

court, and the said executor, administrator or guardian, shall be discharged of, so much as the said  
creditors, or their or either of their legal representatives shall receive, by virtue of such order or  
process.

C H A P.  
XXIV.

This act is inserted at large, but several of the provisions which it contains have been altered by the act to establish orphans  
courts, the act of 1785, ch. 80, and 1798, ch. 101.

C H A P. XXV.

An ACT to prevent rigorous prosecutions on sheriffs, testamentary,  
administration and deputy-commissaries bonds. Lib. L. No. 5.

Passed 8th of  
August, 1729.

fol. 315.

WHEREAS it is represented to this general assembly, that sheriffs and testamentary bonds are  
frequently put in suit in the provincial court, and that the persons causing such bonds to be  
sued, upon their obtaining judgments, frequently issue executions for the whole penalties contained  
in such bonds, with direction to the sheriff, or coroners, to release the party executed, upon payment  
of what the creditor alleges his demand to be: And whereas an act of parliament, made the eighth  
and ninth years of king William the third, entitled, An act for the better preventing frivolous and  
vexatious suits, does not fully provide for the evils complained of;

Preamble.

II. BE IT ENACTED, by the right honourable the Lord Proprietary, by and with the advice and consent of  
his lordship's Governor, and the Upper and Lower Houses of Assembly, and the authority of the same, That  
it shall not be lawful for any person or persons causing such bonds to be sued to proceed to judgment,  
until the creditor or creditors clearly make appear to the court what his, her or their demand is or  
are, which court may, and they are hereby empowered, upon the defendant's having notice given  
him, her or them, or notice left at the place of his, her or their last place of abode, twenty days be-  
fore the court in which the plaintiffs apply for such debt or demand to be assessed, as also a copy of  
the nature of his, her or their demand, attested by the clerk, to assess such damages, or appoint  
auditors to adjust such demands, whereupon it shall be lawful for such court to give judgment to such  
creditor or creditors on such bond in usual manner, but that execution only issue for such sum as shall  
be made appear to be due, unless the party at whose request such bond be sued, or the defendant or  
defendants applies to the court, praying a writ of inquiry, which, if either party prays, shall be issued  
by the court, to be proceeded in according to the directions of the aforesaid act of parliament, and  
that execution issue for no more than found by the jury, with costs, and interest till payment made or  
tendered; and that where any such bond is proceeded on to judgment, no other creditor shall come  
in for any part of the penalty, under pretence of any thing being due to such creditor, without send-  
ing a *scire facias* to be served, which *scire facias* shall be sued within eighteen months after such re-  
covery, and not after, on the defendant or defendants, in which *scire facias* shall be contained the  
nature of such creditor or creditors demand, and the sum due.

No person to  
proceed to  
judgment, &c.

III. AND BE IT FURTHER ENACTED, by the authority aforesaid, by and with the advice and consent aforesaid,  
That all actions hereafter to be brought on sheriffs bonds hereafter to be passed, shall be sued  
or brought within the space of five years after the passing such bond, and not afterwards; and all  
actions hereafter to be brought on sheriffs bonds, heretofore entered into, shall be brought and com-  
menced within three years after the end of this present session of assembly, and not afterwards.

Actions, when  
to be brought.

IV. PROVIDED, That this act, nor any thing herein contained, shall bar his sacred majesty, his  
heirs and successors, nor the right honourable the lord proprietary, his heirs and successors, from  
suing in their own right, at any time; and, if any person entitled to sue such bond, shall be at the  
time of any cause of action on such bond under the age of one and twenty years, *feme-covert*, *non com-  
pos mentis*, imprisoned, or beyond the sea, that then such person or persons shall be at liberty to bring  
his, her or their action within the space of five years after such impediment removed, as other per-  
son having no such impediment might or should have done.

Proviso.

C H A P. XXVI.

A Supplementary act to the act, entitled, An act to prevent the abuses of concealing convicted  
felons and other offenders imported into this province, and for the better discovery of them.  
Lib. L. No. 5. fol. 317.

1728, ch. 23.

C H A P. XXVII.

An ACT empowering a committee to lay, assess and apportion the public levy for this present year,  
one thousand seven hundred and twenty-nine. Lib. L. No. 5. fol. 319.

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