

persons shall be reversed, by attain or otherwise, as aforesaid; and that, upon every such reversal, the parties grieved to recover their damages as aforesaid. And if it happen that the said offender or offenders, so offending, shall not have goods and chattels to the value of twenty pounds, that then he, she or they, be set on the pillory next adjoining to the place where he, she or they shall be convicted, as aforesaid, and to have both ears nailed, and be from thenceforth to be discredited and disabled for ever to be sworn in any of the courts of record aforesaid, until such time the said judgment be reversed; upon which he, she or they, shall recover his, her or their damages, in manner and form as is before mentioned.

See note to section 2.

SEC. 5. *And be it further enacted, by the authority aforesaid,* That if any person or persons, upon whom any process out of any the courts of record within this province shall be served, to testify or depose concerning any cause or matter depending in any of the same courts, relating to the premises, and having tendered unto him or them, according to their state or calling, such reasonable sums of money or tobacco, for his or their costs and charges, as having regard to the distance of the place, in that behalf is necessary to be allowed, do not appear, according to the tenor of the said process, having not a lawful reasonable let or impediment to the contrary, that then the party or parties, so making default, shall forfeit and lose, for every such offence, ten pounds sterling, and to yield to the party grieved such further recompense as by the discretion of the judge of that court out of which the said process shall be awarded, according to the loss and hindrance that the party which procured the said process shall sustain by the reason of the non-appearance of the said witness or witnesses; the said several sums to be recovered by the party so grieved against the offender or offenders, by action of debt, bill, plaint or information, in any of their majesties courts of record in this province, wherein no essoin, protection or wager of law to be allowed.

And on witnesses for not attending, &c.

See April, 1715, ch. 37, sec. 5. 1782, ch. 40, sec. 1. Court may fine £20.

1704.—CHAPTER 16.

AN ACT for the encouragement of such persons as will undertake to build water-mills.

Repealed by 1766, ch. 10, except the sixth and seventh sections, which are as follow :

SEC. 6. *And, for prevention of the abuse frequently committed by persons keeping water-mills, by taking excessive toll,* *Be it therefore enacted, by the authority aforesaid, by and with the advice and consent aforesaid,* That from and after the publication hereof as aforesaid, no master, owner, miller, or other

Millers' toll settled.