

to the treasurer, and receive in exchange for every six shillings and eightpence of said bills, one ounce of silver, or the like value in gold, and proportionably for a greater or lesser sum; and the treasurer is hereby ordered to exchange them accordingly. [*Passed January 4; published January 9, 1737-38.*]

## CHAPTER 16.

### AN ACT FOR PREVENTING THE DESTRUCTION OF WILD FOWL.

WHEREAS the water-fowl of divers kinds which were wont in former years in great numbers to frequent the maritime towns of this province, were of great service and benefit to the inhabitants, both for meat and feathers, but are now in great measure affri[gh]ted and driven away by many persons, who have made use of floats, rafts, canoes and other vessels to follow after and shoot at them as well by night as by day, and do likewise shoot at them, sitting, from off the land, in the night; which practices, if continued, are like to have the ill effect to cause the fowl wholly to desert and disuse the said places; for prevention whereof,—

Preamble.  
1727, chap. 17.

*Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the authority of the same,*

[SECT. 1.] That if any person or persons shall at any time after the publication of this act, make use of any float, raft, canoe or other vessel wherewith, by day or by night, to approach and shoot at any water-fowl in any part of this province, or shoot at any such fowl, sitting, in the night, from off the land or shoar, he or they so offending shall each of them forfeit and pay the sum of forty shillings for every offence, to be recovered before any court of record proper to try the same, or justice of the peace for the county where the offence shall be committed, by bill, plaint or information; the one half to the informer and the other half for the use of the poor in the town where the offence shall be committed.

Persons forbidden to kill water-fowl in floats, canoes, &c.

[SECT. 2.] This act to continue and be in force for the term of five years from the publication thereof, and from thence to the end of the next session of the general court, and no longer. [*Passed January 4; published January 9, 1737-38.*]

Limitation.

## CHAPTER 17.

### AN ACT FOR THE REL[E]I[E]F OF POOR PRISONERS FOR DEBT.

*Be it enacted by His Excellency the Governour, Council and Representatives in General Court assembled, and by the authority of the same,*

[SECT. 1.] That when any person, during the continuance of this act, shall stand committed for debt or damages, upon execution, and shall complain that he or she hath not estate sufficient to support him- or herself in prison, the goaler or keeper of such prison shall thereupon, at the request of the prisoner, be obliged to apply to two of his majesty's justices of the peace for the county, *quorum unus*, who shall thereupon make out a notification under their hands and seals, to be served on the creditor or creditors, if he, she or they live within this

Proceedings upon the prisoner's desire for a release.  
1736-37, chap. 13.

province, his or her executor, administrator, agent or attorney, by reading the same to them, or by leaving an attested copy thereof at the place of his, her or their usual abode, or, if out of the province, then to be left at the place of the usual abode of such creditor or creditor's agent or attorney, if any such they have, at whose suit such prisoner is in custody, thereby signifying to him, her or them, such prisoner's desire of taking the priviledge and benefit allow[ed] in and by this act, of the time and place appointed for the intended caption of his or her oath; which notification shall be served at least forty days before the caption, and so certified to said justices, that so he, she or they may be present if they see cause; and such justices are hereby impowered to administer to such debtor, if they [shall] think proper so to do, after they have fully examined and heard the parties, the following oath; vizt.,—

**Prisoner's oath.** I, A. B., do, upon my oath, solemnly profess and declare before Almighty God, that I have not any estate, real or personal, in possession, reversion or remainder, sufficient to support myself in prison, or to pay prison charges; and that I have not since the commeneeing of this suit upon me, nor at any other time, directly or indirectly, sold, leased or otherwise conveyed or disposed of, to, or intrusted any person or persons whomsoever with, all or any part of the estate, real or personal, whereof I have been the lawful[] owner or possessor, with any intent or design to secure the same, or to receive or expect any prof[fit] or advantage therefrom, or done, caused or suffered to be done anything else [*whatsoever*], whereby any of my creditors may be defrauded.

Prisoner to be discharged or maintained by the creditor, in case.

—which oath being taken by such prisoner, and certificate thereof made under the hands and seals of the justices administring the same, to the goaler or keeper, he shall thereupon set such prisoner at liberty, unless such creditor or creditors, his or executors or administrators, agent or attorney, shall give security to the goaler or keeper, for the payment of seven shillings per week, to be applied for and towards the support of such prisoner while he, she or they are detained in prison; and it shall and may be lawful[] for such goaler or keeper to detain and keep in close custody such prisoner, so long as said sum of seven shillings per week, for and towards his or her support, shall be paid, but upon failure thereof, such prisoner shall be set at liberty as aforesaid.

*And be it further enacted by the authority aforesaid,*

Poor prisoner taking the oath, from what execution to be discharged.

[SECT. 2.] That when any person standing committed upon execution for any debt or damage, and hath attended the directions of this act, he shall only be discharged from such execution or executions wherein the creditor or creditors, his or their agent or attorney, were duly notified in such manner as this act directs, and not from any other execution for any debt or damage upon which also he may or shall then stand committed, unless he takes the oath again and attend the directions of this act.

*And be it further enacted by the authority aforesaid,*

Persons committed on a new execution to receive no further benefit of a former discharge.

[SECT. 3.] That if any person, after having received the benefit of this act with respect to his discharge as aforesaid, shall be again committed to prison on any new execution that shall or may be served upon him, he shall receive no further benefit hereby, but be excluded therefrom; anything in this act to the contrary notwithstanding.

*And be it further enacted by the authority aforesaid,*

Penalty for a false oath.

[SECT. 4.] That in case any such prisoner shall be convicted of having sold, leased or otherwise conveyed or disposed of, or intrusted his or her estate or any part thereof, directly or indirectly, contrary to the foregoing oath, such prisoner shall not only be liable to the pains and penalties mentioned in the law for punishing [of] willful perjury, but shall receive no benefit from the said oath; anything in this act to the contrary notwithstanding.

*And be it further enacted by the authority aforesaid,*

[SECT. 5.] That if such prisoner at the time of the intended caption shall not take the oath aforesaid, or be not admitted thereto by said justices, then he or she shall be remanded back to goal and shall not be intitled to the benefit in and by this act provided.

Prisoner not taking the oath to be remanded back to jail.

*And be it further enacted by the authority aforesaid,*

[SECT. 6.] That notwithstanding the discharge of the person of such prisoner upon taking the oath as aforesaid, all and every judgment had and given against him or her shall be and remain good and effectual in law, to all intents and purposes, against the lands, tenements, goods and chattels that may then or at any time afterwards belong to such prisoner discharged as aforesaid.

The prisoner's estate liable to execution notwithstanding his discharge upon oath.

[SECT. 7.] And it shall and may be lawful [1] to and for such creditor of such prisoner discharged as aforesaid, his executors, administrators, agent or attorney, to take out any new execution,—to which shall be added, by the clerk of the court from whence the execution issues, the charge, if any there be, that the creditors have been at for the prisoner's support, at seven shillings per week as aforesaid; such creditor or creditors first making oath before the clerk (who is impowered to administer the same) of the truth of what he, she or they shall charge to said prisoner for his or her support,—against the lands, tenements, hereditaments goods and chattels of such prisoner: his or her wearing apparel [1], bedding for him and his or her family, and tools necessary for his or her trade and occupation only excepted; for the satisfaction of his or their debt, in such sort and manner as he might have done if the person of such prisoner had never been taken in execution.

Charges for supporting the prisoner to be added.

Apparel, bedding and tools excepted.

*And be it further enacted by the authority aforesaid,*

[SECT. 8.] That if the debtor shall be aggrieved with the charge added by the clerk to said new execution, such debtor shall and may sue for and recover of the creditor or creditors, before any court proper to try the same, fourfold the sum which hath been levied upon him or her the said prisoner and shall be made to appear to such court to be unjustly or falsely charged by the creditor or creditors for his or her support as aforesaid.

Remedy against a false charge for support.

*Provided,*

[SECT. 9.] That if the goaler or keeper of any prison shall refuse or delay to discharge and set at liberty any prisoner, contrary to the true intent and meaning of this act, every such goaler or keeper shall forfeit and pay to such prisoner, detained contrary to this act, the sum for which he or she stands committed, to be recovered by action of debt in any court of record proper to try the same.

Remedy against the jailer's refusing to discharge the prisoner.

*Provided, also,*

[SECT. 10.] That this act shall not extend to any person or persons in execution for any fine on him, her or them imposed.

Proviso.

[SECT. 11.] This act to continue and be in force for the space of three years from the publication thereof, and to the end of the then next sitting of the general court, and no longer. [Passed January 4; published January 9, 1737-38.]

Limitation.