

to Judgment This Act to continue for three Years, and to the end of the third Year, which shall happen after the three Years.

An Act for relief of Debtors and ascertaining the manner of Tenders

Whereas several honest persons within this Province being indebted in tobacco to divers persons Merchants & others and well disposed to pay the same, taking care therefore by providing the tobacco, but oftentimes it so happens that because an opportunity or conveyance doth not offer to the creditor to dispose thereof they do frequently refuse neglect & delay to receive the said tobacco in discharge of the debts, whereby the debtor remains in debt & the tobacco by him procured to pay the said debts remains in his hands subject to all casualty on the debtors account, and which he dares not make use of for fear of his creditors demanding and suing after for the debt, for Remedy whereof for the future,

Be it Enacted by the Queens most Excellent Majesty by and with the Advice and Consent of her Majesty's Governour Council & Assembly of this Province & the Authority of the same, that any person or persons whatsoever inhabiting within this Province, and now being or that hereafter shall be indebted to any Merchant or others, either resident in or trading to this Province that hath tobacco ready according to the nature of the debt he owes & is willing to pay the same, and hath offer'd it to his Creditor his Factor or Attorney, and by him or them refused neglected or delayed to be received as aforesaid, it shall and may be lawful to and for any such debtor or debtors at any time between the first day of November and the last day of March in every year during the continuance of this Act and at no other times to repair to the next Justice of Peace, and there before him upon making Oath of such tobacco being already tender'd and neglected refused or delayed to be received as aforesaid, the said Justice shall & is hereby enjoyned empower'd and required to appoint two sufficient persons of the neighbourhood (not being of kin either to the debtor or creditor) where such debtor shall dwell, to view search and look upon such tobacco so ready to be paid in discharge of the debt and tender'd as aforesaid, which two persons so appointed shall take their Oaths to be administered by the Justice aforesaid well and truly to try & examin into the matter aforesaid and make report thereof to the Justice aforesaid, and if upon viewing the same it be found that the tobacco aforesaid is clean sound merchantable and fit to be paid in discharge of the debt aforesaid, they shall & are hereby empower'd and authorized to mark the said tobacco in hogheads upon the head & bulge for such creditor as aforesaid and weigh the same and signifie the neat weight thereof unto the Justice aforesaid, which tobacco so tender'd neglected or refused, view'd markt & weigh'd as aforesaid shall for ever after be esteemed & taken as the proper goods & tobacco of the creditor, and in absolute discharge of the debt aforesaid, or of so much thereof as the same tobacco shall weigh, (provided that each hoghead weighs five hundred neat or upward.) And because many Contratts Bills & Bonds may be of different natures and circumstances, It is hereby further declared & enacted, that upon every such viewing as aforesaid, the Creditor his Factor or Attorney shall have notice thereof by the said debtor, and if he do not come to the place and make known by shewing the contract or obligation, the circumstances or nature of the contract or obligation, if the tobacco viewed as aforesaid be clean from trash sound & merchantable, it shall be markt & weigh'd in discharge of such debt, be the same of what nature soever, and the person in whose houses the tobacco lyes or shall lye shall take care of & preserve the same for one whole Year as they are obliged to do tobacco actually received by any Creditor Merchant or others, any Law Statute or Usage to the contrary notwithstanding.

And be it further Enacted by the authority advice & consent aforesaid, that if any debtor who hath tender'd tobacco to his creditor which is in very good condition clear of all manner of trash according to the tenor of the Specialty aforesaid, and well packt in good season'd hogheads, and which hogheads of tobacco contain five hundred pounds of neat tobacco at the least, and which the creditor refused, and hath such tobacco ready to tender & pay to his creditor, be yet notwithstanding sued & prosecuted as Law in order to recover such tobacco as he shall be indebted to his creditor, if at the tryal the defendant shall make appear by one sufficient evidence that he tender'd to the plaintiff such his debt in such tobacco qualified as aforesaid having the tobacco ready and full packt in hogheads before the plaintiff purchast his Writt, then and in every such case the plaintiff shall not recover any cost of Suit against the defendant, but shall pay the defendant what cost the defendant hath in that cause expended, to be deducted out of the plaintiffs debt by the Court before whom such Suit shall be; and the plaintiff shall have judgment for what shall be remaining due to him after such deduction made as aforesaid.

And in case any plaintiff after such recovery had of any quantity of tobacco against any defendant having tobacco packt in hogheads and qualified as aforesaid shall refuse upon the defendants tendering such tobacco to receive the same, but shall sue out Execution against the defendant whereby the defendant is taken in Execution and imprisoned, then and in such case any Friend of the said defendant so imprison'd may on behalf of such prisoner go to the high Sheriff and require him to certify to the next Justice of peace at whose Suit and for what Sum the said prisoner is in Execution, which certificate the Sheriff shall make gratis and give to such person requiring the same, within five hours after such demand, under penalty of two thousand pounds

*Handwritten signature or mark, possibly "Factory of the Queen"*