

CAP. X.

An ACT for the Summary Trial of Actions.

Summary Trial
by Supreme
and Inferior
Court.

BE it enacted, by the Lieutenant-Governor, Council and Assembly, That the Supreme Court and the Inferior Courts of Common Pleas within this Province, be, and are hereby, empowered, in all Causes of Action brought before them, the sum total whereof shall not exceed twenty pounds, to proceed in a summary way, by witnesses, to examine the merits of such causes, and make up Judgment accordingly. *Provided always*, That when on the examination of the witnesses, the matter of fact shall appear doubtful, or either of the parties shall desire it, the Court shall order a Jury to try the same.

Proviso.

Summary Trial
by Justices of
the Peace.

II. *And be it further enacted*, That it shall be lawful for any person or persons who have debts owing to him, her, or them, by any other person or persons, where the whole dealing or cause of action shall not exceed three pounds, to sue for the same in the manner following, that is to say: if the sum demanded shall not exceed three pounds, to cause such debtor to be summoned to appear before any one Justice of the Peace of the County or District where the debtor shall reside, and the said Justice, after such summons issued and duly served, is hereby empowered to proceed and make up final Judgment between the parties, and shall allow the defendant to produce his account against the plaintiff, or any receipts or other discharges for payment, made either in the whole or in part; and the said Justice shall examine and enquire into the merits of both accounts, and of such discharges, and, by such other proof as to him shall seem requisite, or upon the confession of the debtor, to ascertain the debt due, and, at his discretion, to decree the payment thereof at such different times and periods, as he shall think fit and proper, agreeable to the circumstances of the debtor, and with as little prejudice as possible to the creditor, and to award costs as he shall find, whether for the plaintiff or defendant, without appeal, unless the debt or cause of action shall amount to twenty shillings or upwards, any law, usage or custom, to the contrary notwithstanding.

Execution may
be issued by
Justices.

III. *And be it further enacted*, That if any debtor, after being duly summoned to appear, shall, without just cause, be allowed of by the said Justice, refuse, or neglect, to perform such decree or Judgment as shall be made concerning such debts as aforesaid, it shall and may be lawful for such Justice to issue execution against the goods and chattles, or body, of such debtor for the sum awarded, with costs, which execution shall be returnable in fourteen days from the day on which it shall be issued, any law, usage or custom, to the contrary, notwithstanding.

Appeal from
the decision of
the Justices to
Supreme or
Inferior Court.

IV. *And be it further enacted*, That if any plaintiff or defendant, when the debt or cause of action shall amount to twenty shillings or upwards, shall think himself injured by the Judgment of the said Justice, he may appeal to the next Supreme Court, or Inferior Court of Common Pleas to be held for the County or District in which the said Justice resides; and on such appeal being made, the said Justice shall suspend the issuing of execution, or further proceeding, in such cause, on the party appealing giving good and sufficient security to prosecute such appeal at the next Supreme Court, or Inferior Court of Common Pleas, and to perform whatever the Judgment of such Court shall be: and the Justice shall, on the first day of the sitting of the said Supreme Court, or Inferior Court of Common Pleas, return to the said Court to which the appeal shall be made, the names of the parties to the cause in which an appeal hath been entered, with all the papers touching and concerning the same; and the