

No. 100.

4th Session, 3rd Parliament, 14 Victoria, 1851.

BILL.

An Act to enable the Judgment Creditors of Public Officers to seize a portion of the salaries and emoluments of such Officers in certain cases.

Received and read a first time, Tuesday 10th
June, 1851.

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Mr. SCOTT (of Two Mountains).

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B I L L .

An Act to enable the Judgment Creditors of Public Officers to seize a portion of the salaries and emoluments of such Officers in certain cases.

WHEREAS the salaries allowed to Officers on the Preamble.
Civil List and other public Functionaries in this Province paid from the Treasury and Consolidated Revenue Fund of this Province, as well as the salaries
5 allowed to Municipal Officers paid from the funds of the several Counties or other Municipal Corporations, are by law exempt from seizure or attachment in satisfaction of judgments obtained in Her Majesty's Courts therein, an exemption frequently giving rise to great inconveniences
10 to those having just and legal claims or demands of a pecuniary nature upon such Officers and public Functionaries, for the remedying whereof it is necessary to make provision :—Be it therefore enacted, &c.

And it is hereby enacted by the authority of the same, Salaries, &c., to be liable to seizure after judgment.
15 That from and after the passing of this Act, all salaries, emoluments and allowances whatsoever payable to any officer or public functionary in this Province, from the Treasury or Consolidated Revenue Fund thereof, as well as all salaries, emoluments and allowances whatsoever
20 payable to any officer or functionary of any County Council or other Municipal officer, from any County or other Municipal fund whatsoever, for services performed or to be performed, shall, to the extent hereinafter mentioned, be liable to seizure or attachment in the hands of
25 the Receiver General of the Province, or of the respective Treasurers of the several Counties in this Province, or Municipal Corporations as the case may be, or other person doing the duties of these officers, after judgment in any of Her Majesty's Courts of competent jurisdiction
30 in this Province.

II. And be it enacted, That it shall be lawful for any A certain proportion of such salaries, &c., and no more, to be liable to seizure.
person having a judgment against any such officer or public functionary, whose salary, emoluments or allowance is or shall be payable as aforesaid from the Consolidated
35 Revenue Fund of the Province, or from any County or Municipal Fund, to seize and levy on or attach, pursuant to such judgment, in the hands of Her Majesty's Receiver General of the Province, or of the Treasurer of the Municipal Corporation or other person performing the
40 functions of these officers, any amount of the salary, emoluments or allowance that shall be due to the defendant

at the expiration of the then unexpired term of the current year, (or other term at which such salary or allowance is payable, or of the then current fiscal year, and so on by order of the Court, without further process for succeeding quarters or terms until the amount seized shall be equal to that directed to be seized by such writ), and not exceeding in any case the following proportion, that is to say: 5

The proportions seizable.

Where the salary, emoluments and allowance of the Officer or Functionary shall not exceed the rate of one hundred pounds per annum, no portion thereof shall be seized: 10

Where the same shall exceed the rate of one hundred pounds per annum, the per centage thereof which may be seized, shall be as follows: 15

If they exceed £100 but not £150	—	15 per cent.	
“ 150	“ 200	— 20	“
“ 200	“ 250	— 25	“
“ 250	“ 300	— 30	“
“ 300	“ 400	— 35	“ 20
“ 400	“ 500	— 40	“
“ 500	“ 600	— 50	“
“ 600	“ 800	— 50	“
“ 800	sixty per cent:		

The whole salary of any officer having other sources of emolument made seizable.

Provided, that whenever any such officer or functionary shall derive from any source whatsoever, either directly or indirectly, any profit or emolument, or shall have any other means of existence besides his salary, the whole amount of such salary in the hands of the Receiver General shall be liable to seizure and attachment for the satisfaction of any judgment held by any creditor against him; and the Court from which the writ of attachment shall issue, upon sufficient proof before any one of the Judges thereof (two days' notice of the application on the part of the judgment creditor for such writ of attachment of the salary of such officer or functionary having been given by such creditor or his attorney), that the said officer or functionary derives any such profit or emolument, directly or indirectly, or has any other means of existence, as aforesaid, shall, in and by such writ, order that the whole of the salary of the said officer or functionary be seized and attached: And the sums so seized shall await the judgment or order of the Court with respect to the same, and in case of attachment and intervening or opposing creditors shall be subject to the distribution to be made thereof by order of the Court. 25 30 35 40 45

Amount seized to await the order of the Court.

How such seizure may be made.

III. And be it enacted, That from whatsoever Court the writ of attachment in any such case shall issue, if service thereof be made upon the Receiver General, or upon the Treasurer of the Municipal Corporation in person or upon the person doing the duty of his office, by delivering to him personally, or by causing to be left 45

at his office, a true copy of such attachment and certified to such by the Sheriff, his Depnty, or other proper officer of the Court issuing the attachment, the service of such writ of attachment shall be deemed to be sufficient to hold such Receiver General, Treasurer of the Municipal Corporation, or person doing the duties of his office, although not residing within the local jurisdiction of the Court, to appear therein and answer to such attachment; and in case it shall not be convenient for him to appear, ^{What return shall suffice.} his answer in writing, attested by his official signature and his seal (without oath), stating the salary or amount of money which at the expiration of the year or other term as aforesaid will be payable to the defendant by him in his capacity of Receiver General, or of the Treasurer of the Municipal Corporation, shall suffice; and he shall ^{Sum to await the order of the Court.} retain in his hands the proportion herein above specified only of such amount, to abide the judgment of the Court, paying the remainder, whatever it may be, to the officer or person to whom it shall appertain.

IV. Provided always and be it enacted, That if within three months next after the expiration of the then current year, no notice be given to the Receiver General or to the Treasurer of the Municipal Corporation, of any judgment or order by the Court, disposing of the amount retained by him in his hands pursuant to such attachment, or directing him still further, for a given period to be fixed by the Court, not exceeding months from the date of such order, to retain the same in his hands to abide the judgment or order of the Court, it shall be lawful for him to pay over the amount to the officer or public functionary to whom the amount so attached shall appertain, or to his order. ^{If no order be made within a certain time, the amount to be paid to the officer.}

V. And be it enacted, That the several Courts of jurisdiction in Upper and Lower Canada, shall have ^{Civil Courts to make rules of practice.} power and authority to make and provide, from time to time, as occasion may require, any rule or rules of practice they may respectively deem necessary and proper for carrying the purposes and provisions of this Act into effect, and for regulating the proceedings in this behalf in their respective jurisdictions.

VI. Provided always and be it enacted, That if the judgment against any such public officer or functionary shall have been rendered after the passing of this Act, and at a period more than twelve months prior to the application for the attachment, then and in that case, the attachment so required shall be refused, or if granted shall be null and void. ^{Judgment not to be of more than a certain standing.}

VII. And be it enacted, That nothing in this Act contained shall extend or be construed to extend to enable ^{Pensions exempted from seizure.} creditors to seize or attach pensions payable to militia-men or others, out of the consolidated revenue of this Province.