

Laws of Her Majesty's Province of Upper Canada, passed in the year 1850. Toronto: Stewart Derbshire & George Desbarats, 1850.

13 & 14 Victoria – Chapter 57

An Act to alter and amend the practice and proceedings in actions of Ejectment in Upper Canada. 10th August, 1850.

Whereas the present mode of proceeding in actions of Ejectment, occasions not only unnecessary delays, but is attended with great inconvenience and useless expense to the parties; And whereas it is expedient to provide, that, in future, all actions of Ejectment and the proceedings therein may be commenced and conducted to final judgment and execution as hereinafter provided: Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That in future all actions of Ejectment shall and may be commenced and prosecuted to final judgment and execution in the several Counties or united Counties of Upper Canada, in the manner hereinafter provided.

II. And be it enacted, That in every such action of Ejectment, the declaration, pleadings, papers, and all other proceedings therein, shall be filed, had or issued in the office of the Clerk of the Crown and Pleas in the Courts of Queen's Bench and Common Pleas, or in the office of the Deputy Clerk of the Crown and Pleas, as the case may be, in the County or United Counties, as may be, in which the lands and premises sought to be recovered are situated.

III. And be it enacted, That in future the Lessor or Lessors of the Plaintiff or Plaintiffs in any action of Ejectment, shall, instead of the notice now required to be given to the tenant or tenants in possession of the premises, indorse upon or annex to the declaration to be filed, and upon the copy or copies thereof to be served, a notice in writing, in the form given in the Schedule to this Act; and the Lessor or Lessors of the Plaintiff or Plaintiffs, upon filing the declaration and notice and the affidavit of service thereof, with a motion paper for judgment against the casual ejector, may, after the expiration of the time limited in such notice, and no plea having been filed, enter final judgment and sue out a writ of possession from the office of the Clerk of the Crown and Pleas, or his Deputy, as the case may be, in the County or United Counties wherein the proceedings in any such action shall have taken place.

IV. And be it enacted, That upon the Defendant or Defendants entering into the necessary and usual consent rule, and filing the same, together with his plea, in the office with the declaration, it shall and may be lawful for the Lessor or Lessors of the Plaintiff or Plaintiffs, to proceed thereon to judgment and execution, in the same manner as if the proceedings were had in the principal office at Toronto.

V. And be it enacted, That any person or persons desirous of defending any action of ejectment as Landlord or otherwise, may become a defendant of such action upon entering into the usual consent rule and filing an appearance and plea as such within the time mentioned in the rule *nisi* for judgment against the casual ejector, or at any time before final judgment is signed without obtaining a Judge's order or fiat for that purpose.

VI. And be it enacted, That from the time that any Landlord or Landlords, or other person or persons defending any action of ejectment, shall have filed such consent appearance and plea, his or their name or names shall be considered and taken to have been substituted in the declaration of ejectment in the place and stead of the name of the casual ejector, and it shall not be necessary to file any new declaration, but in making up the issues and record for trial, the same shall be made up and the record shall be examined and passed, the same as if the name or names of the person or persons so defending had been originally in the said declaration instead of that of the casual ejector, making such alterations only as shall be necessary to render the language grammatically correct.

VII. And be it enacted, That it shall be the duty of the Clerks of the Crown and Pleas, from time to time, to furnish their respective Deputies in the several Counties and United Counties of Upper Canada, with all necessary blank consent rules, writs of possession and of *Fieri Facias*, in all actions of Ejectment hereafter to be brought, sued or prosecuted, in any of the said several Counties.

Schedule.

To Mr. _____ The tenant (or tenants, if more than one,) in possession of the premises.

I am informed that you are in possession of or claim title to the premises in this declaration mentioned, or to some part thereof; and I being sued in this action as a casual ejector only, and having no claim or title to the same, do advise you to appear in next _____ Term, in Her Majesty's Court of Queen's Bench, (or Common Pleas, as the case may be) by some Attorney of that Court, by filing your appearance in the office of the Clerk of the Crown and Pleas in the Court of Queen's Bench (or Common Pleas, as the case may be or of the Clerk of the Common Pleas), at Toronto, in the County of York, (if proceedings are had in that County) or in the office of the Deputy Clerk of the Crown and Pleas in the Court of Queen's Bench (or Common Pleas, as the case may be) at _____ in the County of _____ (or in the United Counties of _____ as the case may be) and then and there by rule of the same Court to cause yourself to be made Defendant in my stead: And take notice, that unless the person intending to defend, shall, within eight days, inclusive, after the end of _____ Term next, enter into the customary consent rule, plead to this declaration of Ejectment, file the said consent rule and plea in the office of the said Clerk of Crown and Pleas, (where declaration filed) or the said Deputy Clerk of the Crown and Pleas in the County of _____ or of the United Counties of (where declaration filed)— judgment will be signed against the casual ejector by default, and you will be turned out of possession.

Dated this _____ day of _____ A. D. 185 _____.

Yours, &c.
Richard Roe.