



AN
ORDINANCE
FOR

Establishing the Remedies for Abuses in the
Practice of the LAW.

GEORGE the Second, by the Grace of God, of Great Britain, France and Ireland, KING, Defender of the Faith, &c. Whereas in Our Council of New-Jersey, on the fifth Instant, it was Ordered, That the Gentlemen of the Council, or any three of them, be a Committee to Review the Ordinance of Fees for the Court of Chancery, and to moderate the same in such manner as they shall judge agreeable to the Circumstances of the Province; and to consider of Remedies for any Abuses that may have crept into the Practice of that Court. And Whereas the same Committee have this day in Council made their Report concerning Abuses, in these words,

IN pursuance of the Reference to us made, of the fifth Instant, We do humbly Report, that the Abuses following have here-to-fore crept into the Practice.

Abuses in the Practice.

First ABUSE.

In drawing of Bills, things which are only Conveyance and Inducement are too much set forth at length, whereas only the Points in Question ought to be fully set forth, and Conveyances and Inducements in the briefest manner possible. For Example, If *A.* has been entitled to the Thing in Question, who conveyed it to *B.* who conveyed it to *C.* &c. who conveyed it to the Complainant. After the thing is set forth certainly in *A.* its enough to say, he conveyed it to *B.* and he

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to C, &c. and he to the Complainant, as by Deeds in due form of Law made, ready to be produced, may appear. If which be observed, we find it will greatly shorten the length of Bills. To effect which, we propose this

R E M E D Y.

First Rule. That no Council set their Hands to any Bill wherein Matters that are only Conveyance and Inducement are drawn into length, and are too particular, wherein are Repetitions, or wherein there is more than one Proffert to the Court, of all Deeds and Writings that are offered to be produced by the Bill.

P E N A L T Y.

If a Deviation from this Rule be observed either by the Court, or by the Council on the other side, or by the Master on Taxing of Costs, and if it appear there were *One Twentieth part*, or more, of the Bill needless, or that it might easily have been brought to *Nineteen Twentieths* of that length, then that Council shall pay for all the charge that such needless Length hath brought, or will bring upon both Parties. And if upon enquiry into this, any needless Length be found at all, but less than *One Twentieth*, neither Party shall pay any Costs for that Enquiry; but if none is found, the Council objecting Impertinence, shall pay the Charge of the Enquiry into it.

Second ABUSE.

In drawing also of Bills, we have found it too often used to amass a Number of Iniquities against the Defendant, as Matter of Form, and also to alledge Matters of Equity as Matters of Form, which are not consonant to the Truth of the Case. We find also, that its usual to turn the whole Things charged into Questions afterwards: Whereas, when a Fact is once properly charged, there needs few or often no Questions to bring out the Truth, concerning it, other than the General, to answer the Things charged; by which Means also, the Bill is without any Necessity for it, usually length'ned one Fourth or more, and for which we propose this

R E M E D Y.

Second Rule, That Solicitors in drawing of Bills, do keep to the Truth of their Case, and avoid inserting Things, purely as Matters of Form: And that they insert no Matters of Equity, but what are properly pertinent in their Case, that no Council set their Hands to any Bills, with any Questions therein, which can bring no further Answers than the Charge does require, or which could as properly have been done by the Charge.

P E N A L T Y.

These being also ways of swelling Bills to needless Length, the Penalty of the Breach of the *first Rule* shall also be to this.

Third ABUSE.

After the Appearance of the Defendant, Pretences are used to delay putting in their Answers, Pleas and Demurrers, sometimes for want of

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a Copy of the Bill, sometimes on pretence of want of Writings, &c. and after one time given is expired, other Pretences, or the same over again, are used, to get new Time, which not only tend much to the Delay of the Complainants, but to the increasing of the Charges by the Fees of such Motions or Petitions for Time, and when all is obtained, often the Petitioners put in only Demurrers, or Pleas Dilatory. For which Abuses, we propose this

R E M E D Y,

Rule Third. That the Court would be pleased to give no further Time than the usual *Rule of eight Days*, unless an evident Necessity appears from the nature of the thing, or by sufficient Affidavits, or otherwise: That the Clerks, so soon as Bills are filed with them, do forth with set about to have them copied, that upon the Defendant's appearance they may have their Copies delivered to them, in order that no Pretences be left for Delay, on that account. That no Pleas nor Demurrers be admitted after the usual *Rule of eight Days* is expired, except by leave of the Court, showing first cause why they are not filed in that Time, and that they are not upon any Slip or Mistake, or for Delay, but to the Merits of the Cause, that no second Petition for Time be granted on the same Reasons as the First, nor upon other Reasons without Oath, that they were not known when the first Petition was preferred in Order, that the needful Time may be always had at once, that upon taxing of Costs for the Defendant, there be only one Petition for Time allowed.

P E N A L T Y.

The Clerk's, Solicitors, or Council transgressing herein, to be censured by the Court, and to have such further Order taken with them, as the Nature of the Transgression requires, and to the Court shall seem meet.

Fourth A B U S E.

Of late, sundry Answers have been put in, with View of Delay, being full of Evasions, Negative Pregnants, and making only a shew of Answers, when nothing of the Bill was thereby directly answered, whereby long Time and Pains is taken to discover and set forth these Insufficiencies by Exceptions, which Exceptions have sometimes been almost as long as the Answers themselves; and tho' plainly pointed out, yet have stood the Reference of the Exceptions, and the arguing and adjudging of every of them; and afterwards, tho' the Faults of the first Answers were so plainly pointed out and adjudged, have in their second Answers used like Evasions, and like Practice, and so to a third Answer, and even to a fourth Answer; whereby great Charge is brought upon the Parties, and great Delay is given to Justice; for which we propose this

R E M E D Y.

Fourth Rule. That Council be careful to see that Answers be complete before they set their Hands to them, that no more than Two Answers be admitted in any Case, and that upon a second Answer's being

being found insufficient, the Defendant be committed, and fourth-with examined upon Interrogatories to the Points deficient in the second Answer.

Fifth A B U S E.

After Answer, it has been claimed by the Plaintiff as his Privilege to have nine Months Time to proceed, and after any small Procedure, then nine Months more, and so on; by which, we conceive great Delay is thereby given to Justice, and an Injury done to the Defendant in keeping him hanging longer in Court than there's any Necessity appears for it, besides the great Charge to the Parties that such Delays must create; from which we propose this

R E M E D Y.

Rule Fifth, That the Defendant's Clerk any time after Answer filed, may serve the Plaintiff's Clerk with a Rule to reply in a Fortnight, or shew Cause why not? And if the Plaintiff neither Replies, Excepts, or shews Cause by the Day, then the Defendants Clerk may serve the Plaintiffs Clerk with a Rule to Reply by that Day Week, or the Bill to be absolutely Dismissed. And it appearing to the Court that the said Rules were duly served, and no Replication or Exceptions filed, nor no sufficient Cause shown, Then the Dismission to be Confirmed. And in like manner the Defendants Clerk may give Rules for any other Procedure of the Complainants.

Sixth A B U S E.

One Party Feeing sundry Council, Obliges the other, in prudence, to have as many: which when three, four or more are concerned of a side, becomes very Chargeable to the Parties, severals whereof often appears upon common Motions and Petitions, and insist each of them on their Fees for so doing from their Clyents; as also on the taxing of Costs, sundry of them appear before the Master, and insist each on their Fees, whereas either no Council are needful, or, one is sufficient in such Cases; for which we propose this

R E M E D Y.

Rule Sixth, That in all Cases wherein the Matter in Controversy does not appear by Affidavit to be above *One thousand Pounds* Value, only one Council shall be admitted to speak therein for any Fee or Reward until such Council be changed for the Cause, and then in like Manner for the next Council who comes in Place of the former. And that in all Causes wherein the matter in Controversie is above *One Thousand Pounds* and under *Four Thousand Pounds* Value, then not above two Council, as aforesaid. And in all Causes where the matter in Controversie is above *Four Thousand Pounds*, and under *Eight Thousand Pounds* Value, then not above three Council, as aforesaid.

That upon all common Motions no more than one Council do appear to make it, or speak to it, in any Cause. That upon all common Petitions or Taxations of Costs, No Council at all do appear or have any Fee

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