

Several acts of 1692 limited and allowed fees to the Chancellor, the secretary of the province, the Commissary General, the surveyor general, the sheriffs and coroners of the several counties, the cryers of the Provincial Court, and the clerks and criers of the several county courts (the clerk of the Council, and the clerk of the Court of Appeals were added later). These acts further provided that if any person refused to pay such fees the various officials named therein might recover the same by way of execution against the body or goods of the person so refusing, provided that a true and just account of the fees due was first delivered to the person or persons from whom such fees demanded were then due.⁸⁴

These acts led to abuses in that execution issued out against the bodies or goods of persons before the services for which the fees were due were finished or the record thereof made up. Therefore, in 1697 the Assembly passed a law that no court of record or any justice or magistrate should grant or sign execution for any public officer's fees, which execution was given by law, until the person actually exercising the office made oath that (1) the service for which the fees were charged was completely finished, (2) the record thereof was fairly entered up and completed, if it depended on any matter of record, and (3) no fees were wilfully charged contrary to law. The court or justice signing the execution was to note that the oath had been duly made before execution was signed.⁸⁵

Apparently, judging from a legislative recital, execution by *capias ad satisfaciendum*, permitted under the 1692 act, due to the neglect and errors of sheriffs and other deputies, resulted in many debtors of the poorer classes, after having paid their accounts, being charged again and unjustly taken in execution upon such *capias* and imprisoned, the imprisonment in many cases being a greater charge than the debts. An October 1698 act accordingly provided that, after the present session of Assembly, no fees due any public officer whatever should be levied but by *feri facias* against the goods and chattels of the debtor, provided the debtor had goods and chattels to the value of the fees due and disclosed the same to the sheriff or his deputy. However, if the debtor did not have goods and chattels sufficient to defray such fees, it would then be lawful to have execution by *capias ad satisfaciendum*.⁸⁶

A later act (July 1699) permitted the fees limited and allowed to be recovered by way of execution against the goods, tobacco and chattels of any person refusing to pay the same, provided that in the case of persons having no tobacco and refusing to show their goods and chattels to the collecting officers, it should be lawful for such officials to take the bodies of such persons in execution. Service of a true and just account of the fees demanded had to be made upon the person from whom due at least thirty days before execution was levied.⁸⁷ In addition, by acts of 1697 and 1699 sheriffs were prohibited from levying by way of execution for any public dues or officer's fees on any inhabitants where demand had not been made before the 20th of December in any year.⁸⁸

Acts of 1692 and 1699 provided for forfeitures of 100 pounds of tobacco by any freeman neglecting or refusing to attend militia training or mustering or refusing to be enlisted into the militia and by masters hindering their servants in such militia service. Certain militia officers were authorized to award execution against

84. 13 *id.* 506, 512; 22 *id.* 570; 38 *id.* 83.

85. 38 *id.* 101.

86. 38 *id.* 121. A member had moved in the Lower House that having execution upon the bodies of persons indebted for official fees "is altogether contrary to the Rules of the Common Law and practice in England" and that it might be sufficient for such officers to have only *feri facias*. 22 *id.* 224.

87. 38 *id.* 83.

88. 38 *id.* 105; 22 *id.* 504.