

any court of this province before a writ or summons be first made out, upon which writ, if the party defendant be an inhabitant, or resident within this province, and the sheriff shall return a *non est inventus*, one other writ or summons shall thereupon, in manner aforesaid, issue forth against the said defendant; and if the sheriff shall, upon the second writ or summons, return a *non est inventus* likewise, an attachment shall and may, in manner and form hereafter set down, be awarded.

In case of
suit, &c.
justices to
award
attachment,
&c.

SEC. 3. *And*, in case any writ or summons shall issue forth of any his majesty's courts within this province, against any person or persons absent out of this province, in such case, upon the return of a *non est inventus* by the sheriff on such writ or summons, and the party plaintiff his leaving with the attorney of such absent defendant (if he hath left any attorney) a copy of his declaration, or short note, expressing the cause of action, or if he hath left no attorney, then the plaintiff leaving a copy of the said declaration or short note, expressing the true cause of action, at the house where the said defendant absent did last reside or dwell, and making such proof of his action as the said respective courts shall think fit, it shall and may be lawful for the justices of the said courts to award an attachment against the goods, chattels and credits of the said absent defendant, so as aforesaid prosecuted, and not appearing to the said action, which are or shall be in the hands and possessions of any person or persons whatsoever, yea, even in the plaintiff's own hands, for the defendant's use, in this province, in which said attachment there shall be a clause, commanding the sheriff of the respective counties, at the time of the executing the said attachments, to make known to each person or persons in whose hands or possessions the said goods, chattels and credits so attached are, if to him or them it shall seem meet, to be and appear, on the return of such attachments, before the justices of the respective courts out of which such attachments are issued, to shew cause why such goods, chattels or credits, so attached as aforesaid, should not be condemned, and execution thereof had and made, as in other cases of recoveries and judgments given in courts of record; at which day of return of the said attachment, if the said defendant shall not then appear, nor the garnishee, in whose hands the aforesaid goods, chattels and credits of the defendant were attached, to shew cause to the contrary, the respective courts shall and may condemn the said goods, chattels and credits so as aforesaid attached, and award execution thereof to be had and made by *capias ad satisfaciendum, fieri facias*, or otherwise, as in other judgments, he, the said plaintiff, so prosecuting as aforesaid, giving good and sufficient security before the justices of each respective court, to and for the use of the said defendant, so as aforesaid being not