

Costs to the  
trader sum-  
moned,

**XI** And be it enacted, that when any trader against whom an affidavit of debt is filed as aforesaid, shall be summoned to appear before any Judge or Commissioner, as aforesaid, and such Summons shall be dismissed without any proceeding being thereupon taken against any such trader, every such trader shall have such costs and charges as the Judge or Commissioner shall think fit.

Costs allowed  
to trader in  
cases where  
the plaintiff  
shall not re-  
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to as aforesaid.

Proviso,

Proviso,

**XII.** And be it enacted, that in every action brought after the commencement of this Act, wherein any such creditor is plaintiff, and any such trader is defendant, and wherein the plaintiff shall not recover the amount of the sum for which he shall have filed an affidavit under the provisions of this Act, such defendant shall be entitled to costs of suit, to be taxed according to the custom of the Court in which such action shall have been brought: Provided, that it shall be made to appear, to the satisfaction of the Court in which such action is brought, upon motion to be made in Court for that purpose, and upon hearing the parties by affidavit, that the plaintiff in such action had not any reasonable or probable cause for making such affidavit of debt, in such amount as aforesaid: And provided, such Court shall thereupon, by a rule or order, direct that such costs shall be allowed to the defendant; and the plaintiff shall, upon such rule or order being made, be disabled from taking out any execution for the sum recovered in the said action, unless the same shall exceed (and then in the sum only that the same shall exceed) the amount of the taxed costs of the defendant; and in case the sum recovered in the said action shall be less than the amount of the costs of the defendant, to be taxed as aforesaid, that then the defendant shall be entitled, after deducting the sum of money recovered by the plaintiff in such action, from the amount of his costs, so to be taxed as aforesaid, to take out execution for such costs, in like manner as a defendant may now by law have execution for costs in other cases.

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