

## A T T A C H M E N T.

cellive writs against such defendant have been returned *non-est.* 1715, c. 40. § 2.

2. But in case the defendant be absent out of the province, then one writ being returned *non-est*, by the sheriff, and the plaintiff leaving a copy of his declaration, or short note expressing the true cause of action, either with the defendant's attorney, (if he hath one) or at the defendant's late dwelling house, (if he hath left no attorney) and making proof (see below, article 10, 11.) of his action; the court shall award an attachment against the goods, &c. of such absent defendant, so prosecuted and not appearing to the action; which attachment may be laid on such goods, &c. in the plaintiff's own, or any other person's hands whatsoever.—*Ibid.* §. 3.

3. In such attachment shall be a clause commanding the sheriff to make known to the persons in whose hands the effects are attached, to appear on the return of the attachment before the court, to shew cause why such goods, &c. shall not be condemned, &c. And in default of such appearance in the defendant and garnishee in whose hands they were attached, the goods, &c. shall be condemned, &c. the plaintiff giving security in court for the use of the defendant, to make restitution of the same, or the value, if such defendant shall, within a year and a day from the awarding of the attachment, by himself or attorney, appear to the original action, and prove payment, or otherwise in court discount or bar the plaintiff of the whole or part.—*Ibid.*

4. Such condemnation, &c. of the effects shall be pleadable in bar by the garnishee, in any action brought by the said defendant for the same.—*Ibid.*

5. No Sheriff shall execute more against the garnishee than the plaintiff's debt and costs; nor than what the plaintiff shall make appear in court to be the goods, &c. of the defendant; with such costs only as such garnishee shall put the plaintiff to by denying himself to be indebted to the defendant, and contesting the same.—*Ibid.* §. 4.

6. No Sheriff shall attach, &c. the goods, &c. of any inhabitants, so as to deprive them of all future livelihood; but corn for necessary maintenance, bedding, gun, ax, pot, labourers necessary tools, and such like household implements and ammunition for subsistence, shall be protected from all attachments and executions whatsoever.—*Ibid.* §. 5.

7. But such as wilfully abscond from the sheriff or are absent by flight or proscription, out of the province, (to be averred upon oath) shall have no benefit of any favourable interpretation of this law.—*Ibid.* §. 6.—See also below, art. 9.

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