

20. In case of the Order F, mentioned in the said Chapter, being made by the said Sessions, any such officer or ex-officer arrested thereunder at a time when the Sessions are not actually sitting or open, may be taken by the person making the arrest before any Justice of the said City and County; when the person under arrest may, upon entering into recognizance with two or more sufficient sureties, in a sum not exceeding two thousand dollars, to appear at the next General or Special Sessions, or on the next succeeding day upon which the same may be sitting or open, and to abide the order of the Sessions, be released; but in default of such recognizance being given to the satisfaction of such Justice, such person shall be forthwith conveyed to the Gaol of the said City and County, there to remain and abide the order of the Sessions, unless in the meantime the recognizance hereby required be given before a Justice of the said City and County.

21. The Sessions in like manner, instead of committing such person to gaol, may at any time take from him a similar recognizance pending any examination or investigation they may see fit to make.

22. If the Sessions shall make, and they are hereby empowered to make an order for the payment by such person of any sum or sums of money found to have been unlawfully applied or retained by him, and such order be not forthwith complied with, the Sessions may, instead of committing him at once to gaol, make the Order A appended to this Act.

(A)

To the High Sheriff of the City and County of Saint John,  
or any Constable of the                      of                      in the said  
City and County.

Levy the goods and chattels of A. B. [*state office*] within the                      of                      in the said City and County of Saint John the sum of                      , which amount he was on the day of                      ordered to pay by the Sessions of the said City and County, but has not paid, together with the costs and expenses of levying the same, and pay the said sum of                      or so much thereof as you may obtain, forthwith to the Treasurer of the said City and County, to abide the order of the said Sessions according to law; and for want of goods and chattels whereon to levy the said sum of                      , and costs and expenses as aforesaid, or any part thereof, take the said A. B. and deliver him to the Keeper of the Gaol of the said City and County, who is hereby required to receive and keep him safely until payment in full of the said amount, and costs and expenses as aforesaid, or he shall be discharged by order of the said Sessions, and make such return hereof on the                      in                      next.

Dated the                      day of                      , A. D. 187                      .

By the said Sessions.

E. F. Clerk of the Peace  
for the City and County of Saint John.

## CAP. VII.

An Act to provide for Process of Attachment in certain Civil Suits, and to abolish Imprisonment for Debt.

Passed 8th April, 1874.

BE it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

### PART I.—ATTACHMENT.

#### WHEN ATTACHMENT MAY ISSUE.

1. The property real or personal within the province of any defendant which by law is liable to be taken in Execution, may, in respect of any cause of action hereafter arising upon a contract in the cases herein provided, be attached and held as security to satisfy the judgment which the plaintiff may recover, to the amount for which the attachment is hereby authorized to be made.

2. A person at the time of entering into a contract may, except in the case of a negotiable instrument, agree and stipulate, as part of such contract, that in respect thereof the property of the contracting party shall not be subject to attachment.

3. No writ of attachment shall be issued unless the plaintiff, or some one on his behalf, shall first by affidavit to be sworn before a Commissioner for taking Affidavits in the Supreme Court, make oath of the nature of the cause of action, and of the amount due, and also that no agreement was entered into whereby no attachment should issue in respect of such cause of action; and such affidavit shall also state—

(1) That the demand for which attachment is to issue is not secured by a mortgage, pledge or lien upon real or personal property of the defendant; and

(2) That the attachment is not sued out for the purpose of vexing or harassing the defendant, or to hinder, delay or defraud any creditor of the defendant; and

(3) Either (a) that the defendant is a non-resident of the Province, and that the contract was made in or is payable in the Province, or that the plaintiff or one of the plaintiffs is a resident of the Province; or (b) that the defendant is a resident of the Province and that plaintiff is apprehensive that unless attachment is issued, plaintiff may lose his demand, stating briefly the grounds for such apprehension, and if from information received from others his belief in the truth thereof.

4. In cases of a contract other than a contract for the payment of money, no attachment shall issue unless upon an order of the Court in which the action is brought, or a Judge thereof fixing the amount for which the same shall issue, to be made upon affidavit as aforesaid, and upon it satisfactorily appearing to the Court or Judge by affidavit that plaintiff is likely to be materially prejudiced in the recovery of his demand unless an attachment should be issued, and in such case the writ of attachment shall be indorsed as having been issued on order as aforesaid.

5. No writ of attachment shall be executed by the Sheriff unless the plaintiff or some one on his behalf shall enter into a bond to the Sheriff in his name of office, with two good and sufficient sureties in double the amount for which the attachment is issued, conditioned for the prosecution of the suit by plaintiff with effect and without delay, and for the payment by plaintiff of all damages and costs that defendant may sustain by reason of the attachment or the proceedings