

*Laws of His Majesty's Province of Upper Canada in North America*, passed in the year 1815.  
Kingston: Stephen Miles, 1815.

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**An Act to repeal an Act passed in the fifty-fourth year of His Majesty's reign, intituled "*an Act to supply in certain cases the want of County Courts in this Province, and to make further provision for proceeding to outlawry in certain cases therein mentioned.*" Passed the 14th March, 1815.**

Whereas doubts have arisen respecting the construction of an Act of the Legislature of this Province, passed in the Fifty-Fourth year of His Majesty's reign, intituled, "*An Act to supply in certain cases the want of County Courts in this Province*": Be it therefore enacted by the Kings 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, 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 to 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 such part of the said act as provides that it shall and may be lawful for the Court of Kings Bench in this Province, on the usual return of "*non est inventus*" to the alias and pluries writs of capias, to issue a writ of exigent and award a writ of proclamation as therein is set forth, shall in all cases that have arisen or may hereafter arise, be taken and considered to mean that such alias and pluries writs of capias, must be taken out and returned as aforesaid, when by law they are usually required, before the writ of exigent or proclamation shall issue or be awarded in manner aforesaid; but that the said act shall not extend or be construed to extend to make necessary alias or pluries writs of capias, or any more or other writs of capias, before the issuing of the exigent and awarding proclamation than are required in similar cases by the law of England

And whereas it is expedient that some further and more particular provision be made respecting process of outlawry in this Province,

Be it therefore enacted by the authority aforesaid That the said act of the Parliament of this Province passed in the forty-fourth year of His Majesty's reign, intituled, "*an act to supply in certain cases the want of County Courts in this province,*" be and the same is hereby repealed: Provided always nevertheless, That nothing in this act contained, shall extend to make void any proceedings heretofore had or made under the provisions and authority of the said act.

II. And be it further enacted by the authority aforesaid, That from and after the passing of this act the Courts of General Quarter Sessions, of the Peace in the several districts of this Province, shall be and they are hereby declared to be in the place and stead of the Sheriff's County Courts of England, as far as respects any purpose of outlawry or any proceedings therein.

III. And be it further enacted by the authority aforesaid, That after the pairing of this act the process upon every indictment to bring the person indicted into court, shall be a capias, in the

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usual form, issued from the court before whom the laid indictment shall be found, directed to the Sheriff of the District wherein the laid court shall be then sitting, commanding to take the person so indicted and bring him before the said court; and if the person cannot be taken during the sitting of the said court, that then so soon after as he shall be taken, he do bring or cause him to be brought, before some justice of the peace of the said district, to be dealt with according to law; which said capias shall be made returnable in the Court of Kings Bench on the first day day of the term next after the fitting of the said court before which the said indictment shall have been found as aforesaid. And if upon the return of the said writ, the Sheriff of the said district shall return that the person therein named, is not to be found in his district, then an alias writ of capias shall issue from the Court of Kings Bench, under the seal of the said court, tested of the first day of the term, if in term time, or on the last day of the preceding term if in vacation, returnable before the said Court of Kings Bench on the first day of the term next ensuing that in which the alias capias shall be so issued.

IV. And be it further enacted by the authority aforesaid, That if to the said writ of alias capias, the Sheriff shall return that the person therein named, is not to be found in his district, then upon motion in court or before a judge in vacation, a writ of exigent shall issue under the seal of the said court, tested on the first day of the term, if in term time, or on the last day of the preceding term, if in vacation, and directed to the Sheriff of the district into which the said writs of capias shall have issued; which writ of exigent shall be returnable on the first day of the fifth term from that in which the same shall be awarded, and may be in the form following, that is to say:

George the Third, by the grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith.

To the Sheriff of the \_\_\_\_\_ District Greeting:

We command you that you cause A. B. late of \_\_\_\_\_ to be demanded from General Quarter Sessions, to General Quarter Sessions in your District, until, according to the law of this Province, he be outlawed if he doth not appear, and if he doth appear then, that you take him and cause him to be safety kept so that you may have his body before us on the day on \_\_\_\_\_ term next (the return of the writ) where we shall then be in Upper Canada, to answer to a certain bill of indictment found against him for \_\_\_\_\_ (whatsoever the crime may be) and have then there this writ.

Witness, the Honorable \_\_\_\_\_ Chief Justice, at York, this day of \_\_\_\_\_ in the \_\_\_\_\_ Year of our Reign.

V. And be it further enacted by the authority aforesaid, That the Sheriff to whom the said writ of exigent shall issue, shall at three successive Courts of General Quarter sessions of the Race, to be holden in and for his district, before, the return of the said writ, in open court, immediately after the commission of the peace for the district shall have been read, make or cause to be made proclamation of all and every the persons named in the said exigent, requiring them to render themselves to answer to the said indictment.

VI. And be it further enacted by the authority aforesaid, That if the person or persons so demanded, do not appear, the Sheriff to whom the said writ of exigent is directed, shall indorse upon the said writ of exigent a return in the following form:

By virtue of the within writ, to me directed, at the Court of General Quarter Sessions of the Peace, held at \_\_\_\_\_ in and for the district of \_\_\_\_\_ on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ in the year within written, the within named: A.B. was a first time demanded, and did not appear: And at, the Court of General Quarter Sessions of the Peace, held at \_\_\_\_\_ aforesaid, for the district aforesaid on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year aforesaid; (or as it may be) the said A. B. was a second time demanded, and did not appear: And at the Court of General Quarter Sessions of the Peace therefore at the Court of General Quarter, Sessions of the Peace held at \_\_\_\_\_ aforesaid for the district aforesaid; on \_\_\_\_\_ the \_\_\_\_\_ day of \_\_\_\_\_ in the year aforesaid (or as maybe the said A. B. was a third time demanded, and did not appear, therefore the said A. B. according to the law of this Province is outlawed.

The answer of \_\_\_\_\_

C. D. Sheriff.

VII. And be it further enacted by the authority, aforesaid, That in all criminal cases wherein any writ of exigent shall be awarded under and by virtue of this Act against any person or persons described in the indictment as being lately coversant in any other district of this Province than that in which the said exigent shall be so awarded, a writ of proclamation shall be awarded, and made out of the same court, or by order of a judge in vacation, having day of test and return as the writ of exigent have, and shall be directed and delivered to the Sheriff of the District in which the person or persons indicted shall in the said indictment be described as having lately been conversant, which writ of proclamation may be in the following form:

George the Third, &c. &c. &c.

To the Sheriff of the \_\_\_\_\_ District, Greeting:

Whereas by a writ we lately commanded our Sheriff of the District of \_\_\_\_\_ that he should cause A. B. late \_\_\_\_\_ to be demanded from General Quarter Sessions to General Quarter Sessions, until, according to the law of this Province, he should be outlawed if he did not appear, and if he did appear then, that he should take him and cause him to be safely kept so that it he might have his body before us on the \_\_\_\_\_ day of \_\_\_\_\_ term then next, wheresoever we should then be in Upper Canada, to answer to a certain bill of indictment found against him for \_\_\_\_\_ therefore we command you that in pursuance of the act of the Parliament of this Province, passed in the fifty-fifth year of our reign, you cause the said A. B. to be proclaimed upon three several days according to the form of the said statute, that he render himself to our sheriff of \_\_\_\_\_ so that he may have his body before us at the time

aforesaid, wheresoever we shall then be in Upper Canada, to answer to the said indictment, and have there then this writ.

Witness the \_\_\_\_\_ at York, this \_\_\_\_\_ day of \_\_\_\_\_ in the \_\_\_\_\_ year of our reign.

And that the Sheriff to whom the said writ of Proclamation shall issue, shall at three successive Courts of General Quarter Sessions of the Peace before the return of the said writ in open Court, on the first day of the said Court, make or cause to be made proclamation of all and every the persons named in the said writ of Proclamation, according to the command of the said writ.

VIII. And be it further enabled by the authority aforesaid, That when the said writ of proclamation shall have been executed as aforesaid, the Sheriff to whom the same will be directed, shall indorse thereon a return in the following form:—

“By virtue of the within writ to me directed, I caused the within named A. B. to be proclaimed three several days according to the effect of the within mentioned statute as it is within commanded me.

The answer of \_\_\_\_\_

C. D. Sheriff.”

IX. And be it farther enabled by the authority aforesaid, That after the return of the said writ of exigent, and of the writ of proclamation when required to be issued in manner aforesaid, the person or persons against whom the same shall have issued, shall in default of appearance, incur and suffer the same forfeiture and disabilities, and the like process shall be had thereupon as in cases of outlawry for the same offences, by the criminal law of England, as it stood on the seventeenth day of September, in the year of our Lord one thousand seven hundred and ninety two. And whereas by reason of the disturbed state of this Province, and the want in some cases of General Courts of Quarter Sessions of the Peace being held as heretofore, it may have been impracticable to proceed regularly to outlawry in all such cases as may have arisen.

X. Be it therefore further enabled by the authority aforesaid, That in all cases where the Sheriff has made to the first writ of *capias* to him directed, the usual return of “*non est inventus*,” upon which a second *capias* ought to issue; and also in all cases where writs of exigent have been awarded, but have not yet been issued or acted upon by reason of the difficulties above recited, it shall and may be lawful to continue the proceedings therein, according to the provisions of this act as if no lapse of time had intervened since the last proceedings in any such case, and to prosecute the parties to outlawry in like manner as if the *capias* had been returned according to this act, or the exigent had been awarded immediately before the next proceeding that shall be had therein, and that no chasm of time before the continuance of such proceedings in the cases before mentioned, that be deemed in law a discontinuance, or shall vitiate or render null the process to outlawry therein, any law to the contrary notwithstanding.

XI. And be it further enacted by the authority aforesaid, That this act shall continue and remain in force for and during the term of two years, and from thence to the end to the next ensuing session of Parliament, and no longer.