

cept for sum-  
moning a se-  
cond Jury at the  
Circuit Courts  
or Sittings.

‘ of causes at the Circuit Courts or Sittings ;’ Be it enacted, that it shall and may be lawful, whenever the same shall appear to be necessary, for any Judge of the said Supreme Court to issue a precept under his hand and seal, directed to the Sheriff of any County or City and County in this Province, commanding such Sheriff to summon twenty four men duly qualified for that purpose to appear and serve as jurors for the trial of causes both civil and criminal at any Circuit Court or Sittings, as the case may be, on a day to be named in such precept, which day shall in no case be earlier than the sixth day after the day appointed for the opening and commencement of such Circuit Court or Sittings; and such Sheriff shall cause such persons to be duly summoned, and shall return a panel of such jurors to the Court on the day named in the precept; and such jurors being duly summoned according to Law shall give their attendance, and shall be charged and bound in such and the like manner, and upon like pains and penalties for non appearance and non attendance, or for any misdemeanor or default at the Court to which they may be summoned, as if summoned and returned upon the first panel of jurors for the trial of causes at such Court.

CAP. XLVIII.

An Act to amend the law relating to the summary practice in the Inferior Courts of Common Pleas.

Passed 16th March 1836.

Where Plaintiff  
is entitled to  
judgment by de-  
fault under 35  
G. 3, c. 2, De-  
fendant may be  
let in as in ac-  
tions not sum-  
mary after in-  
terlocutory  
judgment.

I. **BE** it enacted by the Lieutenant Governor, Legislative Council and Assembly, That in any summary action in any of the Inferior Courts of Common Pleas within this Province, wherein the plaintiff may be entitled to judgment by default under the provisions of the sixth section of an Act made and passed in the thirty fifth year of the reign of His Majesty King George the Third, intituled *An Act to regulate the terms of the sittings of the Inferior Courts of Common Pleas in this Province, and to enlarge the jurisdiction of the same, and for the summary trials of certain actions*, the Court in which such action shall have been instituted, or any Judge thereof, may let in the defendant to appear and defend in like manner and upon such terms as in actions not summary by the practice of the said Courts may be done after interlocutory judgment, any thing in the said sixth section of the said Act or in any other Act to the contrary thereof in any wise notwithstanding.

Matter in bar  
to action may  
be given in evi-  
dence under ge-  
neral issue, no-  
tice of such mat-  
ters being given  
to Plaintiff's  
Attorney.

II. And be it enacted, That in all summary actions in the said Courts any matters in bar to the action, which in actions not summary ought to be pleaded specially, may be given in evidence under the general issue, provided that notice in writing of such matters be given to the plaintiff's attorney at the same time with the plea, and infancy or coverture of the defendant shall not in any summary action in the said Courts be given in evidence unless such notice thereof be given, and that notice of trial shall be given as in other cases.

Costs where  
proceedings are  
had as in ac-  
tions not sum-  
mary where  
they ought to  
be summary.

III. And be it enacted, That if any plaintiff proceed according to the practice of the said Courts in actions not summary in any case in which by the provisions of the several Acts of Assembly of this Province the proceedings ought to be summary, he shall not be entitled in any such case to more costs than if he had proceeded in a summary manner, unless he obtains the order of the Court in which such action shall be prosecuted for larger costs upon good cause shewn therefor, any law, statute or usage to the contrary notwithstanding.

Trial fee to be  
taxed as costs.

IV. And be it enacted, That in every such summary action which may be tried by a Jury a fee of one guinea shall be taxed as costs in the cause for the successful party.