

CHAPTER DXI.

AN ACT FOR THE RELIEF OF SAMUEL WALLIS, A PRISONER IN THE GAOL OF PHILADELPHIA, WITH RESPECT TO THE IMPRISONMENT OF HIS PERSON.

Whereas, Samuel Wallis, by his petition to the last and present assembly of this province hath set forth that he, for a long time, has been and is at present confined in the gaol of the city [and county] of Philadelphia on account of a bond by him executed, conditioned for the payment of five hundred and eighty-six pounds nine shillings and a penny to John Moore, of the said city of Philadelphia, merchant, his executors, administrators and assigns; that the consideration of the said bond was a quantity of goods purchased by the petitioner of the said John Moore and carried to Quebec to negotiate to the best advantage, but to the petitioner's great misfortune on his arrival at Quebec his cargo proved greatly damaged and the market so much crowded with merchandise from different parts that the sale even of such parts of his cargo as escaped damage was rendered impossible and became an useless burden and grievous expense to the petitioner in transporting and returning the same to this port; that when the petitioner was on his said voyage, the said John Moore assigned over his bond aforesaid to Charles Coxe & Company, merchants, in Philadelphia, who, on the petitioner's return to this city, arrested him and continued the same action until the petitioner was delivered into the gaol aforesaid by his bail, where he has been confined ever since; that they, the said Coxe & Company, neglect issuing execution, though they have obtained a judgment, and it is impossible for bail (would it be taken) to be entered by the petitioner; that the said Coxe & Company have brought an action against the said Moore for the same money and have refused to set the petitioner at liberty, although he had made use of all expedients in his power to satisfy them, in order that if he was at liberty he might, in time, pay them the debt aforesaid; that the said Coxe & Company say

they have no desire to distress or keep the petitioner in gaol, but that it is not in their power to release him, without losing their claim against the said Moore; that the said Moore likewise declares that he has no desire to distress or keep the petitioner in confinement, but as he has assigned away the said obligation, it is not in his power to release him; so that under his present circumstances the petitioner apprehends that unless he is released by the aid of the assembly he must remain a prisoner for life, notwithstanding he has made every proposal in his power to do, and is still willing, whenever he may be able to make full satisfaction and payment to the said Coxe & Company, as well as his other creditors.

And whereas it hath been further represented to this house by the petition of a considerable number of reputable inhabitants, merchants, traders and others in the city of Philadelphia, that though they are very sensible it cannot be desirable to make precedents of enlarging debtors from the suits of their creditors, yet as they esteem the case of the aforesaid Samuel Wallis singular and almost without example, they pray in his behalf that this house would afford him such relief as may be thought expedient.

And whereas the said Samuel Wallis is willing and ready to assign over all his estate, real and personal, to which he hath any right or title in law or equity to any person or persons in trust, to recover for the use and benefit of his creditors if he, the said Samuel Wallis, might obtain his liberty and freedom of his person from arrests.

Wherefore as well to relieve the said Samuel Wallis from the distress of imprisonment of his person as to render his liberty useful and beneficial to his creditors, we, the representatives of the freemen of the said province do pray that it may be enacted:

[Section I.] And be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the

same, That if the said Samuel Wallis shall, on the sixth day of June next, exhibit to the justices of the court of common pleas of the city and county of Philadelphia, in the county court of common pleas then to be held at Philadelphia for the said city and county, or at any other succeeding court of common pleas to be held for the said city and county, a petition, together with a true and perfect account of all his estate, both real and personal, with the dates of the securities wherein any part of his estate, debts or effects consists, and the deeds or notes relating thereto and the names of the witnesses to the same, so far as his knowledge extends thereto, the said court shall, upon the petition of the said Samuel Wallis and exhibiting such account as aforesaid, with the name of his creditor or creditors at whose suit he is imprisoned, cause the said Samuel Wallis, by an order or rule of court, to be brought up and the creditor or creditors at whose suit he stands charged to be summoned to appear personally or by his or their attorney in court, at a day to be appointed within four months for that purpose, and the said court shall then and there, in the presence of the said creditor or creditors, if he or they will be present, administer to the said Samuel Wallis a legal qualification to the following effect, viz.:

“That the account by him, the said Samuel Wallis, delivered in to that honorable court in his petition to the said court doth contain a true and perfect account of all his real and personal estate, debts, credits and effects whatsoever, which he or any in trust for him have or at the time of his said petition had, or is or was in any respect entitled to in possession, remainder or reversion (excepting the wearing apparel and bedding for himself, not exceeding ten pounds in value in the whole), and that he has not at any time since his imprisonment or before, directly or indirectly, sold, leased, assigned or otherwise disposed of or made over in trust for himself or otherwise, other than as mentioned in such account, any part of his lands, goods, stock, money, debts or other real or personal estate whereby to have or expect any benefit or profit to himself or to defraud any of his creditors to whom he is indebted.”

And the said Samuel Wallis having taken such qualification in open court and his creditor or creditors being therewith satisfied or failing to discover any effects or estate of the said

Samuel Wallis omitted in such his account, and the said Samuel Wallis making an assignment to any one or more of his creditors as the court shall order and direct, in trust for the rest of them of all his lands, goods and effects contained in such account by a short indorsement on the back of the same account, by which said assignment the estate, interest and property of the lands, goods and effects so assigned shall be vested in the person or persons to whom such assignment shall be made, who may take possession of the same and sue for the same in his or their own name or names and that no release of the said Samuel Wallis, his executors or administrators, subsequent to such assignment shall be any discharge or bar to the assignees aforesaid; that then the said court, upon his making such assignment as aforesaid, shall cause and order the said Samuel Wallis to be discharged from his imprisonment aforesaid.

[Section II.] And be it further enacted by the authority aforesaid, That the person of the said Samuel Wallis, after such his discharge as aforesaid, shall not at any time hereafter be imprisoned for any debts by him before that time contracted.

Provided nevertheless, That the discharge of the said Samuel Wallis by virtue of this act shall not acquit or discharge any other person from such debt, sum or sums of money for which such person now is bound or engaged for or with the said Samuel Wallis, nor shall in any wise affect or discharge the claim or action which the said Coxe & Company have commenced or may hereafter commence against the said Moore for the bond assigned by him to the said Coxe & Company as aforesaid, but that all others shall be answerable for the same in such manner as they were before the passing of this act.

[Section III.] Provided also and be it further enacted by the authority aforesaid, That if the said Samuel Wallis shall, upon any indictment for taking a false and corrupt oath or affirmation in any matter or thing contained in the said oath or affirmation be convicted by his own confession or by the verdict of twelve men, the said Samuel Wallis shall suffer all the pains and penalties which by law may be inflicted on any person convicted of willful and corrupt perjury, and shall likewise be liable to be arrested, taken and imprisoned upon any process *de novo*

and charged in execution for the said debt in the same manner as if the said Samuel Wallis had never been in execution or discharged before, and shall ever after be barred of any benefit of this act.

Passed March 23, 1764. Referred for consideration by the King in Council, February 10, 1766, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXIV, Section VIII.

CHAPTER DXII.

A SUPPLEMENT TO THE ACT, ENTITLED "AN ACT FOR THE BETTER SETTling INTESTATES' ESTATES,"¹ AND FOR REPEALING ONE OTHER ACT OF GENERAL ASSEMBLY OF THIS PROVINCE, ENTITLED "AN ACT FOR AMENDING THE LAWS RELATING TO THE PARTITION AND DISTRIBUTION OF INTESTATES' ESTATES."²

Whereas an act of general assembly of this province was passed in the fourth year of Queen Anne, entitled "An act for the better settling intestates' estates,"¹ which, by one other act, passed in the twenty-second year of His late Majesty, King GeorgetheSecond,² was in some parts thereof altered, explained and amended; and forasmuch as some further explanations and amendments are found necessary, therefore, and in order to reduce the laws relating to intestates' estates into as few acts as may be and repealing such as shall thereby become of no further service:

[Section I.] Be it enacted by the Honorable John Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and Richard Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania and counties of Newcastle, Kent and Sussex upon Delaware, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the fourth day of February, one thousand seven hundred and forty-eight, if, after the death of any

¹ Passed January 12, 1705-6, Chapter 135.

² Passed February 24, 1748-49, Chapter 374.