named by him :

No.

In the District Court of holden at

(Seal)

Between A. B. Plaintiff
against
C. D. Defendant.

Whereas now at the hearing of this cause the defendant being an infant appears here in court and does not name a guardian, I do therefore hereby appoint to be a guardian of the defendant in this cause.

Given under the seal of the court this day of

of the Court.

The following is the form of the notice of coverture :

Same as the above notice of infancy to the asterisk, and then thus : That I was, at the time when the supposed claim arose (or the supposed contract or agreement was made) the wife of of and that I was married to him at in the district of on the day of

Dated the day of 18

The following is the form of a notice of bankruptcy :

Same as the above notice of infancy to the asterisk, and then thus : That I am a certificated bankrupt and obtained my certificate from the court (or district court) of bankruptcy on the day of 18

The following is the form of a notice of insolvency;

Same as the above notice of infancy to the asterisk, and then thus: That I was duly discharged under an Act for the relief of insolvent debtors (or obtained a final order under the protection Acts 5 and 6, Vic. c. 116, and 7 and 8 Vic. c. 96), on the day of at the court of held at

Dated this day of

The following is the form of a notice of payment into court of the whole claim:

No. of Plaint

(Seal)

In the District Court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

I hereby give notice that the above-named defendant has paid into court the sum of $, being the full amount of your demand in this action, together with the costs incurred by you therein.

Dated this day of one thousant eight hundred and

Clerk of the Court.

To the plaintiff.

The like of payment into court of part of the claim:

No. of Plaint

In the District Court of holden at

(Seal)

Between A. B. plaintiff
and
C. D. defendant.

Take notice that the sum of $ has been paid into court by the above-named defendant, together with $ for costs proportionate to that sum. If you elect to accept the same in full satisfaction of the debt (or damage) claimed, and send to the defendant a written notice forthwith, by leaving the same at defendant's place of abode or business, or by prepaid post-letter to that effect the action will be discontinued, and you will be liable to no further costs. In default of such notice the action may proceed, and if you do not appear at the hearing you will be liable to pay to the defendant such costs as he may incur in appearing to try the cause, or such other sum of money as the stipendiary magistrate may order for expenses, subsequent to the payment into court.

Dated this day of

Clerk of the Court.

To the plaintiff.

The following may be the form of the notice to admit documents:

No.

In the District Court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

Take notice that at the hearing of this cause I propose to give in evidence the undermentioned documents; and I hereby demand and

require you to admit the said documents to be read in evidence without proof, saving all just exceptions to the admissibility of such documents or any of them in evidence.

Dated this day of

A. B., the above-named

To C. D., the above-named

Examined copy of the record of a judgment in the court of

Deed of release between

The following may be the form of the notice to produce documents:

No.

In the district court of holden at

Between A. B. plaintiff
and
C. D. defendant.

Take notice that you are hereby required to produce to the court (and jury) on the trial of this cause (a certain deed made between, &c., and dated, &c., describing the instrument) and all other letters, books, papers and writings, whatsoever relating to the matters in question in this cause.

Dated this day of

Yours, &c.,
C. D. (Defendant.)

To Mr. A. B. (Plaintiff.)

The fellowing is the form of the summons for the attendance of a witness:

No.

In the district court of holden at

(Seal)

Between A. B. plaintiff
and
C. D. defendant.

You are hereby required to attend at the court-house, in on the day of at the hour of in the forenoon, to give evidence in the above cause on behalf of the above-named and then and there to have and produce (state any documents required), and all other books, papers, writings and other documents relating to the said action, which may be in your custody, possession or power. In default of your attendance you will be liable to a penalty of $ under the statute of the Justice of the Peace Act, 5, 7, 1864.

Given under the seal of the court this day of one thousand eight hundred and

Clerk of the Court.

To

The following is the form of an order fining a witness for non-attendance:

No.

In the District Court of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

Whereas was duly summoned to appear as a witness in the cause at a court to be holden at on the day of and at the time when so summoned payment (or a tender of payment) of his expenses was made according to the scale

of allowance and whereas the said neglected without sufficient cause then to appear at the said court [or to produce here described what he was required by such summons to produce, or whereas being present in this court this day of and being required by the court to give evidence refused to be sworn and give evidence]. It is hereby ordered that the said shall forthwith [or on the day of] pay a fine of $ for such neglect [or refusal] to the clerk of this court.

Given under the seal of the court this day of

By the Court,

Clerk of the Court.

The following is the form of an execution against a witness for the fine :

No. of execution.

In the District Court of holden at

Between A. B. Plaintiff

and

C. D. Defendant.

Whereas was duly summoned to appear as a witness in this cause, at a court to be holden at on the day of and at the time when so summoned payment [or a tender of payment] of his expenses was made according to the scale of allowance settled by the rules of practice of the court, and whereas the said neglected, without sufficient cause then to appear at the said court [or to produce, here describe what he was required by such summons to produce] or whereas being present in court on the day of 18 and being required by the court to give evidence refused to be sworn, or being sworn, refused to give evidence], it was on the said day of 18 ordered by the said court that the said should forthwith pay a fine of $ for such neglect [or refusal] to the clerk of this court; and whereas the said sum of $ has not been paid pursuant to the said order, these are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the said wheresoever they may be found within the district of this court [except the wearing apparel and bedding of the said or his family, and the tools and implements of his trade, if any, to the value of $ the said sum of $ and also the cost of this execution, and also to seize or take any money or bank notes [whether of the bank of England or any other bank], and any cheques, bills of exchange, promissory notes, bonds, specialties or securities for money of the said which may there be found, or such part, or so much thereof as may be sufficient to satisfy this execution, and the costs of making and executing the same, and to pay what you shall have levied under this writ to the clerk of this court, and make return of what you have done under this writ immediately upon the execution thereof.

Given under the seal of the court this day of 18

By the Court

[Seal]

Clerk of the Court.

The following may be the form of a demand of a jury :

No.

In the District Court of holden at

Between A. B. Plaintiff

and

C. D. Defendant.

Take notice that I hereby demand and require that a jury may be summoned to try this case.

A. B., the above-named,

Clerk of the said Court.

To

The following is the form of the clerk's notice of a jury :

No.

In the District Court of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

Take notice that the above-named cause will be tried by a jury, the above-named having demanded a jury therein.

Clerk of the Court.

To the plaintiff (or defendant.)

The following is the form of a summons to jurors :

In the District Court of holden at

(Seal)

You are hereby summoned to appear and serve as a juror in this court at the on the day of at the hour of in the forenoon upon the trial of the several causes to be then and there tried by jurors, and in default of attendance you will be liable to a penalty of $25, by the statute of the Justice of the Peace Act 1864.

Given under the seal of the court this day of 18

Clerk of the Court.

To of

The following is the form of an order fining a juror for non-attendance :

In the District Court of holden at

(Seal)

Whereas was duly summoned to appear and serve as a juror in this court at the on the day of at the hour of in the forenoon, upon the trial of jurors : and whereas the said neglected, without sufficient cause there to appear and serve at the said court ; it is hereby ordered that the said shall forthwith (or on the day of) pay a fine of $ for such neglect to the clerk of this court.

Given under the seal of the court this day of

By the court.

Clerk of the court.

The following is the form of an order for costs to defendant where the plaintiff does not appear :

No.

In the District Court of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

Whereas the plaintiff in this cause has not now appeared either by himself or attorney at a court holden on the day of being the day appointed for the trial thereof, to prosecute the same against the defendant, and the defendant has appeared in person (or by his attorney), it is awarded that the plaintiff pay the sum of $ by way of costs and satisfaction for the trouble and attendance of the defendant in that behalf, and it is ordered that the plaintiff do pay the same to the clerk of the court or his office, on the day of 18 .

Given under the seal of the court this day of 18

By the Court.

Clerk of the Court.

The following is the form of the order to set aside the judgment:

No.

In the District Court of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

It is ordered that a certain order of this court in this action bearing date the day of be rescinded.

Given under the seal of the court this day of 18

By the Court,
Clerk of the Court.

The following is the form of the order of reference:

In the District Court of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

By the consent of the above named plaintiff and defendant, it is, at a court holden at on the day of 18 ordered that all matters in difference in this cause (and all other matters within the jurisdiction of this court in difference between the said parties), be referred to of whose certificate to be made or given before the day of 18 shall be entered as the judgment of this cause; and by the like consent it is further ordered that the time of making or giving such certificate may be from time to time enlarged by the justice of the peace or stipendiary magistrate of the court in his discretion for such time as he shall, by indorsement to be by him made on this order direct, and that the said certificate when made or given may be referred back again to the said arbitrator at the like discretion of the said justice of the peace or stipendiary magistrate without the further consent of the said parties, and in case either of the said parties shall neglect or refuse to attend any appointment to be made by the said arbitrator for proceeding under this order, after two days' notice thereof in writing shall have been given to him by serving the same personally or by leaving it at his last or usual place of abode, the said arbitrator shall be at liberty to proceed ex parte on the matters of the said reference, and his certificate shall be as valid as if both the said parties had duly attended before him, and it is further ordered that the cost of the said reference shall be in the discretion of the arbitrator, and that the costs of the action shall abide the event; and it is lastly ordered that the submission to arbitration shall not be revocable by either party.

Given under the seal of the court this day of one thousant eight hundred and

Clerk of the Court.

The following may be the form of the order for time:

No.

In the district court of holden at

Between A. B. plaintiff
and
C. D. defendant.

Upon the application of the (defendant) and upon hearing both the said parties, it is ordered by the court here that the said (defendant) have further time to

Given under the seal of the court this day of

By the Court,
Clerk of the Court.

The following is the form of an order for adjournment:

No.

In the District Court of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

It is ordered that the trial of this action be adjourned until the day of 18 at o'clock in the forenoon.

Given under the seal of the court this day of

By the Court,
Clerk of the Court.

The following is the form of the order upon a judgment for the plaintiff:

No.

In the district court of holden at

(Seal)

Between A. B. plaintiff
and
C. D. defendant.

Upon hearing this cause at a court holden at on the day of it is adjudged that the plaintiff do recover against the defendant the sum of $ for his debt (or damages by him sustained) and $ for costs of suit amounting together to the sum of $ and it is ordered that the defendant do pay the same to the clerk of the court at his office in on or before the day of

Given under the seal of the court this day of 18 .

By the Court,
Clerk of the Court.

The like where there is apportionment of costs—

No.

In the district court of at

Between A. B. plaintiff
and
C. D. defendant.

After the words in the order supra, but inasmuch as the said defendant hath succeeded in proving a certain issue joined between the two parties to wit and ought to be allowed his costs attending the proof of the same amounting to $ to be deducted from the sum of $ recoverable by the said plaintiff as aforesaid it is ordered that the defendant do pay the sum of [being the balance payable to the plaintiff after the deduction aforesaid] to the clerk of the court at the office in on or before the day of

Given under the seal of the court this day of one thousand eight hundred and

By the court.

Clerk of the court.

The following is the form of an order where the debt or damages are payable by instalments—

No.

In the district court of holden at

(Seal.)

Between A. B. Plaintiff
and
C. D. Defendant.

Acknowledgment of payment into court.

$	c.	Received by.

Upon the hearing of this cause at a court holden at on the day of 18 , it is adjudged that the plaintiff do recover against the defendant the sum of $ for his debt and $ for the costs of suit amounting together to the sum of $

It is therefore ordered that the defendant do pay the same to the clerk of the court at his office at by instalments of for every days; the first instalment to be paid upon the day of 18

In case of default in payment of any one of these instalments, and execution issue, it shall be for the whole of the above amount then remaining due.

Given under the seal of the court this day of 18

By the Court.

Clerk of the court.

N. B.—For each payment

The following is the form of a notice of set-off—

No.

In the district court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

I the above named defendant do hereby give notice that I intend at the hearing of the above cause to claim a set-off against any debt or demand to be proved against me by the plaintiff, the particulars of which set-off are annexed hereto.

Dated this day of 18

C. D., the above named defendant.

To the clerk of the court.

The following is the form of the notice—

No.

In the District Court of holden at

(Seal)

I hereby give you notice that has paid into court the sum of $ under the judgment obtained by you against him at this court.

Clerk of the court.

The following is the form of the notice of infancy—

No.

In the District Ccurt of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

Take notice that upon the hearing of this case I the above named defendant intend to give in evidence and rely upon the following ground of defence in answer to the action, that I was an infant within the age of twenty.one years when the supposed claim arose (or the supposed contract or agreement was made) and that I was born as I believe at on the day of

Dated the day of 18

C. D., the above named defendant.

The following is the form of the order upon a judgment for the defendant.

No.

In the District Court of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

Upon hearing this cause at a court holden at on the day of it is adjudged that judgment should be entered for the defendant, and that the plaintiff pay the sum of $ by way of costs and satisfaction for the trouble and attendance of the defendant in that behalf, and $ for the costs and charges by the defendant about his suit in that behalf expended amounting together to the sum of $

It is therefore ordered that the plaintiff do pay the same to the clerk of the court at his office at on or before the day of 18

Given under the seal of the court this day of 18

By the Court.

Clerk of the court.

The like where there is an apportionment of costs—

After the words in the order supra amounting together to the sum of $; but inasmuch as the said plaintiff hath succeeded in providing a certain issue joined between the said parties, to wit, and ought to be allowed his costs attending the proof of the same amounting to $ to be deducted from the said sum of $ so payable to the said defendant as aforesaid, it is ordered that the plaintiff do pay the sum of (being the balance payable to the defendant after the deduction of aforesaid) to the clerk of the court at his office on or before the day of

Given under the seal of the court this day of 18

By the Court.

Clerk of the Court.

The following may be the form of a notice of application for a new trial or to set aside proceedings—

No.

In the District Court of holden at

Take notice that I intend at the sitting of this court on at to apply to the judge thereof for a new trial of this

cause (or to set aside the proceedings of this cause) ; and that the ground of such application is [here state it]

Dated the day of 18

A. B., the above-named [plaintiff.]

To the clerk of the said court [or to the above-named defendant].

The following is the form of the order for a new trial--

No.

In the District Court of holden at

[Seal]

Between A. B. Plaintiff
and
C. D. Defendant.

It is ordered that the judgment in this case and all subsequent proceedings thereon be set aside and a new trial had between the parties on [set out the terms or conditions if any on which the order is made]

Given under the seal of the court this day of 18

By the Court.

Clerk of the Court.

The following is the form of an order to rescind a former order—

No.

In the District Court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

It is ordered that a certain order of this court in this action bearing date the day of 18

By the Court.

Clerk of the court.

The following is the form of a warrant of execution against the goods of a defendant--

No. of plaint.
No. of execution.

In the District Court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

Whereas at a court holden at on the day of 18 the above named plaintiff by the judgment of the said court in a certain suit in which the said court had jurisdiction recovered against the above named defendant dollars cents for a certain debt due owing from the defendant to the plaintiff (or for certain damages then awarded to the plaintiff by the said court) and dollars cents the costs of suit by the plaintiff in that behalf expended, amounting together to the sum of dollars cents ; and thereupon it was then and there ordered by the said court that the defendant should pay the same to the clerk of the court at his office on the day of (or by instalment of for every days ; and whereas the said sum [or the sum of dollars cents being part of the said sum dollars cents] has not been paid pursuant to the said order, these are therefore to require and order you forthwith to make and levy by distress and sale of the goods

and chattels of the defendant wheresoever they may be found within the district of this court [except the wearing apparel and bedding of the defendant or his family and the tools and implements of his trade if any to the value of dollars] the said sum of dollars cents and also the costs of this execution; and also to seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the defendant which may there be found or such part or so much thereof as may be sufficient for the satisfying of the execution and the costs of making and executing the same, and to pay what you shall have levied under this writ to the clerk of this court, and make return of what you have done under this writ immediately upon the execution thereof.

Given under the seal of the court this day of

By the Court.

Clerk of the Court.

To the high bailiff of the said court and others the bailiffs thereof.

NOTICE.--The goods and chattels are not to be sold until after the end of five days next following the day on which they may have been taken unless they be of a perishable nature or at the request of the defendant where issued by leave of the court.

	$	c.
Debt or damage adjudged.		
Costs		
Paid		
Remaining due		
Poundage for issuing this warrant		
Bailiff's fees for sending warrant to foreign court		
Bailiff's fees execution including mileage		
Total amount to be levied		

The following is the form of an execution against the goods of a plaintiff--

No. of plaint.
No. of execution.

In the District Court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

Whereas at the court holden at on the day of it was adjudged and ordered by the said court that judgment shall be entered for the defendant, and that the plaintiff should pay to the clerk of the court on or before the day of dollars cents by way of costs and satisfaction for the trouble and attendance of the defendant in that behalf and dollars cents for the costs and charges by the defendant about the said suit in that behalf expended amounting together to the sum of dollars cents

And whereas the said sum has not been paid pursuant to the said judgment and order; these are therefore to require and order you forthwith to make and levy by distress and sale of the goods and chattels of the plaintiff wheresoever they may be found within the district of this court (excepting the wearing apparel and bedding of the plaintiff or his family and the tools and implements of his trade if any to the value of dollars) the said sum of dollars and also the costs of this execution;

and also to seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the plaintiff which may there be found or such part or so much thereof as may there be found or such part or so much thereof as may be sufficient for the satisfying of this execution and the costs of making and executing the same, and to pay what you shall have levied under this writ to the clerk of the court, and make return of what you have done under this writ immediately upon the execution thereof.

Given under the seal of the court this day of

By the Court.

(Seal)

Clerk of the Court.

To the high bailiff of the said court and others the bailiffs thereof.

	$	c.
Costs adjusted		
Paid		
Remaining due		
Poundage for issuing this warrant . .		
Bailiff's fee for issuing warrant in foreign court		
Poundage for issuing warrant in foreign court		
Bailiff's fee of execution including mileage .		
Paying money into court . . .		
Total amount to be levied .		

NOTICE.—The goods and chattels are not to be sold until after the end of five days next following the day on which they may have been taken unless they be of a perishable nature or at the request of the said plaintiff.

The following is the form of an interpleader summons to the execution creditor—

No.

In the District Court of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

A. B. grocer of [name, occupation and address of execution creditor]

Whereas of hath made a claim to certain goods and chattels [or moneys, &c., or for certain rent due, &c.,] which have been seized and taken in execution under and by virtue of process issuing out of this court at your instance in this action.

You are therefore hereby summoned and required to be and appear before the justice of the peace of the said court at on at the hour of in the afternoon, when the said claim will be adjudicated upon, and such order made thereupon as to the justice of the peace shall seem fit.

Given under the seal of the court this day of 18

Clerk of the Court.

To the above named plaintiff.

NOTE.—The claimant is called upon to give the particulars of his claim which you may inspect on application at the office of the clerk of the court four days before the day of hearing.

The following is the form of an interpleader summons to the claimant:

No.

In the District Court of holden at

(Seal)

Between A. B. plaintiff
and
C. D. defendant.

(Name, description and address of claimant), you are hereby summoned and required to appear at a court to be holden at in on the day of 18 at the hour of in the forenoon, touching a claim made by you to certain goods and chattels (or monies, &c., or for certain rent due on, &c.), seized and taken in execution under process issued out of this court in this action, and in default of your then establishing such claim, the said goods and chattels will be sold [or the said monies, &c., paid over] according to the exigency of the said process; and take notice that you are hereby required five days before the said day of to deliver to the officer in charge of the said process, and to leave at my office at a particular of the goods or chattels so claimed by you, and of the grounds of your claim [or of the amount of rent claimed, and for what period due, and in respect of what premises the same is claimed] and in such particular you are to fully set forth your name, description and address.

Given under the seal of the court this day of 18

Clerk of the Court.

To of

The following may be the form of the particulars of claim upon an interpleader summons:

Take notice that I claim [certain of] the goods and chattels seized and taken in execution in the house [No. in street, Mary-le-bone], under a warrant of execution issued from the district court of at at the suit of A. B. against C. D., and that the particulars of the goods and chattels so claimed by me are as follows, that is to say: [here set out a list and description of the articles claimed]; and take notice that the grounds of my said claim are [here state them].

Dated this day of 18

J. N.,

[Carpenter, No. in street.]

To bailiff of the said court [and in clerk of the said court.]

The following may be the form of the particulars of a landlord's claim for rent under an execution:

To the high bailiff of the district court of at and to his bailiff's making the levy hereinafter mentioned: Whereas I have been informed that you have seized and taken certain goods in the house, No. [describe it] under a warrant of execution, is sued from the said district court at the suit of A. B. against C. D.: Take notice that the said C. D. holds the said house of me as tenant [from year to year], at the rent of dollars cents for [one quarter's] rent of the said house due the day of and now in arrear and unpaid, and I hereby claim the same.

Dated this day of 18

J. S.,

[Gentleman, No. in street,]

The following is the form of the order on an interpleader summons:

No.

In the District Court of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

It is hereby ordered, touching the claim of E. F. to certain goods and chattels [or monies, &c.], seized and taken in execution in this action, which was E. F. has been duly summoned to support his claim at this court, that the said goods and chattels [or monies, &c., or part thereof to wit, &c., specifying them], are the property of the said E. F. or [of the defendant C. D. as the case may be], or [that rent to the amount of dollars cents is due to the said E. F.] And it is further ordered, that the costs of this proceeding, amounting to be paid by the said to the clerk of the court, at his office in for the use of the said on or before the day of

Given under the seal of the court this day of 18 .

By the Court.

Clerk of the Court.

N, B.—For each payment made under this order, not exceeding dollars cents, the fee of will be charged, and for each payment above dollars cents in the on the amount of payment.

The following is the form of an execution against the claimant for costs:

Folio in Ledger.

No. of Plaint

No. of Execution

In the district court of holden at

Between A. B. plaintiff
and
C. D. defendant.
Claimant.

Whereas at a court holden at the on the day of 18 , at the above-named plaintiff, by the judgment of the said court, in a certain suit in which the said court had jurisdiction, recovered against the above-named defendant the sum of dollars cents for a certain debt due and owing from the defendant to the above-named plaintiff in that behalf expended, amounting together to the sum of dollars cents. And whereas the said defendant, by an order of the said court, bearing date the day and year aforesaid, was ordered to pay the same to the clerk of the court, at his office on the said day of . And whereas the said sum not being paid pursuant to the said order, an execution issued against the goods of the said defendant, under which certain goods and chattels were seized, to which the above-named made claim, and which claim came on to be heard and decided upon interpleader, summonses for that purpose issued at a court held at on the day of 18 and at such last-mentioned court it was adjudged touching the said claim, that the goods so seized under the said execution were the property of the said defendant . And it was ordered that the costs of that proceeding, amounting to the sum of dollars cents should be paid by the said to the clerk of the said court, for the use of the said plaintiff on or before the day of 18 . And whereas the said sum of dollars cents has not been paid pursuant

to the said order ; these are therefore to require and order you forthwith to make and levy by distress, and sale of the goods and chattels of the said wheresoever they may be found within the district of this court (except the wearing apparel and bedding of the said or his family, and the tools and implements of his trade (if any), to the value of dollars), the said sum of dollars, and also the costs of this execution, and also to seize and take any money or bank notes, and any cheques, bills of exchange, promissory notes, bonds, specialties, or securities for money of the said which may there be found, or such part, or so much thereof as may be sufficient for the satisfying of this execution, and the costs of making and executing the same, and to pay what you shall have levied under this writ to the clerk of the court, and make return of what you have done under this writ immediately on the execution thereof.

Given under the seal of the court this day of 18 .

To the high bailiff of the said court and others the bailiff's thereof.

By the Court,

(Seal)

Clerk of the Court.

NOTICE.—The goods and chattels are not to be sold until after the end of five days, next following the day on which they may have been taken, unless they be of a perishable nature or at the request of the said claimant.

	$	c.
Cost		
Poundage for issuing this warrant . .		
Bailiff's fee for sending this warrant to foreign court		
Bailiff's fee for execution including mileage .		
Paying money into court . . .		
Total amount to be levied . .		
	$	c.

The following is the form of the summons :

No.

In the district court of holden at

(Seal.)

Between A. B. Plaintiff
and
C. D. Defendant.

Whereas at a court holden at on the day of 18 the above-named plaintiff obtained a judgment (or order) against you for the payment of for and dollars for costs, which said judgment (or order) still remains unsatisfied ; you are therefore hereby summoned to appear at the district court to be holden at on the day of one thousand eight hundred and sixty at the hour of in the forenoon, to be then and there examined by the judge of the said court, touching your estate and effects, and the manner and circumstances under which you contracted the said debt (or incurred the damages or liability) which was the subject of the action in which the said judgment was obtained against you, and as

to the means and expectation you then had, and as to the property and means you still have of discharging the said debt (or damages or liability), and as to the disposal you may have made of any property. And take notice, that if you do not appear in obedience to this summons you may, by order of this court, be committed to the common gaol (or other prison of the court.)

Given under the seal of the court this day of one thousand eight hundred and sixty

By the Court.

Clerk of the Court.

	$	c.
Amount remaining due on judgment or order		
Cost of this summons . . .		

Hours of attendance at the office of the clerk from ten till four.

The following is the form of a warrant of committent in default of appearance—

No. of plaint.

No. of execution.

In the District Court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

To the high bailiff and others the bailiffs of the said court, and all constables and peace officers within the jurisdiction of the said court and to the governor or keeper of the

Whereas at a court holden at on the day of the above named plaintiff by the judgment of the said court in a certain suit wherein the said court had jurisdiction recovered against the above named defendant the sum of dollars for his debt [or damages as the case may be] and the sum of dollars, and thereupon it was then and there ordered by the said court that the defendant should pay the same to the clerk of the court at his office on or before the day of 18 [or by instalments of for every days]

And whereas the defendant not having paid the said sum pursuant to the said order a summons was upon the application of the plaintiff duly issued from and out of the said court against the defendant by which said summons the defendant was required to appear at the county court of at on day of to answer such questions as might be put to him touching his estate and effects and the manner and circumstances under which he contracted the said debt [or incurred the said damages) which was [or were] the subject of the action in which the said judgment was obtained against him and as to the means and expectations he then had and as to the property and means he still had of discharging the said debt [or damage] and as to the disposal he had made of any property.

And whereas it was duly proved upon oath at the said last mentioned court that the defendant was personally served with the said summons. And whereas the defendant did not attend as required by such summons, or allege any sufficient excuse for not so attending, and thereupon it was ordered by the judge of the said court that the defendant should be committed for the term of days to the in the of according to the form of the statute in that case made and provided or until he should be discharged by due course of law.

These are therefore to require you the said high bailiff, bailiffs, and others to take the defendant and to deliver him to the governor

(or keeper) of and you the said governor (or keeper) are hereby required to receive the defendant and him safely to keep in the said for the term unless he be sooner discharged by due course of law.

For which this shall be your sufficient warrant.

Given under the seal of the court this day of 18 .

(Seal)

Clerk of the Court.

To the high bailiff of the said court and others the bailiffs thereof.

	$	c.
Debt or damage adjudged. . . .		
Costs		
Paid		
Remaining due		
Costs of summons for commitment and its hearing		
Poundage for issuing this warrant . .		
Bailiff's fee for sending warrant to foreign court		
Bailiff's fee for execution . . .		
Bailiff's fee for conveying defendant to gaol .		
Paying money into court . . .		
Total amount to be levied .		

N. B.—This warrant remains in force three calendar months from the date thereof.

The following is the form of the notice of grounds for removing plaint in replevin—

No.

In the district court of holden at

Between A. B. plaintiff

and

C. D. defendant.

Take notice that I am desirous of removing this plaint in replevin into the [court into which the replevin is to be removed] upon the ground that [state ground under]; and that the two persons whom I propose to become bound with me as sureties according to the statute are E. F. of and G. H. of

Dated the day of one thousand eight hundred and sixty-

[Signed.]

To the clerk of the court.

The following is the form of the order where instead of commitment the court orders payment by instalments.

No.

In the County Court of holden at

(Seal)

Between A. B. Plaintiff

and

C. D. Defendant.

Acknowledgment of payment into court.

Date.	$	c.	Received by

Whereas at a court holden at on the 18 , the above named plaintiff obtained a judgment against the above named defendant for the payment

of dollars cents for his debt (or damages) in a certain action, and dollars the cost of suit, amounting together to the sum of dollars cents, and thereupon it was then and there ordered by the said court that the defendant should pay the same to the clerk of the court by instalments of dollars cents for every days.

And whereas the above named defendant having refused or neglected to pay the said instalments so adjudged and ordered to be paid by him a summons was upon the application of the plaintiff duly issued from and out of the said court being a district court within the limits of which the defendant at the time of the issuing of the same dwelt directed to the defendant by which said summons the defendant was required to appear at the said court on the day of 18 , to answer such questions as might be put to him touching his estate and effects and the manner and circumstances under which he contracted the said debt or damages which was the subject of the action in which the said judgment was obtained against him and as to the means and expectations he then had and as to the property and means he still had of discharging the said debt and as to the disposal he had of any property.

Now it is at such last mentioned court ordered that the defendant do pay the amount due on the said judgment and also the costs of this order amounting together to the sum of dollars cents to the clerk of this court at his office at by instalments of dollars cents for every days. The first payment to be made on the day of 186 .

In case of default in payment of any one of such instalments and execution issue it shall be for the whole of the above amount then remaining due.

Given under the seal of the court this day of 186

By the Court.

Clerk of the Court.

	$	c.
Amount remaining due on judgment or order .		
Costs of summons for commitment and its hearing		

The following is the form of the notice of sureties—

In the District Court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

Take notice that the sureties whom I propose as my securities on the appeal in the above cause are [here state the full names and additions of the sureties whether housekeepers or freeholders and their residences for the last six months therein mentioning the district, places, streets, and numbers if any].

The following is the form of the acknowledgment of the deposit—

In the District Court of holden at
[Seal]

Between A. B. Plaintiff
and
C. D. Defendant.

I do hereby certify that in the above cause has paid into my hands the sum of dollars cents to abide the event of an appeal of which the said has given notice to the above cause to be determined by the court of

Clerk of the Court.

The following may be the form of notice of appeal:

No.

In the District Court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

Take notice that I, the said C. D., being dissatisfied with the determination (or direction) of Esquire, the justice of the peace of the said court in point of law (or in the admission or rejection of evidence) upon the trial of this cause, do intend to appeal against the same to Her Majesty's . And take notice that the grounds of the said appeal are as follows, that is to say: For that, &c., [stating the grounds.]

C. D.,
(The above-named defendant.)

To A. B., the above-named plaintiff and to the clerk of the said court.

The following is the form of certificate of payment. the amount for which a prisoner is committed, with fees and costs:

In the District Court of holden at

(Seal)

Between A. B. Plaintiff
and
C. D. Defendant.

I hereby certify that the above-named defendant, who was committed to your custody under and by virtue of a certain warrant of commitment under my hand and the seal of this court, and bearing date the day of for the space of days, has, since the issuing of the said warrant of commitment to wit, on the day of paid and satisfied the debt (or damages, or the instalment of the debt or damages), for the non-payment whereof he was so committed as aforesaid, together with all fees, costs and charges due and payable by him in respect thereof; and that the defendant may in respect of such warrant of commitment, be forthwith discharged from and out of your custody.

By leave of the justice of the peace of the said court.

Clerk of the Court.

Given under the seal of the court this day of 18.

To the Governor or keeper of

The following is the form of the warrant of commitment after examination:

No. of Plaint

In the district court of holden at

Between A. B. Plaintiff
and
C. D. Defendant.

To the high bailiff and others, the bailiffs of the said court and all constables and peace officers within the jurisdiction of the said court, and to the governor or keeper of . Whereas at a court holden at on the day of 18 the above named plaintiff, by the judgment of the said court in a certain suit wherein the said court had jurisdiction, recovered against the above named defendant the sum of dollars cents for his debt (or damage, as the case may be), and the sum of dollars, the costs of the said suit amounting together to the sum of dollars cents; and thereupon it was then and there ordered by

the said court that the defendant should pay the same to the clerk of the court at his office on or before the day of 18 (or by instalments of for every days And whereas the defendant not having paid the said sum pursuant to the said order, a summons was upon the application of the plaintiff, duly issued from and out of the said court against the defendant, by which said summons the defendant was required to appear at the said district court of at on the day of one thousand eight hundred and sixty to answer such questions as might be put to him touching his estate and effects, and the manner and circumstances under which he contracted the said debt (or incurred the said damages), which was (or were) the subject of the action in which the said judgment was obtained against him, and as to the means and expectation he then had, and as to the property and means he still had, of discharging the said debt (or damages), and as to the disposal he had made of any property; and whereas the defendant having duly appeared at the said court, pursuant to the said summons, was examined touching the above matters; and whereas it appeared upon such examination, to the satisfaction of the judge of the said court, that (here insert the particular ground of commitment), and thereupon it was ordered by the said justice of the peace that the defendant should be committed for the term of days to the according to the form of the statute in that case made and provided, or until he should be discharged by due course of law. These are therefore to require you, the said high sheriff, bailiffs and others to take the defendant and to deliver him to the governor [or keeper] of the , and you the said governor [or keeper] are hereby required to receive the defendant, and him safely to keep in the said for the term of days, from the arrest under this warrant, or until he shall be sooner discharged by due course of law, for which this shall be your sufficient warrant.

Given under the seal of the court this day of 18

(Seal)

Clerk of the court.

To the high bailiff of the said court and others, the bailiffs thereof

N.B.—This warrant remains in force three calender months from the date thereof.

	$	c.
Debts or damage adjusted . . .		
Costs		
Paid . . .		
Remaining due . . .		
Costs of summons for commitment and its hearing		
Poundage for issuing this warrant . .		
Bailiff's fee for sending warrant to foreign court		
Poundage for issuing warrant in foreign court .		
Bailiff's fee for conveying defendant to gaol .		
Bailiff's fee for execution, including mileage .		
Paying money into court . . .		
Total amount due . . .		

The following is the form of a warrant of commitment at the hearing:

No. of plaint.

No. of execution.

In the District Court of holden at

Between A. B. Plaintiff

and

C. D. Defendant.

To the high bailiff and others, the bailiffs of the said court, and all constables and peace officers within the jurisdiction of the said court, and to the governor or keeper of

Whereas at a court holden at on the day of in 18 the above-named plaintiff by the judgment of the said court. in a certain suit wherein the said court had jurisdiction, recovered against the above-named defendant the sum of dollars cents, the costs of the said suit, amounting together to the sum of dollars cents, and thereupon it was then and there ordered by the said court that the defendant should pay the same to the clerk of the court, at his office on or before the day of 18 [or by instalments of for every days.]

And whereas the defendant having personally appeared to the summons in this action, and being present in court, was then and there examined touching his estate and effects, and the manner and circumstances under which he contracted the said debt [or incurred the said damages] which was [were] the subject of the action in which the said judgment was obtained against him, and as to the means and expectations he then had, and as to the property and means he still had of discharging the said debt [or damages] and as to the disposal he had made of the property.

And whereas it appeared upon such examination, to the satisfaction of the justice of the peace of the said court, that [here insert the particular ground of commitment] and thereupon the said justice of the peace of the said court did order and adjudge the defendant to be committed for the term of days to the in the according to the form of the statute in that case made and provided, or until he should be discharged by due course of law.

These are therefore to require you, the said bailiff, bailiffs and others, to take the defendant and deliver him to the governor [or keeper] of and you, the said governor [or keeper] are hereby required to receive the defendant, and him safely to keep in the for the term of days from the arrest, under this warrant, or until he shall be sooner discharged by due course of law.

For which this shall be your sufficient warrant.

Given under the seal of the court this day of 18 .

[Seal]

Clerk of the court.

	$	c.
Debt or damage adjusted . . .		
Costs		
Paid		
Remaining due . . .		
Poundage for issuing this warrant . .		
Bailiff's fee for execution . . .		
Bailiff's fee for conveying defendant to gaol .		
Paying money into court . . .		
Total amount due . .		

N.B.—This warrant remains in force three calender months from the date thereof.

The following may be the particulars of the cattle or goods distrained.

In the District Court of holden at the day of 18

The following are the particulars of the [cattle, goods and chattels] of A. B., taken under a distress for [rent or damage feasant] by C. D., at in the district of and within the district of this court on and with respect to which I now enter my plaint in the said court

[Here enumerate the cattle, goods, &c., distrained; and let the particulars be signed by plaintiff.]

The following is the form of the bond where the defendant is the appellant :

Know all men by these presents, that we, A. B., of &c., and C. D.. of &c., and E. F., of &c., are jointly and severally held and firmly bound to G. H., of &c., in dollars*
to be paid to the said G. H., or his certain attorney, executors, administrators or assigns, for which payment to be made we bind ourselves and each and every of us, in the whole, our, and each of our heirs, executors and administrators, jointly and severally, firmly by these presents.

Sealed with our seals and dated this day of one thousand eight hundred and sixty

Whereas an action is now depending in the district court of holden at wherein the above-named G. H., is plaintiff, and the above bounden E. F. is defendant, and whereas the same action came on to be tried in the said court on the day of last, when a judgment was given for the said G. H. in the sum of dollars. And whereas the said E. F. being dissatisfied with such judgment, gave due notice to the said G. H., of his the said E. F's intention to appeal from the same in the manner provided by the Justice of the Peace Act of Vancouver Island, 1864. And whereas it is by the same section of the said Act provided, that the party who shall appeal as aforesaid, shall give security, to be approved by the clerk of the court aforesaid for the costs of the appeal whatsoever be the event thereof, and also for the amount of the judgment if such party be the defendant, and the appeal be dismissed. And whereas the above-named A. B. and C. D., at the request of the said E. F., have agreed to enter into the above-written obligation for the purposes aforesaid, and the security intended to be hereby given, has been approved of by the clerk of the said district court, as appears by his allowance in the margin hereof †. Now the condition of this obligation is such that if the above bounden A. B., C. D., and E, F., any or either of them, shall pay into the said G. H., his executors, administrators, or assigns, the costs of the said appeal at the said court of appeal shall order ‡ and shall also in case the said appeal shall be dismissed, pay to the said G. H., his executors, administrators, or assigns, the said sum of dollars [amount of the judgment] then this obligation shall be void, otherwise to remain in full force and virtue.

A. B. (L. S.)
C. D. (L. S.)
E. F. (L. S.)

Signed, sealed and delivered by the above bounden
in the presence of

The following is the form of the bond where the plaintiff is the appellant :

Know all men by these presents, that we, A. B., of &c., and C. D., of &c., and E. F., of &c., are jointly and severally held and firmly bound to G. H., of &c., in dollars § of to be paid to the said G. H., or his certain attorney, executors, administrators, or assigns. For which, payment to be made, we bind ourselves, and each and every of us, in the whole, our and each of our heirs, executors and administrators jointly and severally firmly by these presents.

Sealed with our seals and dated this day of one thousand eight hundred and sixty

* A sum sufficient to cover the costs of appeal, say dollars, being of double the estimated amount, and also double the amount of judgment.

† I approve of this bond. T. K. (L. S.)

‡ To be omitted if amount previously paid into court.

§ A sum sufficient to cover the costs of appeal, say dollars, being double the estimated amount.

Whereas the action is now depending in the district court of holden at wherein the above bounden E. F. is plaintiff and the above named G. H. is defendant. And whereas the said action came on to be tried in the said court on the day of when a judgment was given for the said G. H. And whereas the said E. F., being dissatisfied with such judgment, gave due notice to the said G. H. of his the said E. F's intention to appeal from the same in the manner provided by the Justice of the Peace Act for Vancouver Island, 1864

And whereas it is by the same section of the said Act provided that the party who shall appeal as aforesaid shall give security, to be approved by the clerk of the court aforesaid, for the costs of the appeal whatever be the event thereof. And whereas the above named A. B. and C. D. at the request of the said E. F. have agreed to enter into the above written obligation for the purposes aforesaid, and the security intended to be hereby given has been approved of by the clerk of the said district court, as appears by his allowance in the margin hereof* Now the condition of this obligation is such, that if the above bounden A. B., C. D. and E. F., any or either of them, shall pay unto the said G. H., his executors, administrators, or assigns, the costs of the said appeal as the said court of appeal shall order, then this present obligation shall be void, otherwise to remain in full force and virtue.

A. B. (L. S.)
C. D. (L. S.)
E. F. (L. S.)

Signed, sealed and delivered by the above bounden in the presence of

The following is the form of a judgment for defendant in replevin for rent--

No.

In the district court of holden at

(Seal)

Between A. B. plaintiff
and
C. D. defendant.

Upon hearing this action of replevin at a court holden at on the day of 186 , it is adjudged that the plaintiff do return to the defendant the cattle (or the goods and chattels as the case may be, stating the particulars thereof) and pay to the clerk of the court at his office forthwith (or on the day of) the sum of dollars costs of suit [or it is adjudged that the amount due for rent in arrear from the plaintiff to the defendant is dollars cents and that the said cattle (or goods and chattels) were of the value of dollars cents and that the plaintiff do forthwith (or on the day of) pay to the clerk of the court at his office the sum of dollars cents costs of suit.]

By the Court,
Clerk of the Court.

The following is the form of the affidavit of justification—

In the District Court of holden at

Between A. B. plaintiff
and
C. D. defendant.

B. B. of one of the sureties for the above named defendant maketh oath and saith that he is a housekeeper (or freeholder as the case may be) residing (describing

* I approve of this bond. T. K. (L. S.)

particularly the district, the street or place, and the number of the house if any) that he is worth property to the amount of dollars [the amount required by the practice of the court] over and above what will pay his just debts [if security in any other action add "and every other sum for which he is now security"] that he is not bail or security in any other act or proceeding [or if security in any other action or actions add "except for C. D. at the suit of E. F. in the court of in the sum of dollars cents; for G. H. in the suit of I. K. in the court of in the sum of dollars cents" specifying the several actions with the court in which they are brought and the sums in which the deponent is security] that this deponent's property to the amount of the said sum of dollars and if security in any other action or actions over and above all other sums for which he is now security as aforesaid consists of [here specify the nature and value of the property in respect of which the deponent proposes to become bondsman as follows: stock in trade in his business of carried on by him at of the value of dollars, of good book debts owing to him to the amount of dollars, of furniture in his house at of the value of dollars, of a freehold (or leasehold) farm of the value of dollars situate at occupied by , or of a dwelling-house of the value of dollars situate at occupied by , or of other property, particularizing each description of property with the value thereof] and that this deponent hath for the last six months resided at (describing the place of such residence, or if he has had more than one residence during that period state it in the same manner as above directed).

Sworn, &c.

The following is the form of the bond on removing plaint in replevin—

Know all men by these presents that we C. D. of E. F. of and G. H. of are jointly and severally held and firmly bound to A. B. in the sum of dollars to be paid to the said A B. his certain attorney, executors, or administrators; for which payment well and truly to be made we bind ourselves and each and every of our heirs, executors, and administrators firmly by these presents.

Sealed with our seals. Dated this day of one thousand eight hundred and sixty

Whereas a certain action of replevin was on the day of commenced in the district court of holden at wherein A. B. was plaintiff and C. D. the defendant; and whereas the said C. D. hath declared to the said court that (the title to a certain corporeal or incorporeal hereditament or to any toll, market, fair, or franchise is in question in the said suit or that the rent (or damage) in respect of which the distress in this behalf was taken amounts to more than two hundred and fifty dollars).

Now the condition of this obligation is such that if the above bounden C. D. shall prosecute to said suit with effect and without delay in the court into which it is now about to be removed and shall prove before the said last mentioned court that such title as aforesaid is in dispute between the said parties (or there was ground for believing that the said rent or damage was of greater amonut than two hundred and fifty dollars) then this present obligation shall be void otherwise to remain in full force and virtue.

C. D. (Seal.)
E. F. (Seal.)
G. H. (Seal.)

Signed sealed and delivered by the above bounden in presence of