

An Act to amend the Common Law Procedure Act of Upper
Canada.

WHEREAS it is desirable to make certain amendments in the Preamble.
Common Law Procedure Act of Upper Canada; Therefore, Her
Majesty, by and with the advice and consent of the Legislative Council
and Assembly of Canada, enacts as follows:—

- 5 **1.** In addition to any cases in which a defendant in any suit is now
entitled to obtain security for costs from a plaintiff, security for costs
shall be granted to the defendant or applicant in any suit or proceeding
in which it is made to appear satisfactorily to the Court in which
such suit or proceeding has been instituted or taken, or to any Judge
10 in Chambers, that the plaintiff in such suit or the party entering such
proceeding is insolvent, unable to pay his debts, or that any execution
against his goods has been returned *nulla bona*, or that he has brought
a former suit or proceeding for the same cause which is pending either
in Upper Canada or in any other country, or that he has judgment, or
15 rule or order passed against him in such suit or proceeding, with costs,
and that such costs have not been paid, and such Court or Judge shall
thereupon make such rule or order staying such proceedings until such
security be given as to such Court or Judge shall seem meet.
- 20 **2.** In any suit or action in which any verdict is rendered for any
debt, or sum certain, or any account, debt or promises, such verdict
shall bear interest at the rate of six per cent. per annum from the time
of the rendering of such verdict, if judgment is afterwards entered in
favor of the party or person who obtained such verdict, notwithstanding
the entry of judgment upon such verdict has been suspended by the
25 operation of any rule or order of Court which may be made in such suit
or action.
- 3.** Any person who brings any *quidam* action for the recovery of any
penalty, may be compelled to give security for costs to the defendant
in such action, and proceedings in such actions shall be stayed until such
30 security is given, or the rule or order of the Court in which such *qui-
tam* action is instituted, or any Judge in Chambers.
- 4.** Whereas doubts exist as to the effect of equitable defences
pleaded in suits at law, and it is desirable to remove such doubts;—if
the defendant in any suit at law shall plead any equitable defence,
35 and judgment shall be given against such defendant upon such
equitable plea, such judgment shall be pleadable as a good bar and
estoppel against any bill filed by such defendant in equity against the
plaintiff or representative of such plaintiff at law, in respect to the
same subject matter which has been brought into judgment by such

Additional
cases in which
security for
costs may be
demanded.

Verdicts to
bear interest
from time of
rendering,
although
judgment
suspended.

Security for
costs to de-
fendant in
qui tam
actions.

Effect of equi-
table defences
pleaded in
suits at law.