

court, and no longer (except in cases where evidence is wanting from beyond sea) which case is left to the discretion of the court—1721, c. 14, § 1.

2. The courts, on discontinuance of any such action, may, if by the act of the plaintiff, award him to pay the costs: If, through default of the defendant, give judgment for the plaintiff: if, through default of any attorney neglecting to bring the cause to decision within the time herein limited, such attorney so neglecting to the prejudice of his client, shall forfeit for every neglect, in the provincial court, 500lb. tobacco; in the county court, 2000lb. tobacco, and all costs of suit accruing by such default: One half of such fines to the party grieved, the other half to the county school.—*ibid.*

3. But the continuance of such suits by injunction in chancery, or the allowance of parole demur to infants, shall not be within this limitation, *ibid.*

4. Too short a time being allowed in the high court of appeals, by the above act, appeals or writs of error may be continued in the high court of appeals, for the full term of two years from the end of the appearance court, and no longer.—1730, c. 16.

5. For the continuance of actions upon the death of either of the parties, see *Abatement*.

6. No action shall be continued beyond the time limited by law on the suggestion that evidence is wanting from some other of the United States, or from beyond sea, but the general court, and any county court, may in their discretion continue any action depending in their respective courts, on its appearing to their full satisfaction, by the oath or affirmation of the party, or some other credible person, in writing, that a witness (who shall be named) or testimony material, competent & proper in such suit, is really wanting from some other of the United States, or from beyond sea, and that the party alleging the same to be wanting, or his attorney or agent, hath used his proper and reasonable endeavours to procure the same, and that the party, or such other credible person, verily believes that the cause cannot be tried with justice to the party without such evidence or testimony, and that he has a reasonable expectation and belief that the same can be thereafter procured in some reasonable time, of which time the said courts shall determine, unless the court, on examination of the party or parties, shall be of opinion that the fact to be proved by such testimony is immaterial, or the adverse party will admit the truth of such allegation or fact thought material, or necessary to be proved, in either of which cases the trial shall proceed, or the cause be discontinued with costs to the party requiring no delay.—Nov. 1787, c. 9, § 2. (*see below*, art. 14.) cont. to Jan. 30, 1798.

7. The