

And provided such admission shall be in the form of the Schedule (D. No. 1,) hereunto annexed.

XII. When any trader against whom an affidavit of debt is fyled, as aforesaid, shall be summoned to appear before the Court, as aforesaid, 5 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 Court shall think fit.

Costs to the trader summoned.

XIII. In every action brought after the commencement of this Act, wherein any such creditor is plaintiff, and such trader is defendant, 10 and wherein the plaintiff shall not recover the amount of the sum for which he shall have fyled 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 15 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 20 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 25 action shall be less than the amount of the costs of the defendant, to be taxed as aforesaid, 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 30 execution for costs in other cases.

Costs allowed to trader in cases where the Plaintiff shall not recover the amount sworn to.

Proviso.

XIV. If any plaintiff shall recover judgment in any action personal in any of Her Majesty's Courts of Record in this Province, against any such trader, and shall be in a situation to sue out execution, and there 35 be nothing due from the plaintiff by way of set-off against his judgment, and such trader shall not within twenty-one days after notice in writing, personally served upon him, requiring immediate payment, pay, secure or compound for the same, to the satisfaction of the plaintiff, he shall be deemed to have committed an act of bankruptcy, on the twenty-second day after the service of such notice; Provided always, 40 that if such execution shall in the meantime be suspended or restrained by any rule, order or proceeding of any Court having jurisdiction in that behalf, no further proceeding shall be had upon such notice; but it shall be lawful, nevertheless, for such plaintiff when he shall again be in a situation to sue out execution on such judgment, to proceed 45 again by notice in manner before directed; And provided, that in case several persons being co-partners, shall be such defendants, service of such notice requiring immediate payment, may be made as hereinbefore provided, with respect to a summons.

Plaintiff having recovered judgement in a personal action against a trader.

XV. If any decree or order shall be pronounced in any cause de- 50 pending in any Court of Law or Equity, or any order be made in any matter of bankruptcy or lunacy against any such trader, ordering him

Trader refusing to pay money ordered to be paid