



ANNO DECIMO ET UNDECIMO  
VICTORIÆ REGINÆ.

CAP. XV.

An Act to amend the Law of Imprisonment for Debt, in Upper Canada.

[ 28th July, 1847. ]

**W**HEREAS the Law affecting Upper Canada, relating to Imprisonment for Debt requires amendment, and it is desirable to afford additional means for the discovery and application of the property and effects of Judgment Debtors, in certain cases : Be it therefore enacted by the Queen's Most Excellent Majesty, by and with the advice and consent of the Legislative Council and of the Legislative Assembly of the Province of Canada, constituted and assembled by virtue of and under the authority of an Act passed in the Parliament of the United Kingdom of Great Britain and Ireland, and intituled, *An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada*, and it is hereby enacted by the authority of the same, That the Jail limits to the respective Jails in each District of that part of this Province formerly Upper Canada, shall henceforth be and consist of the whole of each District for the Jail thereof; Provided always, that no person or persons on the limits of any Jail at the time of the passing of this Act, shall be entitled to the extended limits provided by this Act, unless such person or persons shall enter into a recognizance in accordance with the fifth section of this Act.

Preamble.

Jail limits to include the whole of the District.

Proviso : on what conditions persons now in Jail may obtain such extended limits.

II. And be it enacted, That all persons now or hereafter under arrest or on bail upon attachment or other process from any of the Courts of Law or Equity in Upper Canada, for non-payment of costs or non-payment of money pursuant to award, or for the non-payment of any claim in the nature of a demand due, and being a sum certain or capable of computation, and not in the nature of a penalty to enforce the doing of some act other than in effect the payment of a claim partaking the nature of a debt or money claim due, shall be entitled to the benefit of Jail limits, weekly allowance, and discharge for non-payment thereof, and shall be also subject to interrogatories, committal to close custody and recommittal, with all other privileges and liabilities, in like manner and by the same mode of proceeding in all respects as if in custody in execution for debt as a defendant; and for the purposes of this Act such persons are hereby declared to be in custody in execution for debt, as defendants.

Persons in Jail under process for non-payment of costs, &c., to be entitled to Jail limits &c., as if in custody in execution for debt.

III. And be it enacted, That it shall be lawful for any person either in close or other custody in execution for debt, to give to the party or the attorney of the party at whose suit or instance such person is in custody, fifteen days notice in writing of his application to be altogether discharged from custody, and upon proof of the service of the said

Persons in Jail on execution for debt and not worth more than £5 exclusive of wearing

apparel, bedding, &c., may obtain their discharge on submitting to interrogatories and complying with certain other conditions.

said notice, and upon the affidavit of the prisoner that he or she is not worth the sum of five pounds, exclusive of necessary wearing apparel of such prisoner and that of his family, and their necessary beds and bedding and implements of housekeeping for ordinary use, not exceeding in value ten pounds, it shall be lawful for the Court of Law or Chancery from which the process of imprisonment issued, or in vacation, for any Judge of such Court, upon the return of a rule or summons to shew cause, for that purpose to be granted, to order the said prisoner to be discharged from custody, provided the prisoner shall have satisfactorily answered, upon oath interrogatories which the Creditor may cause to be filed and served before the expiration of the said notice, in the same manner and to the same purport, as prisoners in execution for debt, before the passing of this Act were required to do.

Discharge to be granted on the prisoner's complying with the requirements of the Act and assigning his property.

IV. And be it enacted, That in all cases where interrogatories are satisfactorily answered by such prisoner, and a conveyance by him of any means or valuable interest of any kind, he may have or be supposed to have, excepting his said necessary beds, bedding and implements of housekeeping, not exceeding in value ten pounds, made towards paying the claim against him, and to the satisfaction of the said Court or Judge, such prisoner shall upon application to the said Court or Judge, be entitled to his discharge from custody, but such discharge shall not operate as a discharge of such prisoner's liability to pay the claim for which he was so in Custody.

Conditions and mode in which persons in custody may obtain the benefit of the Jail limits.

Recognizance to be given.

Sureties to justify.

Recognizance to be filed.

Notice to Plaintiff.

Sheriff to admit the prisoner to the limits.

V. And be it enacted, That whenever after the passing of this Act any person or persons having previously been or who shall thereafter be arrested upon any writ or process or rendered in discharge of bail, and who shall be by law entitled to the benefit of the Jail limits, and shall be desirous of obtaining the same, it shall and may be lawful for such person or persons to enter into a recognizance of bail or bail-piece with two sufficient sureties under a condition that such person or persons so arrested or being under arrest or rendered in discharge of bail, shall remain and abide within the limits of the Jail of the District where such person or persons shall or may have been arrested, and not depart therefrom unless released therefrom by due course of law, and also shall, and will, well and truly obey all notices, orders and rules of Court touching or concerning such person or persons remaining or continuing upon the said limits or being remanded or ordered to close custody therefrom; and such sureties shall immediately upon entering into such recognizance justify by affidavit in double the amount for which such person or persons were or shall have been arrested; and such recognizance shall then be filed in the office of the Clerk or Deputy Clerk of the Crown or Clerk of the District Court, as the case may be, of the District in which the arrest was or may be made, and notice of such recognizance and of the sureties therein, shall be forthwith given to the plaintiff or party at whose instance such arrest took place in the same manner as in the case of bail to the action; and upon the production to the Sheriff by whom the said arrest was made, of a certificate from the Clerk or Deputy Clerk of the Crown or Clerk of the District Court of such District, that such recognizance of bail and affidavit of the justification have been filed in his office, it shall and may be lawful for the said Sheriff, to admit such person or persons so arrested to the limits, and the said Sheriff, shall be discharged from all responsibility respecting such person or persons after such admission to the limits, unless again committed to the close custody of such Sheriff in due form of law, subject to an exception to be entered to such bail, as is now provided in cases of special bail, or by such Rules as the Court of Queen's Bench may direct and appoint.

VI. And be it enacted, That it shall and may be lawful for the Court of Queen's Bench to make such Rules for the issuing of any Warrant or Writ in such form as to such Court shall seem meet, for the levying and enforcing payment of any sum of money for which such attachment or other process as in the second section of this Act is mentioned, may have issued, as to the said Court shall appear expedient and necessary, when and so often as any person or persons shall or may be discharged from custody or bail on any such attachment or other process in that section mentioned.

Court of Q. B. to make rules for the issue of Writs or Warrants for levying the money in cases mentioned in sec. 2, when the prisoner shall be discharged from custody.

VII. And be it enacted, That the said bail to the limits shall be bound to produce the body of any prisoner on the limits, within such time as the Court or Judge may direct; provided always further time and relief may be granted to such bail as the said Court or Judge may deem equitable.

Bail to produce the body on order of the Court or Judge. Proviso.

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