

The Provincial Statutes of Lower-Canada, Being the second session of the fifteenth Provincial Parliament of Lower-Canada. Quebec: John Carleton Fisher & William Kemble, Law Printer to the King's Most Excellent Majesty, 1836.

6 William IV – Chapter 3

An Act for the more speedy relief of Insolvent Debtors in certain cases, and for a limited time. (18th December, 1835.)

Whereas it is expedient to afford a speedy relief to Insolvent Debtors by exempting them to a limited extent from arrest under Writs of Capias del satisfaciendum:—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 from and after the passing of this Act, any person who now is or shall be hereafter arrested and detained by virtue of any Writ of Capias ad satisfaciendum, shall, on giving good and sufficient security to the satisfaction of any Justice of the Court of King's Bench or Provincial Court, for the District or Inferior District in which he shall have been arrested, that he will not depart from nor exceed the limits of the District in which he had his domicile at the time of his arrest, be entitled to his liberty and to go at large within the limits of such District, and the condition of every recognizance in this behalf shall be that the Cognizors shall not become liable, unless the Defendant shall depart from or exceed the limits of the District without having paid the debt, interest, and costs for which the action, shall have been brought.

II. And be it further enacted by the authority aforesaid, that every Defendant who shall have given bail according to the requirements of this Act, shall have liberty to go on board of any vessel or boat lying in any river within or opposite, to the District from, the limits of which he is bound not to depart.

III. And be it further enacted by the authority aforesaid, that to entitle any Defendant to the benefit of the Provisions in this Act contained, such Defendant shall file at the Office of the Prothonotary of the Court by which Judgment shall have been pronounced against him, a statement upon oath, making known of what property real and personal he is possessed, and where the same is situate and also what rents or revenues he may have, to the intent that the Plaintiff in the suit may proceed and take the same in execution if he see fit, and if at any time after such statement shall have been so filed, and the Defendant shall have given bail as directed by this Act, the Plaintiff in the suit can establish by evidence, that when the said statement was so filed the Defendant was proprietor of any chattels, effects, lands or tenements not comprehended in the said statement, or that since the institution of the

Plaintiff's action, or within thirty days next preceding the institution thereof, the Defendant hath conveyed any part of his property with, the intent of defrauding the said Plaintiff and depriving him of his remedy, or that the Defendant hath refused to assign over to the Plaintiff any of the said rents or revenues in satisfaction of the whole or part of the said Judgment, then the said Court shall upon a Petition presented to that effect,, set aside the Bail Bond given, by the Defendant in the said suit, and order a Writ of: Capias ad satisfaciendum. to issue against the body of the said Defendant, in the manner directed by Law in cases wherein, the Defendant hath not given Bail as required by this Act, and the said Defendant in such case shall not be entitled, when committed to Prison under such Writ of Capias ad satisfaciendum to have, claim, or receive from the Plaintiff any allowance for his maintenance in Prison, any law, usage, or custom to the contrary notwithstanding.

IV. Provided always, and be it further enacted by the authority aforesaid, that nothing herein contained shall be construed or taken in any manner to affect the right of the Bail to take and surrender the Defendant in discharge of themselves.

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-six and no longer. Provided always, that if it shall happen that at the time of the expiration of this Act, the provisions thereof shall continue to be in force by virtue of any other Act of the Provincial Legislature for a term not exceeding six years, then the Bonds and all other Instruments, matters and things, privileges and advantages made, entered into, ordered, directed, obtained or granted by virtue of this Act, shall have and continue to have full force and effect with regard to all Plaintiffs, Defendants, Bail, and other parties interested, so long as such other Act, continuing the provisions of this Act for a limited time as aforesaid, shall remain in force, in the same manner as if the whole had been made, entered into, ordered, directed, obtained or granted by virtue of such other Act, without its being necessary that any new Bond should be entered into, or any other formality whatsoever observed.