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1st Session, 4th Parliament, 16 Victoria, 1853.

BILL.

An Act to amend the Act 14th and 15th
Vict., cap. 92, relating to the illegal
detention of Real Property in Lower
Canada.

Received and Read a first time, Monday, 18th
April, 1853.

Second Reading, Wednesday, 20th April, 1853.

Mr. TERRILL.

QUEBEC "

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

1852-3.]

BILL.

[No. 359.]

An Act to amend the Act 14th and 15th Vic., cap. 92, relating to the illegal detention of Real Property in Lower Canada.

WHEREAS it is necessary and expedient to amend an Act passed in the Session held in the fourteenth and fifteenth years of Her Majesty's Reign, intituled, "*An Act to provide a more summary and less expensive process for Proprietors of Real Property in Lower Canada to acquire the possession thereof when illegally detained from them in certain cases,*" and to make other and further provisions of law touching the same; Be it therefore enacted, &c.,

Preamble. 14 and 15 V., c. 92.

That in any action instituted under the provisions of the Act herein first above cited, before any Circuit Court, Circuit Judge in Vacation, or Judge of the Superior Court in Vacation, it shall and may be lawful for the Defendant or Defendants in any such suit or action at his or there option and choice, before making defence to such suit or action, to evoke the said suit or action to the Superior Court at its next ensuing Session within the District where such suit or action is commenced; and immediately upon the fying of such evocation, by any Defendant or Defendants, and upon security being given as hereinafter provided, the record and proceedings shall forthwith be transmitted to the said Superior Court holden within the District where such suit or action has been so commenced, to be by the said Superior Court heard, tried and determined according to the course and practice of the said Superior Court.

Defendant in any case under the said Act may before defence evoke such case to the Superior Court.

II. And be it enacted, That in any such case of evocation of any suit or action, the Defendant or Defendants fying such evocation shall be held, within eight days from the fying thereof, to give good and sufficient security for the costs to be incurred by the Plaintiff or Plaintiffs in conducting such suit or action to final Judgment; and a recognizance duly entered into by two sureties, each of whom shall be a proprietor of real property of the value of twenty-five pounds currency above all incumbrances shall be sufficient; and such security may be taken by any Judge of the Superior Court or the Prothonotary of the said Court, or before any Circuit Judge or the Clerk of the Circuit Court, and the said

Security to be given for costs

What shall be sufficient security.

How it shall be given.

Judges, Prothonotaries or Clerks are hereby empowered to administer all necessary oaths to persons becoming such sureties, and it shall not be necessary to give notice to the party, Plaintiff, of the putting in of such security; Provided, however, that if the security required by this Section be not furnished within the delay prescribed, the right of evocation before trial and enquête shall be forfeited. 5

Plaintiff may at the same time demand for issues and profits. III. And be it enacted, That in any action to be instituted under the provisions of the Act herein first above cited, it shall and may be lawful for the party Plaintiff in such suit or action, to demand 10 such sum or sums of money as he or they may be entitled to by law, for rents, issues and profits, *fruits et revenus*; and any Circuit Court, Circuit Judge in Vacation or Judge of the Superior Court in Vacation, shall and may have, hold and exercise jurisdiction over the said demand for rents, issues and profits, *fruits et 15 revenus*, whatever may be the sum demanded.

Defendant may demand sums due him for improvements. IV. And be it enacted, That in any suit or action instituted under the provisions of the Act herein first above cited, before any Circuit Court, Circuit Judge, in Vacation, or Judge in the Superior Court in Vacation, it shall and may be lawful for any Defendant 20 or Defendants in any such suit or action, in addition to any other defence which he, she or they may have to such suit or action, to plead and demand, by incidental cross-demand, any and all such sum or sums of money as he, she or they may be entitled by law to have and demand for improvements, buildings and ameliorations 25 made upon the Real Property sought to be recovered in and by such suit or action; and any such Circuit Court, Circuit Judge, in Vacation, or Judge of the Superior Court, in Vacation, shall have, hold and exercise jurisdiction over any such incidental cross-demand for ameliorations, buildings and improvements, whatever may be 30 the amount claimed thereby.

Defendant may appeal to Superior Court, notwithstanding any thing in Sec. 5, &c., giving security. V. And be it enacted, That notwithstanding any thing contained in the fifth Section of the Act herein first above cited, it shall and may be lawful for any Defendant or Defendants to appeal from any Judgment rendered by any Circuit Court, Circuit Judge, 35 in Vacation, or Judge of the Superior Court in Vacation, under the said Act or this Act, to the Superior Court sitting in the District where such suit or action shall have been originally instituted, upon giving good and sufficient security as prescribed in the said Section, effectually to prosecute the appeal and pay all costs as 40 well in the Court below as in the said Superior Court, if the Judgment appealed from should be affirmed.