



# Debtors Act 1869

## 1869 CHAPTER 62

### PART III

#### *Warrants of Attorney, Cognovits, and Orders for Judgment*

**24 Warrants of attorney and cognovit actionem to be executed in the presence of an attorney on behalf of the person.**

After the commencement of this Act, a warrant of attorney to confess judgment in any personal action or cognovit actionem given by any person shall not be of any force unless there is present some attorney of one of the superior Courts on behalf of such person expressly named by him and attending at his request to inform him of the nature and effect of such warrant or cognovit before the same is executed, which attorney shall subscribe his name as a witness to the due execution thereof, and thereby declare himself to be attorney for the person executing the same, and state that he subscribes as such attorney.

**25 Warrant, &c. not formally executed invalid.**

A warrant of attorney to confess judgment or cognovit actionem not executed in manner aforesaid shall not be rendered valid by proof that the person executing the same did in fact understand the nature and effect thereof, or was fully informed of the same.

**26 Piling of warrant of attorney and cognovit actionem.**

Where in an action a warrant of attorney to confess judgment or a cognovit actionem is given, and the same, or a true copy thereof, is not filed with the officer acting as clerk of the docket and judgments in the Court of Queen's Bench within twenty-one days next after the execution thereof as required by the Act of the third year of the reign of King George the Fourth (chapter thirty-nine), "for preventing frauds upon creditors by "secret warrants of attorney to confess judgment," the same shall be deemed fraudulent and shall be void ; and if any such warrant of attorney or cognovit

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*Status: This is the original version (as it was originally enacted).*

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actionem so filed was given subject to any defeasance or condition, such defeasance or condition shall be written on the same paper or parchment with the warrant or cognovit before the filing thereof, otherwise the warrant or cognovit shall be void.

**27 Filing of judge's order to enter up judgment.**

Where a judge's order made by consent is given by a defendant in a personal action whereby the plaintiff is authorized forthwith or at any future time to sign or enter up judgment, or to issue or to take out execution, whether such order is made subject to any defeasance or condition or not, then if the action is in the Court of Queen's Bench the order, and if the action is in any other court a true copy of the order, shall, together with an affidavit of the time of such consent being given, and a description of the residence and occupation of the defendant, be filed with the officer acting as clerk of the docquets and judgments in the Court of Queen's Bench within twenty-one days after the making of the order, otherwise the order and any judgment signed or entered up thereon, and any execution issued or taken out on such judgment, shall be void.

**28 Application of 3 Geo.4 c.39 and 6 & 7 Vict. c.66 to judge's orders.**

The provisions of the said Act of the third year of King George the Fourth, and of the Act of the session of the sixth and seventh years of Her Majesty's reign (chapter sixty-six), " to enlarge " the provisions of an Act for preventing frauds upon creditors by " secret warrants of attorney to confess judgment," for liberty to file a warrant of attorney or cognovit actionem, or a copy thereof, with the clerk of the docquets and judgments, and for that clerk to make certain entries and search in relation thereto, and for entering satisfaction thereon, and for fees for search, and filing and taking office copies, shall extend and be applicable to every such judge's order.

**29 Exemption from Act of foreign attachment.**

Nothing in this Act contained shall affect the custom of foreign attachment as exercised by any competent court, or the proceedings in relation to such custom.