

pounds of the value thereof, for one year, and so proportionably for a greater or less sum, any law, custom or usage, to the contrary notwithstanding.

[Section II.] And be it further enacted, That if any person or persons whatsoever, do or shall, after the publication of this act, receive or take more than six pounds per centum per annum, on any such bond or contract as aforesaid, upon conviction thereof, the person or persons so offending shall forfeit the money and other things lent; one-half thereof to the governor, for the support of government, and the other half to the person who shall sue for the same, by action of debt, bill, plaint or information, in any court of record within this province, wherein no essoin, protection or wager of law, or any more than one imparlance shall be allowed.

Passed March 2, 1722-23. Apparently never considered by the Crown, but allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix V, Section I, and the Acts of Assembly passed March 26, 1785, Chapter 1145; April 19, 1794, Chapter 1754; April 4, 1798, Chapter 1995; April 12, 1828, P. L. 323; June 27, 1839, P. L. 515; April 21, 1841, P. L. 246; July 26, 1842, P. L. 430. Repealed by Act passed May 28, 1858, P. L. 622.

CHAPTER COLXIII.

AN ACT TO RECTIFY PROCEEDINGS UPON ATTACHMENTS.

Whereas in the execution of a law of this province, entitled "An act about attachments,"¹ divers irregularities and fraudulent practices have happened, to the injury of such creditors as were willing to accept of an equal share of their debtors' effects in proportion to their demand, and not have them wasted in needless prosecutions, contrary to the true design of the said act, Therefore, to prevent such practice for the future, may it please the governor that it may be enacted:

[Section I.] Be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., by and with

¹ Passed January 12, 1705-6, Chapter 142.

the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That from henceforth no writ or writs of attachment shall issue forth or be granted, before 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 the sum of forty shillings, or more, 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 real estate in fee-simple within this province, sufficient to pay his debts, so far as such plaintiff or deponent knows or believes. Which oath or affirmation the officer that grants such writs is hereby empowered and required to administer, and to file the same in the court to which the said attachment is returnable. And if any attachments be granted or issued out otherwise, or contrary to the true intent and meaning hereof, the officer or person so granting the same shall, for every such offense, forfeit the sum of five pounds; the one-half for the use of him or her that will sue for the same, the other half to the governor, for the support of government.

[Section II.] And be it further enacted by the authority aforesaid, That all writs of attachments to be issued out as aforesaid shall be directed to, and served by, the sheriff or coroner of the proper county; who shall attach all the lands, goods, chattels and effects, whereof the defendants, in every of the said writs named, were possessed or reputed owners at the time of their absconding, in whose hand soever the same can be found; and that all the said chattels and effects, attached by virtue of such writs, shall forthwith be appraised, inventoried and secured, by the officer who executes the writs, in such hands as he shall answer for.

And if any of the defendant's money, or other effects, happen to be garnisheed in other hands, the same shall also be attached, and the garnishees obliged to appear and answer at the return of such writs, and be proceeded against in such manner as by the above-cited act is directed.

Provided always, That no second or other attachment shall, under the penalty aforesaid, be issued against or served upon the estate or effects of the same defendant, unless the first attachment be not executed, or happens to be dissolved by the court.

[Section III.] And be it further enacted by the authority aforesaid, That as soon as the justices of that court, where the said writs of attachments are returnable, accept the officer's return thereof, they are hereby empowered and required to nominate and appoint three honest and discreet men to audit the accounts of all the defendant's creditors, and to adjust the demands not only of the plaintiffs in those attachments, but of all the rest of the defendant's creditors, and settle their shares or proportions of the defendant's whole estate, real and personal, and make true report of their proceedings therein to the justices of the court next after such appointments; which justices are hereby empowered and required to allow reasonable fees to the said auditors, out of the goods or effects attached as aforesaid, as a reward for their trouble.

And for the better discovery of the fraudulent practices of the said defendants, it shall be lawful for the auditors, so as aforesaid to be appointed, or the major part of them, to examine such persons as they shall think fit, upon interrogatories or otherwise, on oath or affirmation (which they are hereby empowered to administer), touching the lands, tenements, goods, chattels or effects of the said defendants, and such other things as may tend to disclose their estates, or their secret grants, and alienating of their effects. And that the said auditors may, by warrants under their hands and seals, cause to be broken open any house, chambers, shops, warehouses, doors, trunks or chests of the said defendants, where their goods or effects shall be, or reputed to be, and seize the same for the use of their creditors.

[Section IV.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for the said auditors, or a majority of them, to make sale and assurance of all the lands and tenements, goods and chattels, belonging to such defendants, or otherwise to order the same for satisfac-

tion of their creditors, ratably, according to the quantity of their respective debts; and that every direction, bargain, sale or assignment, done by the said auditors concerning the premises, pursuant to this act, shall be good and effectual in law against the said debtors, their heirs, executors and assigns. And that it shall and may be lawful for a majority of the said auditors to grant and assign, or otherwise to order or dispose of all or any of the debts due, or to be due, to and for the benefit of the said defendants, to the use of their creditors. And that the same grant, assignment or disposition of the said debts so to be made, shall vest the property, right and interest thereof in the person or persons of him, her or them, to whom it shall be so granted, assigned or ordered by the auditors; so that such assignees may sue for and recover the said debts in their own names, and detain the same to their own use. And that after such grant, assignment or disposition, made of the said debts, neither the said defendants nor any other to whom such debts shall be due, shall have power to recover the same, nor to make any release or discharge thereof.

Provided always, That the persons nominated as auditors shall give [public] notice, thirty days before the sale or disposition of such goods or effects as aforesaid, by a public advertisement in the *Weekly Mercury*, or affixed on the doors of the respective court-houses of this province.

And if the said defendants have heretofore granted, conveyed or assured, or shall at any time hereafter grant, convey or assure, any lands, tenements, hereditaments, goods, chattels or other estate, unto any person or persons, upon condition or power of redemption at a day to come, by payment of money, or otherwise, that it shall and may be lawful to and for the said auditors, or a majority of them, before the time of performance of such condition, to assign and appoint, under their hands and seals, such person or persons as they shall think fit, to make tender or payment of money, or other performance, according to the nature of such condition, as fully as the said defendants ought to have done. And that the said auditors shall, after such tender, payment or performance, have power to sell and dispose of such lands and other estate, so assured upon condition, to and for the benefit of the creditors as aforesaid.

Provided always, That the overplus of the said debtors' estates (if any be), after all their debts and lawful charges are deducted, shall be returned to such debtors, their executors or administrators, anything herein contained to the contrary notwithstanding.

[Section V.] Provided also, That nothing in this act contained shall be deemed to repeal or disannul anything in the law entitled "An act about attachments under forty shillings,"¹ anything herein to the contrary notwithstanding.

[Section VI.] Provided always, That nothing in this act contained shall be construed, deemed or taken to exempt the goods or effects of any person or persons, not inhabitants of this province, from being attached according to the directions of an act of General Assembly of this province, made in the fourth year of the late Queen Anne, entitled "An act about attachments," anything in this or any other act contained to the contrary hereof in anywise notwithstanding.

Passed March 2, 1722-23. Allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix VI, Section I, and the Acts of Assembly passed January 22, 1774, Chapter 693; September 23, 1739, Chapter 1445, supplied and repealed by the two Acts of Assembly passed June 13, 1836, P. L. 580 and 606.

CHAPTER CCLXIV.

AN ACT FOR RESPITING EXECUTIONS UPON CERTAIN JUDGMENTS OF COURTS IN THIS PROVINCE.

Whereas through the scarcity of money and that the paper currency intended to be emitted necessarily requiring a longer time for the settling of it have put a damp upon public credit and embarrassed the affairs and commerce of this province, so that divers [persons] endeavoring to get in their effects to answer their necessary occasions were obliged to sue their debtors, who, having demands upon others, took the like measures with them, so that law-suits are exceedingly multiplied and

¹ Passed October 28, 1701, Chapter 108.