

An Act to amend the Laws of Upper Canada affecting Trade and Commerce.

WHEREAS it is desirable to amend the Law of Upper Canada Preamble. in certain respects affecting trade and commerce.

Therefore Her Majesty, by and with the consent of the Legislative Council and Assembly of Canada, enacts as follows :

5 **1.** No writ of Fieri Facias or other writ of execution, and no writ of attachment against the goods of a debtor, shall prejudice the title to such goods acquired by any person *bona fide* and for a valuable consideration, before the actual seizure or attachment thereof by virtue of such writ ; provided such person had not at the time when he acquired such title, notice that such writ or any other writ, by virtue of which the goods of such owner might be seized or attached, had been delivered to and remained unexecuted in the hands of the Sheriff, or other officer.

Writ of Execution not to prejudice title to goods acquired, without notice before seizure.

15 **2.** In all actions and suits for breach of contract to deliver specific goods for a price in money, on the application of the plaintiff and by leave of the Judge before whom the cause is tried, the jury shall, if they find the plaintiff entitled to recover, find by their verdict,—

Finding of the Jury, and writ for delivery of goods, in cases of breach of contract to deliver specific goods.

1. What are the goods in respect of the non-delivery of which the plaintiff is entitled to recover, and which remain undelivered.

20 **2.** What, [if any,] is the sum the plaintiff would have been liable to pay for the delivery thereof.

3. What damages, [if any,] the plaintiff would have sustained if the goods should be delivered under execution, as hereinafter mentioned, and

25 **4.** What damages if not so delivered.

3. And thereupon, if judgment is given for the plaintiff, the Court or any judge thereof at their or his discretion, on the application of the plaintiff, shall have power to order execution to issue for the delivery of the said goods, on payment of such sum (if any) as shall have been found to be payable by the plaintiff for the same, without giving the defendant the option of retaining the same upon paying the damages assessed, and the writ of execution may be for the delivery of such goods.

On judgment for plaintiff, order may be made for delivery of the goods.

4. If such goods so ordered to be delivered, or any part thereof, cannot be found, and unless the Court or such Judge as aforesaid shall otherwise order, the Sheriff or other officer of the Court shall distrain the defendant by all his lands and chattles within the jurisdiction of the Sheriff or other officer, till the defendant delivers such goods, or at the option of the plaintiff, causes to be made of the defendant's goods the assessed value or damages, or a due proportion thereof.

Provision if goods or any part thereof cannot be found.