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No. 74.

2nd Session, 6th Parliament, 22 Victoria, 1859.

BILL.

An Act to make better provision for the relief of Debtors, and the more effectual punishment of Fraud.

Received and read, first time, Wednesday, 23rd
February, 1858.

Second reading, Thursday, 24th February, 1859.

MR. GOWAN.

TORONTO:

PRINTED BY JOHN LOVELL, YONGE STREET.

An Act to make better provision for the relief of Debtors, and for the more effectual punishment of Fraud.

WHEREAS the deprivation of personal liberty by confinement on Jail Limits, or the incarceration of any subject of Her Majesty for any cause of civil action, or inability to discharge a civil debt or obligation, ought not to be encouraged or tolerated; And whereas it is desirable that more stringent enactments should be made than already by law exist, for the punishment of persons fraudulently contracting debts, and of persons fraudulently conveying their property, or otherwise concealing it, to evade the payment of their just debts; Therefore Her Majesty, &c. enacts as follows : Preamble.

10 I. From and after the passing of this Act it shall be the duty of every Judge commissioned to open and hold any Court of Assize and Nisi Prius, Oyer and Terminer, and General Gaol Delivery, in and for any County or Union of Counties in Upper Canada, after he shall have delivered the gaol of all prisoners confined therein, to require from the Sheriff of such County or United Counties, a return of all persons (if any there are) remaining in his bailiwick confined in close custody, or placed upon the gaol limits, under and by virtue of any writ or writs, issued out of any Court of Law or of Equity in the Province, for cause of debt or other civil action, plaint or writ. Judges of assize to inquire concerning prisoners confined for debt.

20 II. If it shall be found that any person is so deprived of personal liberty, it shall be the duty of such Judge to direct that every such person so confined as aforesaid shall be brought before him, and he shall then be examined by the said Judge, touching the cause and nature of his detention, and if it shall appear to the satisfaction of the Court that the party so confined is detained on account of debt only, and without allegation of fraud, malversation or other act of criminality, the Judge shall direct the discharge of every person so confined as aforesaid. To release those against whom there is no allegation of fraud.

40 III. In case any person so confined shall be detained on an allegation of having fraudulently conveyed his property to another or to others to evade the payment of the debt for which he may be so confined, or of his refusing to make a full, true and faithful disclosure of his property and effects, for a like fraudulent purpose, or in case he shall be charged with fraud, collusion or other illegal and corrupt conduct connected with the evasion of the payment of the debt for which he shall be so confined; then it shall be the duty of the Judge to put the party so charged upon his trial, before a jury of his country, then and there to be impanelled and sworn to try the validity of the allegation for the And where fraud is alleged to inquire by a jury.

misdemeanor with which he may stand charged, and to render a true verdict according to the evidence upon the issue joined between the parties.

To punish
those found
guilty.

IV. If the person so charged shall be found guilty of the offence for which he shall be so arraigned and tried, then the Judge shall sentence 5 him to such punishment as the law awards to the crime of which he shall be so found guilty as aforesaid.

And discharge
those not
guilty.

V. If the person so charged shall be found not guilty, then the Judge shall direct his immediate discharge from the custody of the Sheriff as aforesaid.