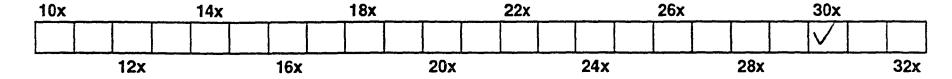
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2nd Session, 7th Parliament, 26 Victoria, 1863

BILL.

An Act to extend certain provisions of the County Court Act of Upper Canada to Division Courts.

Received and read, first time, Monday, 16th March, 1863.

Second reading, Wednesday, 18th March, 1863.

MR. HOOPER.

QUEBEC:

PRINTED FOR THE CONTRACTORS BY HUNTER, ROSE & LEMIEUX, ST. URSULE STREET.

An Act respecting the attachment of Debts in Division Courts:

Her Majesty, by and with the advice and consent of the Legisla-Preamble. tive Council and Assembly of Canada, enacts as follows:

- 1. Any party who has had an execution in any Division Court re-Attachment turned nulla bona, either as to the whole amount or as to part, may of debts due 5 obtain from the Clerk an order that all debts owing by or accruing from debtor, any person or persons to the judgment debtor, of amounts within the jurisdiction of a Division Court shall be attached to answer the judgment.
- 2. In case the Judge be satisfied upon application on oath made to When Judge 10 him by the party in whose favor a judgment has been given, or be satis-shall issue the field by other testimony that such party will be in danger of losing the order. amount of the judgment if compelled to wait until the return of the execution before such order is obtained, he may direct the order to issue at such time as he thinks fit.

15 PROCEEDINGS AGAINST GARNISHEEB.

- 3. The person to or from whom such debts are owing or accruing is Effect of such hereinafter called the garnishee, and service on him of the order or attachment. notice thereof to him in such manner as the Judge directs, shall bind such debts in his hands.
- 4. The order shall be for the garnishee to appear before the Clerk of the Duty of gar-Division Court, within whose division the garnishee resides, at his office, nishee on on some day to be appointed in the said order; and the said order shall be served on such garnishee, and if the garnishee do not forthwith pay the amount due by him, or an amount equal to the judgment debt, and do not dispute the debt due or claimed to be due from him to the judgment debtor, or if he do not appear before the Division Court Clerk named in the order at his office, on the day appointed, then such Clerk,
- vious, may issue execution out of the Division Court of the Division in which such garnishee resides, to levy the amount due from such gar30 nishee, and the bailiff to whom such writ or execution is directed shall be thereby authorized to levy, and shall levy the amount mentioned in the said execution towards satisfaction of the judgment debt, together with the costs of the proceeding to be taxed, and his own lawful fees; but if the garnishee disputes his liability, the judgment creditor shall be

on proof of the service of the order having been made four days pre-

- 35 at liberty to proceed against the garnishee, according to the practice of the said Division Courts, for the alleged debt or for the amount due to the judgment debtor, if less than the judgment debt, and for costs of suit.
- 5. Payment made by, or execution levied upon the garnishee under any Effect of pay40 such proceeding as aforesaid, shall be a valid discharge to him as against ment by garthe judgment debtor to the amount paid or levied, although the proceeding should be afterwards set aside or the judgment reversed.

Debt Attach-Rooks to be kept. 6. There shall be kept at the several offices of the Clerks of the Division Courts a Debt Attachment Book, and in such book; entries shall be made of the attachment and proceedings thereon, with names, dates and statements of the amount recovered and otherwise; and the mode of keeping such books shall be the same in all the offices, 5 and copies of any entries made therein may be taken by any person upon application to the proper officer.

Costs under this Act.

7. The costs of any application for an attachment of debt under this Act, and of any proceedings arising from, or incidental to such application, shall be, in the discretion of the Judge, subject to any general 10 rules that may be made in reference thereto.

To be read as spart of Division Courts sion Courts Act.

Act.