

CHAPTER 25.

AN ACT to prevent rigorous prosecutions on sheriffs, testamentary, administration and deputy-commissaries' bonds.

WHEREAS it is represented to this general assembly, that sheriffs' and testamentary bonds are frequently put in suit in the provincial court, and that the persons causing such bonds to be sued, upon their obtaining judgments, frequently issue executions for the whole penalties contained in such bonds, with directions to the sheriff, or coroners, to release the party executed, upon payment of what the creditor alleges his demand to be: And whereas an act of parliament, made the eighth and ninth years of king William the third, entitled, An act for the better preventing frivolous and vexatious suits, does not fully provide for the evils complained of;

SEC. 2. *Be it enacted, by the right honourable the Lord Proprietary, by and with the advice and consent of his lordship's Governor, and the Upper and Lower Houses of Assembly, and the authority of the same,* That it shall not be lawful for any person or persons causing such bonds to be sued to proceed to judgment, until the creditor or creditors clearly make appear to the court what his, her or their demand is or are, which court may, and they are hereby empowered, upon the defendant's having notice given him, her or them, or notice left at the place of his, her or their last place of abode, twenty days before the court in which the plaintiffs apply for such debt or demand to be assessed, as also a copy of the nature of his, her or their demand, attested by the clerk, to assess such damages, or appoint auditors to adjust such demands, whereupon it shall be lawful for such court to give judgment to such creditor or creditors on such bond in usual manner, but that execution only issue for such sum as shall be made appear to be due, unless the party at whose request such bond be sued, or the defendant or defendants applies to the court, praying a writ of inquiry, which, if either party prays, shall be issued by the court, to be proceeded in according to the directions of the aforesaid act of parliament, and that execution issue for no more than found by the jury, with costs, and interest till payment made or tendered; and that where any such bond is proceeded on to judgment, no other creditor shall come in for any part of the penalty, under pretence of any thing being due to such creditor, without sending a scire facias to be served, which scire facias shall be sued within eighteen months after such recovery, and not after, on the defendant or defendants, in which scire facias shall be contained the nature of such creditor or creditors' demand, and the sum due.

No person to proceed to judgment, &c.