

C A P. XV.

AN ACT to regulate the exercise of the rights appertaining to proprietors and lessors against their tenants and lessees, and for other purposes therein-mentioned.

(14th March, 1829.)

Preamble.

WHEREAS Proprietors or Lessors often experience great vexation on the part of Tenants occupying their Houses, Tenements or Farms, as well by reason that the latter do not according to law provide the same with furniture sufficient to secure the rent, as by committing waste or depredation on the premises, or do not in good faith make a right and proper use thereof, (*n'en jouissent pas en bon père de famille*) and oftentimes persist in occupying such Houses, Tenements or Farms, against the will of the proprietor, and without having paid their rent or providing, as by Law required, sufficient furniture to secure it: And whereas also Tenants often refuse or neglect at the expiration of their lease to quit the House, Tenement or Farm held by such lease, or when there is no written lease, at the usual term or time, when, according to usage in the District or place where such Houses, Tenements or Farms, are respectively situated, removals take place, or in cases where the term is less than a year, at the expiration of the stipulated term; whereby proprietors are prevented from re-entering into possession of the premises at the time agreed upon, or at the expiration of the terms as above mentioned, and are thereby placed under the necessity of recurring to expensive law suits, for the most part occasioning heavy losses; And whereas the legal remedy by law already in such cases provided, requires greater despatch than is admitted of by the present ordinary action at law; Be it therefore enacted by the King's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and Assembly of the Province of Lower-Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, intituled, "An Act to repeal certain parts of an Act passed in the fourteenth year of His Majesty's Reign, intituled, "*An Act for making more effectual provision for the Government of the Province of Quebec in North America*;" and to make "further provision for the Government of the said Province;" And it is hereby enacted by the authority of the same, that in all cases where the Tenant of any House, Tenement or Farm shall have omitted to furnish and provide the same (as by Law it is in such case already provided) with furniture or stock sufficient to secure the rent thereof, or shall commit waste or make depredation on the premises, or shall not in good faith make a right and proper use of the same, (*n'en jouira pas en bon père de famille*) or shall continue contra-

Proprietors
or lessors how
to proceed for
the recovery
of rent from
their tenants.

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ry to the will of the proprietor or lessor to remain therein, or occupy the same without having paid the rent, or furnishing the premises according to Law so as to secure such rent, it shall be lawful for any such proprietor or lessor to summon such tenant or occupier by a simple notification (*exploit de sommation*) to quit and clear the premises within fifteen days and upon the affirmation upon oath of such proprietors or Lessors of any of the above said facts shall upon his petition to the Judges of the Court of King's Bench of the District or to the Provincial Judge of the District or Inferior District obtain from the Prothonotaries or Clerks of the Court of Kings Bench or Provincial Court of the District or Inferior District, a Writ of Possession in the form of the Schedule hereunto annexed marked A signed by such Prothonotaries or Clerks and addressed to the Sheriff of the District or Inferior District if returnable in the Superior Term or to a Bailiff if returnable in the Inferior Term commanding such Sheriff or Bailiff immediately to put such proprietor or lessor in possession of such House, Tenement or Farm and to summon such tenant or occupier to appear before the Court of King's Bench or Provincial Court in the Superior or Inferior term as the case may be on such day as shall be fixed and mentioned in the said Writ of possession to shew cause why the same should not be declared good and valid, which Court in term shall proceed in due course to hear and determine and adjudge upon the matter in issue in such cause and to award costs thereon.

Tenants or occupiers may remain in possession on giving security for the payment of the rent.

II. Provided always and be it further enacted by the authority aforesaid, that when the tenant or occupier shall give good and sufficient security to the satisfaction of one of the Judges of the Court of King's Bench or of the Provincial Judge as the case may be to pay the rent due and to grow due with interest, costs and expences and all damages sustained or to be sustained by the Proprietor or Lessor then and in that case, such tenant or occupier may continue to remain in possession of the House, Tenement or Farm until the Judgment declaring the said Writ of possession good and valid (*bon et valable*) shall have been rendered.

Not to prevent proprietor or lessor from availing himself of the right of Saisie Gagerie or any other course he has by law;

III. Provided also, and be it further enacted by the authority aforesaid that nothing contained in the present Act shall prevent or be construed to prevent such proprietor or lessor from availing himself of the right of *Saisie Gagerie* or any other course of proceeding which he now has by law.

SCHEDULE A

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Writ of Habere Facias Possessionem.

George the _____ by the Grace of God of the United Kingdom of Great-Britain and Ireland, King, Defender of the Faith, &c. &c.

To the Sheriff of the District of _____
the case may be,)

or to A. B. Bailliff, (as
 Greeting:—

WHEREAS A. B. of _____ hath lately, by his petition to the Judges of our Court of King's Bench, (or Provincial Court) of the District, (or Inferior District) of _____ represented that (*here set forth the chief grounds of complaint and the description of the property in question*) and hath thereupon prayed to be put in possession of the said (*House, tenement or farm, as the case may be.*)

Therefore we command you, that, without delay, you cause the said A. B. to have possession of the said (*House, tenement or farm, as the case may be*) with the appurtenances, and that you summon C. D. the tenant or occupier of the said (*House, tenement, or farm*) to appear before us, in our Court of King's Bench, (or Provincial Court) to be holden in and for our said District, (or Inferior District) on _____ the _____ day of _____ to shew cause if any he hath why the said A. B. should not by the Judgment of our said Court be adjudged to have and keep possession of the said (*House, tenement or farm*) and that you have then and there this Writ with your doings thereon.

Witness _____ one of the Judges, (or the Provincial Judge) of
 our said Court, at _____ this _____ day of _____ in the
 year of our Lord _____ and in the _____ year of our Reign.

Tenant or occupier deeming himself aggrieved how to proceed.

IV. Provided always, and be it further enacted by the authority aforesaid, that nothing in this Act contained shall in any of the cases above specified be construed to prevent any Tenant or Occupier, deeming himself aggrieved by any such Proprietor or Lessor, from prosecuting such recourse and remedy as he may in such case be entitled to.

Continuance of this Act.

V. And be it further enacted by the authority aforesaid, that this Act shall be and remain in force until the first day of May, one thousand eight hundred and thirty-two, and no longer.

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