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No. 372.

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

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**BILL.**

**An Act to provide that Plaintiffs shall  
in certain cases give security for Costs.**

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Received and Read a first time, Friday, 22nd  
April, 1853.

Second Reading, Monday, 25th April, 1853.

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**Mr. SMITH (of Durham)**

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**QUEBEC:**

1049

1852-3.]

**BILL.**

[No. 372.

**An Act to provide that Plaintiffs shall in certain cases give security for Costs.**

**WHEREAS** it sometimes happens that a vexatious and unjust Preamble.  
action is brought by a person who is possessed of no property, and is unable to defray the costs of such action, whereby a Defendant may be subject to great loss, without any redress  
5 against the party who occasions it: And whereas it is desirable to afford protection to Defendants in such cases; Be it therefore enacted, &c.,

That whenever any action shall be instituted in Upper Canada, and the Defendant shall make an affidavit before any Commis-  
10 sioner of the Court of Queen's Bench, or of the Common Pleas, that such action is in his opinion vexatious and unjust, and that he does not believe the Plaintiff, in the event of his failing in such  
action, will be able to pay the costs thereof, it shall and may be lawful for the Court in which such suit may be brought, or any  
15 Judge thereof, after summons and cause shewn, or if no cause be shewn, in his discretion, to stay proceedings in such action until the Plaintiff shall give security for costs, in like manner as a  
Plaintiff is now required to give security when he resides out of the jurisdiction of the Court; Provided always, that this Act shall Provido.  
20 not apply to the case of any Plaintiff suing in *forma pauperis*.

Defendant may on an affidavit obtain an order that Plaintiff give security for costs.