

SUPPLEMENTARY ORDER PAPER.

HOUSE OF REPRESENTATIVES.

Thursday, the 31st Day of August, 1893.

MAGISTRATES' COURTS BILL.

Mr. C. H. MILLS, in Committee, to move the following amendments in "The Magistrates Courts' Act, 1893" :—

Clause 8. Line 5, after the word "landlord," insert "and any person appointed under section *sixty-seven* of this Act."

Strike out clause 10, and substitute :—

10. Every form of summons, order, notice, or warrant, and every statement of claim or counter-claim intended to be served upon an aboriginal native who does not understand the English language, or who may require the same, shall be accompanied by a translation thereof in his own language: Provided that the execution of any warrant against such aboriginal native, or the service of any summons, order, notice, claim, or counter-claim, shall not be deemed void or bad by reason of the omission to serve the translation as aforesaid. But such aboriginal native shall, upon demand, be served with a translation. The Court may, if it sees fit so to do, order that the costs of procuring such translation shall be paid by the party applying for the same.

Clause 17, subsection (3). Line 5, after "1882," insert the words "or any amendment thereof."

Clause 23, subsection (3), commencing line 15. Strike out all the words in italics, commencing "with" and ending "execution."

Clause 28. Line 25, after the word "special," insert :—

Proviso to Section 28.

Provided always that, any law or Act to the contrary notwithstanding, no civil action shall be brought in any Magistrate's Court constituted under this Act, either before a stipendary Magistrate or any Justices of the Peace, neither shall any judgment be given in any such Court for any claim under the ordinary or extended jurisdiction hereinafter provided, unless such action shall be commenced within twelve calendar months from the date when the liability for the payment of such claim was first incurred. And for the purpose of this proviso, the liability for payment as aforesaid shall be deemed to be first incurred,—

In the case of sales or barter of goods, wares, or merchandise, or of chattels or chattel interests, the date upon which the goods, wares, or merchandise, or the chattels, were supplied or bartered, or the chattel interests were transferred :

In the case of contracts or agreements, the date upon which the work done, or the delivery of the goods to be supplied under such contract or agreement was completed :

In the case of bills of exchange, promissory notes, cheques, or other kind or description of order or security for the payment of money due thereunder, the date in each case upon which the payment became lawfully due :

In the case of work or labour done, or of services rendered, the date upon which payment for such work or labour done, or for such services rendered became due :

This proviso shall not apply to any sales of or securities given upon real property, or to any claim due to or by any company upon the winding-up of the business of the company under the provisions of any Act in force, or to any partnership accounts or disputes between any of the members of a firm, either before or upon the dissolution or winding-up of any partnership, or to any claim due to or by the Crown or the Government of New Zealand, or to any transactions completed prior to the passing of this Act, or to any claims arising from such transactions. A plea under this proviso may be raised at any time without notice.

Strike out clause 46, and substitute the following new clause in lieu thereof :—

46. In all actions founded upon a promissory note, bill of exchange, or other negotiable instrument, the plaintiff shall produce and file in Court the promissory note, bill of exchange, or other negotiable instrument as aforesaid ; and if in any such action founded as aforesaid the promissory note, bill of exchange, or other negotiable instrument be lost, and cannot be produced, then, upon the plaintiff filing in Court an affidavit declaring the fact of the loss, and upon an indemnity being given by the plaintiff to the satisfaction of the Court against the claims of any other person upon such promissory note, bill of exchange, or other negotiable instrument, the Court may proceed to give judgment as if the same had been produced and filed.

Clause 68. Line 11, after the words "inform the" add "Court and the."

Clause 75. Line 32, strike out "infancy" and add the following subsection at end of clause :—

No defendant shall be allowed to set up a defence of infancy, and no parent or guardian shall be liable for the payment of any debt contracted by an infant under the age of twenty-one years, unless the plaintiff produces in Court the written consent or authority of the parent or guardian for the infant to contract such debt.

Clause 78. Page 20, line 4, after the word "Court," to add the following proviso :—

Provided always that a defendant applying to the Court for a change of venue shall give reasonable notice to the plaintiff, or his solicitor, of his intention so to apply. Such notice shall be served by the defendant on the plaintiff or his solicitor in sufficient time to give him an opportunity of appearing to oppose the application, should he desire to do so.

Clause 105. Subsection (2), after the word "costs," add : "If costs are not included in the confession, and the plaintiff declines to accept the amount paid into Court without costs, then the Court may order the defendant to pay such costs as it may deem reasonable."

Clause 109. Page 27, line 2, after the word "plaintiff," add "or his solicitor."

Clause 147. Line 25, after the word "resident," to add the following proviso :—

Provided always that in cases exceeding twenty pounds, and not exceeding the amount of jurisdiction of the Magistrate before whom the claim may be heard, any two or more Justices of the Peace, in the case of absence or illness of the Magistrate, may exercise the jurisdiction conferred upon Magistrates by the last two preceding sections, so far only as the provisions refer to issuing a writ of arrest and holding a defendant to bail to appear before the Magistrate having jurisdiction to hear the claim.

Clause 151. Make the section to read thus :—

When a judgment is satisfied by payment, levy, or otherwise, the creditor, upon the request in writing of the judgment debtor, shall at once enter up satisfaction for the same. And upon his failing or neglecting to do so, the judgment debtor may file in Court an affidavit setting forth the fact of such satisfaction, and the date and manner thereof, and that he has applied in writing to the creditor to enter up satisfaction and the creditor has failed or neglected to do so. Upon the receipt of such affidavit, the Clerk of the Court shall enter up satisfaction. And when a judgment is satisfied by payment into Court, or otherwise through the Court, it shall be the duty of the Clerk of the Court, without any application or affidavit filed as aforesaid, to enter up satisfaction thereof on the record of the judgment.

Clause 162. Add to the end the words, "And such leave to proceed on the judgment shall debar the appellant from taking any further proceedings under the appeal: Provided always that the respondent shall give to the appellant or his solicitor three clear days' notice in writing of his intention to apply to the Court for leave to proceed on the judgment. Upon proof of service of the notice, should appellant fail to appear, the application may be heard in his absence."

Clause 167. Page 40, line 31, after the word "judgment," to insert the following :—

And such leave to proceed on the judgment shall debar the appellant from taking any further proceedings under the appeal: Provided always that the respondent shall give to the appellant or his solicitor three clear days' notice of his intention to apply to the Court for leave to proceed on the judgment. Such notice may be served as hereinbefore provided for the service of summonses. And upon proof of the service of the notice, should the appellant fail to appear, the application may be heard in his absence.

Clause 172. Strike out the word "except," in first line, and alter it to "including"; and add to the end of the first paragraph, after the word "taken," "all expenses properly incurred in the execution of a distress warrant shall be paid to the Clerk of the Court out of which the warrant is issued by the party applying for the warrant, and may be added to the amount for which the warrant is issued."

LAND AND INCOME ASSESSMENT ACTS AMENDMENT BILL.

Hon. Sir J. HALL, in Committee, to move the following amendment in clause 15: There shall be added to section 6 of Schedule F. of "The Land and Income Assessment Act, 1891," the following words: "and the right to make such deduction shall not be affected by any mortgage on such land."

Mr. T. MACKENZIE, in Committee, to move the following new clause :—

In the event of any person liable under this Act to pay land-tax, and owning land to the extent of £2,000 improved value on which there may be a mortgage, he shall, in addition to any other exemption he may be entitled to, deduct a sum equal to one penny in the pound from any interest sum that he may have covenanted to pay his mortgagee; and the mortgagee shall also be entitled to deduct any such deduction so actually made from the amount of his land-tax.