

murder, as the accessaries thereunto, as if such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, and the offence of such accessaries, had happened in the same county where such indictment shall be found; and that the justices of gaol delivery and *Oyer and Terminer* in the same county where such indictment shall be found, and also any superior court, in case such indictment shall be removed into such superior court, shall and may proceed upon the same in all points, as well against the principals in any such murder, as the accessaries thereto, as they might or ought to do, in case such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, and the offence of such accessaries, had happened in the same county where such indictment shall be found; and that every such offender, as well principal as accessory, shall answer upon their arraignments, and have the like defences, advantages and exceptions (except challenges for the hundred) and shall receive the like trial, judgment, order and execution, and suffer such forfeitures, pains and penalties, as they ought to do, if such felonious stroke and death thereby ensuing, or poisoning and death thereby ensuing, and the offence of such accessaries, had happened in the same county where such indictment shall be found.

Justices of gaol delivery shall proceed thereon,

and offender shall answer and receive the like trial, &c. as if the murder had happened in the county.

CAP. XXII.

An act for the relief of debtors with respect to the imprisonment of their persons.

Amended by
3 Geo. 2. c. 24.
8 Geo. 2. c. 24.
21 Geo. 2. c. 33.

21 & 23 Car. 2.
c. 20.

No sheriff or bailiff shall carry any person arrested to any tavern, &c. without his consent,

nor charge him for wine, &c.

WHEREAS many persons suffer by the oppression of inferior officers in the execution of process for debt, and the exactions of gaolers to whom such debtors are committed; for remedy whereof it may be reasonable, not only to enforce the execution of the laws now in being against such oppressions and exactions, more especially several clauses in a statute made at a parliament held in the twenty second and twenty third years of the reign of King Charles the Second, intituled, *An act for the relief and release of poor distressed prisoners for debt, but likewise to make some further provisions for the ease and relief of debtors, who shall be willing to satisfy their creditors to the utmost of their power*: be it therefore enacted by the King's most excellent majesty, by and with the advice and consent of the lords spiritual and temporal and commons, in this present parliament assembled, and by the authority of the same, That no sheriff, under-sheriff, bailiff, serjeant at mace or other officer or minister whatsoever, shall at any time or times hereafter convey or carry, or cause to be conveyed or carried, any person or persons by him or them arrested, or being in his or their custody by virtue or colour of any writ, process or warrant, to any tavern, alehouse or other publick victualling or drinking house, or to the private house of any such officer or minister, or of any tenant or relation of his, without the free and voluntary consent of the person or persons so arrested or in custody; nor charge any such person or persons with any sum of money for any wine, beer, ale, victuals, tobacco, or any other liquor or things whatsoever,

soever, save what he, she or they shall call for of his, her or their own free accord; nor shall cause or procure him, her or them to call or pay for any such liquor or things, except what he, she or they shall particularly and freely ask for; nor shall demand, take or receive, or cause to be demanded, taken or received, directly or indirectly, any other or greater sum or sums of money than is or shall be by law allowed to be taken or demanded for such arrest, taking, detaining or waiting, till the person or persons so arrested or in custody shall have given an appearance or bail, as the case shall require, or agreed with the person or persons at whose suit or prosecution, he, she or they shall be taken or arrested, or until he, she or they shall be sent to the proper gaol belonging to the county, city, town or place where such arrest or taking shall be; nor shall exact or take any reward, gratuity or money for keeping the person or persons so arrested or in custody, out of gaol or prison; nor shall carry any such person to any gaol or prison within four and twenty hours from the time of such arrest; nor shall take or receive any other or greater sum or sums for one or more nights lodging, or for a day's diet, or other expences, than what shall be allowed as reasonable in such cases by some order or orders to be made by the justices of the peace at some quarter-sessions to be held for such county, city, town or place where such arrest or taking shall be, who are hereby authorized and required with all convenient expedition to make some standing order or orders for ascertaining such expences, within their respective counties or precincts.

nor take a greater sum than the law allows,

nor exact a gratuity for keeping him out of gaol, or for lodging or diet.

II. And that no person may suffer by reason of his ignorance of the afore-mentioned provisions made by this act; be it further enacted by the authority aforesaid, That all and every sheriff, under-sheriff, and other persons intrusted with the execution of process, shall deliver a printed copy of the said clause to every bailiff, serjeant or other officer by them respectively employed to execute warrants within their respective bailiwicks; and when any such bailiff or other officer shall give security upon his entering into office, shall require him to make it part of the condition of such security, that he will shew and deliver a copy of the said clause to every person whom he shall arrest by virtue of any warrant, and carry or cause to be carried to any publick or other house, and permit him or any friend of his to read the same, before any liquor or meat shall be there called for; and in case any bailiff or other officer shall carry or cause to be carried to any publick or other house, any person under his arrest or in his custody, and there permit any liquor or victuals to be called for, before such clause or copy of it shall be shewn and read by or to the prisoner, such neglect or default, besides the breach of the condition of such security, shall be accounted a misdemeanor in the execution of the process whereupon such person is arrested, and be punished as such.

Sheriffs to give printed copies of this clause to bailiffs.

And be it further enacted by the authority aforesaid, That Gaolers to permit prisoners to send

for victuals from what place they please,

and to have such bedding, &c. as they shall think fit.

None but lawful fees to be taken of prisoners, till further settlement.

Tables to be made of the fees;

or other person or persons whatsoever to whose custody or keeping any one so arrested or taken shall be committed, on any pretence, shall permit and suffer him, her or them so arrested or taken, at his, her or their will and pleasure, to send for and have any beer, ale, victuals or other necessary food, from what place they please, and also to have and use such bedding, linen and other things, as he, she or they shall think fit, without purloining or detaining the same, or any part thereof, or inforcing or requiring him, her or them to pay for the having or using thereof, or putting any manner of restraint or difficulty upon him, her or them in using thereof or relating thereto.

IV. And be it further enacted by the authority aforesaid, That no fees shall be taken by any gaoler or keeper of any gaol or prison within that part of *Great Britain* called *England*, for any prisoner or prisoners commitment or coming into gaol, or chamber rent there, or discharge from thence, except what are now allowed by law, until such fees shall be settled and established by the lord chief justice of the court of King's bench, the lord chief justice of the court of common pleas, and the lord chief baron of the exchequer for the time being, or any two of them, together with the lord mayor and two of the aldermen, or with three of the aldermen of the city of *London*, for and in respect of the gaols and prisons within the city of *London*, and for the said lords chief justices and lord chief baron, or any two of them, with three justices of the peace of the counties of *Middlesex* and *Surrey* respectively, for and in respect of the gaols and prisons in the counties of *Middlesex* and *Surrey*; and the justices of the peace of every other county, riding and division for the gaols and prisons in each respective county, riding and division, at the quarter-sessions of the peace to be held for such county, riding or division respectively, who are hereby impowered, directed and required to settle and establish the same as soon as conveniently may be, and tables shall be made of the respective rates and fees so settled and established, and the tables of the said fees, for and in respect of the gaols and prisons within the city of *London* and counties of *Middlesex* and *Surrey* aforesaid, shall be signed by the said lords chief justices and lord chief baron, and the lord mayor and aldermen of the city of *London*, and justices of the peace of the counties of *Middlesex* and *Surrey* respectively, by whom the same shall be made; and the tables of the said fees, for and in respect of the rest of the said gaols and prisons, shall be signed by three or more of the justices of the peace attending at the settling the said fees in such quarter-sessions of the peace as aforesaid; and shall be reviewed and confirmed, or moderated, and then signed by the judges of assize, or one of them, in the respective counties within their several circuits, together with three or more justices of the peace of each respective county, riding and division, and also rules and orders for the better government of prisons shall be forthwith made, and from time to time enlarged and enforced, or altered and amended, as occasion shall require, by the several courts in *Westminster-*

minster-Hall, by rules and orders of the said courts, to be signed by the judges of each respective court where such rules and orders shall from time to time be made, for or in respect of the prisons belonging to the said courts respectively, as by the said lords chief justices and lord chief baron, or any two of them, together with the lord mayor and two or more aldermen, or of three or more aldermen of the city of *London*, for and in respect of the gaols and prisons within the city of *London*, and by the said lords chief justices and lord chief baron, or any two of them, together with three or more justices of the peace, under their hands, for and in respect of the gaols and prisons within the counties of *Middlesex* and *Surrey* aforesaid, and by the respective judges of assize, or one of them, and three or more justices of the peace of each county, riding or division, under their hands, for and in respect of the gaols and prisons within their respective circuits, counties, ridings and divisions; and duplicates of such tables of fees and rules shall be made and signed, and the same shall be transmitted to the courts of King's bench, common pleas and exchequer, there to be entred and inrolled of record, without any fee to be taken for the inrolling thereof; and likewise such of them as relate to gaols in each particular county, riding or division, shall be registred by the clerks of the peace in their respective precincts in the rolls of their respective sessions without fee, and hung up in some open and publick room or place in every gaol and prison, there to remain, and be resorted to by every prisoner, as occasion shall require; and that from and after such tables of fees settled and confirmed as aforesaid, no gaoler or keeper of any gaol or prison shall demand, take or receive, directly or indirectly, of any prisoner or prisoners for debt, any other or greater fee or fees whatsoever for his, her or their commitment, chamber rent, release or discharge, than what shall be mentioned and allowed in such list or table of fees so to be inrolled, registred and hung up as aforesaid.

and to be hung up in every gaol.

V. And be it further enacted by the authority aforesaid, That the severall courts of record in *Westminster-Hall* aforesaid shall, every *Michaelmas* term, appoint some day to inquire whether such tables of fees and such rules as aforesaid be hung up, and remain publick and easy to be resorted to, in the severall prisons to the said courts respectively belonging, and whether the same be duly complied with and observed, and cause eight days notice to be given to the prisoners in the said prison of the time appointed for such inquiry, and shall inform themselves touching the same in the best manner they can, and supply and redress whatever they find neglected or transgressed; and that the judges and justices of assize and gaol delivery shall make inquiry of the matters aforesaid at all assizes and sessions of gaol delivery, for and in respect of the gaols and prisons within their respective jurisdictions, and shall expressly give it in charge to the grand jury to inquire concerning the same.

Courts at Westminster every Mich. term to inquire after the fees and orders,

and at assizes to give such inquisition in charge to the grand jury.

VI. And for the more speedy punishing gaolers, bailiffs, and others employed in the execution of process, for extortions or other

Judges may hear petitions in a summary way.

other abuses in their respective offices and places : be it further enacted by the authority aforesaid, That upon the petition of any prisoner or person being or having been under arrest, or in custody, complaining of any exaction or extortion by any gaoler, bailiff or other officer or person employed in the keeping or taking care of any gaol or prison, or the arresting or apprehending any person or persons by virtue of any process or warrant, or or any other abuse whatsoever, committed or done in their respective offices or places, unto any of his Majesty's courts of record in *Westminster-Hall*, from whence such process issued, or under whose power such gaol or prison is, in term time, or to any of the justices or barons of such court in the time of vacation, or to the judges of assize, or either of them, in their respective circuits, it shall and may be lawful for the said court, justices or barons, or judges of assize, to hear and determine the same in a summary way, and to make such order thereupon for redressing such abuse, and punishing of such officer or person complained of, and making reparation to the party or parties injured, as they shall think just, together with the full costs of such complaint ; and all orders and determinations which shall be made by the said courts, or any of the said justices, barons or judges of assize respectively, in such summary way as herein prescribed, shall have the same effect, force and virtue, to all intents and purposes, as any other orders of the said respective courts, and obedience thereunto may be enforced, either by attachments ordered by the said respective courts, or by attachments to be issued under the seal of the said courts by direction of the justice, baron or judge, making such order.

Chief justices,
&c. to examine into
gifts for prisoners.

VII. And be it further enacted by the authority aforesaid, That the said lords chief justices, lord chief baron, judges of assize, and justices of the peace, in their respective jurisdictions, and all commissioners for charitable uses, do their best endeavours and diligence to examine and discover the several gifts, legacies, and bequests bestowed and given for the benefit and advantage of the poor prisoners in the said several gaols and prisons, and to send for any deeds, wills, writings and books of account whatsoever, and any person or persons concerned therein, and to examine them upon oath to make true discovery thereof (which they have hereby full power and authority to do) and to order and settle the payment, recovery and receipt of the same, when so discovered and ascertained, in such easy and expeditious manner and way, that the prisoners for the future may not be defrauded, but receive the full benefit thereof, according to the true intent of the donors ; and that lists or tables of such gifts, legacies and bequests for the benefit of the prisoners in every gaol or prison respectively, fairly written, shall be likewise hung up in such gaols and prisons respectively, in some open room or place, to which the prisoners may have resort as occasion shall require, without fee, and shall be registered by the clerks of the peace of the respective counties and places in manner aforesaid.

Tables of such
gifts to be
hung up in the
gaols, and registered
by the clerks of the
peace.

VIII. And

VIII. And for the ease and relief of prisoners, who shall be willing to satisfy their creditors as far as they are able: be it further enacted by the authority aforesaid, That if any person or persons charged in execution for any sum or sums of money, not exceeding in the whole the sum of one hundred pounds, from and after the twenty fifth day of *March* in the year of our Lord one thousand seven hundred and twenty nine, with respect to prisoners charged or to be charged in execution as aforesaid, in the prison of the *Marshalsea* or county gaol of *Surrey*, and from and after the twenty ninth day of *September* which was in the year of our Lord one thousand seven hundred and twenty eight, with respect to prisoners charged or to be charged in execution as aforesaid, in any other gaol or prison, shall be minded to deliver up to his, her or their creditors all his, her or their effects, towards the satisfaction of the debts wherewith he, she or they stand charged, it shall and may be lawful for such prisoner to exhibit a petition to any of the courts of law, from whence the process issued, upon which he, she or they was or were taken and charged in execution, certifying the cause or causes of his, her or their imprisonment, and an account of his, her or their whole real and personal estate, with the dates of the securities wherein any part of it consists, and the deeds or notes relating thereto, and the names of the witnesses to the same, as far as his, her or their knowledge extends thereto; and upon such petition the court may and is hereby required, by order or rule of court, to cause the prisoner to be brought up, and the several creditors at whose suit he, she or they are charged as aforesaid, to be summoned to appear personally, or by their attorney in court, at a day to be appointed for that purpose; and upon the day of such appearance, if any of the creditors summoned refuse or neglect to appear, upon affidavit of the due service of such rule or order, the court shall in a summary way examine into the matter of such petition, and hear what can or shall be alleged on either side for or against the discharge of such prisoner, and upon such examination, the court may and are hereby required to administer, or tender to the prisoner, an oath to the effect following, which oath the said court is hereby empowered to administer:

Persons charged in execution for a sum not exceeding 100 l. after 25 March 1729. in the Marshalsea or county gaol of Surrey,

and after 29 Sept. in any other prison, delivering up their effects,

may exhibit a petition to the court whence the process issued, with account of their whole estate, &c.

Prisoners are to give notice to creditors of such petition, &c.

3 Geo. 2. c. 27. s. 1.

Creditors to be summoned. Prisoner to be brought to the next assizes, &c.

3 Geo. 2. c. 27. s. 2.

I A. B. do solemnly swear, in the presence of Almighty God, That the account by me delivered into this honourable court, in my petition to this court, doth contain a true and full account of all my real and personal estate, debts, credits and effects whatsoever, which I, or any in trust for me, have, or at the time of my said petition had, or am or was in any respect intitled to, in possession, remainder or reversion (except the wearing apparel and bedding for me or my family, and the tools or instruments of my trade or calling, not exceeding ten pounds in value in the whole) and that I have not, at any time since my imprisonment or before, directly or indirectly, sold, leased, assigned or otherwise disposed of, or made over in trust for my self, or otherwise, other than as mentioned in such account, any part of my lands,

E 2

Prisoners oath.

Amended by 21 Geo. 2. c. 33.

lands, estate, goods, stock, money, debts or other real or personal estate, whereby to have or expect any benefit or profit to my self, or to defraud any of my creditors to whom I am indebted.

So help me God.

Prisoner's estate to be assigned to the creditors, or their assignees.

The prisoner to be discharged.

Creditors dissatisfied, prisoners to be remanded to prison,

and another day appointed.

IX. And in case the prisoner shall in open court take the said oath, and upon such examination, and his or her taking the said oath, the creditors shall be satisfied with the truth thereof, the court may immediately order the lands, goods and effects, contained in such account, or so much of them, as may be sufficient to satisfy the debts wherewith he or she is or shall be charged, and the fees due to the warden, marshal or keeper, of the gaol or prison, from which the prisoner was brought, to be, by a short indorsement on the back of such petition, signed by the prisoner, assigned to the said creditors, or one or more of them, in trust for the rest of them, and by such assignment the estate, interest and property of the lands, goods, debts and effects so assigned, shall be vested in the person or persons to whom such assignment is or shall be made, who may take possession of, or sue for the same, in his or their own name or names, in like manner as assignees of commissioners of bankrupts, to which suit no release of the prisoner, his or her executors or administrators, or any trustee for him or her, subsequent to such assignment, shall be any bar; and immediately upon such assignment executed, the said prisoner shall be discharged out of custody by order of court, and such order shall be a sufficient warrant to the sheriff, gaoler or keeper of such prison, to discharge the said prisoner, if detained for the causes mentioned in such petition, and no other; and he is hereby required to discharge, and set him or her at liberty forthwith, without fee, nor shall such sheriff or gaoler be liable to any action of escape, or other suit or information upon that account; and the person or persons to whom the said effects shall be assigned, paying the fees to the gaoler or keeper of the prison, in whose custody the party discharged was, shall, and are hereby required to divide the effects so assigned among themselves and all the persons for whom they shall be intrusted, in proportion to their respective debts; but in case the person or persons at whose suit such prisoner was charged in execution or any of them, shall not be satisfied with the truth of such oath, but shall desire further time to inform himself of the matters contained therein, the said court may and shall remand the said prisoner, and direct the said prisoner and the person or persons dissatisfied with such oath, to appear at another day to be appointed by the said court, sometime within the first week of the term next following the time of such examination; and if at such second day, so to be appointed, the creditor or creditors dissatisfied with such oath shall make default in appearing, or in case he or they shall appear, but shall be unable to discover any estate or effects of the prisoner omitted in such his or her petition, or to shew any probability of his or her having been forsworn in the said oath; then the said court shall

im-

immediately cause the said prisoner to be discharged upon such assignment of his or her effects in manner as aforesaid, unless such creditor or creditors do insist upon his or her being detained in prison, and do agree by writing under his hand, to pay and allow weekly a sum not exceeding two shillings and four pence *per* week unto the said prisoner, to be paid the first day of every week, so long as he or she shall continue in prison, at his, her or their suit, on failure of the payment of which weekly sum at any time, the said prisoner shall forthwith upon application to the court be discharged by such order as aforesaid; but in case the said prisoner shall refuse to take the said oath, or having taken the same shall be detected of falsity therein, he or she shall be presently remanded.

Creditors insisting on detaining the prisoner to pay him weekly 2 s. 4 d.

X. Provided always, and be it further enacted by the authority aforesaid, That the persons of the debtor or debtors so discharged shall never after be arrested for the same debt or debts; but yet notwithstanding such discharge, the judgment against him shall stand and remain in force, and execution may be taken out thereon against his lands, tenements or hereditaments, goods and chattels (his wearing apparel, bedding for himself and family, and necessary tools for the use of his trade or occupation, excepted) in the same manner as if he had never been taken in execution for the said debt.

Prisoner so discharged not to be arrested for the same debt, &c.

XI. Provided also, and be it further enacted by the authority aforesaid, That if any such person, who shall take such oath as aforesaid, shall, upon any indictment for perjury in any matter or particular contained in the said oath, be convicted by his or her own confession, or by verdict of twelve men, as he or she may be by force of this act; the person so convicted shall suffer all the pains and forfeitures which may by law be inflicted on any person convicted of wilful perjury, and shall likewise be liable to be taken upon any process *de novo*, and charged in execution for the said debt, in the same manner as if he or she had never been discharged or taken in execution before, and shall never after have the benefit of this act.

Penalty on prisoner convicted of perjury.

XII. Provided also, and be it further enacted by the authority aforesaid, That if the effects so assigned shall not extend to satisfy the whole debts due to the persons at whose suit he or she was so charged, and the fees due to the gaoler, there shall be an abatement in proportion; and such gaoler shall come in as a creditor for what shall be then due to him for his fees, in proportion with the creditors at whose suit he or she was charged in execution.

The effects not satisfying the whole debts, and fees, there shall be an abatement in proportion.

XIII. And be it further enacted by the authority aforesaid, That where there are mutual debts between the plaintiff and defendant, or if either party sue or be sued as executor or administrator, where there are mutual debts between the testator or intestate and either party, one debt may be set against the other, and such matter may be given in evidence upon the general issue, or pleaded in bar, as the nature of the case shall require, so as at the time of his pleading the general issue, where any such debt

Mutual debts to be set one against the other.

This clause a-

mended and
made perpetual.
8 Geo. 2. c. 24.

of the plaintiff, his testator or intestate, is intended to be insisted on in evidence, notice shall be given of the particular sum of debt so intended to be insisted on, and upon what account it became due, or otherwise such matter shall not be allowed in evidence upon such general issue.

Continuation.
Continued by
21 Geo. 2. c. 33.

XIV. And be it further enacted by the authority aforesaid That this act shall continue in force for five years, and from thence to the end of the then next session of parliament, and no longer.

Not to extend
to Scotland.

XV. Provided always, That this act or any thing therein contained, shall not extend or be construed to extend to the part of *Great Britain* called *Scotland*.

Penalty on
gaoler offend-
ing against
this act.

XVI. And be it further enacted by the authority aforesaid That every sheriff, under-sheriff, bailiff, serjeant at mace, or other officer or minister aforesaid, offending against this act shall (over and above such penalties or punishments as he shall be liable unto by the laws now in force) for every offence against this present act, forfeit and pay to the party thereby aggrieved the sum of fifty pounds, to be recovered, with treble costs of suit, by action of debt, bill, plaint or information, in any of the courts at *Westminster*, wherein no essoin, protection or wager of law, or more than one imparlance, shall be allowed.

C A P. XXIII.

An act for the better regulation of attornies and solicitors.

After 1 Dec.
1730. no per-
son to be ad-
mitted an at-
torney, unless
he take the
oath, and be
inrolled.

FOR the better regulation of attornies and solicitors, practising in any of the courts of law or equity, in that part of *Great Britain* called *England*, be it enacted by the King's most excellent majesty, by and with the advice and consent of the lord spiritual and temporal and commons in this present parliament assembled, and by the authority of the same, That no person from and after the first day of *December* one thousand seven hundred and thirty, shall be permitted to act as an attorney, or to sue out any writ or process, or to commence, carry on or defend, any action or actions, or any other proceedings, either before or after judgment obtained, in the name or names of any person or persons, in his Majesty's court of King's bench, common pleas, or exchequer, or dutchy of *Lancaster*, or in any of his Majesty's courts of great sessions in *Wales*, or in any of the courts of the counties palatine of *Chester*, *Lancaster* and *Durham*, or in any other court of record in that part of *Great Britain* called *England*, wherein attornies have been accustomedly admitted and sworn, unless such person shall take the oath herein after directed and appointed to be taken by attornies, and shall also be admitted and inrolled on or before the said first day of *December* one thousand seven hundred and thirty, in such of the said courts where he shall act as an attorney, or shall be sworn, admitted and inrolled in the said respective courts after the said first day of *December* one thousand seven hundred and thirty, in such manner as is herein after directed,

II. And