

CAP. IX.

An ACT for limiting the VALUE of ACTIONS to be brought in the inferior court of COMMON PLEAS in this province and for restraining the removal of ACTIONS.

Preamble.

WHEREAS it is necessary that the administration of justice should not be delayed or rendered expensive by the contentious spirit of the parties, and that in all causes of small value it is reasonable just and proper, the costs of suit should in some measure be proportioned to the sum in contest.

No action to be commenced except in the clerks courts or the city court of *Saint John*, where the sum &c. does not exceed 4*l*.

Be it enacted by the Governor, Council and Assembly, that no person whatsoever, by him or herself, or by his or her counsel or attorney, shall commence any suit or action by bill, plaint, or in any other manner whatsoever, upon bond, obligation, or penal bill, or on any other matter or thing whatsoever, or shall pursue or prosecute any such bill, plaint, action or suit, where the sum or thing in demand, suit or controversy, does not exceed the sum of forty shillings in any court of law within this province, except the clerk's court of the respective counties, or the city court of the city of *Saint John*: Nor when the sum or thing in demand does not exceed ten pounds, in any courts of law within the province except the inferior courts of common pleas for the respective counties, or the mayor's court of the city of *Saint John*.

Nor in any court but the common pleas where the sum does not exceed 10*l*.

Suits, &c. so commenced not to be removed.

And when any suit or action within the limits aforesaid is or shall be commenced, heard or determined, in such court as is by this act permitted and allowed, it shall not be lawful for any person or persons whatsoever, by him, her, or themselves, or by his, her, or their counsel or attorney, or by any ways or means whatsoever, to remove such suit or action so commenced, from the said respective courts, any law, usage or privilege, to the contrary notwithstanding.

CAP. X.

An ACT for REGULATING the COURTS of LAW establish'd in the several counties for the TRIAL of CAUSES to the value of FORTY SHILLINGS.

Preamble.

WHEREAS it is necessary for the effectual administration of justice in the clerk's courts of the respective counties, and

and in the city court of the city of *Saint John*, that further powers be given to the justices of the peace and aldermen presiding therein and that further regulations and restrictions be adopted the more fully to obtain the purposes for which they were instituted.

Be it enacted by the Governor, Council and Assembly, that the constables and marshal's appointed to summon the juries for trial of causes in said courts shall summon and return three impartial men in the stead of twelve jurors to each of the said respective courts on the stated monthly terms or days of trial, and no oftener in case the clerks of said courts shall respectively signify that the attendance of three such persons is then necessary, for the trials of causes at issue and not otherwise, which three persons so returned shall try all causes at issue in said courts respectively, in the room and stead of a jury consisting of twelve jurors as heretofore ordained.

Three impartial persons to be returned, if required in stead of twelve jurors.

And it shall nevertheless be in the election of the defendant whether the cause shall be heard and determined by the judge and clerk of the said court only or by three such persons, and the defendant shall on being served with a summons, notify the clerk of said court that he wishes three such persons to be summoned, and if such notice is not given none shall be returned.

Causes to be tried by the judge and clerk with or without three other persons at the election of defendant.

And be it further enacted, that the presiding justice and no other person shall have full power and authority to determine and limit the term of imprisonment or length of time the defendant shall suffer confinement, to be inserted in the execution against the body by the clerk, in case the defendant shall not fulfil the judgment given against him, the said term not to exceed three months as heretofore ordained.

Term of imprisonment limited by the presiding justice.

And be it further enacted, that the said courts shall be held in the most convenient place in each town before some one of the justices of the peace of the county, and the justice who is to preside at the said court shall be the only person to appoint the place where said court shall be held—and the several and respective judgements which shall be given in any of the said courts shall be valid and final between the parties notwithstanding any defect of form in the entries or pleadings made and had in the causes so determined.

Place of courts sitting appointed by presiding justice.

Judgment valid and final, want of form notwithstanding.

Provided always and be it further enacted, that nothing in this act shall be construed to give the clerk any authority to depute his judicial power to any person to act as deputy, but that in cases where a deputy shall be appointed the justice shall be the sole judge, any thing in any law or ordinance to the contrary in anywise notwithstanding.

Clerk not to depute his judicial power.