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4th Session, 3rd l'arliament, 14 Victoria, 1851.

BILL.

An Act to amend the Act to regulate the exercise of certain rights of Lessors and Lessees, in Lower Canada.

Received and read-a first time, Thursday, 12th June, 1851.

Second reading, Monday, 16th June, 1851.

Mr. Lemieux.

TORONTO: PRINTED BY LOVELL AND GIBSON.

BILL.

An Act to amend the "Act to regulate the exercise of certain rights of Lessors and Lessees," in Lower Canada.

THEREAS the Act of the Legislature of Lower Presuble. Canada, passed in the third year of the Reign of His late Majesty King William the Fourth, intituled "An L. C. 3 W. 4. " Act to regulate the exercise of certain rights of Lessors c. 1. 5 " and Lessees," has been found to work badly, and it is necessary to amend it; Be it therefore enacted, &c.,

That in all cases mentioned in the Act cited in the pre- By what amble to this Act, if the amount of the rent or value of Judges cases the thing required to be done, or of the lease, possession, said Act, 10 or other right sought to be recovered or enforced or re- may be heard scinded, do not exceed fifty pounds, the case and all pro-ned. ceedings therein, and matters relative thereto, may be heard, tried and determined before any Judge of the Superior Court, or Circuit Judge, and if such amount or 15 value exceed fifty pounds, then by any two or three Judges of the Superior Court sitting together, and (in either case) in term or in vacation; and of such amount or value the allegation of the plaintiff or of some person acting for him and cognizant of the facts shall be prima 20 facie evidence.

II. And be it enacted, That all writs or process issuing Form of write in any such cause, shall run in the name of the Queen, and shall bear the seal of the Court before a Judge or Judges whereof the case is to be heard, and shall be sign-25 ed by the Prothonotary or Clerk of the Court, and shall be issued by him without any fiat or special order, at the instance of any party entitled thereto, and shall not be tested in the name of any person, but the words "in wit-"ness whereof, we have caused the seal of our said 30 "Court to be hereunto affixed," shall be instead of such teste; and such writ or process may be either in English or in French; and the said writs shall be directed to any of the Bailiffs of the Superior Court.

III. And be it enacted, That the proceedings in any Proceedings 35 such case shall be summary, and no exception shall be summary: allowed to any petition, declaration, process or paper, un- what less the Judge or Judges shall be of opinion that the exception only defendant was bond fide unable to understand from the allowed. same what he was required to pay or do, or to allow to be

done; and any other defect, error or omission, may be amended at any stage of the proceedings, so as to make the paper in which it occurs agree with the facts of the case.

When proceedings may be commenced.

IV. And be it enacted, That the proprietor or lessor may proceed under the said Act and this Act at any time after the end of three days from the expiration of the lease, whether written or verbal, to recover possession of the immovable leased and detained after that time.

Delay between service of bns anomous appearance.

V. And be it enacted, That if the defendant do not 10 reside more than five leagues from the place where he shall be summoned to appear, he shall have one clear day's delay between the day of service of the summons and the day of appearance, and one additional day for every additional five leagues; but he shall plead on the 15 day of apearance, and the case shall be heard and determined on the next juridical day, unless the Judge or Judges shall see fit to adjourn the case, as he or they may do.

Plaintiff may proceed for rent and possession at once.

VI. And be it enacted, That the plaintiff may, at the on same time and by the same proceedings, sue for, and recover possession of the immovable leased, and any arrears of rent due, and may seize the goods of the lessee by saisie gagerie, and the Judge or Judges shall, on proof to their satisfaction, give judgment for the possession and 25 for such arrears.

Plaintiff demanding rent may pray the rescission of the lease if he be not paid within a certain time.

VII. And be it enacted, That whenever any plaintiff shall, under the said Act or otherwise, sue for the recovery of any rent or any quarter's rent due to him, he may at the same time and by the same proceedings, pray that 30 the lease may be rescinded if such rent be not paid within the time to be appointed for that purpose in the judgment, or by the sale of the goods pledged for the rent; and on the return of the Sheriff or Bailiff to the writ, that such . sale has not produced enough to pay the rent due and costs, 35 the Judge or Judges may direct the issue of a further writ, addressed to the Sheriff or Bailiff to dispossess the defendant and all others, and to remove their effects and put the plaintiff in possession; Provided always, that the return to the writ first mentioned shall be made on the 40 day next after the sale, if the place of sale be not more than five leagues from the place where the Judge or Judges sit, and one additional day shall be allowed for every additional five leagues.

Proviso.

VIII. And be it enacted, That the Judge or Judges 45 directing the rescission of any lease, verbal or in writing, may, by the same judgment, direct that if peaceable possession in the immovable in question be not given to the plaintiff within a certain time after the judgment, a writ

Judge directing rescission may also direct that a writ of

shall issue to the Sheriff or Bailiff, commanding him to possession remove therefrom all persons and their effects, and to put shall issue. the plaintiff in possession thereof.

IX. And be it enacted, That the Sheriff or Bailiff ex-Powers of 5 ecuting any writ of possession under this Act, shall have executing full power to use force, if necessary, to execute the same, such writ. and to call, in the Queen's name, on all persons to aid him if need shall be, and any person so called upon and refusing or neglecting to give such aid, shall thereby in-10 cur a penalty of pounds.

X. And be it enacted, That an appeal shall lie from Appeal to any judgment under this Act, when the sum or value in sum in property shall be sufficient, in the same manner and on the question be same conditions as in other cases, but in addition to the 15 usual security, the appeal bond shall be conditioned for the payment of all damages arising from the non-execution of the judgment, in consequence of such appeal; and no surety shall be received unless he shall give in wri- Sureties must ting, signed by him, a description of real property to him specify their real property, 20 belonging, the value whereof shall be equal to the &c. amount for which security is to be given, over and above all hypothecs, charges or incumbrances, payable out of, or affecting the same, nor unless he shall (if required by the opposite party), justify his sufficiency on oath, and 25 produce the titles to such real property as aforesaid.

XI. And be it enacted, That if in any case the rent of Certain the immovable in question shall not exceed fifty pounds decide cases per annum, the matter shall be decided by one Judge whatever be of the Superior Court sitting in the District in which the the property, 30 said property lies, or by one Circuit Judge residing in the &c. said District, whatever be period of the lease, or the supposed value thereof, or of the immovable or of the then possession thereof.

XII. And be it enacted, That nothing in this Act shall Not to affect 35 apply to, or affect any proceeding commenced before the pending cases. passing thereof.