



No. 16Q.

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3rd Session, 5th Parliament, 20 Victoria, 1857.

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## BILL.

An Act to give to Her Majesty's subjects in Lower Canada the power to compel the Law Officers of the Crown to appear and answer the Subject's claims in a Court of Law.

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Received and read first time, Thursday, 26th March, 1857.

Second reading, Monday, 30th March, 1857.

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MR. O'FARRELL.

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TORONTO :

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An Act to give to Her Majesty's subjects in Lower Canada the power to compel the Law Officers of the Crown to appear and answer the Subject's claims in a Court of Law.

**W**HEREAS the impossibility now exists of compelling the Crown Officers to appear in the Courts of Justice in Lower Canada to answer and defend any claim or demand, real, personal or mixed, which any of Her Majesty's subjects may have to institute or set up against the Crown; by reason whereof frequent and great losses and injuries have been suffered and will continue to be suffered by the subject, unless provision to the contrary be made; and inasmuch as in Lower Canada, no Courts of Chancery or of Exchequer, no Bill of Rights, and no petition by way of "*monstrans de droit*" exist, it is necessary and expedient to make provision for the relief of the subject in these and other particulars; Therefore Her Majesty, &c., enacts as follows:

I. In all cases where any subject or subjects of Her Majesty may have a legal claim or right of action against the Crown for any cause whatsoever, whether of a real, personal or mixed nature, it shall and may be lawful for such subject or subjects by a petition (*Requête libellée*), wherein shall be set forth in full each and every the ground and grounds of such claim and demand against the Crown, the truth whereof shall be substantiated by the oath of the Petitioner or of some other person in his behalf, subscribed thereto, which said petition being addressed and presented to either the Chief Justice of the Court of Queen's Bench, the Chief Justice of the Superior Court, or any of the Justices of the said Courts respectively, either of them shall and may, if he see sufficient cause so to do, grant the prayer thereof and order that right and justice may be done in the premises, "*soit droit fait al partie*;" Provided always, that in the prayer of every such petition it be demanded that the Attorney General or some other Crown officer duly authorized, be held and enjoined to appear and answer the said petition before the Superior Court in and for the District in which the petitioner may be desirous of bringing his suit, or in which if the same relate to immoveable or real estate such immoveables may be situate, and that in such and like manner as appearances, answers, or other pleadings may be had in other cases between ordinary suitor and suitors, according to the usual course and practice of such Courts; And provided further, that the granting of such order or trial shall not in any case disqualify the Judge granting the same from sitting on, hearing and determining the said cause or any matter or proceeding therein.

Preamble.

Any party having a claim against the Crown may present a petition to a Judge who may allow the same and order right to be done.

Proviso.

Proviso.

Service on  
Attorney or  
Solicitor Gen-  
eral, who must  
appear and  
defend accord-  
ingly.

II. For the purposes aforesaid, the petition with the order or *fiat* of the Judge, together with a copy thereof duly certified, shall be deposited with the Sheriff of the District in which it is required the same be made returnable, whereupon it shall be the duty of such Sheriff to serve the said copy so duly certified upon the said Attorney General, or in case of his absence or indisposition on the Solicitor General, with a notice requiring him to appear on the return day thereof, which shall not be at a shorter date than thirty days from the fying of the same with such Sheriff, and upon the return thereof with the certificate of service, such proceedings shall and may be had in the said Court, as well by default or otherwise, as in ordinary cases. 5 10

Petitioner to  
give security  
for costs.

III. Provided always, that every such petitioner shall be held and bound, within four days after the return of such petition and service, to give good and sufficient security to the satisfaction of such Court, or any one of the Judges thereof, in a sum not exceeding £50 nor less than £20, to answer the condemnation in costs in favor of the Crown in the event of failing in the said suit, and that all proceedings be staid until such security be given, and in default of such security being given within such extended delay as the Court or any Judge thereof may see fit to appoint, the said petition and suit shall be dismissed. 15 20

Or the case to  
be dismissed.

Act limited to  
L. C.

IV. This Act shall extend only to Lower Canada.