

## CAP. X.

## An ACT for the more easy recovery of Debts against Co-Partners and Joint Debtors.

**W**HEREAS, Co-Partners, and other persons, often contract Debts jointly, and some of such Joint Debtors being resident out of the Province, or absent from it, the recovery of such Debts is thereby delayed and impeded; for remedy thereof: Preamble.

I. *Be it enacted, by the Lieutenant-Governor, Council and Assembly,* That where Co-partners or others are or shall become jointly indebted by specialty or simple contract to any person or persons, and any one or more of such joint Debtors shall be absent or resident out of the Province, the creditor or creditors in all suits in such cases hereafter to be instituted, may proceed to recover such debts by purchasing out of the Supreme Court a writ or writs of Mesne Process against all the said Co-partners or Joint Debtors, which shall be served in the usual manner upon such of the Defendants as shall be in the Province; and if such Mesne Process shall be a writ of Attachment, the Sheriff or Officer to whom the same shall be directed, may, and is hereby authorized, to levy such Attachment on the joint property of all the Co-partners or Joint Debtors, and hold the same to respond the judgment to be given in such case. Mesne Process against Co-partners or Joint debtors.

II. *Provided always, and be it enacted,* That if it shall be made appear to the said Court, by affidavit or plea in abatement, that the names of any of the said Co-partners or Joint Debtors, are omitted in the writ, or that any of them who were in the Province at the time of issuing such Mesne Process as aforesaid, have not been duly served with the same, in the usual manner, it shall be lawful for the Court to abate the writ, or to stay the proceedings, as the case may require, any thing herein contained to the contrary notwithstanding. Proviso.

III. *And be it further enacted,* That in all cases as aforesaid, the plaintiff or plaintiffs may file his or their declaration against such of the Co-partners, or Joint Debtors, as have been duly served with Mesne Process, and may suggest in the said declaration, that the other Co-partners, or Joint Debtors, (naming them) were absent out of the Province, and without the jurisdiction of the Court, at the time of issuing the process, and at the time of filing such declaration, and thereupon the plaintiff or plaintiffs, may proceed according to the usual practice of the Court, to obtain judgment against the said Co-partners, or Joint Debtors, who have been so duly served with process, in the same manner as is practised in England against a defendant, whose Co-partner, or Joint Debtor, has been outlawed. Absent Co-partners or Joint debtors.

IV. *And be it further enacted,* That it shall be lawful for the plaintiff or plaintiffs, after judgment recovered as aforesaid, to take out Execution thereon, and to cause the same to be extended on the joint or separate property, or on the persons of all the said Co-partners or Joint Debtors. *Provided always,* That it shall not be lawful by virtue of this Act to execute any such Writ or Process against the body, goods or estate, the sole property of any person not brought into Court as a party to such suit. Execution.

*And provided also,* That if any such defendant shall make affidavit that it is necessary for him to receive instruction or information respecting such suit from his absent Partner or Joint Debtor, and that he cannot safely proceed to the trial of the cause without communication with the said absence, and that he is not seeking for delay only, it shall be lawful for the Court, on application, grounded on such affidavit, or other sufficient cause, to grant to the defendant or defendants a reasonable imparlance allowed in common cases. Imparlance.

V. *And be it further enacted,* That if any Co-partner, or Joint Debtor, being absent as aforesaid,

Co-partner not having been served with Mesne Process.

forefaid, and not ferved with mefne procefs, fhall come into the province before the final determination of the fuit againft his Co-partner, or Joint Debtor, and fhall apply to the Court to be admitted to appear to defend the faid action, the Court fhall admit him accordingly, and fhall caufe fuch amendment to be made in the proceedings as may be required to make the fame regular and confiftent.

Co-partners coming into Province after judgment.

VI. *And be it further enacted,* That if any fuch abfent Debtor or Co-partner fhall come into the Province after final judgment given in any fuch caufe, it fhall be lawful for the plaintiff or plaintiffs, in cafe he or they fhall not have received full fatisfaction on fuch judgment, to fue out a Writ of Scire Facias againft fuch laft mentioned Co-partner or Joint Debtor, requiring him to appear and fhew caufe why execution fhould not be had againft him, his goods, chattels, lands and tenements, to fatisfy the faid judgment, or whatever may remain due thereon, and fuch defendant fhall be allowed to plead either in bar to the original fuit, or in anfwer to the faid Scire Facias, and thereupon the Court fhall proceed to try and determine the fame, and to give judgment as in other caufes inftituted by fuch Writ.

Absent or Abfconding debtors.

VII. *And be it further enacted,* That nothing herein contained fhall be conftrued to affect or prevent any proceedings which may, or fhall hereafter, be inftituted againft any abfent or abfconding Debtors, purfuant to the Act in fuch cafe made and provided.

Continuation. \* In force in 1815.

VIII. *And be it further enacted,* That this Act fhall continue and be in force for the fpace of three years from the publication hereof, and from thence to the end of the next Seflion of the General Afsembly.\*

CAP. XI.

An ACT to revive and continue an Act, made and paffed in the thirty-eighth year of His prefent Majesty's Reign, entitled, An Act to amend and render more effectual an Act, paffed in the eighteenth year of His prefent Majesty's Reign, entitled, An Act to prevent the foreftalling, regrating, and monopolizing of Cord Wood in the Town of Halifax.

Preamble.

WHEREAS, the faid Act has been fuffered to expire, and it is found neceffary, that the faid Act fhould be revived :

Act revived.

I. BE it enacted, by the Lieutenant-Governor, Council and Afsembly, That the faid Act be, and the fame is hereby, revived.

Continuation. \* In force in 1815.

II. *And be it further enacted,* That the faid Act fhall continue and remain in full force until the fifteenth day of March, which will be in the Year of our Lord one thoufand eight hundred and thirteenth, and from thence to the end of the next Seflion of the General Afsembly, and no longer.\*