

person or persons within this province, but shall not carry any such commodities out of the province for sale.

And further that this act shall be and continue in force for the term of three years and no longer.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Act of Assembly passed February 28, 1710-11, Chapter 177.

CHAPTER CXLII.

AN ACT ABOUT ATTACHMENTS.

Whereas the laws of this government have hitherto been deficient in respect of attachments (so that the effects of persons absenting are not equally liable with those of persons dwelling upon the spot, to make restitution for debts contracted or owing within this province) to the great injury of the inhabitants thereof and encouragement of such unworthy persons as frequently by absconding make an advantage of the defect aforesaid, to prevent which inconveniency:

[Section I.] Be it enacted by John Evans, Esquire, by the Queen's royal approbation Lieutenant-Governor under William Penn, Esquire, absolute Proprietary and Governor-in-Chief of the Province of Pennsylvania and Territories, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That the justices of the respective county courts within this province shall, and are hereby empowered to grant writs of attachment; which attachments so granted shall be duly served by the respective sheriffs or coroners, as the case may require, upon the goods and chattels of such person or persons against whom the same shall be awarded, in whose hands or possession the same shall be found, returnable to the next succeeding court respectively, where the party may proceed to trial, and shall have judgment granted the third court after the effects are seized.

[Section II.] And be it further enacted by the authority aforesaid, That the person or persons whose goods or effects are so attached, shall be [called the] defendant in the attachment; and the person in whose hands or possession the same goods or effects are attached, shall be called the garnishee, and shall be obliged to appear in court at the return of the attachment, and answer what shall be objected against him, and abide the judgment of court; and shall be allowed, out of the effects attached, reasonable satisfaction for his attendance. And that the manner of executing writs shall be by the officers going to the house, or to the person in whose hands or possession the defendant's goods or effects are supposed to be, and then and there declare in the presence of one or more credible persons of the neighborhood, that he attacheth the same goods or other effects; from and after which declaration the goods, money or effects so attached, shall remain in the officer's power and be by him secured, in order to answer and abide the judgment of court in that case, unless the garnishee will give security therefor. And if the plaintiff in the attachment obtain a verdict, judgment and execution for the money and goods in the garnishee's possession, yet the defendant in the attachment may, at any time before the money be paid, put in bail to the plaintiff's action upon which the attachment is grounded; whereby the garnishee will and shall be immediately discharged. And if an attachment shall be made for goods or effects, and the garnishee plead he had no goods or effects in his hands at the time of the attachment or at any time after, and the plaintiff prove the contrary, the jury in such case being satisfied that the proof is plain and full, shall find for the plaintiff, and say what goods or effects they find in the garnishee's hands; whereupon judgment shall be entered, that appraisement may be made of the said goods or effects so found by the jury, and a precept shall be granted requiring the sheriff to get the same appraised; and if the garnishee will not produce them then execution shall be forthwith awarded for the value thereof according to appraisement; to be levied upon the lands, tenements, goods and chattels of the garnishee.

Provided always, That no writ of attachment shall hereafter

be granted against any person or person's effects, but such only as at the time of granting such writs are not resident or residing within this province, or are about to remove or make their escape out of the same, and shall refuse to give sufficient security to the complainant for his debt or other demand before he depart the said province.

Provided also, That after judgment obtained by the plaintiff upon any attachments against non-residents, the plaintiff shall, before sale and after execution is awarded, find security, who shall undertake for the plaintiff, that if the defendant in the attachment shall, within a year and a day next following, by himself or attorney come into court and disprove or avoid the debt recovered by the plaintiff against him, or shall discharge the same, with costs, that then the plaintiff shall restore to the defendant the goods or effects, or [the] value thereof, by the plaintiff attached and condemned, or so much thereof as shall be disproved or discharged or else that they shall and will do it for him.

Passed January 12, 1705-6. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Queen in Council, October 24, 1709, and not acted upon. See Appendix II, Section III, and the Acts of Assembly passed March 2, 1722-3, Chapter 263; August 22, 1752, Chapter 399; January 22, 1774, Chapter 693; September 28, 1789, and Chapter 1445, supplied and repealed by the two Acts of Assembly passed June 13, 1836, P. L. 580 and 606.

CHAPTER CXLIII.

AN ACT FOR THE TRIAL OF NEGROES.

Whereas some difficulties have arisen within this province about the manner of trial and punishment of negroes committing murder, manslaughter, buggery, burglary, rapes, attempts of rapes and other high and heinous enormities and capital offenses; for remedy thereof, and for the speedy trial and condign punishment of such negro or negroes offending as aforesaid: