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No. 59.

1st Session, 5th Parliament, 18 Victoria, 1854.

BILL.

An Act to authorize the Creditors
of Public Officers to attach by
Saisie Arrêt after Judgment,
the salaries and emoluments of
the said Officers.

Received and Read, First Time, Thursday, 28th
Sept., 1854.

Second Reading, Thursday, 12th Oct., 1854.

MR. MARCHILDON.

QUEBEC:

DEPOSED BY JOHN LOVELL NOTARIAL OFFICER

(59)

1854.]

BILL.

[No. 59.

An Act to authorize the Creditors of Public Officers to attach by *Saisie Arrêt* after Judgment, the salaries and emoluments of the said Officers.

WHEREAS it is just and reasonable that the salaries and emoluments of Public Officers, Functionaries and Clerks paid by warrant out of the Public monies of the Province, should be liable to seizure after judgment for the payment of the debts of the said Public Officers, Functionaries and Clerks; Be it therefore enacted, &c., as follows:

I. From and after the date of the passing of this Act, any creditor having obtained judgment in any of Her Majesty's Courts of Civil Jurisdiction in this Province, against any Public Officer, Functionary or Clerk, whose salary or emoluments are paid by warrant out of the Public monies of this Province, shall be empowered to attach the salary or emoluments of such Public Officer, Functionary, or Clerk, in the hands of the Receiver General of this Province, in payment and satisfaction of the judgment obtained by the said creditor against such Public Officer, Functionary or Clerk.

II. The attachment of such salary or emolument shall only take place in cases in which the judgment obtained shall exceed in principal, interest and costs, the sum of _____ pounds, currency of this Province.

III. In all cases in which the judgment obtained shall exceed in principal, interest, and costs, the said sum of _____ currency as aforesaid, it shall be lawful for the creditor to seize the salary or emoluments of his debtor in the following proportions only, that is to say: When the salary or emolument shall exceed _____ per annum, the creditor may seize to the amount of _____ of every term or quarterly payment of the salary or emoluments of his debtor; when the salary or emoluments exceed £150 but not £250 per annum, he may seize as aforesaid 25 per cent on each term or quarterly payment of salary or emoluments; when the salary exceeds £250 but does not exceed £300, he may seize 30 per cent, in manner aforesaid; when the salary exceeds £300 but does not exceed £400, he may seize 35 per cent, in manner aforesaid; when the salary exceeds £400, but does not exceed £500, he may seize 40 per cent, in manner aforesaid; when the salary exceeds £500 but does not exceed £600, he may seize 45 per cent, in manner aforesaid; when the salary exceeds £600 but does not exceed £800, he may seize 60 per cent, in manner aforesaid.

IV. If the attaching creditor shall prove to the satisfaction of the Court out of which the writ of attachment shall have issued, that the

seized if the Debtor is proved to have other means of subsistence.

Proviso: Notice of such proof to be given.

creditor has other means of existence independently of his salary or emoluments, the said Court may order that the whole amount of the salary or emoluments due to the debtor at the time of the issue of the writ of attachment, be paid over to the said creditor, as also all amounts which shall become due and be payable to the debtor by the said Receiver General, until the entire payment of the debt, principal, interest, and costs; Provided always, that in such case the creditor shall be bound to give notice in writing to the debtor of the day, hour and place on and at which he intends to make such proof, allowing the delay provided as regards writs of summons. 5 10

Application of monies so seized to be directed by the Court.

V. In all cases of writs of attachment issued as aforesaid, the application of the sum seized shall be directed by the Court, and when there shall be several writs of attachment against the same debtor, the Court shall distribute the monies seized among all the attaching creditors, in the manner prescribed by law in cases of attachments after judgment. 15

Service of attachment on Receiver General.

VI. The service of any writ of attachment issued in virtue of this Act, shall be made upon the said Receiver General personally or at his Office, or by leaving a copy with one of the Clerks or Functionaries in the said Office, and such service shall be deemed sufficient for all the purposes of this Act. 20

Declaration of Receiver General, how to be made.

VII. On the day of the return of the said writ of attachment into the Court, the said Receiver General shall appear in person before the Court and make his declaration as *Tiers Saisi*, or shall within three days after the said return file or cause to be filed in the Office of the Clerk of the said Court, his declaration signed by him and sealed with the official seal of his Department, and the said declaration shall state the sum due to the Defendant at the time of the service of the writ of attachment upon the said *Tiers Saisi*, as also any sum which shall subsequently thereto have become due by him to the Defendant, stating also the terms or periods of payment of the salary of the debtor, and such declaration shall be deemed sufficient for all purposes whatsoever; and the said Receiver General shall pay to the attaching creditor such sum as the said Court shall order him to pay as hereinbefore provided. 25 30

R. G. to pay according to the order of the Court.

Duration of writ may be prolonged.

But not for more than five years.

Creditor may then obtain a new writ, although his claim be then less than £.

VIII. Upon the request of the attaching creditor, the Court may prolong the duration of the said writ of attachment for such period of time as the said Court shall think proper, and the Order or Judgment of the Court with reference thereto shall be served upon the Receiver General in the manner hereinbefore prescribed; but in no case shall the writ of attachment be prolonged beyond the period of five years, to be computed from the day on which it shall have been returned into Court, and if, at the expiration of the prolongation of the delay granted by the Court, the creditor shall not then be paid in full, he may in such case obtain a new writ of attachment in the manner hereinbefore prescribed, notwithstanding that the balance remaining due to him be less than 45
currency.

Court having jurisdiction where the Receiver General has his office, may issue the writ on production

IX. Upon the production of a copy of any Judgment obtained in a Court of Justice in this Province against any Public Officer, Functionary or Clerk, for any sum exceeding in principal, interest, and costs, the said sum of currency, the said Copy being certified by the Clerk and sealed with the Seal of the said Court, it shall be lawful for any Court of competent Jurisdiction, and whose 50

Jurisdiction shall extend to the place where Office of the Receiver General is kept, to issue at the request of the creditor or of his Attorney *ad litem* a writ of attachment as aforesaid to attach, as hereinbefore provided, the amount of the said sum, interest and costs, which said
 5 writ of attachment shall be returnable into the Court out of which it shall have issued as aforesaid ; and all difficulties or contestations which shall be raised with reference to any writ of attachment issued by virtue of this Act, shall be adjudged and decided in accordance with the laws in force in that part of the Province in which the judgment obtained as
 10 aforesaid against the said Public Officer, Functionary or Clerk, shall have been rendered.

of the Judgment.

How contestations, &c., arising on the attachment shall be determined.