



BY AUTHORITY.

ANNO DECIMO TERTIO VICTORIÆ REGINÆ.

CAP. XXXI.

An Act to consolidate and amend the Laws relating to Insolvent Confined Debtors.

Passed 26th April 1850.

Confined Debtors may apply for an order for maintenance to a Judge of the Supreme Court or Justice of the Common Pleas and Justice of the quorum.

If he be found unable to support himself, &c., an order for maintenance to be made.

On failure of payment an order for discharge to be made.

Not to prevent proceeding to final judgment or taking out *fieri facias*.

Examination of debtor may be taken and order made by any person authorized to take such examination when requested by the person issuing the notice.

I. BE it enacted by the Lieutenant Governor, Legislative Council and Assembly, That whenever any person may be confined within any gaol or the limits thereof, within this Province, for any debt, damages or costs, whether on mesne or final process, and such person so confined shall be unable to provide or obtain his necessary support, it shall and may be lawful for such person immediately, or at any time after the said debtor may be put in confinement, to make application to any Judge of the Supreme Court, or any Justice of the Inferior Court of Common Pleas, together with any Justice of the Peace, being of the quorum, in the County where such person shall be confined, for a weekly support or maintenance; and such Judge or Justices, (after fourteen days previous notice to the plaintiff or person at whose suit such person may be confined, or his Attorney,) shall examine on oath such person so confined, as to his ability to support himself; and if on examination, to be taken in writing on oath as aforesaid, to be filed in the Office of the Clerk of the Court out of which such process may have issued, it shall appear to such Judge or Justices that such person is utterly unable to support himself, and has no property whatever, real or personal, of what nature or kind soever, except necessary bedding, wearing apparel, kitchen utensils, and necessary tools of his trade or occupation, not exceeding in value in the whole fifteen pounds, and that such confined person hath not at any time since he or she was served with the first or mesne process in the suit in which he may have been confined, or since he had notice of the said suit having been commenced, made over, assigned, transferred or put out of his possession or power, either directly or indirectly, any property whatsoever, whether real or personal, for the purpose of defrauding such plaintiff, or giving any undue preference to any other plaintiff or creditor, that then it shall be lawful for such Judge or Justices to make an order for the party at whose suit such person may be confined, to pay a weekly sum of five shillings, to be applied for the support of such person, which sum shall be paid weekly, and the first payment to be paid at the time such Judge or Justices may in such order direct; and after such order made, it shall be the duty of such party, without any further notice, to pay such weekly support agreeably to such order; and in case of failure thereof, it shall and may be lawful for any such Judge or Justices as aforesaid, on such failure being made known to him or them, to make an order under his or their hands, directed to the Sheriff or Gaoler, to discharge the said person out of confinement by reason of such suit, and such person shall be forthwith discharged by the said Sheriff or Gaoler, without any claim or detention for or by reason of any Sheriff's fees, Gaoler's fees, board found or provided, or any pretence whatsoever; provided that nothing in this Act shall prevent any plaintiff from prosecuting his suit, if on mesne process, to final judgment, or from taking out *fieri facias* against the goods and chattels, lands and tenements of such defendant, or from recovering in any other manner the amount of the judgment obtained in the suit, so always that the person of any debtor so discharged shall be freed from arrest in any proceedings or actions upon such judgment.

II. And be it enacted, That in any case where a notice of the examination of any insolvent confined debtor shall have been given under the provisions of this Act by any person or persons authorized to take such examination, it shall and may be lawful (in case of the illness, absence or inability to attend of the person or persons who issued such notice of examination,) for any other person or persons authorized to take examinations of confined debtors, who, at the request of the person or persons who issued the notice of examination, may attend for that purpose, to proceed to the examination of such confined debtor, and to hear and determine the application for support, and to make all such order or orders thereon, and on any proceedings subsequently had in regard to the support or withholding the support of such confined debtor, as to such person or persons