

1788. — Chapter 16.

[May Session, ch. 18.]

AN ACT TO PREVENT FRAUD AND PERJURY.

Be it enacted by the Senate and House of Representatives in General Court assembled, & by the authority of the same, That no action, shall be brought, whereby to charge an executor or administrator, upon any special promise to answer damages out of his own estate; or whereby to charge the defendant, upon any special promise, to answer for the debt, default or misdoings of another person, or to charge any person upon any agreement made upon consideration of marriage, or upon any agreement that is not to be performed within the space of one year, from the making thereof, unless the agreement upon which such action shall be brought, or some memorandum, or note thereof, shall be in writing, and signed by the party, to be charged therewith, or some other person thereunto by him lawfully authorized.

No action shall be brought against any person, upon any special promise, &c. unless the agreement shall be in writing, and signed by the party.

And be it further enacted by the authority aforesaid, that no contract for the sale of any goods, wares or merchandize, for the price of *ten pounds* or more, shall be allowed to be good, except the purchaser shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part payment, or that some note or memorandum in writing of the said bargain be made and signed, by the parties to be charged by such contract, or their agents, thereunto lawfully authorized.

No contract for the sale of goods, shall be allowed to be good, except the purchaser shall accept a part of such goods, &c.

And be it further enacted by the authority aforesaid, that whenever a debtor in execution, having goods, effects or credits, to the amount of *ten pounds* or more, (that are unattachable by the common & ordinary process of law) shall spend or use the same, or so much thereof for his subsistence, as shall amount to the sum upon which he is committed in execution, without giving the creditor, his agent, factor or attorney, notice where, and of what kind they are, and enabling him, if he thinks proper, to accept the same, or such part of them, as will amount to the debt, for which he is in execution, in satisfaction thereof, such neglect shall be esteemed and taken, as a fraudulent transaction in the debtor; and every person who shall knowingly aid and assist a debtor, in such fraudulent transaction, shall be answerable and chargeable

Clause respecting fraudulent transactions of debtors in execution.

to the creditor, to double the full value of the money, goods, or effects, by him or them thus secreted, spent or embezzled, in a special action on the case.

And be it further enacted by the authority aforesaid, that whenever a judgment creditor, shall discover goods, effects or credits of his debtor, that are unattachable by the common and ordinary process of law, he shall be entitled to the process provided in the act, made to enable creditors to receive their just debts, out of the effects of their absent or absconding debtors; and upon the agent, factor or trustee's being summoned in the manner the said act directs, all the money, goods, effects and credits in his hands, shall be secured to respond the judgment that may be given thereon, and he shall answer thereunto, at the first term, in case his principal has personal or other sufficient and legal notice of the suit, fourteen days before the Court's sitting.

When a judgment creditor, shall discover goods, &c. of his debtor, that are unattachable — provision in such cases.

Provided always, that upon a judgment creditor's pursuing such remedy to recover his debt, he shall within seven days after the same process on the supposed agent is served, discharge the body of the debtor (in case he is taken in execution upon the same judgment) by a note or memorandum in writing, directed and delivered to the Officer, who has him in custody, stating the reason & occasion of the discharge of the person of the debtor; and such a discharge shall not vacate, annul or in any manner injure the original judgment; but in case the judgment creditor, shall not within the seven days discharge the person of the debtor, in manner aforesaid, the process commenced as aforesaid, shall abate, and the debtor shall recover treble costs.

Proviso.

June 19, 1788.

1788. — Chapter 17.

[May Session, ch. 16.]

AN ACT IN ADDITION TO AN ACT, ENTITLED, "AN ACT TO BRING INTO THE PUBLIC TREASURY, THE SUM OF ONE HUNDRED AND SIXTY-THREE THOUSAND AND TWO HUNDRED POUNDS, IN PUBLIC SECURITIES, BY A SALE OF A PART OF THE EASTERN LANDS, AND TO ESTABLISH A LOTTERY FOR THAT PURPOSE."

Whereas some of the proprietors of the prize lots drawn in the Lottery aforesaid, have represented, that their said lots are scattered over a great extent of territory, belonging to the Commonwealth, and are desirous of exchanging the same with the Commonwealth, in such manner that their

Preamble.