

C H A P.
IV.

ment shall be given as aforesaid, and thereupon entered, shall be definitive for any such Debt or Damages as aforesaid; any Law, Usage or Custom, to the contrary notwithstanding.

Method of
prosecuting
Appeals, &c.
by transmit-
ting a Tran-
script of the
Proceedings,
&c.

IV. And be it further Enacted, by the Authority, Advice and Consent aforesaid, That the Method and Rule of the Prosecution of Appeals and Writs of Error, shall, for the future, be in Manner and Form as is herein after mentioned and expressed, (*That is to say,*) The Party appealing, or suing out such Writ of Error as aforesaid, shall procure a Transcript of the full Proceedings of the said Court from whence such Appeals shall be made, or against whose Judgment the Writ of Error shall be brought as aforesaid, under the Hand of the Clerk of the said Court, and Seal thereof; and shall cause the same to be transmitted to the Court before whom such Appeal or Writ of Error is, or ought to be heard, tried and determined as aforesaid; and also in the same Court file, in Writing, according to the Rule of the same Court, such Error in the Proceedings, as the Plaintiff in the Writ of Error shall think fit to assign, or such Causes or Reasons as he, or they, had for making the said Appeal, or suing out such Writ of Error as aforesaid; upon which Transcript the said Court to whom such Appeal shall be made, or before whom such Writ of Error shall be brought as aforesaid, shall proceed to give Judgment.

Appeals, so
made, shall
be admitted
by the supe-
rior Court in
the nature of
a Writ of Er-
ror.

V. And be it further Enacted, by the Authority, Advice and Consent aforesaid, That all Appeals made in Manner aforesaid, shall be admitted and allowed by the superior Courts, to whom such Appeal shall be made as aforesaid, in nature of a Writ of Error; and that every Clerk of a Court shall, at the Time of the Sitting of any Court to which they respectively belong, and when any Appeal shall be demanded, to enter a Memorandum of such Demand, as well in his or their Courts Proceedings, as in the fair Records of the Proceedings of such Court. And that no Clerk of a Court do refuse or delay, upon Request of any Appellant as aforesaid, to write and make out a Transcript of the whole Proceedings as aforesaid, under his Hand, and the Seal of the Court as aforesaid, upon Penalty to pay the respective Damages which such Appellant shall sustain by such Refusal or Delay as aforesaid, the said Party paying, or securing to be paid, such respective Clerk his just Fees for the same, according to Law.

Penalty on
the Clerk re-
fusing or de-
laying to
make out a
Transcript.

Appeals may
be heard by
the Governor
and Council,
out of Assem-
bly Time.

VI. And be it further Enacted, by the Authority, Advice and Consent aforesaid, That all Appeals, or Writs of Error already made and brought, or hereafter to be made or brought, before the Governor and Council, shall and may be heard by the said Governor and Council, out of Assembly Time; any thing in the same Writ, any other former Law or Practice to the contrary notwithstanding.

In case the
Governor be
absent, or a
Party, then
the Council
and President
alone may de-
termine.

VII. And for that it may so happen, that the Governor of this Province, for the Time being, may hereafter be concerned in an Appeal made, or Writ of Error brought, from the Judgment of the Provincial Court, to the Governor and Council aforesaid, or be otherwise indisposed, or absent; **Be it therefore Enacted,** by the Authority, Advice and Consent aforesaid, That it shall and may be sufficient, in every such Case, for the * Council only to hear and determine such Matters of Controversy; whereof the First of the Council in Commission being then present shall preside, whose Judgment thereupon shall be definitive, in as full and ample Manner as if the said Governor were then actually present, and presiding; any thing in this Act to the contrary notwithstanding.

* By the Act of 1729, ch. 3, any five Members of the Court of Appeals, may sit in the Absence of the Governor and President; the senior Councillor present Presiding.

The Act of
1712, ch. 5,
repealed.

VIII. And be it further Enacted, by the Authority, Advice and Consent aforesaid, That an Act of Assembly of this Province, entitled, *An Act for regulating Writs of Error, and granting Appeals from and to the Courts of Common*