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No. 121.

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1st Session, 8th Parliament, 27 Victoria, 1863.

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## BILL

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

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

Second reading, Monday, 14th September,  
1863.

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Hon. Mr. CAMERON.

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QUEBEC:

PRINTED FOR THE CONTRACTORS BY HUNTER,  
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An Act to amend the Common Law Procedure Act of Upper Canada.

**W**HEREAS it is desirable to make certain amendments in the 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:

Preamble.

- 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 in  
10 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 is 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, on 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  
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 any penalty, may be compelled to give security for costs to the defendant in such action, and proceedings in such action shall be stayed until  
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 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, and judgment shall be given against such defendant upon such equitable plea,  
35 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 equitable defence  
40 at law, but nothing in this clause shall apply to any suit or action commenced and pending before the passing of this Act, which shall be decided upon as if this Act had not been passed; and this Act shall 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.

Security for costs made be allowed in certain cases in addition to those now provided for.

Interest to run from date of verdict though entry of judgment has been suspended under rule or order.

Security for costs in *qui tam* actions.

Judgment against defendant on equitable defence to be a bar to bill in equity on the same matter.

Exception as to pending cases.

Stay of proceedings in U. C. while suit is pending elsewhere for the same cause.

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 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 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. 5