

Statutes of Upper-Canada, Passed in the third session of the fifth provincial parliament (1811).
From *The Provincial Statutes of Upper-Canada: Revised, Corrected, and Republished* (York, R. C. Horne, 1818.)

51 George III – Chapter 3

An Act to extend Personal Arrest to the sum of Forty Shillings, and otherwise to regulate the Practice in cases of Personal Arrest. (Passed 15th March, 1811.)

Whereas, doubts have arisen, whether by the Laws now in force in this Province, any person can be arrested for any sum of money under Ten Pounds Sterling. And whereas the inhabitants of this Province have suffered, and still continue to suffer much injury from persons leaving this Province without paying their debts; for remedy thereof, 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 Upper-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 by the authority of the same, That from and after the passing of this Act, it shall and may be lawful to and for every person or persons who now, or hereafter shall have any debt or debts owing to him, her or them, exceeding the sum of Forty Shillings Provincial Currency, by any person or persons whatsoever inhabiting this Province, to sue out a Writ of Capias ad Respondendum, and cause the person of the said Debtor or Debtors to be arrested in the same manner and under the same conditions, restrictions and limitations, as by the Laws now in force, in this Province, any person or persons may now be arrested for any sum above Ten Pounds Sterling.

II. And be it further enacted by the authority aforesaid, That from and after the passing of this Act, in all cases as well above as under Ten Pounds Sterling, no Capias ad Respondendum, nor Justice's Warrant of Detention shall issue, unless the affidavit be made by the Plaintiff, his servant or agent, shall state that the deponent, verily believes That the Defendant is about to leave the Province with an intent to defraud his Creditors.

III. And be it enacted by the authority aforesaid, That on such affidavit being made before any one of His Majesty's Justices of the Peace, by any Plaintiff, his servant or agent, before action brought, it shall and may be lawful for such Justice to issue his Warrant, and cause the said Defendant to be arrested, and detained until he can be served with the proper process, in like manner as is by Law provided in cases where any action shall have been previously commenced.

IV. And be it enacted by the authority aforesaid, That where the sum sworn to, shall not exceed the sum of Ten Pounds Sterling, it shall and may be lawful for the Defendant at the expiration of one month after having been committed to prison, to make oath before a Commissioner for taking Affidavits in the Court of King's Bench, (having given four days previous notice to the Plaintiff, his attorney, or agent, of his intention to make such oath,) that he is not worth the sum

for which he hath been arrested, and that he hath not directly or indirectly, sold or otherwise disposed of any money, goods, debts, or other personal estate, to defraud any of his creditors; and he the said Defendant, shall thereupon, be discharged from such imprisonment: Provided nevertheless, That such discharge, shall not operate as a discharge from the Debt.

V. And be it further enacted by the authority aforesaid, That no Writ of Capias ad Satisfaciendum shall issue in any action now pending, or hereafter to be brought, unless an affidavit be first made and filed by the Plaintiff, his servant or agent, that the Deponent verily believes that the Defendant is about to leave the Province with an intent to defraud his Creditors, or that he hath reason to believe that the Defendant hath secreted or removed his effects, or hath made some secret and fraudulent conveyance thereof, in order to prevent the same from being taken in Execution, any Law or usage to the contrary in any wise notwithstanding.