



No. 159.

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4th Session, 3rd Parliament, 14 & 15 Vict., 1851.

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**BILL.**

An Act for the more summary and effectual exercise of the Rights of Lessors, in certain cases, in Lower Canada.

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Second reading, Monday, 23rd June, 1851.

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Mr. LAURIN.

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## B I L L .

An Act for the more summary and effectual exercise of the Rights of Lessors, in certain cases, in Lower Canada.

**W**HEREAS Proprietors or Lessors often experience Preamble.  
 great vexation on the part of Tenants occupying their houses, tenements or farms, as well by reason that the latter do not according to law provide the same with  
 5 furniture sufficient to secure the rent, as by committing waste or depredation on the premises, or do not in good faith make a right and proper use thereof (*n'en jouissent pas en bon père de famille*) and oftentimes persist in occupying such houses, tenements or farms against the will of  
 10 the proprietor, and without having paid their rent, or providing as by law required, sufficient furniture to secure it: And whereas also Tenants often refuse or neglect at the expiration of their lease to quit the house, tenement or farm held by such lease, or when there is no written  
 15 lease at the usual term or time when according to usage in the District or place where such houses, tenements or farms are respectively situated, removals take place, or, in cases where the term is less than a year, at the expiration of the stipulated term; whereby proprietors are  
 20 prevented from re-entering into possession of the premises at the time agreed upon, or at the expiration of the terms as above mentioned, and are thereby placed under the necessity of recurring to expensive law-suits, for the most part occasioning heavy losses: And whereas the legal  
 25 remedy by law already in such cases provided requires greater despatch than is admitted of by the present ordinary action by law: Be it therefore enacted, &c.

That in all cases where the tenant of any house, tenement or farm shall have omitted to furnish and provide  
 30 the same (as by law it is in such case already provided) with furniture or stock sufficient to secure the rent thereof, or shall commit waste or make depredation on the premises, or shall not in good faith make a right and proper use of the same (*n'en jouira pas en bon père de famille*) or  
 35 shall continue contrary to the will of the proprietor or lessor to remain therein, or occupy the same without having paid the rent or furnished the premises according to law, so as to secure such rent, it shall be lawful for any such proprietor or lessor to summon such tenant or occupier by simple notification (*exploit de sommation*) to quit  
 40 and clear the premises within fifteen days, and upon the affirmation upon oath of such proprietor or lessor of

Summary remedy given for recovering possession in the cases mentioned in the Preamble.

any of the above mentioned facts, and on proof of such notice, he shall, upon his petition to the Judges of the Superior Court in the District, or to the Circuit Judge in the Circuit, obtain from the Prothonotary or Clerk of the said Superior Court or Circuit Court a writ of possession in the form of the Schedule hereunto annexed marked A, signed by such Prothonotary or Clerk and addressed to the Sheriff of the District if returnable in the Superior Court, or to a Bailiff if returnable in the Circuit Court, commanding such Sheriff or Bailiff immediately to put such proprietor or lessor in possession of such house, tenement or farm, and to summon such tenant or occupier to appear before the Superior Court or Circuit Court as the case may be, on such day as shall be fixed and mentioned in the said writ of possession, to show cause why the same should not be declared good and valid, which Superior Court in Term or at any weekly sitting thereof, or the Circuit Court in term (as the case may be), shall proceed in due course to hear and determine and adjudge upon the matter in issue in such cause, and to award costs thereon.

Writ of possession.

Further proceedings.

Tenant giving security may remain in possession until the case is decided.

II. Provided always and be it enacted, That when the tenant or occupier shall give good and sufficient security to the satisfaction of one of the Judges of the Superior Court, or of the Circuit Judge, as the case may be, to pay the rent due and to grow due, with interest, costs and expenses, and all damages sustained or to be sustained by the proprietor or lessor, then and in that case, such tenant or occupier may continue to remain in possession of the house, tenement or farm until the judgment declaring the said writ of possession good and valid (*bon et valable*) shall have been rendered.

Act not to take away any other remedy of the lessor.

III. Provided also, and be it enacted, That nothing contained in the present Act shall prevent or be construed to prevent such proprietor or lessor from availing himself of the right of *saisie gagerie*, or any other course of proceeding which he has now by law.

Recourse of the tenant saved, if he is aggrieved.

IV. Provided always and be it enacted, That nothing in this Act contained shall, in any of the cases above specified, be construed to prevent any tenant or occupier deeming himself aggrieved by any such proprietor or lessor from prosecuting such recourse and remedy as he may in such case be entitled to.

Duration of Act.

V. And be it enacted, that this Act shall be and remain in force until the first day of May One Thousand Eight Hundred and *Sixty-two*, and no longer.

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SCHEDULE A.

*Writ of Habere Facias Possessionem.*

VICTORIA the by the Grace of God of the United Kingdom of Great Britain and Ireland Queen, Defender of the Faith, &c., &c., &c.

To the Sheriff of the District of (or to A. B., Bailiff), greeting.

WHEREAS A. B., of hath lately by his petition to the Judges of our Superior Court in the District of (or our Circuit Court in the Circuit of as the case may be) represented that (here set forth the chief grounds of complaint and description of the property in question,) and hath thereupon prayed to be put in possession of the said house, (tenement or farm, as the case may be).

Therefore we command you that without delay you cause the said A. B. to have possession of the said house, (tenement or Farm, as the case may be) with the appurtenances, and that you summon C. D. the tenant (or occupier) of the said house, (tenement or farm) to appear before us in our Superior Court (or Circuit Court), to be holden in and for our said District (or Circuit) on the day of to show cause, if any he hath, why the said A. B. should not by the judgment of our said Court be adjudged to have and keep possession of the said house, (tenement or farm), and that you have then and there this writ with your doings thereon.

In witness whereof we have caused the Seal of our said Court to be hereunto affixed at this day of in the year of Our Lord and in the year of Our Reign.