

*Acts of the General Assembly of His Majesty's Province of New-Brunswick passed in the year 1807.* Saint John, NB: John Ryan, Printer to the King's Most Excellent Majesty, 1807.

47 George III – Chapter 2

**An Act for the further relief of Debtors, with respect to the imprisonment of their Persons.  
Passed the 5th of March, 1807.**

Whereas it might tend to the discharge from imprisonment of many Prisoners in execution for debt, if their Creditors were enabled to discharge such Debtors without losing the whole benefits of the Judgments obtained against such Debtors.

I. Be it therefore enacted by the President, Council and assembly, That from and after the passing of this Act, it shall be lawful for any creditor or creditors at whose suit any debtor or debtors is or are, or shall be in Prison and taken or charged in execution for any sum of money, by writing signed by such creditor or creditors, or by one of them for and in behalf of himself or herself and the others of them (being complainants in the same action) to signify or declare his, her or their consent to the discharge of such debtor or debtors from the Goal or Prison in which he, she or they is, are or shall be confined in execution at the suit of such creditor or creditors, without losing the benefit of the Judgment upon which the execution against such debtor or debtors issued, except as herein after provided; and that, notwithstanding the discharge of any debtor or debtors in pursuance of such consent as aforesaid, the Judgment upon which such debtor or debtors was or were taken or charged in execution shall continue and remain in full force to all intents and purposes except as herein after provided: and it shall be lawful for such creditor or creditors at any time to take out execution on every such Judgment against the lands, tenements, hereditaments, goods and chattels of such debtor or debtors, or any of them (other than and except the necessary apparel and bedding of him, her or them, or his, her or their family, and the necessary tools of his or their trade or occupation, not exceeding the value of Ten Pounds in the whole) or to bring any action or actions on every such Judgment, or to bring any action or use any remedy for the recovery of his, her or their demand, against any other person or persons liable to satisfy the same, in such and the same manner as such creditor or creditors could or might have had or done in case such debtor or debtors had never been taken or charged in execution upon such judgment. Provided always, That no debtor or debtors who shall be discharged in pursuance of this Act, shall at any time afterwards be taken or charged in execution or arrested upon any Judgment herein before declared to continue and remain in full force, or in any action which may be brought on any such Judgment; and that no proceeding by *scire facias*, action, or otherwise, shall be had against any Bail in the action in which such Judgment was obtained.

II. And be it further enacted, That the Executors and Administrators of any such creditor as aforesaid, shall and may consent to the discharge of any debtor or debtors to their testator or intestate in such and the same manner, and with the same advantages and consequences in all respects as such creditor, if living, might or could have done in pursuance of this Act, and such Executors or Administrators respectively shall not, by reason of any such discharge in pursuance of

this Act, be deemed guilty of a *devaflavit*, or chargeable with the debt due from the person or persons so discharged.

III. And be it further enacted, That every Sheriff, Goaler or Keeper in whose Prison, Goal or custody any debtor or debtors is, are or shall be confined or detained in execution, shall and every of them is hereby required, within twenty four hours next after such consent in writing of any creditor or creditors as herein before mentioned, shall have been produced to and left with such Sheriff Goaler or Keeper, or his deputy or agent at such Prison or Goal, (the hand writing or mark of such creditor or creditors to such consent in writing being duly proved by an affidavit of some credible person to be thereunto annexed, and to be sworn before one of the Judges of the Court out of which the execution against such debtor or debtors issued, or a Commissioner duly authorized to take affidavits in the County where such debtor or debtors shall be confined) to discharge and set at liberty the debtor or debtors to whose discharge such consent shall be signified or declared as aforesaid, if he she or they shall be kept or detained in custody only upon the execution issued at the suit of the creditor or creditors signifying or declaring such consent.

IV. And be it further enacted, That from and after the passing of this Act, in all cases wherein a writ of *feri facias* shall be issued upon any Judgment obtained or to be obtained in any Court in this Province, it shall not be lawful for the Sherrif or other Officer executing such writ to seize or levy upon the necessary apparel and bedding of the debtor against whom such Judgment shall be obtained, or of his, her or their family, or against the necessary tools of his or their trade or occupation, in satisfaction of such Judgment. Provided always, that such apparel, bedding and tools so to be exempted from being seized or levied upon as aforesaid, shall not exceed the value of Ten Pounds in the whole, which value shall be ascertained by the oath of three different Freeholders in the County, to be appointed by such Sherrif or other Officer to appraise the same, which oath such Sherriff or other Officer is hereby authorized and empowered to administer.