

ORIGINAL CIVIL.

Before Mr. Justice Pontifex.

GROOM AND ANOTHER v. WILSON.

1878
April 8.

Practice—Summary Suit on Promissory Note—Time extended for Defendant to appear and defend Suit—Civil Procedure Code (Act X of 1877), Chap. XXXIX.

THE High Court has power to extend the time within which a defendant in a suit brought under chap. xxxix (summary procedure on negotiable instruments) of the Civil Procedure Code can come in and obtain leave to defend: therefore, in a suit in which it appeared that the defendant resided at Peshawur, the time for the defendant to obtain leave from the Court to appear and defend was extended to twenty-eight days.

Mr. *Collis* applied, under cl. 12 of the Charter, for leave to file a plaint under the provisions of chap. xxxix of the Civil Procedure Code on a promissory note made outside, but payable within the jurisdiction; and asked that the summons should issue in accordance with form No. 172 of the 4th schedule to the Code. The defendant was an officer stationed at Peshawur.

PONTIFEX, J., granted leave; but, as the defendant was at Peshawur, directed that the time within which the defendant might obtain leave to appear and defend should be extended to the period of twenty-eight days. The learned Judge was of opinion that, inasmuch as s. 532 provides that the summons shall issue either in the form mentioned in the schedule, or in such other form as the High Court may from time to time direct, the Court had the power to extend the time.

Attorneys for the plaintiff: Messrs. *Roberts, Morgan & Co.*
