

C H A P.
XII.

be issued, and recovery and execution had against such bail, in the same manner as against principal debtors; saving to such bail all manner of defence that special bail in courts of law are entitled to, on the return of the first or second *scire facias*, and the liberty of delivering up the principal debtor on return of such warrant, on payment of costs on the same warrant.

Constable to give notice to the plaintiff of the time and place he intends to carry the defendant before a justice, &c.

V. **And be it enacted,** That the constable shall give notice to the plaintiff, or his agent, where either of them lives in the same hundred, of the time and place he intends to carry the defendant before a justice; and in case neither the plaintiff having notice as aforesaid, nor any person for him, nor the plaintiff, nor any person for him, when such plaintiff lives out of the same hundred, and hath not appointed any agent in that business, with or without notice, shall appear on the return of the warrant, or shall make default in not appearing at the time and place appointed, when there shall be an appointment by the justice of a future day for an hearing, the justice before whom any defendant shall be brought on a warrant as aforesaid, or before whom he shall appear on an appointment as aforesaid, may in his discretion hear and determine the matter of controversy *ex parte*.

Persons aggrieved may appeal to the county court, &c.

VI. **And be it enacted,** That in all cases where the debt or demand doth exceed twenty-five shillings sterling, forty-one shillings and eight-pence common money, or three hundred and thirty-six pounds of tobacco, and either plaintiff or defendant shall think him or herself aggrieved by the judgment of any magistrate, he or she shall be at liberty to appeal to the next county court, before the justices thereof, who are hereby, upon the petition of the appellant, in a summary way empowered and directed to hear the allegations and proofs of both parties, and determine upon the same, according to the law of the land and the equity and right of the matter, the same court in which the said petition shall be exhibited, without any further continuance or delay, unless it shall appear to the satisfaction of the said court, that further time ought to be given to the party applying for the same, to enable the said court to determine the cause according to the law of the land and the equity and right of the matter.

Persons appealing to enter into bond.

VII. **Provided also, and be it enacted,** That no execution upon judgment to be rendered by any justice shall be stayed or delayed, or any *superseas* upon such judgment granted upon any appeal, unless the person appealing, or some other on his or her behalf, shall, immediately upon making such appeal, enter into bond with sufficient sureties, such as the justice by whom judgment shall be given shall approve of, in double the sum recovered, with condition, that if the party appealing shall not prosecute his appeal at the next county court with effect, according to the directions of the act, entitled, An act for the speedy recovery of small debts out of court, and shall pay and satisfy the party on whose behalf the judgment of the justice shall be given, his executors, administrators or assigns, in case the said judgment shall be affirmed, as well the debt, damage and cost, adjudged by the justice from whose judgment such appeal shall be made, as also all cost and damage that shall be awarded by the court before whom such appeal shall be heard, tried and determined, then the said bond to be and remain in full force and virtue, otherwise to be of none effect.

Warrants, &c. returnable within 40 days, &c.

VIII. **And be it enacted,** That all warrants and executions in virtue of this act shall be made returnable at a certain day, not exceeding forty after the test thereof, before the justice issuing the same or some other justice of the peace for the same county, who are hereby authorized and required, upon application of the party, to call upon the constables and sheriff for such returns; and in case of non-payment by any constable or sheriff, who admits the receipt of any debt or demand, it shall and may be lawful for the justice to give judgment and award execution forthwith against such constable or sheriff, directed to the sheriff or coroner, as the case may require, for the same, any law or usage to the contrary notwithstanding.

Allowance to evidences, &c.

IX. **And be it enacted,** That evidences shall be allowed two shillings and six-pence common money per day for each day's attendance, and no more, and that neither