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No. 214.

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3d Session, 3d Parliament, 13 & 14 Vict. 1850.

## BILL.

An Act to amend and extend the law  
relating to the remedy by Replevin in  
Upper Canada.

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Received and Read a first time, Wednesday, 24th  
July, 1850.

Second Reading, Thursday, 25th July, 1850.

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Mr. LYON.

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TORONTO : PRINTED BY LOVELL AND GIBSON.

## BILL.

To amend and extend the Law relating to the remedy by Replevin.

**WHEREAS** it is expedient to amend and extend the Preamble.  
remedy by Replevin in Upper Canada: Be it therefore enacted, &c.

And it is hereby enacted by the authority of the same, Action of replevin given instead of trespass or trover in certain cases.  
5 That whenever any goods or chattels may have been or shall have been wrongfully distrained, or otherwise wrongfully taken, or have been or shall be wrongfully detained, the owner or person or persons, or corporation, who by law now maintain an action of trespass or trover for personal property, shall have and may bring an action of  
10 Replevin for the recovery of such goods or chattels, and for the recovery of the damages sustained by reason of such unlawful caption and detention, or of such unlawful detention, in like manner as actions are now by law brought  
15 and maintained by any person complaining of an unlawful distress.

II. And be it enacted, That before any writ of Replevin shall issue for the recovery of any such goods and chattels or either, the person claiming the same, his servant or agent, shall make an affidavit that such person  
20 claiming as aforesaid, is the owner of the property claimed, which shall be described in such affidavit, or that he is lawfully entitled to the possession thereof; which affidavit shall and may be sworn before a Judge of one of the  
25 Superior Courts of Record in Upper Canada, the Judge of the County Court, or a Commissioner for taking affidavits in Her Majesty's Court of Queen's Bench in Upper Canada, and shall be entitled in the Court in which such action of Replevin may be brought, and filed therein to be kept  
30 among the papers in the cause. Affidavit before the Writ shall issue.

III. And be it enacted, That when the party or parties defendant in any such suit of Replevin shall have been  
duly and personally served with the summons in such suit, by virtue of the writ of Replevin issued therein, and if  
35 he, she or they do not enter their appearance in such suit within four days after the return of such writ of Replevin, the plaintiff or plaintiffs in such action may enter a common appearance for such defendant or defendants, and proceed thereon as if such defendant or defend-  
40 dants had appeared. If defendant do not appear after being duly served.

Sheriff may  
break doors,  
&c., in certain  
cases.

IV. And be it enacted, That if the property to be replevined, or any part thereof, be secured or concealed in any dwelling-house or other building or enclosure, and if the Sheriff shall have publicly demanded from the owner *and* occupant of the premises deliverance thereof, and if 5  
the same be not delivered to him within twenty-four hours after such demand made, he may or shall, if necessary, break open such house, building or enclosure for the purpose of replevying such property or any part thereof.