

The Provincial Statutes of Lower-Canada, Being the third session of the ninth Provincial Parliament of Lower-Canada. Quebec: P. E. Desbarats, Printer to the King's Most Excellent Majesty, 1819.

59 George III – Chapter 10

An Act to facilitate the recovery of Small Debts in certain parts of this Province. (24th April, 1819.)

Whereas an easy and expeditious method for the recovery of small Debts of the nature herein-after specified, within the Townships and Seigniories of this Province, would be of great advantage to the Inhabitants residing within the same; 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; it shall and may be lawful to and for His Majesty's Justices of the Peace to take cognizance of such causes and suits as are herein-after specified, arising in the County in which such Justice or Justices of the Peace may reside, (the Counties of Quebec, Montreal, and Saint Maurice, excepted) and for that purpose it shall and may also be lawful to and for such Justice or Justices of the Peace, upon request or application to them or any of them made, to grant and issue or cause to be granted and issued, a summons or summonses, to one or more person or persons, as the case may require (which summons shall be in the form herein-after mentioned) and shall not be returnable in less than two days, in cases where the defendant or defendants shall reside within two leagues distance from the residence of the Justice of the Peace before whom he or they may be summoned, allowing one day more between the service and return of every such summons, for every five leagues distance over and above the said two leagues at which the defendant or defendants may reside from the residence of such Justice or Justices of the Peace; and to hear, try, and determine in a summary manner, agreeable to Law, and the Evidence before them, all causes and complaints which shall be brought before him or them, and arising within the County in which such Justice or Justices of the Peace may reside, concerning the recovery of debts, not exceeding in amount the sum of four pounds, three shillings and fourpence, current money of this Province, of the following nature, that is to say: for goods sold and delivered, work and labour done, money lent and advanced, money paid, laid out or expended to or for the hire of any person or persons, and for house rent, or on acknowledgments, commonly called or known under the description of Bons, or on such note or notes of hand (only) in which the party or parties to whom such note or notes shall have been made payable, shall sue the maker or makers of the same, but not in cases in which any party or parties so suing shall claim as Indorsee, or otherwise than as aforesaid.

II. And be it further enacted by the authority aforesaid, that in cases where either of the parties, Plaintiff or Defendant, in any suit or suits to be instituted under this Act, may require the benefit of a decision by Arbitrators on the subject in dispute, it shall be the duty of the Justice of the Peace before whom the same shall have been instituted, to present to the parties a List of nine disinterested persons

who shall be in no wise related to the parties within the degree as by Law prohibited for Arbitrators, (which List shall be taken from a general Table to be kept by the said Justices of the Peace, containing the names of all Freeholders, being of age, living within two leagues distance from the residence of the said Justice of the Peace before whom the complaint shall be carried, (which List of nine persons shall be taken in rotation in order that the same persons be not chosen a second time until their turn,) and from which List so presented, the Plaintiff and Defendant shall each have the liberty of objecting to three, leaving three Arbitrators, who shall decide in a summary manner, and return an Arbitrament according to the proofs made before them, and which Arbitration shall be final and conclusive; and so soon as the aforesaid Arbitrators shall have been selected, the said Justice of the Peace shall grant a Written Order to that effect, to be served on such Arbitrators by some Peace Officer or Sergeant of Militia, nearest to the residence of the said Arbitrators, which Arbitrators so summoned, shall and they are hereby required to appear before such Justice of the Peace under the penalty of five shillings, current money of this Province, for every neglect or refusal so to do, and it shall be the duty of the said Justice of the Peace before the matter in dispute shall have been discussed to administer an oath to each of the said arbitrators well and truly to determine the matters at issue, according to the evidence, and the aforesaid three arbitrators shall be entitled to receive for their attendance and arbitrament, one shilling and sixpence, current money of this Province, and no more.

III. And be it further enacted by the authority aforesaid, that it shall be lawful for the Justice or Justices of the Peace before whom any such suit or action shall have been instituted, on the application of either party, to issue Writs of Subpoena, to compel the appearance of witnesses before him or before the said arbitrators, under a penalty of ten shillings, current money of this Province, for each and every default to appear as by the said Writ of Subpoena commanded; and that it shall be lawful to and for such Justice or Justices of the Peace to administer to such witnesses an Oath in the usual manner.

IV. And whereas it is proper, to fix the costs of such Causes as shall be adjudged under and in virtue of this Act, by any Justice or Justices of the Peace, be it further enacted by the authority aforesaid, that it shall be lawful to and for the said Justices of the Peace to demand and have for every summons, one shilling, currency, for every Copy of a Summons, six pence, currency, for every Subpoena one shilling, currency, for every copy of a Subpoena sixpence, currency, for every Judgment, and copy thereof, one shilling and three pence, currency, for every Warrant of distress, one shilling and three pence, currency; and that the Peace Officer or Serjeant of Militia, for every service and signification of the same, shall have at the rate of one shilling, currency, per league, for the distance he shall have gone to perform such service, the distance in returning from the place where such service shall have been made not entitling him to any allowance.

V. And be it further enacted by the authority aforesaid, that the said Justices of the Peace shall keep a Register of all Suits which shall have been brought before them respectively, in virtue of this Act, and shall give copies thereof to such persons as shall demand the same, and may for such copies claim and have at the rate of six pence, currency, for every hundred words, under a penalty of ten pounds, current money of this Province, on the said Justice of the Peace for refusing to give a copy thereof, to be recovered by the party to whom the said copy shall have been refused, one half of which penalty shall belong to His Majesty and the other half to the party complaining.

VI. And be it further enacted by the authority aforesaid, that if any Person or Persons shall refuse or neglect to pay and satisfy such sum or sums of money within eight days after judgment obtained, together with such costs as upon such complaint as aforesaid shall be adjudged, the same being demanded, such Justice or Justices of the Peace shall by warrant of seizure and sale, under his or their hand and seal or hands and seals, (which warrant of seizure and sale shall be in the form herein after mentioned,) cause the same to be levied by distress and sale of the goods of the party or parties so refusing or neglecting as aforesaid, together with all costs and charges attending such distress and sale, but which shall not in any case exceed the sum of seven shillings and three pence, current money of this Province.

VII. And be it further enacted by the authority aforesaid, that this Act shall continue and be in force until the first day of May, which will be in the year of our Lord one thousand eight hundred and twenty-one and no longer.

VIII. And be it further enacted by the authority aforesaid, that the penalties imposed by this Act shall be levied by distress and sale of the goods and chattels of the offender, by a warrant or warrants under the hand and seal of any Justice of the Peace of this Province, and the same shall, when levied, be paid into the hands of the Receiver General of the Province for the time being, for the use of His Majesty, His Heirs and Successors, for the Public uses of the Province, and for the support of the Government of the same, and shall be accounted for to His Majesty, His Heirs and Successors through the Lords Commissioners of His Majesty's Treasury for the time being, in such manner and form as His Majesty, His Heirs and Successors shall direct.

No. 1. FORM OF SUMMONS.

Parish (Township or Seigniorie [Seigneurie]) of _____ To all and every the Bailiff's, (Huissiers,) Constables, and other Officers within the Parish, (Township or Seigniorie) of _____ Greeting, In His Majesty's name, you are hereby commanded to summon A. B. of _____ if he may be found within the County of _____ or Township of _____ to be and appear before _____ of His Majesty's Justice of the Peace, residing in the said Township (or Seigniorie) at the dwelling-house of _____ on year of His Majesty's Reign, and in the year of our Lord _____.

No. 2. FORM OF WARRANT OF EXECUTION.

Parish, (Township or Seigniorie) of _____ To all and every the Bailiffs, (Huissiers) Constables and other Officers, within the said Parish, (Township or Seigniorie) of _____ Whereas A.B. of _____ did on the _____ day of _____ before _____ of His Majesty's Justices of the Peace, residing at _____ recover Judgment against C. D. of _____ for the sum of _____ for his Debt and _____ for his costs, of which execution remains to be done. You are therefore hereby commanded in His Majesty's Name, to levy of the goods, chattels and effects, of the said C. D. _____ (except his beasts of the plough, his implements of husbandry, the tools of his trade, and one bed and bedding, unless the other goods and chattels shall prove insufficient, but not in any case the bed and bedding) the aforesaid sum

and costs, together with _____ for the expences of this execution, returning to the said C. D. the overplus if any there be, after having fully satisfied the aforesaid sums.

Witness hand and seal, this _____ day of _____ in the _____ year of His Majesty's reign, and in the year of our Lord _____.

No. 3. FORM OF A SUBPOENA.
PROVINCE of LOWER-CANADA,
County of _____

To _____ Greeting:

(We) command you, that laying aside all and singular business and excuses, you and each of you, be and appear in your proper person before (us) at the Parish of (or Township) of _____ in the County of _____ on _____ the day of _____ at _____ o'clock, in the _____ noon of the same day, then and there to testify all and singular those things which you, or either of you know in a certain cause, between _____ Plaintiff, and _____ Defendant, before me the undersigned Justice of the Peace, and this you, or either of you shall by no means omit, under the the penalties of the Law. Given under my hand and seal this _____.