

CHAP. II.

AN ACT to authorise the detention of Debtors in certain cases.

[*Passed 20th March, 1829.*]

WHEREAS from the delay and inconvenience to which Creditors are at present by Law in many cases subjected, in procuring the necessary Process for the speedy arrest of Debtors, such Debtors are enabled to escape without being arrested, it is therefore expedient to provide some more speedy and effectual method of proceeding for the detention of Debtors about to leave the Province: *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 Upper Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of Great Britain, entitled, "An Act to repeal certain parts of an Act passed in the Fourteenth year of His Majesty's Reign, entitled, '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 for any of His Majesty's Justices of the Peace, upon Affidavit made before him, to issue his Warrant under his hand and seal, and cause the Defendant to be arrested and detained until he can be served with a proper Process of the Court in which the Plaintiff may intend to proceed with his suit for the recovery of his debt—which Affidavit shall be made by the Plaintiff, his, her or their servant, clerk or agent, and may be in the form hereinafter mentioned, or to a similar effect, intent or meaning: *Provided nevertheless*, that the time of such detention by virtue of such Warrant, shall in no case exceed the space of four days, and that nothing in this Act shall extend or be construed to extend to dispense with the necessity of filing the usual Affidavit required by Law, previous to the Writ of Capias ad respondendum, issuing from the Office of the Clerk of the Crown, or his Deputies, or from the Clerks of the several District Courts in the respective Districts.

Preamble.

Justices may issue detaining Warrants.

Detention not to exceed four days.

The usual Affidavit must be filed before Capias ad respondendum can issue.

II. *And be it further enacted by the authority aforesaid*, That it shall and may be lawful, and each and every Sheriff is hereby required in every District where such Warrant of the Justice of the Peace shall so have issued, to receive such Debtor so arrested and detained by any Constable into his custody at the Gaol of the District, and the said Debtor detain for any period not exceeding Forty-eight hours.

Sheriff must receive Debtors so detained.

And keep them in Gaol, but not longer than forty-eight hours.

Act limited to two
years, &c

III. *And be it further enacted by the authority aforesaid,* That this Act be and remain in force for the space of two years, and from thence to the end of the next ensuing Session of Parliament, and no longer.

FORM OF THE AFFIDAVIT.

Form of Affidavit for
detaining Warrant.

TO WIT: } *_____District,* } A. B. of the Township of *_____* in the *_____* District,
} *_____* maketh Oath and saith, that C. D. is justly and
truly indebted to him or her this Deponent, (as the case may be,) in the
sum of £ *_____* of lawful money of Upper Canada; and Deponent further
saith, that he or she is apprehensive that the said C. D. will leave this
Province without satisfying the said debt, before the regular process can
issue to hold him to bail, and that he or she does not sue out process
from any vexatious or malicious motive whatsoever. — Sworn before me
at *_____* in the *_____* District, this *_____* day of *_____* 18*_____*

FORM OF THE WARRANT.

Form of the War-
rant.

To *_____* a Constable for the District of *_____* These are to command and
require you *_____* to take into your custody C. D., and his person detain
in security until the expiration of four days from the time of actual ar-
rest, A. B. having made Oath before me as a Justice of the Peace, that
the said C. D. is indebted to him in the sum of £ *_____* and for so doing,
this shall be your sufficient authority.

E. F. (L.S.)
J. P.

Dated at *_____* in the District }
of *_____* this *_____* day of }
_____ 18*_____*

Fees allowed.

IV. *And be it further enacted by the authority aforesaid,* That it shall
and may be lawful for the persons hereinafter mentioned to demand and
receive the following Fees, and no more:—

Justices of the Peace, for each Affidavit—Two Shillings and Six-
pence.

For each Warrant—Two Shillings and Sixpence.

Constable apprehending Debtor—Two Shillings and Sixpence.

Every mile of travel—Fourpence.

For actual detention in charge, per diem—Five Shillings.