

1752. month called January last, wherein the names of the months are called first, second, third and fourth, instead of January, February, March, April, and so of the rest, accounting always the month called January to be the first month of the year, shall and are hereby enacted and declared to be as good and available, and may be pleaded, and shall be deemed, adjudged and taken, in all courts of judicature, and elsewhere, within this province, to be as valid and effectual in law, to all intents, constructions and purposes, as if the months in such writings had been set down and expressed by their usual names, any law, custom or usage, to the contrary thereof in any wise notwithstanding.

And repealed, (chap. 175.)

III. *And be it further enacted*, That the act of assembly aforesaid, entitled *An act to prevent disputes which may hereafter arise about the dates of conveyances, and other instruments and writings*, passed in the ninth year of the late queen Anne, and every clause, part and paragraph thereof, shall be and is hereby repealed and made void.

Passed 11th March, 1752.—Recorded A. vol. III. page 299.

CHAPTER CCCXCVIII.

An ACT for regulating and establishing fees. (y)

XXXVIII. *AND be it further enacted*, That no attorney or practitioner at law shall be admitted to make any plea at the bar, except in his own case, without taking the following qualification by oath or affirmation, viz.

Attorney's qualification.

THOU shalt behave thyself in the office of attorney within the court according to the best of thy learning and ability, and with all good fidelity, as well to the Court as to the client: Thou shalt use no falsehood, nor delay any person's cause for lucre or malice.

Passed 22d August, 1752.—Recorded A. vol. III. page 255.

(y) This act was supplied, (chap. 1852,) and repealed by a general declaration, that "From and after the 1st day of October, 1795, the several laws of this commonwealth for regulating fees shall be repealed." The 38th section seems, however, not to have been within the design of the repeal, and is, therefore, preserved in this republication.

CHAPTER CCCXCIX.

An ACT for regulating attachments not exceeding five pounds. (z)

WHEREAS in the execution of a law of this province, passed in the twelfth year of the reign of king William the third, entitled *An act about attachments under forty shillings* many fraudulent practices have happened, not only to the injury of such creditors, whose demands have exceeded the sums in the said act limited, but of such other creditors also as were willing to accept of an equal share

(z) For a general reference to the laws and adjudications in cases of foreign and domestic attachments, see ante. chap. 142, page 45, and chap. 263, page 158, and the notes thereto subjoined.

of their debtors effects, in proportion to their demands, and not have them wasted in needless prosecutions: And whereas the legal proceedings now used for the recovery of debts above forty shillings, and not exceeding five pounds, by attachments, are generally attended with so much expense as to consume a large part of the debtor's estate, to the great loss and injury of both debtors and creditors: For remedying these evils, *Be it enacted*, That if any person shall absent him or herself out of this government, or abscond from his or her usual place of abode,* not taking care to satisfy his or her just debts, it shall and may be lawful for any Justice of the Peace of the county, where such person's estate may be found, to grant a writ of attachment for any debt not exceeding five pounds,† directed to any constable of the same county, to attach the goods and chattels or other effects of such person, to answer the creditor; but, before the granting any such attachment, the person or persons requesting the same, or some other credible person or persons for him or them, shall, upon oath or affirmation, declare that the defendant, in such attachment, is indebted to the plaintiff therein named in a sum not exceeding five pounds, and that the defendant is and has been absconded from the place of his usual abode for the space of six days, with design to defraud his creditors, as is believed, and that the defendant has not left a clear fee-simple estate in lands or tenements within this province sufficient to pay his debts, so far as the plaintiff or deponent knows or believes; which oath or affirmation the Justice of the Peace, that grants such writ, is hereby empowered and required to administer: And if any attachment be granted out otherwise, or contrary to the true intent and meaning hereof, the Justice of the Peace so granting the same shall, for every such offence, forfeit the sum of five pounds, for the use of him or her that will sue for the same.

II. *And be it further enacted*, That as soon as the Justice of the Peace, before whom the writ of attachment is returnable, accepts the constable's return thereof, the said Justice shall immediately appoint two substantial freeholders to take into their custody, all the goods and chattels attached, for which they shall be accountable, until they shall dispose of the same as hereinafter is directed, and shall also forthwith publish his said proceedings by advertisements, in the most public places near the late dwelling-place of the person, so as aforesaid absented, and likewise in one or more of the public newspapers within this province, appointing the time and place for all the creditors of the person, against whose effects and estate the attachment is granted, to appear, then and there to discover and make proof of their demands; and if, after a full and careful examination, it shall appear that there is a just debt due to any one person from the said defendant, exceeding the sum of five pounds, that then, and in every such case, the said Justice of the Peace shall no further proceed, but shall deliver and certify to the prothonotary of the county court of common pleas for the same county the said attachment, and all proceedings thereon had before him: whereupon it shall and may be lawful for the Justices of the said court to grant and issue one writ of attachment only to the person or persons, who obtained the said attachment from the said Justice of the Peace, if

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Goods of debtors absented themselves may be attached.
*Or confine or conceal himself, &c. (chap. 2873, sect. 15.)
†See the act of December 4th, 1807, (post. chap. 2873, sect. 15.) the jurisdiction extended to one hundred dollars.

Penalty on Justices acting contrary. [now one hundred dollars, (chap. 2873, sect. 15.)]

Form of process.

If a debt above five pounds appears, the proceedings to be transmitted to the Court of Common Pleas. [Now one hundred dollars, (see chap. 2873, sect. 15.)]

1752. he demands the same, or if not, then to any other creditor of the defendant, to the Sheriff of the same county directed, requiring him to attach all the goods, chattels, rights and credits, lands, tenements and hereditaments, of the said defendant, within his bailiwick; by virtue of which writ, the said Sheriff shall, together with the residue of the said defendant's real and personal estate in the same county, attach and take into his custody all the goods and chattels of the said defendant, or the product of such part of them as may be sold according to the direction of this act, then in the hands and possession of the said freeholders: And that upon the return of the said writ of attachment by the said Sheriff, the Justices of the said Court of Common Pleas, and all other persons acting under their authority, shall proceed thereon in like manner, and shall have the same jurisdiction and powers for the discovering, selling, collecting, compelling payment of, receiving, and distributing the estate, real and personal, of the defendant amongst his creditors, as they might or could have had, if the said writ of attachment had, according to the laws of this province heretofore made, issued out of the same court.

No second attachment to issue in the same county. See chap. 2873, sect. 17.

III. *And be it further enacted*, That when any attachment shall be granted by any Justice of the Peace, or any writ of attachment shall issue out of any County Court, according to the directions of this act, no second or other attachment, or writ of attachment, granted or issued by the said Justice, or any other Justice within the same county, or by the Justices of the same County Court, against the real or personal estate of the same defendant, or the execution of them, or any of them, shall bind or affect the right, title, interest or property, of or in the real or personal estate of the same defendant within the same county, or any part thereof, while the proceedings on the said first attachment, or writ of attachment, remain undetermined, any law, usage or custom of this province to the contrary notwithstanding.

Chargeable and perishable goods may be sold after six days notice.

IV. *And be it further enacted*, That when the said Justice of the Peace shall accept of the return of an attachment from the constable, as above directed, if it shall appear to the same Justice, that any cattle or other chattels necessary to be maintained at expense, or any perishable goods, have been attached by virtue of the same attachment, it shall and may be lawful for the same Justice to order sale of them to be made by the said freeholders within ten days, of which public notice shall be given, at least six days before the sale thereof, by advertisements, to be set up at the most public places near the place of sale: and that the money arising therefrom shall be lodged in the hands of the freeholders aforesaid, to be attached or distributed among the creditors, in the manner herein before or hereafter directed and appointed.

The residue to remain unsold three months. [*Now 100 dollars.]

V. *And be it further enacted*, That if no such debt exceeding five pounds* shall, to the said Justice of the Peace, appear to be due from the said defendant, then the said goods, chattels and other effects, in the hands of the said freeholders, shall be brought to an appraisalment, but not sold, except as is herein before excepted, until the expiration of three months next after the granting the attachment, to the end that the debtor may have time to redeem them, if

he see cause, any law of this government to the contrary in any wise notwithstanding. And if after the expiration of three months as aforesaid, the debtor shall not appear and redeem them, on notice thereof given to the Justice of the Peace, he shall forthwith order and direct the said freeholders to make sale thereof; and out of the money arising therefrom, and all other money then in their hands, from any part of the defendant's estate arising, reasonable charges first deducted, to make payment to the creditors, who shall appear and make proof of their debts within the said three months, in proportion of their respective debts; and the overplus, if any, to be returned to the owner: But before any such sale is made, the freeholders aforesaid shall give at least ten days notice thereof, by advertising in the most public places the time and place of such sale. And that the constable shall receive two shillings for serving an attachment, and three shillings for serving an execution, and no more.

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Ten days
before sale
public notice
to be given
thereof.

VI. *And be it further enacted*, That the freeholders aforesaid, within six days next after making sale and distribution, as is herein before directed, shall render a true account of their proceedings to the Justice of the Peace, who granted the attachment, to be by him kept as a record of their proceedings therein.

VII. *And be it further enacted*, That the act of General Assembly of this province aforesaid, entitled *An Act about attachments under forty shillings*, passed in the twelfth year of the late King William the third, be, and it is hereby, repealed and made void.

Repeal of a
former act.
[Chap. 29.]

Passed 22d August, 1752.—Recorded A. vol. III. page 249.