

## CHAPTER MCMXCIX.

AN ACT PROVIDING THAT THE PERSON OF A DEBTOR SHALL NOT BE LIABLE TO IMPRISONMENT FOR DEBT, AFTER DELIVERING UP HIS ESTATE FOR THE BENEFIT OF HIS CREDITORS, UNLESS HE HATH BEEN GUILTY OF FRAUD OR EMBEZZLEMENT.

[Section I.] (Section I, P. L.) Be it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the same, That any debtor, having been an inhabitant of this state for two years next before his application, may apply, by petition in writing, to the judges of the supreme court, or to the judges of the court of common pleas of the county where the said debtor resides, in term time, and offer to deliver up to the use of his creditors all his property, real, personal and mixed, to which he is in any manner entitled, a schedule whereof (on oath of affirmation) together with a list of his creditors, as far as he can ascertain them, and the nature of their debts, shall be exhibited with and annexed to his petition, and thereupon the said court may direct personal notice of such application to be given to the creditors, or so many of them as can be served therewith, or direct notice of such application to be published in the public newspapers, for such time as the said court may think proper; and on the appearance of the creditors of such debtor, or their neglect to appear on notice, at the time and place appointed, the said court may administer the following oath or affirmation to the debtor making such application: "I, A. B., do swear, or solemnly, sincerely and truly declare and affirm, that I will deliver up, convey and transfer to my creditors all my property that I have or claim any title to or interest in at this time in the world, and all debts, rights and claims which I have at this time, or that I am in any respect entitled to, in possession, reversion or remainder, and that I have not, directly

or indirectly, at any time before, given, sold, conveyed, leased, disposed of, or intrusted any part of my property, rights or claims, thereby to defraud or defeat my creditors, or any of them, or to secure the same, to receive or expect any profits, benefit or advantage thereby.”

[Section II.] (Section II, P. L.) And be it further enacted by the authority aforesaid, That the said insolvent shall, thereupon, exhibit to the said court a just and true account of his debts, credits and estate, real and personal, containing a statement of his losses, and the means whereby he became insolvent; and shall satisfy the said court that he has not concealed or conveyed to any person or persons whatsoever, to the use of himself or any of his family or friends, or whereby to expect any future benefit to him or them, any part of his estate, effects or credits, and shall answer all and every such questions or interrogatories touching his estate and losses, by word or in writing, as shall be put to him by the court, touching his estate or losses aforesaid, and if, upon such examination, there shall not arise strong presumption of fraud, then the said court, whether at its regular sessions, or sitting at nisi prius, or by adjournment, shall appoint such trustee or trustees, on behalf of the creditors, as two-thirds in number and value of the said creditors, who are then attending, either in person or by attorney, shall nominate, or in case the said creditors shall not attend, or not nominate any trustee, then such trustee or trustees as the said court shall think proper, and shall direct the said debtor to execute a deed to such trustee or trustees for all his property, debts, rights and claims, in trust for his creditors; and, upon the execution of such deed, the said court may make an order, that the said debtor shall not, at any time thereafter, be liable to imprisonment, by reason of any judgment or decree obtained for payment of money only, or for any debt, damage, cost, sum or sums of money contracted, accrued or occasioned, owing or becoming due before the time of such assignment, and such order shall be a sufficient warrant to the sheriff, gaoler or keeper of the prison, where any such debtor shall be then imprisoned, to discharge the said debtor, and he is hereby required to discharge and set him at liberty forthwith.

[Section III.] (Section III, P. L.) And be it further enacted by the authority aforesaid, That every trustee, before he acts as such, shall give bond to the commonwealth, with security, in such penalty as the said court shall direct, for the faithful performance of his trust; and in case of the refusal or delay of any trustee to act, or in case of his death, the said court may appoint another in his room, who, before he acts, shall give bond, with security as aforesaid.

[Section IV.] (Section IV, P. L.) And be it further enacted by the authority aforesaid, That the said court, who shall make the order aforesaid, may allow any such debtor to retain the necessary wearing apparel and bedding for himself and his family, and, if a mechanic or manufacturer, his tools, not exceeding in value the sum of fifty dollars.

[Section V.] (Section V, P. L.) And be it further enacted by the authority aforesaid, That the said trustee or trustees shall have power to compound with the debtors of the said petitioning debtor, in cases of dispute or controversy, by arbitration or otherwise, and that all such debtors shall have the benefit of a defalcation, where there are mutual debts between them and the said petitioning debtor, in like manner as in other cases. .

[Section VI.] (Section VI, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall collect the debts, and sell and convey all the real, personal and mixed property of such debtors, for the best price that can be got for the same; and the net produce, after paying all necessary expenses attending the execution of the trust, and deducting the commission of the trustees, shall be divided amongst the creditors, in proportion to the amount of their several and respective debts and claims.

[Section VII.] (Section VII, P. L.) And be it further enacted by the authority aforesaid, That any trustee or trustees may, if necessary, sue, in his or their own names, for the recovery of any property or debts belonging to such petitioning debtor, and conveyed to such trustee or trustees, agreeably to this act. Provided always, That no suit brought by such debtor, and depending at the time of his assignmeent, shall be liable to abate thereby, but the same shall be continued in his name, and

execution may be issued in his name, if judgment shall be obtained therein, for the benefit of his creditors.

[Section VIII.] (Section VIII, P. L.) And be it further enacted by the authority aforesaid, That the said trustees shall appoint such time and place for receiving the proofs of the creditors in support of their respective claims, and for the distribution of the said debtor's estate, as to them shall seem proper, and finally to close the accounts of the said estate and distribution at such time, not less than three months, nor exceeding twelve months, from the date of the said assignment, unless the same shall be enlarged by order of the said court after which time every creditor shall be barred from claiming any share in the distribution of the said estate. Provided always, That if any suit, in law or in equity, shall be depending, or any part of the estate shall remain undisposed of, or any future effects or estate of the said debtor shall come in, said trustees shall, as soon as possible, convert the said estate or effects into money, and within three months afterwards divide the same among the creditors as aforesaid. Provided also, That due and full notice shall be given of the several times and places of meeting for the purposes aforesaid, by advertisement in at least two of the public newspapers of the city of Philadelphia, and one nearest to the place the debtor usually resides, for four several weeks at least before such days of meeting.

[Section IX.] (Section IX, P. L.) And be it further enacted by the authority aforesaid, That if any person, with intent to defraud all or any of the creditors, shall collude or contrive with the debtor for the concealment of any part of his estate or effects, or for giving a false color thereto, or shall contrive or concert any grant, sale, lease, bond, acknowledgment, or other like proceeding, either by parole or by writing, or shall become a grantee, purchaser, lessee, obligee, or other like party in any such fraudulent transaction, or shall, with such fraudulent intent, act as broker, scrivener, factor, agent or witness, in any proceedings as aforesaid, such persons shall, on being duly convicted according to law, forfeit and pay a sum not less than fifty dollars, nor more than ten thousand dollars, and shall

suffer imprisonment for a term not less than three months, nor more than two years, and shall, moreover, forfeit all claim which he may have to any part of the estate of such debtor.

[Section X.] (Section X, P. L.) And be it further enacted by the authority aforesaid, That if any creditor or other person, at the time appointed by such court for the appearance of the debtor and his creditors, or at any time thereafter, within seven years, shall, by oath or affirmation to the said court, or to any judge thereof, or to any justice of the peace of the proper county in vacation, show any good cause to suspect that such debtor hath, directly or indirectly, sold, leased, or otherwise disposed of in trust, or concealed any part of his or her property, of any kind, or any part of his or her debts, rights or claims, thereby to secure the same, or to receive or expect any profit, benefit or advantage, thereby to deceive or defraud his or her creditors, the said court, judge or justice, as the case may be, shall commit to prison, or bind over the said debtor to the next court of quarter sessions of the peace of the proper county, there to answer for the same by indictment; and all proceedings for the relief of the said debtor, if pending, shall be stayed, to await the event of the said trial in the said court of quarter sessions of the peace; and the said debtor, if he shall be thereof convicted, shall be sentenced by the said court to suffer imprisonment at hard labor, for a term not less than one year, nor more than three years, saving the right of removing the said indictment to the supreme court, in the same manner and under the same restrictions as other indictments are removed, and to be proceeded upon in the same manner.

[Section XI.] (Section XI, P. L.) And be it further enacted by the authority aforesaid, That at each of the said meetings for the purpose of making a dividend, creditors shall be permitted to prove their debts, and every trustee shall produce, upon oath or affirmation, his accounts, and what upon the balance to be liquidated by the trustees shall appear to be in his hands, and all just allowances for necessary expenses shall be made, and such part of the residue of the net produce of the debtor's estate, as the trustees shall direct, shall be divided among those creditors, who shall have duly proved their debts,

in proportion to the amount of the same; and the said trustees shall take receipts from each creditor, in a book to be kept for that purpose, and such receipts shall be a full discharge to the said trustees, for so much as they shall fairly pay.

[Section XII.] (Section XII, P. L.) And be it further enacted by the authority aforesaid, That if any debtor, whose property shall be assigned according to this act, shall have satisfied all claims brought in and allowed against him, the said court shall order his estate and effects not sold to be restored to him, and he shall thereupon be seized and possessed thereof, as of his former estate; and if upon final settlement of the estate by the trustees, there shall be any surplus, the same shall be paid to such debtor, his executors or administrators.

[Section XIII.] (Section XIII, P. L.) And be it further enacted by the authority aforesaid, That the trustee or trustees of any debtor, by virtue of this act, shall receive such salary or commission for his or their trouble, as shall be thought reasonable, and ordered by the said court.

[Section XIV.] (Section XIV, P. L.) And be it further enacted by the authority aforesaid, That if any debtor in vacation shall be arrested in execution, and shall apply, by petition, to any judge of the supreme court, or to the president or any two judges of the common pleas for the county where the debtor resides, and give bond to the plaintiff or plaintiffs at whose suit he is arrested, in such penalty and with such security as shall be directed and approved of by the said judge or judges, to whom the petition is exhibited, conditioned that he shall appear before the court, of which the said judge or judges is or are a member or members, at the next term, and surrender himself to prison, in case, on his said appearance, he does not comply with all things required by this act to procure his discharge, in the same manner, as if he had applied to the said court in term time, or if the proceedings of the said judge or judges shall be stopped by information, to be made, on oath or affirmation, by one of the creditors, or other person as aforesaid, then, that if, on the trial of the said issue, the said debtor shall be found guilty, he shall immediately surrender himself to prison, to be charged at the suit of the plaintiff or plaintiffs

aforesaid, in such case, and on such bond being given, the said judge or judges may give an order to the sheriff gaoler or keeper of the prison, to discharge the said debtor, who is hereby required to discharge and set at liberty forthwith.

[Section XV.] (Section XV, P. L.) And be it further enacted by the authority aforesaid, That any sheriff, gaoler or keeper of any prison, performing the duties of his office in pursuance of this act, may make return of the said order of the said court, judge or judges, as the case may be, to his or their process, which said return shall be good and effectual, to all intents and purposes whatever.

[Section XVI.] (Section XVI, P. L.) And be it further enacted by the authority aforesaid, That all proceedings before any judge or judges by any trustee or trustees, by virtue of this act, together with the accounts and vouchers exhibited to the said trustee or trustees, shall be filed among the records of the court, by which the said trustee or trustees have been appointed, or of which the said judge or judges is or are a member or members.

[Section XVII.] (Section XVII, P. L.) And be it further enacted by the authority aforesaid, That no debtor, who shall obtain an order of discharge as aforesaid, shall, at any time thereafter, be imprisoned by reason of any judgment obtained for payment of money only, or for any debt, damages, costs, sum and sums of money contracted, accrued, occasioned, owing or growing due before the date of the said debtor's deed of assignment; but that, upon every arrest upon such judgment, or for such debt, damages, costs, sum and sums of money, it shall and may be lawful for any judge of the court where the process issued, upon showing a copy of the order of discharge, certified by the clerk of the court where the same is recorded, under seal of office, to release and discharge the said debtor out of custody; and the said judge is directed so to do, so that the said debtor, if arrested or detained on mesne process, do give a warrant of attorney to appear to the action or actions on which he is so arrested or detained, and to plead thereunto. Provided, That the discharge of any debtor, by virtue of this [\*act], shall not acquit any other person from any debt, sum or sums

of money, or any part thereof, but that all other persons shall be answerable for the same, in the same manner as before the passing of this act; and all mortgages, judgments and executions, whereby the goods and chattels, lands and tenements of the said debtor, shall be bound, shall remain good and effectual in law, and shall be first satisfied out of the debtor's estate, according to their priority of lien, in the same manner as if this act had never been passed.

[Section XVIII.] (Section XVIII, P. L.) And be it further enacted by the authority aforesaid, That all persons that now are, or hereafter shall be, in actual confinement in any goal in this commonwealth by adversary process, and without any collusion with the plaintiff or plaintiffs, for any cause of action whatever, or for the non-performance of any decree for the payment of money, may, at the next term after such confinement, petition to be discharged, agreeably to the true spirit and meaning of the aforesaid sections of this act.

[Section XIX.] (Section XIX, P. L.) And be it further enacted by the authority aforesaid, That notwithstanding the discharge of any debtor by virtue of this act, all and every debt or debts due and owing from such debtor, and all and every judgment and judgments had and taken against him, shall stand and be good and effectual [in law], to all intents and purposes, against the lands, tenements, hereitaments, goods and chattels of such debtor, which he, or any other person or persons in trust for him, at the time of his assignment, hath or have, or at any time thereafter shall or may be any ways seized or possessed of, interested in, or entitled to, in law or equity, except the necessary wearing apparel and bedding for himself and his family, and, if he be a mechanic or manufacturer, his tools, not exceeding in value the sum of fifty dollars; and it shall and may be lawful for any of his creditors, or his or their executors or administrators, to take out a new execution against the lands, tenements, hereitaments, goods and chattels of such debtor, except as before excepted, for the satisfaction of their debts, respectively, in the same manner and form as



they might have done, if the said debtor had never been taken in execution, any act, statute, law or custom to the contrary notwithstanding.

[Section XX.] (Section XX, P. L.) And be it further enacted by the authority aforesaid, That this act shall continue in force until the first day of May, in the year one thousand eight hundred and one, and no longer.

Passed April 4, 1798. Recorded L. B. No. 6, p. 300, etc. See Act of February 14, 1729-30, Chapter 315, and note, for legislation for the relief of insolvent debtors.

\*The word [act] is omitted in the original law.

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## CHAPTER MM.

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### AN ACT TO PREVENT THE DISTURBANCE OF RELIGIOUS SOCIETIES WITHIN THE CITY OF PHILADELPHIA, DURING THE TIME OF DIVINE SERVICE.

Whereas by a law of the late province of Pennsylvania, passed the sixth day of February, one thousand seven hundred and thirty-one, religious societies were enabled to purchase and to hold lands, for the purpose of erecting thereon churches and houses of religious worship, and all gifts, grants and purchases, made before that time, for the purpose aforesaid, are ratified and confirmed by the said law to the respective religious societies, for whose use the said lands were granted, and, under the faith and sanction of said law, sundry religious societies of different denominations have been induced to purchase certain pieces and parcels of ground, in such places as were most convenient in the said city, and have erected thereon, at great expense, churches and other houses of religious worship, and by the constitution of this commonwealth it is declared "that all men have a natural and indefeasible right to worship Almighty God according to the dictates of their conscience." And whereas it would be nugatory to grant the said rights, without securing the peaceable and quiet enjoyment of them: