

best price they will yield, any proviso or other thing in this act to the contrary notwithstanding.

[Section XIV.] Provided always, and be it further enacted, That the said Charles Read, Job Goodson, Evan Owen, George Fitzwater [and Joseph Pidgeon], before they proceed by themselves or their assigns to take up any lands in right of the aforesaid purchase made of the late proprietor, by the said society, shall settle and adjust in the surveyor-general's office in this province a true and exact account of such lands as have already been surveyed and laid out to the said society, and shall pay or give sufficient security to the receiver of the proprietor's quit-rents for all such arrears as are or shall be at the time of such settlement due upon the same. And the surveyor-general of lands for the time being shall, in pursuance of the warrants issued by the late proprietor and directed to the surveyor-general then being, proceed to survey or cause to be surveyed, to the said Charles Read, Job Goodson, Evan Owen, George Fitzwater [and Joseph Pidgeon] or their assigns the full remainder of the said twenty thousand acres which shall appear to be due to the said society upon such settlement, according to the established and usual methods heretofore practiced for taking up of lands in this province and not otherwise.

Passed March 2, 1722-23. Apparently never submitted to the Crown for consideration.

CHAPTER CCLXVI.

AN ACT DIRECTING THE PROCESS OF SUMMONS AGAINST FREEHOLDERS.

Whereas the manner of proceeding in civil actions lately used against freeholders inhabiting this province has been [found] inconvenient and discouraging to the said freeholders: for remedy whereof:

[Section I.] Be it enacted by Sir William Keith, Baronet, Governor of the Province of Pennsylvania, &c., 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 no freeholder inhabiting in this province shall be arrested or detained in prison by any writ [of arrest] or *capias ad respondendum* in any civil action unless in the King's case, or where a fine is or shall be due to the King, his heirs or successors; but that the original process against such freeholders shall be by summons under the hand and seal of one of the justices directed to the sheriff or coroner, as the case may require, of the proper county, commanding him to summon the defendant, the form of which summons shall be as follows:

These are in the King's name to require thee, A. B., to be and appear at the next county court to be held at _____ on the _____ day of the _____ month next to answer the complaint of C. D., and hereof fail not at thy peril. Given under my hand and seal this _____ day of the _____ month, in the _____ year of the reign of _____ over England, *Annoque Domini* _____.

At which day, if the defendant will not appear but make default, and the officer to whom such writ shall be directed, or his lawful deputy, doth certify to the court, upon oath or affirmation, that ten days before the day of the return of such writ he hath summoned the defendant and served him with a copy of the plaintiff's declaration, or left notice in writing, with a copy of the declaration, at the defendant's house, in the presence of one or more of the defendant's family or neighbors, signifying that the defendant should be and appear according to the contents of such summons; upon which return it shall and may be lawful to and for the plaintiff in such action to file a common appearance for the defendant so making default and proceed to judgment and execution, which shall be as effectual in law as if such defendant had actually appeared and confessed judgment, or suffered it to pass by *nihil dicit*. But if such freeholder be at any time arrested, the writ, upon motion and proof by the oath or solemn affirmation of one or more credible persons that the defendant is a freeholder within the intent and meaning of this act, shall abate and costs shall be given to the defendant by the court where such writ is depending or returnable; for which costs the like remedy shall be had as in other cases where costs by law are given to defendants.

Provided always, That nothing herein or in any other act contained shall exempt any person or persons from being arrested, or shall debar any person or persons from taking out a writ of arrest against any person or persons that has not been a resident in this province for the space of two years and has not fifty acres of land in fee-simple, clear of all incumbrances, and ten acres thereof well cleared or improved, or a dwelling house worth fifty pounds lawful money of America in some city or township within this province, clear estate as aforesaid.

Provided also, That no justice or other officer shall sign or grant a writ of arrest against any freeholder unless the plaintiff or party requesting the same shall, upon oath or affirmation, declare that the defendant has not a clear real estate within this province sufficient to satisfy all his debts, or that the defendant is about to make sale of his estate, and intends to depart this province within the space of one month then next ensuing, or otherwise has made or is about to make some fraudulent conveyance of his estate with intent to elude the payment of his debts, or to defraud his creditors, as the deponent believes; the justice or officer so offending shall forfeit the sum of five pounds; which said oath or affirmation to be administered and taken as aforesaid, the justice or officer granting such writs is hereby authorized, empowered and required to administer to such credible person or persons as shall request the same, for the purposes aforesaid, and to file the same in the court to which such writ is returnable.

[Section II.] Provided always, and be it further enacted by the authority aforesaid, That no member of assembly of this province shall, during the sitting of the assembly, or within fourteen days before and fourteen days after, be summoned, arrested or taken in execution to answer any civil action, debt or demand whatsoever; but that every member, so taken or arrested, shall, upon order for that purpose obtained from the Speaker of the assembly for the time being, be forthwith discharged. And the justice or officer granting the same summons, writs or executions, within the time and against the persons or members of assembly, as aforesaid, shall forfeit the sum of ten pounds, and the sheriff or officer serving the same shall forfeit the sum of five pounds.

Provided, That nothing herein contained shall be construed, deemed or taken to annul, vacate or make void the judgments obtained against any such members so discharged by the Speaker's order, as aforesaid, but that the plaintiff or plaintiffs therein may at any time afterwards (not excepted by this act) renew his or their execution or executions as to them shall seem meet, anything herein contained to the contrary notwithstanding.

[Section III.] And be it further enacted by the authority aforesaid, That one moiety of all and every the forfeitures arising by virtue of this act shall go to the governor for the support of this government, and the other moiety to him or her that will sue for the same, to be recovered in any court of record within this province by bill, plaint or information, wherein no essoin, protection or wager of law, or any more than one imparlance shall be allowed.

Passed March 30, 1722-23. Repealed by Act of Assembly passed May 20, 1724-25, Chapter 285, and also by the King in Council July 5, 1726. See Appendix VI, Section I.

CHAPTER CCLXVII.

A SUPPLEMENTARY ACT TO THE ACT ENTITLED, "AN ACT FOR EMITTING AND MAKING CURRENT FIFTEEN THOUSAND POUNDS IN BILLS OF CREDIT."¹

Whereas for good reasons an act of general assembly of this province was made and published this session of assembly, entitled "An act for the emitting and making current fifteen thousand pounds in bills of credit," and because of the dubious construction of some words mentioned in the said act, it is apprehended the same will not answer the full intent for which it was made.

Wherefore, for better explanation thereof, and to supply any defects that may obstruct the good ends and purposes for which the said act was made:

¹ Passed March 2, 1722-23, Chapter 261.