

*Laws of His Majesty's Province of Upper Canada*, passed in the year 1829. York: Robert Stanton, 1829.

10 George IV – Chapter 2

**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.

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 Deb-tor detain for any period not exceeding Forty-eight hours.

III. And be it further enacted by the authority aforesaid, That this Act lie 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.

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 in this Deponent, (as the case may be,) in

the sum of £\_\_\_\_\_ of lawful money to 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.

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 arrest, 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.

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 Sixpence.

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.