

CHAP.
LXVIII.

at the time and place appointed; and paying what he shall be condemned in on the said warrant, or surrendering his person to prison in satisfaction thereof, or in default of the defendant's giving such security, to commit such defendant to the constable, to be delivered over to the sheriff's custody till he gives such bail; and if the defendant shall not appear at the time and place appointed, judgment may be rendered against him on such default, or on an *ex parte* hearing, if the justice does not see cause to the contrary; and if judgment shall be in any manner rendered against the principal debtor, and he does not pay such condemnation, or render himself on execution, to be issued returnable at the end of forty days from the issuing thereof, a warrant shall and may 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,
&c.

III. 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 said 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 ag-
grieved may
appeal, &c.

IV. And be it enacted, That in all cases where the debt or demand doth exceed twenty shillings common money, or one hundred 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, or either of the said parties may demand a trial by jury, or leave the cause to be determined by the court, at their election.

No execution
to be stayed
unless bond is
given, &c.

V. And be it enacted, That no execution upon judgment to be rendered by any justice, shall be stayed or delayed, or any *superfedeas* 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 to repeal the acts of assembly therein mentioned, and also pay and satisfy the party in 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."