

The Provincial Statutes of Lower-Canada, Being the third session of the seventh Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1812.

53 George III – Chapter 1 (Session 2)

Act to facilitate the circulation of Army Bills. (1st August, 1812.)

MAY IT PLEASE YOUR MAJESTY,

Whereas by minute of your Majesty's Executive Council of this Province, made on the Sixth day of July in this year of our Lord one thousand eight hundred and twelve upon reference by his Excellency Sir George Prevost, Baronet, your Majesty's Captain General and Governor in Chief in and over the Provinces of Lower-Canada, Upper-Canada, Nova Scotia, New Brunswick and their several dependencies, Lieutenant General and Commander of your Majesty's Forces in, British North America, it was declared to be the unanimous opinion of that Board, That for the purposes of maintaining the means of circulation and answering the exigencies of the public service at this important conjuncture, it was adviseable, "FIRST, That His Excellency the Governor, as the Commander of His Majesty's Forces, from time to time, should prepare and make or cause to be prepared and made, any number of Bills to be denominated, ARMY BILLS, containing one common sum or different sums in the principal monies, so that all the principal sums to be contained in the said Army Bills so to be made, do not exceed two hundred and fifty thousand pounds currency. SECOND, that such Army Bills should be issued from an office to be established for that purpose to be called the Army Bill Office. THIRD, that the said Army Bills of twenty-five dollars each and upwards, should bear interest at the rate of four pence per centum per diem, upon or in respect of the several amounts of each. FOURTH, that the principal sums of the said Army Bills of twenty-five dollars each and upwards, should at the option of the Commander of the Forces, be payable on demand to the holders of such Army Bills in cash or in government Bills of Exchange in London, at thirty days sight at the current rate of Exchange. FIFTH, that the interest of all such Army Bills of twenty- five dollars each and upwards upon the payment thereof in cash or in Bills of Exchange as aforesaid, should be paid in Army Bills or in cash at the Army Bill Office at the option of the Holders of such Army Bills. SIXTH, that the principal sums of all such Army Bills of twenty-five dollars each and upwards, if paid in cash, should be paid at the Army Bill Office, but if paid in Government Bills of Exchange, should be paid at the Office of the Commissary General, upon a deposit in Army Bills of the amount of the Bills of Exchange to be so paid, and a certificate of such deposit under the hand of the Superintendant of the Army Bill Office, to the Commissary General. SEVENTH, that it will be adviseable for His Excellency the Governor as Commander of the Forces, from time to time to prepare and make or cause to be prepared and made such number of Army Bills of the value of four dollars each as he shall feel fit, provided, the said Army Bills of four dollars each, and the said Army Bills of twenty-five dollars each and upwards, do not together exceed the aforesaid sum of two hundred and fifty thousand pounds currency. EIGHTH, that the said Army Bills of four dollars each should be payable at the Army Bill Office in cash, to the bearer on demand. NINTH, that all Army Bills whatever should be issued as cash, upon the warrants of His Excellency as Commander of the Forces, to such person or persons, as he by such warrants shall see fit to direct such payments to be made. TENTH, that the

current rate of Exchange should be established on oath once in every fortnight by five persons to be named by His Excellency and publickly notified before any Army Bills whatever shall be issued. ELEVENTH, that if any Army Bill shall be filled up by indorsements or be by accident defaced, the same on application being delivered up should be cancelled and new Army Bills should be issued in lieu of such Army Bills so cancelled and such new Army Bills should bear the same numbers, dates and principal sums and carry the like interest as the Army Bills, so cancelled. TWELFTH, that no Army Bills should be reissued, those of four dollars each excepted, and that all Army Bills whatever should at all times be redeemable by being called in and paid, both principal and interest, in cash." And whereas His Excellency Sir George Prevost, Barone, hath been pleased thereupon to prepare and cause to be prepared such Army Bills as aforesaid, to the value of two hundred and fifty thousand pounds, currency, which from time to time as required will be issued. And whereas it is the bounden duty of the Legislature of this Province, to furnish every possible aid and assistance towards the defence and protection of the Province, and to this end it is necessary to facilitate and support the circulation of all such Army Bills; May it therefore please your Majesty that it may be enacted and 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 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 it shall and may be lawful to and for the Governor, Lieutenant Governor or person administering the Government of this Province for the time being, and each of them is hereby enabled, authorised and empowered from time to time and at all times, to pay and allow or cause to be paid and allowed out of all every and any the monies, customs, taxes and revenues of this Province, and in preference to all other claims and demands whatsoever, all such interest at the rate of four pence per hundred pounds per diem, as aforesaid as shall have arisen and grown due upon all, every and any such Army Bill, as aforesaid, which shall be so issued as aforesaid, not exceeding in the whole the sum of fifteen thousand pounds currency, per annum, which said interest shall run from the day of the date of such Bill or Bills, and such other charges as shall be necessarily incurred in, to or for the issuing, circulating or cancelling of the said Army Bills, not exceeding in the whole two thousand five hundred pounds, currency per annum, any thing herein or in any other Act contained, to the contrary notwithstanding.

II. Provided always and be it enacted by the authority aforesaid, that whatever monies shall be issued out of the aforesaid monies, customs, taxes and revenues, of this Province, shall from time to time be replaced by and out of the first supplies to be then after granted to His Majesty, his heirs and successors, in the Provincial Parliament.

III. And be it further enacted by the authority aforesaid, that all each and every the said Army Bills which shall be issued as aforesaid, and shall from time to time remain undischarged and uncanceled, shall and may be received and taken and shall pass and be current to all and every the Collectors and Receivers in this Province of Lower Canada, of the Customs or any Revenue or Tax whatsoever already granted, due or payable, or which shall or may hereafter be granted, due or payable to His Majesty, his Heirs and Successors under and by virtue of any Act of the Parliament of Great Britain or of the

Provincial Parliament or otherwise, and also at the Office of the Receiver General of this Province from the said Collectors and Receivers or from any other person or persons, bodies politic or corporate whatsoever, making any payments whatever there to His Majesty, his Heirs and Successors for or upon any account, cause or occasion whatsoever, and that the same in the hands of such Collectors and Receivers and in the hands of the Receiver General of this Province shall be deemed and taken as Cash, and as such shall be charged against and credited to such Collectors and Receivers and to such Receiver General as aforesaid respectively in their respective accounts with each other and with His Majesty, his Heirs and Successors.

IV. And be it enacted by the authority aforesaid, that the interest which from time to time shall be due upon any such Army Bill as aforesaid, shall be allowed to all persons bodies politic and corporate paying the same to the Receiver General of this Province, or to any Collector or Receiver of any of His Majesty's Customs, revenues or taxes up to the respective days whereupon such Bill or Bills shall be so paid; Provided always that every such Receiver General, Collectors and Receivers as aforesaid shall be accountable for the interest on every such Bill so by them or either of them received for and during the time during which such Bill shall remain in their hands.

V. And be it further enacted by the authority aforesaid, that all interest upon such Army Bills as aforesaid shall cease from and after the fourteenth day next after the day on which the same by any proclamation or other public requisition by the Commander of His Majesty's Forces for the time being, shall be called in to be redeemed in cash and that money shall be reserved in hand for discharging the same.

VI. And be it further enacted by the authority aforesaid, that if any person or persons shall forge or counterfeit any such Army Bills as aforesaid which shall be issued before the same shall be paid off, discharged or cancelled, or any stamp, indorsement or writing thereupon or therein or tender in payment any such forged or counterfeit Army Bills or any such Army Bill with such counterfeit stamp, indorsement or writing thereupon or therein, or shall demand to have such counterfeit Army Bill or any such Army Bill with such counterfeit stamp, indorsement or writing thereupon or therein exchanged for Bills of Exchange or for cash or ready money by any person or persons, body or bodies politic or corporate who shall be obliged or required to exchange the same or by any other person or persons whatsoever knowing the Bill so tendered in payment or demanded to be so exchanged or the stamp or indorsement or writing thereupon or therein to be forged or counterfeited, and with intent to defraud His Majesty, his Heirs and Successors or the persons appointed or to be appointed to pay off the same or any of them or to pay any interest thereon, or the person or persons, officer or officers, body or bodies politic or corporate who shall issue or exchange the same for Bills of Exchange or any of them, or any other person or persons, body or bodies politic or corporate whatever, then every such person or persons so offending being thereof lawfully convicted shall be adjudged a Felon, and shall suffer as in cases of Felony, without benefit of clergy.

VII. And be it further enacted by the authority aforesaid, that if any person or persons in any contract covenant agreement promise or other engagement whatever written or verbal shall specially undertake to pay or stipulate to be paid for any work, labour, goods, wares, merchandize, chattels or estate, moveable or immoveable or for any other matter or thing whatever, in specie or in any gold,

silver or copper coin or shall otherwise make any distinction in value between the current coin and money of this Province, and such Army Bills as aforesaid then and in every such case, such contract, covenant, agreement, promise or other engagement written or verbal as aforesaid, shall be utterly and entirely null and void to all intents and purposes whatsoever, and every and any such undertaking, to pay or stipulation to be paid in specie or in any gold, silver or copper coin as aforesaid, and every such distinction in value as aforesaid, so made as aforesaid, shall and may be proved in any and every of His Majesty's Courts of Law in this Province, by parol proof, any law, usage or custom to the contrary notwithstanding.

VIII. And be it further enacted by the authority aforesaid that for and during the period of five years from the passing of this Act no person shall be held to special Bail upon any process issuing out of any Court of Judicature in this Province unless the affidavit which shall be made for that purpose according to the Provisions contained in the Ordinance made and passed in the twenty fifth year of the Reign of His Majesty King George the Third, intituled "An Ordinance to regulate the proceedings in the Court of Civil Judicature and to establish Trials by Juries in actions of a commercial nature and personal wrongs to be compensated in damages," shall not only contain the several matters required by the said Ordinance, but also that no offer has been made to pay in Army Bills the sum of money in such affidavit mentioned and therein sworn to for the purpose of holding such person to special Bail. And if any process shall be issued against any person upon which such person might have been held to special Bail before the passing of this Act and no affidavit shall be made as aforesaid "That no such offer of payment in Army Bills had been made as aforesaid," such person shall not be arrested on such process but proceedings shall be had against such person in the same manner as if no affidavit had been made for the purpose of holding such person to special Bail under the provisions of the Ordinance last aforesaid. Provided always, that if an affidavit shall be made upon which any person or persons might be held to special Bail upon any such process as aforesaid before the passing of this Act, and it shall be likewise sworn in such affidavit that such offer of payment in Army Bills has been made as aforesaid so that the person or persons who might have been arrested and held to special Bail upon such process, if this Act had not been made, cannot by reason of such offer and of the provisions in this Act contained be so arrested and held to special Bail, it shall be lawful for the Court out of which such process shall issue or for any Judge of such Court in a summary way in term or vacation to order the defendant or defendants in the action in which such process shall issue and who might have been so held to special Bail as aforesaid if this Act had not been made to cause Army Bills to the amount of the sum of money for which such person or persons might have been so held to special Bail if this Act had not been made to be deposited in such manner as such Court or such Judge shall direct to answer the demands of the Plaintiff or Plaintiffs in such action, and if such deposit shall not be made within the time limited by such order after such notice thereof, as shall thereby be directed to be given, it shall be lawful upon affidavit duly made and filed that such deposit has not been made according to such order, to arrest such defendant or defendants and to hold him or them to special Bail in such and the same manner as if this Act had not been made.

IX. And be it further enacted by the authority aforesaid, that for and during the period of five years from the passing of this Act no process of attachment for attaching the estate, debts and effects of what nature soever of any person or persons whomsoever whether in the hands of the owner, the debtor or of a third person prior to trial and judgment shall issue, unless the affidavit which shall be

made for that purpose according to the provisions contained in the Ordinance made and passed in the twenty-seventh year of the reign of His Majesty King George the Third, intituled, "An Ordinance to continue in force for a limited time an Ordinance made in the twenty-fifth year of His Majesty's reign, intituled, An Ordinance to regulate the proceedings in the Court of Civil Judicature and to establish Trials by Juries in actions of a Commercial nature and personal wrongs to be compensated in damages with such additional regulations as are expedient and necessary," shall not only contain the several matters required by the said Act but also that no offer has been made to pay in Army Bills the sum of money in such affidavit mentioned and therein sworn to for the purpose of obtaining such attachment. And if any process of attachment shall be issued upon which the estate debts and effects of any nature soever of any person or persons whomsoever in the hands of the owner of the debtor or of a third person, might have been attached prior to Trial and Judgment before the passing of this Act, and no affidavit shall be made that no such offer of payment in Army Bills had been made as aforesaid, such attachment shall not be executed, and proceedings shall be had against the owner or owners of the estate debts or effects which might otherwise have been attached in the same manner as if no affidavit had been made for the purpose of obtaining an attachment under the provisions of the Ordinance last aforesaid. Provided always, that if affidavit shall be made upon which any attachment against the estate, debts and effects of any person or persons whomsoever in the hands of the owner of the debtor or of a third person, might have been obtained before the passing of this Act, and it shall likewise be sworn in such affidavit, that such offer of payment in Army Bills has been made as aforesaid so that such attachment which might have been obtained and issued if this Act had not been made, cannot by reason of such offer and of the provisions in this Act contained be so obtained or issued, it shall be lawful for the Court out of which the Process ad Respondendum in such case shall issue or for any judge of such Court in a summary way in term or vacation, to order the defendant or defendants in the action in which such Process ad Respondendum shall issue, to cause such Army Bills as aforesaid to the amount of the sum of money for which such attachment might have issued if this Act had not been made, to be deposited in such manner as such Court or such Judge shall direct to answer the demande of the plaintiff or plaintiffs in such action. And if such deposit shall not be made within the time limited by such order, after such notice thereof as shall thereby be directed to be given, it shall be lawful upon affidavit duly made and filed, that such deposit has not been made according to such order to award and cause to be issued an attachment or attachments against the estate, debts and effects of any nature whatsoever of such defendant or defendants in such action in the hands of the owner, of the debtor, or of a third person prior to trial or judgment, in such and the same manner, as if this Act had not been made.

X. And be it further enacted by the authority aforesaid, that if any person or persons against whom any Writ of Capias ad Satisfaciendum shall have issued out of any of His Majesty's Courts in this Province, shall deposite in the hands of the Sheriff to whom such Writ of Capias ad Satisfaciendum shall be addressed, the amount of the sum for which such Capias ad Satisfaciendum shall have issued in Army Bills, such deposit so made, shall operate as a supersedeas of such Writ of Capias ad satisfaciendum, and it shall be lawful to and for the Court out of which such Capias ad satisfaciendum shall have issued, or for any Judge of such Court in a summary way upon affidavit duly made and filed that such deposit has been so made as aforesaid, forthwith to discharge such person or persons against whom such Capias ad satisfaciendum shall have issued, out of custody, and to direct and order such Army Bills to remain or be deposited in such manner as such Court or such Judge shall direct, to satisfy

the judgment obtained by the plaintiff or plaintiffs in the action in which such Capias ad satisfaciendum shall have issued. And if such plaintiff or plaintiffs shall see fit to take up and receive such Array Bill so deposited, then and in such case and from thenceforth, the judgment obtained by such. plaintiff or plaintiffs shall thereby be and for ever shall remain fully and entirely paid, discharged and satisfied, to all intents and purposes whatever. But if such plaintiff or plaintiffs shall not see fit to take up or receive such Army Bills so deposited, then and in such case such deposit of such Army Bills shall operate to stay all proceedings whatever in such action and upon such judgment until the expiration of five years from the passing of this Act, and from and after the expiration of five years from the passing of this Act and not before, process of execution shall be allowed and be issued for the satisfaction of the principal sum of such judgment with interest, thereon to the day on which such deposit of such Army Bills shall be so made and not after, in such and the same manner as if this Act had never been made, and such Army Bills so deposited, shall be returned and restored to the person or persons by whom the same shall have been deposited.

XI. And be it further enacted by the authority aforesaid, that if any person or persons against whose goods or chattels, lands or tenements, debts or credits, any Writ of Fieri facias attachment, Venditioni exponas or other Writ of execution shall have issued after judgment, out of any of His Majesty's Courts in this Province, shall deposit in the hands of the sheriff to whom such Writ of Fieri facias attachment, Venditioni exponas or other writ of execution shall be addressed, the amount of the sums for which such writ of Fieri Facias, attachment, Venditioni exponas or other writ of Execution shall have issued, in Army Bills, such deposit so made shall operate as a supersedeas of such Writ of Fieri facias attachment, Venditioni exponas or other Writ of execution, and it shall be lawful to and for the Court out of which such Writ of Fieri facias attachment, Venditioni exponas or other Writ of execution shall have issued or for any Judge of such Court in a summary way upon affidavit duly made and filed that such deposit has been so made as aforesaid, forthwith to order Main levée of such Writ of Fieri facias attachment, Venditioni exponas or other Writ of Execution, and to direct and order such Army Bills to remain or be deposited in such manner as such Court or such Judge shall direct, to satisfy the judgment so obtained by the plaintiff or plaintiffs in the action in which such Writ of Fieri facias attachment, Venditioni exponas or other Writ of execution shall have issued, and if such plaintiff or plaintiffs shall see fit to take up and receive such Army Bills so deposited, then and in such case and from thenceforth the judgment obtained by such plaintiff or plaintiffs shall thereby be and for ever shall remain fully and entirely paid, discharged and satisfied to all intents and purposes whatever. But if such plaintiff or plaintiffs shall not see fit to take up or receive such Army Bills so deposited, then and in such case, such deposit of such Army Bills shall operate to stay all proceedings whatever in such action, and upon such judgment until the expiration of five years from the passing of this Act, and from and after the expiration of five years from the passing of this Act, and not before process of execution shall be allowed and be issued for the satisfaction of the principal sum of such judgment with interest thereon to the day on which such deposit of such Army Bills shall be so made and not after, in such and the same manner as if this Act had never been made, and such Army Bills so deposited, shall be returned and restored to the person or persons by whom the same shall have been so deposited.

XII. And be it further enacted by the authority aforesaid, that in case proof shall be made on the oath or oaths of one or more credible Witness or Witnesses, before the Chief Justice or other Justices of His Majesty's Court of King's Bench, or any of them in this Province, that any Army Bills shall by casualty or

mischance have been lost, burnt, or otherwise destroyed before the same shall have been paid off and discharged; and if by such oath or oaths the numbers and sums of such Bill or Bills shall be correctly ascertained, and the said Chief Justice and other of the said Justices or any of them before whom such oath or oaths shall be made, shall certify that he or they are satisfied with such proof, then and in every such case the proprietor or possessor of such Bill or Bills shall be entitled to receive, on application at the Army Bill Office, another Bill or other Bills, bearing the same arithmetical number and value as the Bill or Bills so lost, burnt or destroyed. Provided that the person or persons so receiving the money, do give security to the King, to the good liking of the person or persons appointed, or who shall be appointed as aforesaid, to pay off and take in the said Bills, to pay into the receipt of the Pay Master or Pay Masters of the Army Bill Office for the use of the Public, so much money as shall be paid upon such Certificate or Certificates, if the Bill or Bills so certified to be lost, burnt or destroyed, shall be thereafter produced.

XIII. And whereas there may be many persons desirous of coming forward in aid of His Majesty's Government, with the loan of monies, who, having no commercial concerns whereby to dispose of Bills of Exchange, and whom on that account may be deterred therefrom; for remedy thereof, Be it enacted by the authority aforesaid, that from and after the expiration of five years after the passing of this Act, each and every holder of any and every such Army Bill as may then remain unpaid and unsatisfied, shall be entitled to receive out of and from the monies that then may be in the hands of the Receiver General of this Province, or from the first monies that may thereafter come into his hands arising out of any taxes or duties heretofore imposed or that may hereafter be imposed, levied or raised by virtue of any Act or Acts of the Provincial Legislature, or from the rents and revenues of His Majesty's Territorial Domains in this Province, the full amount of all such Army Bills in money, with the interest remaining due thereon.

XIV. And be it further enacted by the authority aforesaid, that it shall be the duty of the Receiver General of the Province, on receipt and payment of all or any of such Army Bills as aforesaid, to pay over the same His Majesty's Commissary General for the time being, and to receive from him the amount thereof in Government Bills of Exchange, at the current rate of Exchange, or in Cash at the option of the said Commissary General; and said Receiver General shall immediately thereafter render a true and exact account of all such payments and receipts to the Governor, Lieutenant Governor or Person administering the Government for the time being, in order that the same may be laid before the House of Assembly at the next Session thereafter.

XV. And be it further enacted by the authority aforesaid, that for and during the period of five years from the passing of this Act, no person whatever shall export or otherwise carry out of this Province, any Gold, Silver, or Copper Coin of any description whatsoever, or any molten Gold or Silver in any shape or shapes whatever; and if any person whatever shall export or otherwise carry out of this Province, or procure to be exported or otherwise carried out of this Province, or put on board of any ship, vessel or boat or into any land carriage, to be exported or otherwise carried out of this Province, or shall in any manner or way whatsoever attempt or endeavour to export or otherwise carry out of this Province, or attempt or endeavour to procure to be exported or otherwise carried out of this Province, any Gold, Silver or Copper Coin of any description whatever, or any molten Gold or Silver in any shape or shapes whatever, then, in each and every such case, such Gold, Silver and Copper Coin

and such molten Gold and Silver shall be forfeited, one half to His Majesty, his Heirs and Successors, and one half to the person who shall sue for the same, and the same shall and may be seized, sued for, prosecuted, condemned and recovered in such Courts, and by such and the like ways, means and methods, and the produce thereof disposed of and applied in such and the like manner and to such and the like uses and purposes as any forfeiture incurred by any law respecting the Revenue of the Customs may now be seized, sued for, prosecuted, condemned or recovered, disposed of or applied.

XVI. And be it further enacted by the authority aforesaid, that every person whatever, who during the aforesaid period of five years from the passing of this Act, shall export or otherwise carry out of this Province, or procure to be exported or otherwise carried out of this Province, or shall out on board of any ship, or vessel or boat or into any land carriage to be exported or otherwise carried out of this Province, or shall in any manner or way whatsoever attempt or endeavour to export or otherwise carry out of this Province, or attempt or endeavour to procure to be exported or otherwise carried out of this Province, any Gold, Silver or Copper Coin of any description whatever, or any molten Gold or Silver, in any shape or shapes whatever, for every such offence, over and above the forfeiture of such Gold, Silver and Copper Coin, and of such molten Gold or Silver, if the same shall be seized, shall forfeit the sum of Two hundred Pounds, and double the value of such Gold, Silver and Copper Coin, and of such molten Gold and Silver, one half to His Majesty, his Heirs and Successors, and one half to the person who shall sue for the same, by bill, suit, action or information in any of his Majesty's Courts in this Province.

XVII. Provided always, and it is hereby enacted by the authority aforesaid, that nothing in this Act contained shall extend or be construed to extend to any person leaving this Province, and carrying with him no greater or other sum than the sum of Ten Pounds, Sterling, in coin, and no molten Gold or Silver, in any shape or shapes whatever, save and except such further sum and such articles of plate as he, she, or they, by licence under the hand of the Governor, or Lieutenant Governor or Person administering the Government of this Province for the time being, shall be permitted and allowed to carry with him, her or them.

XVIII. And be it further enacted by the authority aforesaid, that any person taking a false oath in any case wherein an oath is required to be taken by this Act, shall be deemed guilty of wilful and corrupt Perjury, and being thereof duly convicted, shall be liable to such pains and penalties, as by any Laws now in force, any persons convicted of willful and corrupt perjury, are subject and liable to.

XIX. And be it further enacted by the authority aforesaid, that the fines, forfeitures and penalties, by this Act imposed, except the part granted to informers, shall be paid into the hands of his Majesty's Receiver General of this Province, by the person or persons receiving the same, for the use of his Majesty, and shall be accounted for to the Crown, through the Commissioners of his Majesty's Treasury for the time being, as the Crown shall direct.

XX. And be it further enacted by the authority aforesaid, that if any action or suit shall be commenced against any person or persons for any thing done in pursuance of this Act, such action or suit shall be commenced within two years next after the offence shall have been committed, and not afterwards, and the defendant or defendants in such suit or action may plead the general issue, and give this Act

and the special matter in evidence, at any trial to be had thereupon and that same was done in pursuance of this Act; and if it shall appear so to have been done, then the Court shall find for the defendant or defendants, and if the- plaintiff or plaintiffs shall be non suited or discontinue his or their action, after the defendant or defendants shall have appealed, or if judgment shall be given against the plaintiff, the defendant or defendants shall and may recover treble costs, and have the like remedy for the same as defendants have in other cases by Law.