

XV. *And be it further enacted*, That every such Committee, at the time they report to the House their final determination on the merits of the Petition which they were sworn to try, shall also report to the House, whether such Petition did or did not appear to them to be frivolous or vexatious; and that whenever any such committee shall report to the House with respect to any such Petition that the same appeared to them to be frivolous or vexatious, the party or parties, if any, who shall have appeared before the Committee in opposition to such Petition, shall be entitled to recover from the Person or Persons, or any of them, who shall have signed such Petition, the full costs and expenses which such party or parties shall have incurred in opposing the same; such costs and expenses to be ascertained in the manner hereinafter directed.

Report of Committee to the House of Assembly

XVI. *And be it further enacted*, That the costs and expenses of opposing any such Petition shall be ascertained in manner following, that is to say: that on application made to the Speaker of the House, by the party or parties who shall have appeared before the Committee in opposition to such Petition, for ascertaining such costs and expenses, he shall direct the same to be taxed by two persons, of whom the Clerk of the House shall always be one, and one of the Masters in the Court of Chancery, in this Province. And the persons to be authorised and directed to tax such costs and expenses shall, and they are hereby required to, examine the same, and to report the amount thereof to the Speaker of the said House, who, if the said costs shall be approved of by the House, shall, on application made to him, deliver to the party or parties a certificate, signed by himself, expressing the amount of the costs and expenses allowed in such report; and the persons so appointed to tax such costs, and report the amount thereof, are hereby authorised to demand and receive for such taxation and report, such fees as shall, from time to time, be fixed by any resolution of the House.

Costs and Expenses.

XVII. *And be it further enacted*, That it shall and may be lawful for the party or parties, entitled to such costs and expenses, to demand the whole amount thereof, so certified as above, from any one or more of the persons respectively who are hereinbefore made liable to the payment thereof; and in case of non-payment thereof, to recover the same by Action of Debt, in the Supreme Court of this Province, in which Action it shall be sufficient for the Plaintiff or Plaintiffs to declare that the Defendant or Defendants are indebted to him or them, in the sum to which the costs and expenses ascertained in manner aforesaid shall amount, by virtue of this Act. And the certificate of the Speaker of the House of Assembly, under his Signature, of the amount of such costs and expenses, together with an examined copy of the entries on the Journals of the House of the Resolution or Resolutions of the said select Committee, shall be deemed full and sufficient evidence in support of such Action of Debt; and *provided always*, That the party or parties in whose favour Judgment shall be given in any such Action, shall recover his or their costs

Costs and Expenses demanded.

CAP. XXIII.

An ACT in amendment of an Act, passed in the first year of His late Majesty's Reign, entitled, An Act to enable Creditors to receive their just Debts out of the Effects of their Absent or Absconding Debtors.

WHEREAS much inconvenience has arisen from the course of proceeding against absent or absconding Debtors, authorised by the second section of the

Preamble,

the

the above mentioned Act, whereby creditors are enabled to attach the Goods, Effects or Credits, of absent Persons, in their hands of their Attorney, Factor, Agent or Trustee, without making any Affidavit that a debt is actually due to them by such absent Person, for remedy thereof :

Affidavit of Debt to be made before process is issued.

I. BE it enacted, That, from and after the passing of this Act, it shall not be lawful for any person to sue out any process under the second section of the said Act, unless the person applying for the said process shall, previous to the issuing thereof, make an affidavit before one of the Judges of the Court from which such process shall be required, or in the absence of all the Judges of the said Court, before some one of His Majesty's Justices of the Peace, that the Defendant is justly indebted to the Plaintiff in a sum to be specifically mentioned and set forth in the said affidavit, which affidavit shall be filed in the Office of the Clerk of the Court from whence the Writ shall issue—and the sum specified in such affidavit shall be indorsed on the back of the said Writ, in Words at length, and signed by the Judge or Justice of the Peace, before whom such affidavit shall be made, and shall also make oath that he verily believes that the person or persons whom he is about to summon, is the Factor, Agent, or Trustee, of such Absent or Absconding Person, or that he hath Goods, Effects or Credits, of such Absent Person in his possession, or under his management and controul.

Sum to be retained by Agent, &c of Absconding Debtor.

II. And be it further enacted, That the Person so served with any process, as Factor, Agent, or Trustee, of any Absent or Absconding Person, shall not be bound to retain, nor shall he retain, in his hands, to respond the Judgment which may be recovered against such Absent or Absconding Person, any greater sum than shall be indorsed by the Judge or Justice of the Peace as aforesaid, upon the back of the Writ of Summons, together with a sum not exceeding Thirty Pounds, out of which to pay such costs as may be due to himself and the Plaintiff, in case the Plaintiff shall obtain Judgment.

Declaration to be made by Agent, &c of Property in his hands belonging to Absconding Debtor.

III. And be it further enacted, That the Plaintiff shall not proceed to the Trial of his Cause, against such Absent or Absconding Person, until the Agent shall have appeared in Court, and declared that he hath Goods, Effects or Credits, of the said absent or absconding Person, in his hands or under his controul. *Provided always,* That if any Person, summoned as the Attorney, Agent, Factor or Trustee, after being duly summoned, shall refuse or neglect to appear, and disclose, as hereinbefore directed, that it shall and may be lawful for the Court, out of which the said Writ of Summons shall have issued, to proceed against such Attorney, Agent, Factor or Trustee, for a contempt of the process of the said Court, and shall also be liable to pay the Plaintiff his costs.

Agent, &c. bound to make Declaration of Effects in his hands.

IV. And be it further enacted, That whenever the said Attorney, Factor, Agent or Trustee, appears in Court, in obedience to the said Summons, he shall be bound, if required by the Plaintiff, to state whether he hath Goods, Effects or Credits, of the Defendant, in his hands, or under his management or controul, to the amount of the sum indorsed on the said Writ, or, if a less amount, that he shall be bound to state the specific amount thereof.

Agent, &c not residing in County where Action is brought

V. And be it further enacted, That where the supposed Agent, Factor or Trustee, shall be resident in any other County than that in which the Action is commenced, he shall not be obliged to appear in that County, but may appear in the Supreme Court of the County in which he lives, at its first sitting, after his being served with process, in the same manner as if he had been required to appear there by the process served upon him.