

THE HONORABLE PETER RUSSELL, ESQUIRE, PRESIDENT.

ing, or hereafter to be brought in the said Court, his servant, or agent shall, at any time after action brought, and before final judgment, be apprehensive that the defendant will leave the province without paying his debts, it shall and may be lawful to and for the said plaintiff, his servant, or agent, having made and filed such affidavit as aforesaid, to sue out a writ of *capias ad respondendum*, and to cause the said defendant to be thereupon arrested and holden to bail, which bail if the said writ shall have been sued out after appearance made, shall be bail to the action.

Without, &c.

III. *Provided nevertheless, and be it enacted by the authority aforesaid, That the suing out of such writ shall not be taken or construed in any manner to affect any proceedings theretofore had in the said action; but the same shall continue in like manner as if the said writ had been sued out at the commencement thereof, any law to the contrary notwithstanding.*

Condition of the recognizance.

IV. *And be it further enacted by the authority aforesaid, That the condition of every recognizance of bail to the action shall be such, that the cognizors thereof shall not become liable, unless the defendant shall leave the Province, without having paid the debt for which such action shall have been brought.*

Affidavit on taking out *Ca. Sa.*

V. *And be it further enacted by the authority aforesaid, That no writ of *Capias ad satisfaciendum*, shall issue in any action now pending, or hereafter to be brought in the said Court, unless an affidavit be first made and filed by the plaintiff, his servant, or agent, in the manner herein above directed, with respect to holding to bail, that he is apprehensive that the defendant will leave the Province without paying his debts, or that he hath reason to believe, that the defendant hath secreted or removed his effects, or hath made some secret and fraudulent conveyance thereof, in order to prevent the same from being taken in execution.*

VI. *Provided nevertheless, and be it further enacted by the authority aforesaid, That nothing herein contained shall be construed or taken in any manner to affect the right of the bail to take and surrender the defendant in discharge of themselves.*

Provisional arrest of debtors by warrant from any justice of the peace.

VII. *And be it further enacted by the authority aforesaid, That in case the plaintiff in any action now pending, or hereafter to be brought in the said court, his servant or agent, at any time before or after final judgment, and before the debt for which such action shall have been brought, is paid or satisfied, shall be apprehensive that the defendant will leave the Province without paying his debts, and that he may leave the same before he can be arrested and holden to bail, or taken in execution as aforesaid, it shall and may be lawful to and for any of his Majesty's justices of the peace, upon oath thereof made before him, by the said plaintiff, his servant, or agent, to issue his warrant, and cause the said defendant to be arrested and detained, until he can be served with the proper process of the said court: *Provided nevertheless, That the time of such detention shall in no case exceed the space of eight days.**

Recital 37 Geo. 3d cap. 4.

VIII. *And be it further Enacted by the Authority aforesaid, That so much of an Act passed in the thirty-seventh year of the reign of his present Majesty, intituled, "An Act for regulating the practice of the court of King's bench," as enacts, that the parties may plead to issue in the office of the clerk of the crown and pleas of this Province, in and for the several districts thereof, and also that every Monday in the course of the year, except Easter Monday and Christmas Day, in case it shall happen on a Monday, shall be a return day for the return of writs issuing out of the said court of King's bench, and also that the plaintiff shall cause the defendant to be served with the writ of summons, and that no mileage shall be allowed for the same, shall be, and the same is hereby repealed.*

Repeal thereof in respect to pleading in the District offices, the return of Writs out of term; and mileage.

But original process and writs of *ca. sa.* to issue still out of the District offices.

IX. *Provided nevertheless, and be it further Enacted by the Authority aforesaid, That the said office of the clerk of the crown and pleas shall be an office for issuing the original process of the said court, and also for issuing writs of *capias ad satisfaciendum*.*