

*At the General Assembly of the Province of Nova Scotia, begun and holden at Halifax, on Thursday the Sixth day of February, 1812, and continued by several Prorogations to Thursday the Thirteenth day of February, 1817, in the Fifty-Seventh year of the Reign of our Sovereign Lord George the Third, by the Grace of God, of the United Kingdom of Great Britain and Ireland, King, Defender of the Faith &c. &c. being the Seventh Session of the Tenth General Assembly, convened in the said Province.*

57 George III – Chapter 1

### **An Act for the more effectual relief of Insolvent Debtors.**

Whereas, the acts now in force for the relief of insolvent debtors have been found, in some cases, insufficient; for remedy thereof:

I. Be it enacted, by the Lieutenant-Governor, Council and Assembly, that whenever there shall not be two justices of the Supreme Court within twenty miles of any county or district gaol, within this province, in which any person or persons shall be charged in execution upon any judgement of the Supreme Court, for any sum or sums of money, that it shall and may be lawful for the person or persons so charged in execution in such gaol, to exhibit a petition to any two justices of the inferior court for such county or district, in the same manner as it is directed by an act, passed in the third and fourth year of his present Majesty's reign, entitled, "An Act for the relief of Insolvent Debtors," that such petition shall be exhibited by any two justices of the court from whence the process issued; and the justices of the inferior court to whom such petition shall be presented, are hereby empowered and directed to proceed upon such petition in the same manner that any two justices of the court from whence the process issued, are in and by the said act, and by the act in addition to and amendment thereof, made and passed in the fifty-third year of his present Majesty's reign, directed to proceed, and shall make a record of the judgement which they shall pronounce upon such petition, and return the same into the court from whence the process on which such prisoner was taken in execution issued, to be kept among the records of the said court. Provided always, that if either the plaintiff or defendant be dissatisfied with the order or judgement of the justices of the inferior court upon such petition, the party so dissatisfied may appeal to the Supreme Court, at its next sittings, in the said county or district, or to any two justices of the said court in vacation; and the said Supreme Court, or the said justices, may examine the record of the proceedings returned by the justices of the inferior court, and, if they shall see fit may again examine the prisoner touching the truth of the said petition, and may either confirm or reverse the order made upon the said petition by the said two justices of the inferior court. Provided also, that, pending the said appeal the plaintiff shall be bound to continue the supply of bread to which the prisoner may be entitled under the order of the justices to whom such person was in the first instance presented.

And to prevent persons who may be charged in execution, from lying in prison until they have spent their substance, wherewith they should satisfy their creditors, and afterwards taking the benefit of the acts for the relief of insolvent debtors:

II. It is hereby enacted, that no person who shall hereafter be charged in execution, shall be allowed or permitted to exhibit a petition to any of the courts of law in this province, or to any of the said two justices of the said courts as is hereby before provided, unless such petition be exhibited, if before the court, within the first term of the court which shall be held in the county or district next after such person shall be so charged in execution; and if before the said two justices, within forty days after such person shall be so charged in execution, unless the person or persons exhibiting such petition satisfy the court, or the said justices, that they have not remained in gaol for the purpose of defrauding their creditors. Provided always, that each and every person now continued under execution as aforesaid, shall be allowed to apply by petition as aforesaid, at any time within forty days after the publication of this act.

And whereas, doubts have arisen as to the time and nature of the notice to be given to the creditor or creditors, under the beforementioned act:

III. Be it enacted, that the prisoner, or some person on his behalf, shall give two days notice to the creditor or creditors at whose suit or suits the prisoner is charged in execution, or to his or their attorney or agent, of the time and place appointed by the court, or by the said justices, to consider the said petition; and if the said creditor or creditors do not reside within ten miles of the place so appointed for the consideration of the said petition, the prisoner shall give, or cause to be given, an additional day's notice for every twenty miles from the place of the said meeting to the residence of the creditor or creditors, or of his or their attorney or agent.

IV. And be it further enacted, that any person imprisoned for debt upon any process issuing from any court in this province, against whom judgement has been or shall be recovered, shall be entitled to the relief provided by this act after the expiration of thirty days from the time such judgement has been or shall be recovered, though the creditor shall not within that time, sue out his execution and charge the debtor therewith.

V. And be it further enacted, that the benefit of this act shall be extended to all persons imprisoned for debt notwithstanding the debts for which they are so imprisoned shall exceed the sum of five hundred pounds. Provided always, that nothing in this act contained shall extend, or be construed to extend, to the relief of persons imprisoned for debts contracted with merchants residing in the United Kingdom of Great-Britain and Ireland.

And whereas, debtors of the Crown by the provisions contained in the said Insolvent Debtors Acts, are precluded from taking the benefit thereof, which, in some instances, has proved oppressive to distressed persons:

VI. Be it therefore enacted, that in case any person may hereafter be imprisoned for debt, at the suit of the Crown, it shall be lawful for any two of the judges of his Majesty's Supreme Court, to examine any such person or persons on oath, and by all lawful ways and means to ascertain whether such person or persons be insolvent or not, and if it shall appear to said judges that the person or persons so imprisoned at the suit of the Crown, be unable to pay the debt or debts so due, it shall be lawful for such judges to certify the same, together with an inventory of such property as it may appear that such insolvent debtor or debtors may be possessed of, to the Governor, Lieutenant-Governor or Commander in Chief for the time being; and it shall be lawful for such Governor, Lieutenant-Governor, or Commander in Chief, if he shall think proper, by and with the advice of His Majesty's Council, by warrant under his hand and seal, to order His Majesty's Attorney General to assent, on behalf of the King, to the discharge of such insolvent debtor or debtors, any thing in the said acts contained to the contrary notwithstanding.