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At a Council holden at *Halifax*, on Wednesday the 6th of *December* 1752, It was enacted as follows.



A N

A C T

For the Relief of *Debtors*, with Respect to the Imprisonment of their *Persons*.

WHEREAS there are divers unhappy Persons, who have been for some Time past confined, and are now detained in His Majesty's Goal in this Place for Debt, for whose Maintenance, by their Creditors or otherwise, no Provision is made by any Act of the Legislature of this Province; By Reason whereof the said Prisoners are wholly depending upon the Charity of Compassionate Persons for the Support of Life, and may be reduced to great Distress, contrary to the Intention of the Law in regard to Prisoners for Debt. Preamble.

BE it therefore enacted by His Excellency the Governor, by and with the Advice and Consent of His Majesty's Council of this Province, and by the Authority of the same, That if any Person or Persons now charged, or who shall or may hereafter be charged in Execution, for any Sum or Sums of Money, that from Persons charged in Execution to exhibit a Petition to the Court.

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and after the Publication hereof, shall be minded to deliver up to his, her, or their Creditors, all his, her, or their Effects, towards the Satisfaction of the Debts wherewith he, she, or they stand charged ; It shall and may be lawful to and for such Prisoner to exhibit a Petition to any of the Courts of Law within the said Province, or during the Intervals of the Sitting of such Courts, to any Two of the Justices of any such Courts from whence the Process issued, upon which he, she, or they was or were taken or charged in Execution, certifying the Cause or Causes of his, her, or their Imprisonment, and an Account of his, her, or their whole real or personal Estate, with the Dates of the Securities wherein any Part of it consists, and the Deeds or Notes relating thereto, and the Names of the Witnesses thereto, as far as his, her, or their Knowledge extends therein : And upon such Petition the said Court, or the said two Justices, may and are hereby required, by Order or Rule of the said Court, or by Order under the Hands and Seals of the said two Justices, to cause the said Prisoner to be brought up to the said Court, or before them the said two Justices, and the several Creditors at whose Suit he, she, or they stand charged as aforesaid, to be summoned to appear personally, or by their Attorney, in the said Court, or before them the said two Justices, at a Day to be appointed for that Purpose, and upon the Day of such Appearance, if any of the Creditors summoned, refuse or neglect to appear, upon Affidavit of the due Service of such Rule or Order of the said Court, or Order of the said two Justices, the said Court, or the said two Justices, shall and may, in a summary Way, examine into the Matter of such Petition, and hear what can or shall be alledged on either Side, for or against the Discharge of such Prisoner ; and upon such Examination, the said Court, or the said two Justices, may and are hereby required to administer or tender to the Prisoner an Oath, to the Effect following ; which Oath the said Court, or the said two Justices, are hereby empowered to administer.

Or to two Justices of the Court from whence the Process issued,

With an Account of their whole Estate, &c.

Prisoner to be bro't before the Court, or before the two Justices. Creditors to be summoned.

I A. B. Do solemnly swear, in the Presence of Almighty G O D, that the Account by me delivered into

in my Petition to

doth contain a full and true Account of all my real and personal Estate, Debts, Credits, and Effects whatsoever, which I, or any in Trust for me, have, or at the Time of my said Petition had, or am, or was in any respect intitled to in Possession, Remainder, or Reversion (except the Wearing-Apparel and Bedding for me or my Family, and the Tools or Instruments of my Trade or Calling, not exceeding Ten Pounds in the whole) and that I have not at any Time since my Imprisonment, or before, directly or indirectly, sold, leased, assigned, or otherways disposed of, or made over in Trust, for myself or otherwise, other than as mentioned in such Account, Any Part of my Lands, Estate, Goods, Stock, Money, Debts, or other real or personal Estate, whereby to have or expect any Benefit or Profit to my self, or to defraud any of my Creditors to whom I am indebted.

Prisoners Oath.

So help me G O D.

And in case the said Prisoner shall in open Court, or before the said two Justices, take the said Oath, and upon such Examination, and

and his or her taking the said Oath, the Creditors shall be satisfied with the Truth thereof, the said Court, or the said two Justices, may immediately order the Lands, Goods, and Effects contained in such Account, or so much of them as may be sufficient to satisfy the Debts wherewith he or she is or shall be charged, and the Fees due to the Provost-Marshal of the said Province, and the Keeper of the Goal or Prison from which the Prisoner was brought, to be by a short Indorsement on the Back of the said Petition signed by the Prisoner, assigned to the said Creditors, or to one or more of them in Trust for the rest of the said Creditors, and by such Assignment the Estate, Interest and Property of the Lands, Goods, Debts, and Effects so assigned, shall be vested in the Person or Persons to whom such Assignment is or shall be made, who may take Possession of, or sue for the same, in his or their own Name or Names, in like Manner as Assignees of Commissioners of Bankrupts, to which Suit no Release of the Prisoner, his or her Executors or Administrators, or any Trustees for him or her, subsequent to such Assignment, shall be any Barr; and immediately upon such Assignment executed, the said Prisoner shall be discharged out of Custody by Order of the said Court or of the said two Justices: And such Order shall be a sufficient Warrant to the Provost-Marshal, Goalor, or Keeper of such Prison, to discharge the said Prisoner, if detained for the Causes mentioned in such Petition, and no other; and he is hereby required to discharge and set him or her at Liberty forthwith without Fee: Nor shall such Provost-Marshal or Goalor be liable to any Action of Escape, or other Suit or Information upon that Account; and the Person or Persons to whom the said Effects shall be assigned paying the Fees to said Provost-Marshal, Goalor or Keeper of the Prison in whose Custody the Party discharged was, shall and are hereby required to divide the Effects so assigned among themselves and all the Persons for whom they shall be entrusted, in Proportion to their respective Debts: But in case the Person or Persons at whose Suit such Prisoner was charged in Execution, or any of them, shall not be satisfied with the Truth of the Oath of such Prisoner before the two Justices as aforesaid, and shall desire further Time to inform himself of the Matters contained therein, and shall insist upon his or her being detained longer in Prison at his or their Suit, then the said Justices shall and may remand the said Prisoner, and direct the said Prisoner and the Person or Persons dissatisfied with such Oath, to appear before the Court whence the Process issued as aforesaid, at a certain Day during the Sitting of the said Court then next following such Examination, and to be by them at that Time appointed for the further Examination of the Matters contained in the said Oath: provided the said Person or Persons so dissatisfied do agree by Writing under his or their Hands, to supply and allow weekly the full Quantity of *Eight Pounds* of good and wholesome Biscuit Bread *per Week*, unto the said Prisoner, to be so supplied and allowed the first Day of every Week, from and after the Time of such Prisoner's being so remanded, until the said Day so appointed for the further Examination of the Truth of the Matters contained in the aforesaid Oath before the said Court as aforesaid; on Failure of the supplying of which weekly Allowance at any Time, the said Prisoner shall forthwith, upon Application to the said Court, or to the said two Justices, be discharged by such Order as aforesaid. But in case the

Prisoner's Estate to be assigned to the Creditors or Trustees.

Prisoner to be discharged.

Trustees to divide the Effects.

Creditors dissatisfied before the Justices

Prisoner to be remanded, and the Parties directed to appear before the Court whence the Process issued.

Prisoner to be allowed 8 Pounds of Biscuit per Week 'til the Examination before the Court

On Failure the Prisoner to be discharged.

said

said Prisoner shall refuse to take the said Oath before the said two Justices, or having taken the same shall be detected of Falsity therein, he or she shall be presently remanded.

The Judgment of the two Justices to be as effectual as if made before the Court,

And to be return'd to the Court, and there recorded.

Creditors failing to appear before the Court,

Or unable to discover any Effects omitted in the Prisoner's Petition, Prisoner to be discharged, unless the Creditors insist upon his or her being longer detained in Prison, and agree to allow him or her 8 Pounds of Biscuit per Week.

On Failure Prisoner to be discharg'd

And be it further enacted, That such Judgment, Relief, and Directions by the said two Justices so to be given as aforesaid, shall be as good and effectual, to all Intents and Purposes, as if the same had been made in the Court out of which the Process issued on which such Prisoner was taken in Execution, and the like Proceedings shall be had thereupon, and a Record of such Judgment shall be made up in the same Form, and return'd and certified under the Hands of such two Justices before whom it shall be made, unto the Court from whence the Process on which such Prisoner was taken in Execution issued, to be a Record of the said Court, and to be kept as such amongst the Records there.

And be it further enacted by the Authority aforesaid, That if on the Appearance of such Prisoner or Prisoners before the said Court as aforesaid, at such second Day so to be appointed by the said two Justices, the Creditor or Creditors of such Prisoner or Prisoners dissatisfied with the Truth of such Oath before the said two Justices, shall make Default in appearing, or in case he, she, or they shall appear, but shall be unable to discover any Estate or Effects of the Prisoner omitted in such his or her Petition, or to shew any probability of his or her having been forsworn in the said Oath, then the said Court shall immediately cause the said Prisoner to be discharged upon such Assignment of his or her Effects in Manner as aforesaid, unless such Creditor or Creditors do insist upon his or her being detained longer in Prison at their Suit, and do agree, by Writing under his, her, or their Hands, to supply and allow weekly the full Quantity of *Eight Pounds* of good and wholesome Biscuit Bread *per Week* unto the said Prisoner, to be supply'd and allowed the first Day of every Week, so long as he or she shall continue in Prison at his, her, or their Suit as aforesaid; on Failure of the Supply of which weekly Allowance at any Time, the Prisoner shall forthwith, upon Application to the said Court, or during the Interval of such Courts Sittings to the said two Justices, be discharged by such Order as aforesaid.

Creditors dissatisfied before the Court

Prisoner to be remanded, and another Day appointed

And until such Day Prisoner to be allowed 8 Pounds of Biscuit per Week.

And be it enacted by the Authority aforesaid, That in case on the Appearance of the said Prisoner before any of the said Courts of Law in this Province on his Petition to them at any Time during their Sitting preferred as aforesaid, the Person or Persons at whose Suit such Prisoner was charged in Execution, or any of them, shall not be satisfied with the Truth of the said Prisoner's Oath at that Time made, but shall desire further Time to inform himself of the Matters contained therein, the said Court may and shall remand the said Prisoner, and direct the said Prisoner and the Person or Persons dissatisfied with such Oath, to appear at another Day to be appointed by the said Court, some Time within and during their then present Sessions for that purpose; subject in the mean Time, and until such second Day, to the same Allowance to the said Prisoner, by such Person or Persons so dissatisfied with the said Prisoner's Oath, and lyable to the like Discharge in case of Default of such Allowance as is herein before directed, upon Application to the said two Justices

Justices as aforesaid, and if at such second Day so to be appointed, the Creditor or Creditors dissatisfied with such Oath shall make Default in appearing, or in case he, she or they shall appear, but shall be unable to discover any Estate or Effects of the Prisoner, omitted in such his or her Petition, or to shew any Probability of his or her having been foresworn in the said Oath, then the said Court shall immediately cause the said Prisoner to be discharged, upon such Assignment of his or her Effects in Manner as aforesaid, unless such Creditor or Creditors do insist upon his or her being longer detained in Prison at their Suit, and do agree, by Writing under his, her or their Hands, to supply and allow weekly the Quantity of *Eight Pounds* of good and wholesome Biscuit Bread *per Week* unto the said Prisoner, to be supply'd and allowed the first Day of every Week, so long as he or she shall continue in Goal at his, her, or their Suit; on Failure of the Supplying of which weekly Allowance at any Time, the said Prisoner shall forthwith, upon Application to the Court, or, during the Interval of such Court's Sitting, to any two of the Justices of the said Court, be discharged by such Order as aforesaid. But in case the said Prisoner shall refuse to take the said Oath, or having taken the same, shall be detected of Falsity therein, he or she shall be presently remanded.

Creditors failing to appear on such second Day, or unable to discover any Effects omitted in Prisoner's Petition, Prisoner to be discharged, unless Creditors insist on his or her being detained longer in Prison, and agree to allow him or her 8 Pounds of Biscuit per Week, on Failure, Prisoner to be discharged.

Prisoner refusing to take the Oath, or detected of Falsity therein, to be remanded.

And to prevent Persons who may be charged in Execution from lying in Prison until they have spent their Substance, wherewith they should satisfy their Creditors, and afterwards taking the Benefit of this Act, when they have nothing left to deliver up to their Creditors;

Be it enacted by the Authority aforesaid, That from and immediately after the Publication hereof, no Person charged or to be charged in Execution, shall be allowed or permitted to exhibit a Petition to any of the Courts of Law in this Province, or to any of the said two Justices of such Courts from whence the Process issued, as is before provided, unless such Petition be exhibited, if before the Court, within *Four Days* next after the first Meeting of the said Court, which shall be next after such Person shall be so charged in Execution; and if before the said two Justices, within *Ten Days* next after such Person shall be so charged in Execution.

Prisoner not permitted to exhibit a Petition before any Court or Justices, unless exhibited, if before the Court, within 4 Days after the first Meeting of such Court next after such Person be charged in Execution, and if before the Justices within 10 Days after Prisoner charged in Execution.

Provided always, And be it further enacted by the Authority aforesaid, That though the Persons of the Debtor or Debtors so discharged shall never after be arrested for the same Debt or Debts; yet notwithstanding such Discharge, the Judgment against him or her shall stand and remain in Force, and Execution may be taken out thereon against his or her Lands, Tenements, or Hereditaments, Goods and Chattels (his or her Wearing-Apparel, Bedding for him or herself and Family, and necessary Tools for the Use of his or her Trade or Occupation excepted) in the same Manner as if he or she had never been taken in Execution for the said Debt.

Judgment to remain in Force against the Estate or Effects of Prisoners discharged.

Wearing-Apparel &c. excepted.

Provided also, And be it enacted by the Authority aforesaid, That if any Person who shall take such Oath as aforesaid, before the said two Justices, or before the said Court as aforesaid, shall upon any Indictment for Perjury in any Matter or Particular contained in the said Oath, be convicted by his or her own Confession, or by Verdict of

Penalty on Persons convicted of Perjury.

Twelve

Twelve Men, as he or she may be by Force of this Act, The Person so convicted shall suffer all the Pains and Forfeitures which by Law be inflicted on any Person convicted of Wilful Perjury, and shall be liable to be taken upon any Process *De Novo*, and charg'd in Execution for the said Debt in the same Manner as if he or she had never been discharged or taken in Execution before, and shall never afterwards have the Benefit of this Act.

Abatement to be made in Proportion where the Effects are not sufficient to satisfy all the Creditors, and Provost Marshal or Goalor to come in as a Creditor for his Fees.

Provided also, And be it further enacted by the Authority aforesaid, That if the Effects so assigned shall not extend to satisfy the whole Debts due to the Persons at whose Suit he or she was charged, and the Fees due to the said Provost-Marshal or Goalor, there shall be an Abatement in Proportion, and such Provost-Marshal, or Goalor, shall come in as a Creditor for what shall be then due to him for his Fees, in Proportion with the Creditors at whose Suit he or she was charged in Execution.

Where there are mutual Debts, one Debt to be set against the other.

And be it further enacted by the Authority aforesaid, That where there are mutual Debts between the Plaintiff and Defendant, or if either Party sue or be sued as Executor or Administrator, where there are mutual Debts between the Testator or Intestate and either Party, one Debt may be set against the other, and such Matter may be given in Evidence upon the general Issue, or pleaded in Bar, as the Nature of the Case shall require, so as at the Time of his or her pleading the general Issue, where any such Debt of the Defendant, his Testator or Intestate is intended to be insisted on in Evidence, Notice shall be given of the particular Sum or Debt so intended to be insisted on, and upon what Account it became due, or otherwise such Matter shall not be allowed in Evidence upon such general Issue.

Provost Marshal, &c. offending against this Act, to forfeit £ 50.

And be it further enacted by the Authority aforesaid, That every Provost-Marshal or his Deputy, Bailiff, or other Officer or Minister aforesaid, offending against this Act, shall (over and above such Penalties or Punishments as he shall be liable unto by the Law now in Force) for every Offence against this present Act, forfeit and pay to the Party thereby grieved, the Sum of *Fifty Pounds*, to be recovered, with Treble Costs of Suit, by Action of Debt, Bill, Plaint, or Information, in any of the Courts of Law within this Province, wherein no Essoign, Protection, or Wager of Law, or more than one Imparlanche shall be allowed.

Quakers Affirmation to be taken.

And be it further enacted by the Authority aforesaid, That in all Cases wherein by this Act an Oath is required, the solemn Affirmation of any Person being a Quaker, shall and may be accepted and taken in lieu thereof; and every Person making such Affirmation, who shall be convicted of wilful and false affirming, shall incur and suffer such and the same Pains, Penalties, and Forfeitures as are inflicted and imposed by the Laws and Statutes now in Force, upon Persons convicted of wilful and corrupt Perjury.

And be it further enacted by the Authority aforesaid, That this Act, and the several Matters and Things therein contained, shall continue in Force until disapproved of by His Majesty in Council, or be repealed by the Legislature of this Province.

