

The Provincial Statutes of Lower-Canada, Being the second session of the thirteenth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1829.

9 George IV – Chapter 28

An Act to facilitate the proceedings against the Estates and Effects of Debtors, in certain cases. (14th March, 1829.)

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 this Province, 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 prevision 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 arret) or (arret simple) under process issued 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 be lawful for the Court in which such suit or action is instituted, or for any Judge of the said Court in vacation, 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 or Judge in vacation shall direct, for the said Debtor or Debtors to appear in the said Court within two months, and await the judgment 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 judgment in such suit or action, such notice shall have the same force and effect as if the said process had been actually 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 he it further enacted by the authority aforesaid, that any such Debtor or Debtors against whom judgment shall be recovered as aforesaid, shall be entitled to a rehearing of the Cause in which such judgment shall have been rendered at any time within the year and day after judgment; and the Plaintiff or Plaintiffs in such action, before any execution shall issue on such judgment, shall give sufficient security to the satisfaction of any one of the Judges of the Court in which such judgment shall have been given to refund such sum or sums of money as may be levied by virtue of such execution, in case the said judgment should be reversed on such rehearing as aforesaid, with the costs thereof.

III. Provided always and be it 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 judgment 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 judgment, without being obliged to give such security.

IV. 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 be lawful for him, her or them to plead the general issue and give the special matter in evidence.

V. 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 Saisie Arret, or Entiercement for attaching the Estate, Debts, Credits and 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 arret or entiercement as aforesaid, any law, custom or usage to the contrary notwithstanding.

VI. And be it further enacted by the authority aforesaid, that this Act shall continue in force until the first day of May, one thousand eight hundred¹ and thirty-three, and no longer.