

Attachment before judgment may be sued out in cases above £1 5s.

Proviso.

II. In all cases where a person shall be personally indebted to another person in a sum exceeding one pound and five shillings currency, the creditor may sue out a writ of attachment, *arret simple*, or *saisie arret*, to attach and seize the moveable property, debts, and effects of the debtor, whether in the hands and possession of the debtor or of a third person either before trial or judgment; Provided always, no person shall be entitled to such writ of attachment, *arret simple*, or *saisie arret*, unless the cause of action shall have accrued or arisen in Lower Canada, or unless the creditor is domiciled or carrying on business therein. 5

Affidavit to be made before such writ shall issue.

III. No such writ of attachment, *arret simple*, or *saisie arret*, shall be issued unless upon the affidavit of the creditor, his book-keeper, clerk or agent, to the effect that—the debtor is personally indebted to the creditor in the sum of money therein mentioned, and for the causes therein set forth, that such debtor is secreting, or that he is about to secrete his estate, debts and effects, or that he hath absconded, or that he is about to abscond, or that he hath departed, or that he is immediately about to depart from Lower Canada,—with intent to defraud the said creditor and his other creditors, and that without the benefit of such writ of attachment, the said creditor may lose his debt and sustain damage. 15

Before whom the affidavit shall be sworn in Superior Court.

Proviso: as to 12 V. c. 38, s. 63.

IV. In cases where the amount mentioned in any such affidavit is within the jurisdiction of the Superior Court, such affidavit may be sworn to before the Prothonotary of the Superior Court in any district or before any Judge of the said Court, or before any Commissioner for receiving affidavits to be used and read in such Court: Provided always, that nothing herein contained shall be held to affect or impair the right of the Clerk of any Circuit Court to receive and take such affidavit in any such case, and to issue a writ thereon returnable before the Superior Court as provided for by the Act passed in the twelfth year of Her Majesty's Reign, chapter thirty-eight, section sixty-three. 25

And in Circuit or Commissioners' Courts.

V. In cases where the amount is cognizable by the Circuit Court, the Clerk of any such Circuit Court or any of the persons having authority to take or receive affidavits to obtain writs from the Superior Court, shall have power to receive any such affidavit; and in cases cognizable by any Commissioners' Court, the Clerk of any such Court or any one of the Commissioners may take and receive the necessary affidavit. 35

On the fying of affidavit, writ may issue.

By whom executed.

VI. The fying of any affidavit made in conformity with the provisions of the preceding sections of this Act, shall be sufficient to authorize the Prothonotary or Clerk of the Court with whom the same is fyled to issue a writ of attachment, *arret simple*, or *saisie arret*, which writ shall be directed to and executed by the officer or officers to whom writs of execution issued out of the said Court are addressed. 40

Indorsement on writ.

VII. The amount or sum of money specified in any affidavit together with the name of the person making such affidavit shall be endorsed on the back of the writ issued thereon.

Declaration may be fyled after the service of the writ.

VIII. It shall not be necessary in any case where a declaration is required, that such declaration should be annexed to the writ or a copy thereof annexed to the copy of the Writ served upon the defendant, but such declaration shall be served by leaving a copy thereof for the defendant with the Clerk of the Court, by whom the writ in the cause was 45