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No. 280.

1st Session, 4th Parliament, 16 Victoria, 1853.

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 a first time, Wednesday, 9th March, 1853.

Second Reading, Wednesday, 16th March, 1853.

MR. DUMOULIN.

QUEBEC.

PRINTED BY JOHN LOVELL, MOUNTAIN STREET.

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.,

Preamble.

That 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.

Creditors may attach the salaries of Public Officers, after Judgment.

II. And be it enacted, That 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.

Judgment must exceed a certain sum.

III. And be it enacted, That 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 _____ but not 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. of 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.

Proportion of salary which may be seized in any case.

IV. And be it enacted, That if the attaching Creditor shall prove to the satisfaction of the Court out of which the Writ of Attachment shall

In certain cases the

whole salary may be seized. have issued, that the 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.

Court to direct application of monies seized. V. And be it enacted, That in all cases of Writs of Attachment, issued as aforesaid, the application of the sum seized shall be directed by the said Court, and when there shall be several Writs of Attachment, against the same Debtor, the said Court shall distribute the monies seized among all the attaching Creditors, in the manner prescribed by law in cases of attachments after Judgment.

Service on Receiver General. VI. And be it enacted, That 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.

Declaration to be made by Receiver General. VII. And be it enacted, That on the day of the return of the said Writ of Attachment into the said Court, the said Receiver General shall appear in person before the said Court and make his declaration as *Tiers Saisi*, or shall within three days after the said return fyle or cause to be fyled 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.

Court may prolong the term of seizure. VIII. And be it enacted, That 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 , currency.

Limit. New Writ in certain cases. IX. And it is enacted, That 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 prin-

How a Writ shall be obtained.

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cipal, 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 jurisdiction shall extend to the place where Office of the Re-
 5 ceiver 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 herein-
 before provided, the amount of the said sum, interest and costs, which
 said Writ of Attachment shall be returnable into the Court out of which
 it shall have issued as aforesaid, and all difficulties or contestations
 10 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 Judg-
 ment obtained as aforesaid against the said Public Officer, Functionary
 or Clerk, shall have been rendered.

Contestations
how decided.

15 X. And be it enacted, That the Interpretation Act shall apply to this Interpretation
 Act.