

from arrest, under and by virtue of any civil process during the days which such muster or training shall take place: *Provided*, he shall attend the same, or shall be proceeding from his place of residence towards the place of such muster or training, for the purpose of such attendance, or returning therefrom; and every such arrest, if made, is hereby declared to be wholly void; and every Sheriff or other Officer, actually making such arrest, shall be subject and liable to an Action for damages at the suit of the party who shall be so arrested.

CAP. XI.

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

Preamble

WHEREAS, *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,*

Mode of proceeding against Joint Debtors

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.*

Errors in Writs

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.*

Filing Declarations

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 practiced in England against a Defendant whose Co-Partner or Joint Debtor has been outlawed.*

Judgments

Writs of Execution

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. *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 absentee, 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.

Proviso

Proviso

V. *And be it further enacted*, That if any Co-Partner or Joint Debtor, being absent as aforesaid, and not served with Mesne Process, shall come into the Province before the final determination of the suit against his Co-Partner or Joint Debtor, and shall apply to the Court to be admitted to appear to defend the said action, the Court shall admit him accordingly, and shall cause such amendment to be made in the proceedings as may be required to make the same regular and consistent.

Return of Debtors
pending Actions

VI. *And be it further enacted*, That if any such absent Debtor or Co-Partner shall come into the Province after final Judgment given in any such cause, it shall be lawful for the Plaintiff or Plaintiffs, in case he or they shall not have received full satisfaction on such Judgment, to sue out a writ of *scire facias* against such last-mentioned Co-Partner or Joint Debtor, requiring him to appear and shew cause why execution should not be had against him, his goods, chattels, lands, and tenements, to satisfy the said Judgment, or whatever may remain due thereon; and such defendant shall be allowed to plead, either in bar to the original suit, or in answer to the said *scire facias*; and thereupon the Court shall proceed to try and determine the same, and to give Judgment, as in other causes instituted by such writ.

Debtors returning
subsequent to Ac-
tions

VII. *And be it further enacted*, That nothing herein contained shall be construed to affect, or prevent any proceedings which may or shall hereafter be instituted against any absent or absconding Debtors, pursuant to the Act in such case made and provided.

This Act not to
interfere with that
against absent or
absconding Deb-
tors

CAP. XII.

An Act relating to Commissioners of Highways in Halifax, and certain other Places.

WHEREAS, by virtue of several Acts of the General Assembly of this Province, repealed during the present Sessions, Commissioners have been appointed for repairing the Streets and Highways in the Town and Peninsula of Halifax, and in the Towns of Annapolis Royal, Windsor, Liverpool, Lunenburg, and Pictou, and it is expedient to provide for the continuance of the authority vested in the said Commissioners—

Preamble

I. *Be it therefore enacted*, by the Lieutenant-Governor, Council and Assembly, That the several and respective Persons who now are Commissioners for repairing, keeping in repair, and paving the Streets and Highways in the Town and Peninsula of Halifax, and in the Towns of Annapolis Royal, Windsor, Liverpool, Lunenburg, and Pictou, respectively, shall be, and they are hereby declared, Commissioners of Highways there-in respectively, during the pleasure of the Governor, Lieutenant-Governor, or the Commander in Chief, for the time being, for the purposes and in the manner prescrib-

Commissioners
confirmed in their
appointments