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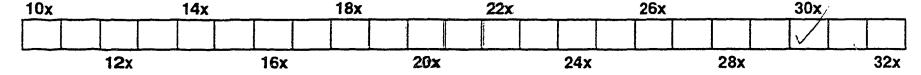
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1st Session, 8th Parl ament, 27 Victoria, 1863.

BILL

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

Received and read first time, Thursday, 10th September, 1863.

Second reading, Monday, 14th September, 1863.

Hon. Mr. CAMERON.

QUEBEC:

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

WHEREAS it is desirable to make certain amendments in the Com- Preamble. mon 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:

1. In addition to any cases in which a defendant in any suit is now Security for entitled to obtain security for costs from a plaintiff, security for costs costs made shall be granted to the defendant or applicant, in any suit or proceed- be allowed in ing in which it is made to appear satisfactorily to the Court in which in addition to such suit or proceeding has been instituted or taken, or to any Judge in these now 10 Chambers, that the plaintiff in such suit or the party entering such provided for. 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 is given, as to such Court or Judge shall seem meet.

2. In any suit or action in which any verdict is rendered for any Interest to 20 debt or sum certain, on any account, debt or promises, such verdict run from date shall bear interest at the rate of six per cent. per annum, from the though entry time of the rendering of such verdict, if judgment is afterwards enter- of judgment and in favor of the next an annual transfer of the next and in favor of the next ed in favor of the party or person who obtained such verdict, notwith- has been sugstanding the entry of judgment upon such verdict has been suspended ponder rule or order. 25 by the operation of any rule or order of Court which may be made in such suit or action.

3. Any person who brings any qui tam action for the recovery of Security for any penalty, may be compelled to give security for costs to the defend- costs in qui ant in such action, and proceedings in such action shall be stayed until tam actions. 30 such security is given, on 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 plead- Judgment ed in suits at law, and it is desirable to remove such doubts; if the de-against defendant in any suit at law shall plead any equitable defence, and judg-fendant on equitable de-35 ment shall be given against such defendant upon such equitable plea, fence to be a such judgment shall be pleadable as a good bar and estoppel against bar to bill in any bill filed by such defendant in equity against the plaintiff or rep-equity on he resentative of such plaintiff at law, in respect to the same subject matter which has been brought into judgment by such equitable defence 40 at law, but nothing in this clause shall apply to any suit or action Exertion as commenced and pending before the passing of this Act, which shall be to rending decided upon as if this Act had not been passed; and this Act shall cases. not be construed as declaring that such judgment at law on an equitable defence has not been heretofore a good bar to a suit in equity on

50 the same subject matter.

Stay of proceedings in U. C. while suit is pend-

5. If any suit or action is brought in any Court of Law or Equity. for any cause of action for which any suit or action has been brought and is pending between the same parties, or their representatives, in ing el-ewhere any place or country out of Upper Canada, such Court or any Judge thereof, shall make a rule or order to stay all proceedings in such first 5 mentioned Court of Law or Equity, until satisfactory proof is offered to such Court or Judge, that the suit or action so brought in such other place or country out of Upper Canada, is determined or discontinued.