



No. 249.

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

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## BILL.

An Act to amend the Lower Canada  
Judicature Act 12th Victoria, chap-  
ter 38, and to provide for the service  
of Circuit Court Writs by Bailiffs.

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Received and read a first time, Friday, 25th  
February, 1853.

Second reading, Monday, 28th February, 1853.

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MR. TERRILL.

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QUEBEC:

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An Act to amend the Lower Canada Judicature Act, and to provide for the service of Circuit Court Writs by Bailiffs in certain cases.

**WHEREAS** it is expedient and necessary to amend certain Sections of the Act passed in the twelfth year of Her Majesty's Reign, and intituled, "*An Act to amend the Laws relative to the Courts of original Civil Jurisdiction in Lower Canada,*" and to provide an easy and less expensive mode of effecting the service of Writs of Summons and Writs of Execution *de bonis* issuing from the Circuit Court created by the said Act; Be it therefore enacted, &c.,

Preamble.

12 Vic. c. 38.

That the 50th Section of the Act first above cited, shall be and is hereby amended in such a manner as to permit all Writs of Summons *ad respondendum* issuing from the said Circuit Court in all cases cognizable therein, and when by law such writ may be executed in any District other than the District in which the same shall have issued, to be, at the option and choice of the Plaintiff or Plaintiffs in such cases, addressed either to the Sheriff of such other District or to any Bailiff of the Superior Court in such other District, to be by such officer executed and returned into the Circuit Court at the place where the same shall have issued, according to the exigency of such writ and to law, and such writ so returned shall be received and the certificate of due service or execution shall be authentic as in ordinary cases.

Writ of Summons to be served in another District may be addressed to a Bailiff therein.

II. And be it enacted, That in any case in the said Circuit Court when any Writ of Summons shall require to be executed in two or more Districts, the next preceeding Section may apply and regulate the proceedings, and as many original Writs of Summons may issue as there may be Districts in which the same are to be executed, and the 93rd Section of the Act herein first above cited, shall be so interpreted as to give full and ample effect to this Section of the present Act.

Preceeding section to apply where the writ is to be served in more than one District.

III. And be it enacted, That the 71st Section of the Act herein first above cited, shall be and is hereby so amended as to permit *alias* Writs of Execution *de bonis* issuing from the said Circuit Courts, and requiring to be executed in any District other than

*Alias* writ of execution *de bonis* to be executed in another Dis-

trict may be  
addressed to  
to a Bailiff.

the District in which the same shall have issued, to be, at the option and choice of the Plaintiff or Plaintiffs in such cases, addressed either to the Sheriff of such other District or to any Bailiff of the Superior Court in such other District, to be by such officer duly executed and returned into the Circuit Court at the place where the same shall have issued, and the said Court shall be bound to receive the return of service and execution as in other cases. 5

Duty of the  
Bailiff to  
whom any  
such writ shall  
be addressed.

IV. And be it enacted, That in all cases wherein such Writs of Summons or of execution *de bonis* shall be so addressed to a Bailiff of the Superior Court in such District other than the District in which the same shall have issued, it shall be the duty of such Bailiff into whose hands such Writ shall be placed forthwith to execute and duly return the same into the Circuit Court at the place where the same shall have so issued. 10

Punishment of  
Bailiff ne-  
glecting his  
duty as to any  
such writ.

V. And be it enacted, That any such Bailiff who shall neglect or refuse duly to execute and return in accordance with the provisions of this Act any such Writ so intrusted to him, or who shall improperly execute or return any such Writ of Summons or Writ of Execution, shall be liable in damages at the suit of the Plaintiff or Plaintiffs or other interested person or persons, as in ordinary cases, for all injury or loss sustained by such neglect or refusal or by such improper execution or return of any such Writ, and the sureties of such Bailiff shall be holden as in other cases according to law. 15 20

Liability of  
Bailiff for  
monies levied  
under any  
such writ.

VI. And be it enacted, That in any case, wherein under any Writ of Execution so as aforesaid issued and addressed to any Bailiff, such Bailiff shall have levied the amount of the said Writ of Execution or any part thereof, such Bailiff shall be held responsible for the due payment thereof to the Plaintiff or Plaintiffs or into the Court from which the Writ issued in any such cause, and shall be *contraignable* for the same by the ordinary course of law and by the order of the Circuit Court at the place where such Writ of Execution shall have issued. 25 30