

Actions evocable by defendant in certain cases to the S. Court.

Proceedings on evocation.

If maintained.

If overruled.

Evocation by plaintiff on defendant's plea.

lands or tenements, or to any sum of money payable to Her Majesty, or to any fee of office, duty or rent, revenue, annual rents or such like matters or things where the rights in future may be bound, or shall be a suit or action in which a trial by jury may by law be had and in which the defendant shall in and by his evocation declare his choice and option to have a trial by jury, it shall be lawful for the party defendant before making his defence to the merits of any such suit or action to evoke the same, and by such evocation to require that the said suit or action be removed and carried for hearing, trial and judgment to and in the Superior Court in the same District; and every such evocation shall be fyled and entered of record, and the said suit or action shall thereupon be removed into the said Superior Court, which shall, at any sitting thereof, in or out of term, proceed to hear and determine in a summary way whether the said evocation be well founded; and if it should maintain the said evocation and adjudge the same to be well founded, proceedings shall thereupon be had in the said Superior Court to trial and judgment and execution according to the rules of proceeding in the said Court, as if the said suit or action had been originally instituted therein; and if the said evocation should be overruled, the said suit or action shall be remitted to the Circuit Court there to be heard, tried and finally determined.

XLIX. And be it enacted, That if in any suit or action which might be so evoked as aforesaid, the defendant shall not evoke the same, but shall make any plea or defence by which the plaintiff's title to any lands or tenements shall be disputed or called in question, or by which, if maintained, his rights in future would be impaired or injuriously affected, it shall then be lawful for the plaintiff to evoke such suit or action, in the same manner and with the same effect as the defendant might have