

Action given to the then Treasurer in default of such account and payment.

Court may refer the account (if disputed) to a referee.

And make certain orders on the report of such referee.

cription of office, to sue for and recover the same from such person with double costs of suit, in any Court of Record in this Province having competent jurisdiction, by action of debt; in which action it shall be sufficient for such Treasurer to declare as for money had and received to the use of such Treasurer for the purposes of this Act; and the Court in which the action shall be brought, may at the instance of either of the parties, refer the account in dispute in a summary manner, to be audited by any Officer of the Court or other fit person, who shall have power to examine both plaintiff and defendant upon oath; and upon the report of the referee (unless either of the parties shall shew good cause to the contrary) the Court may make a rule either for the payment of such sum as upon the report shall appear to be due, or for staying the proceedings in the action, and upon such terms and conditions as to the Court shall appear reasonable; or the Court may order judgment to be entered up as by confession for such sum as upon the report shall appear to be due.

In case of death or removal of District Treasurer or Clerk of any Division Court the then District Treasurer may recover by action monies received under this Act and remaining in their hands.

The Court may refer the disputed account to any person.

XVII. And be it enacted, that in case of the death of any person during the time that he shall be holding the office of District Treasurer, or of Clerk of any Division Court, or after he shall have resigned, or be removed from such office, the Treasurer for the time being, may in his own proper name only, or by his name and description of office, sue for and recover from the Executors or Administrators of such person deceased, all such sums as shall have been remaining in his hands, of money received under the authority of this Act, by an action of debt, in any Court of Record in this Province having competent jurisdiction; in which action it shall be competent for the plaintiff to declare that the deceased was indebted to the plaintiff for money had and received to his use for the purposes of this Act, or that the deceased died possessed of money had and received for the purposes of this Act, whereby an action hath accrued to the plaintiff, to demand and have the same from such Executors or Administrators; and a like action may be brought against any Executors or Administrators of Executors, or Administrators: and in all such actions, the defendant or defendants may plead in like manner, and avail themselves of the like matters in defence as in any action founded upon simple contracts of the original testator or intestate; and the Court may refer the account in dispute to be audited by any officer or person, and may proceed upon the report of such referee in like manner as in the case mentioned in the next preceding section.

The Plaintiff acting as Treasurer to be *primâ facie* evidence of his holding that Office.

XVIII. And be it enacted, that in all actions to be brought, as well as in all proceedings whatsoever to be instituted or carried on by any Treasurer, by virtue of this Act, proof of his acting in the execution of the office of Treasurer, shall be sufficient evidence of his holding such office, unless the contrary shall be shown in evidence by the defendants in such actions, or the parties against whom such proceedings shall be instituted and carried on.

XIX.