

*The Provincial Statutes of Lower-Canada, Being the fourth session of the eleventh Provincial Parliament of Lower-Canada.* Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1824.

4 George IV – Chapter 13

**An Act to facilitate the proceedings against the Estate and Effects of Debtors, in certain cases. (9th March, 1824.)**

Whereas it frequently occurs, that Debtors, having Estates or Effects within this Province, do secretly, depart the same, and procure their said Estates and Effects, or the value thereof, to be remitted to them, or do conceal themselves within the Province in order to elude the service of the ordinary process of the Law, and defraud their Creditors of their just dues—For remedy whereof, Be it 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 each and every case in which the Estate, Debts or Effects, of any Debtor or Debtors, shall or may be attached (by saisie arrêt,) under process issuing out of any of His Majesty's Courts of Civil Jurisdiction within this Province, and in which the said Debtor or Debtors is, or are either departed from or concealed within the said Province, so that service of the said process cannot be made as by Law required, it shall and may be lawful for the Court in which such suit or action is instituted, on receiving satisfactory proof, by one credible witness, of such departure or concealment, to dispense with such service, and to order notice, in lieu thereof to be inserted in such public Newspaper as the said Court shall direct, for the said Debtor or Debtors to appear in the said Court, within four months, and await the Judgement of the Court; and if the said Debtor or Debtors shall not appear, either in person or by Attorney, within the time specified in such notice, and shew reasonable cause, why the Court should not proceed to judgement in such suit or action, such notice shall have the same force and effect as if the said process had been duly served within the jurisdiction of the Court where the suit is instituted, any Law, usage or custom to the contrary notwithstanding.

II. Provided always, and be it further enacted by the authority aforesaid, that any such Debtor or Debtors against whom judgement shall be recovered as aforesaid, shall be entitled to a rehearing of the cause in which such judgement may have been given, at any time within the year and day after judgement and the Plaintiff in such action, before any execution shall issue on such judgement, shall give sufficient security to the satisfaction of any one of the Judges of the Court in which such judgement may have been given, to refund such sum or sums of money as may be levied by virtue of such execution, in case the said judgement should be reversed on such rehearing as aforesaid, with the costs thereof.

III. Provided always, and it is further enacted by the authority aforesaid, that nothing herein enacted respecting the security in the foregoing section shall be construed to extend to persons who shall

obtain judgement for wages, as having cut Timber or conveyed the same in a raft to any part of this Province, who may obtain and take out execution and cause such Timber to be seized and sold, in satisfaction of such judgements, without being obliged to give such security.

IV. And be it further enacted by the authority aforesaid, that the Estate, Debts and Effects of all and every person or persons residing out of this Province, shall also be subject and liable to be taken, seized, proceeded against and sold for the payment and satisfaction of their debts, in like manner as the Estates, and Effects of other Debtors in and by this Act are made subject and liable to. Provided always, that instead of proof of departure or concealment of such Debtor or Debtors, the Creditor or Creditors proceeding against such Estate, Debts and Effects, shall make proof by one or more credible Witnesses, to the satisfaction of the Court out of which such attachment shall issue, that such Debtor or Debtors do not reside within this Province.

V. And be it further enacted by the authority aforesaid, that if any person or persons shall be sued for any matter or thing done in pursuance or by virtue of this Act, it shall and may be lawful for him, her or them to plead the general issue, and give the special matter in evidence.

VI. Provided always, and be it further enacted by the authority aforesaid, that no person or persons upon whom any Writ of Attachment or Writ of Same Arrêt, or Entiercement for attaching the Estate, Debts, Credits or Effects of any Debtor or other person, Defendant in any action pending or to be brought in any of the said Courts, shall be held or declared to be personally liable or condemned as the Debtor of such Defendant, unless service of such Writ shall have been made upon him personally, or unless the Court from which such Writ shall have issued, shall and may be satisfied, upon proof, by one or more credible Witnesses, that such person intentionally conceals himself for the purpose of avoiding the personal service of such Writ, in which case, service thereof at his domicile shall be deemed and taken as good and sufficient service of such Writ of Attachment, Saisie Arrêt, or Entiercement as aforesaid, any Law usage or custom to the contrary notwithstanding.

VII. And be it further enacted by the authority aforesaid, that this Act shall continue to be in force until the first day of May, one thousand eight hundred and twenty-eight, and no longer.