

said, shall not pursue the directions of this act hereafter mentioned, at the next court ensuing, before whom such appeal or writ of error ought to be tried as aforesaid, and prosecute the same writ with effect, and also satisfy and pay to the said party, his executors, administrators or assigns, in case the said judgment shall be affirmed, as well all and singular the debts, damages and costs adjudged by the court before whom such action was first brought, and from whose judgment such appeal shall be made, or thereon a writ of error brought as aforesaid, as also all costs and damages that shall be awarded by the court before whom such appeal or writ of error shall be heard, tried and determined as aforesaid, then the said bond to be and remain in full force and virtue, otherwise of no effect."

III. AND BE IT ENACTED, by the authority aforesaid, by and with the advice and consent aforesaid, That no person or persons whatsoever, against whom any judgment shall be given in any county court of this province, wherein the debt or damages for which such judgment shall be given shall have any appeal or writ of error from the said county courts, or other inferior courts of record, to the provincial court, wherein the debt or damages recovered do not amount to the sum of six pounds sterling, or twelve hundred pounds of tobacco; and that no person or persons whatsoever, against whom any judgment shall be given in the provincial court of this province, wherein the debt or damages recovered do not exceed the sum of fifty pounds sterling, or ten thousand pounds of tobacco, shall be allowed any appeal, or writ of error, to the governor and council of this province; but the judgment of the justices of the same courts by whom such judgment 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. (a)

Certain persons to have no appeal, &c.

(a) This section is not now in force. By 1785, ch. 87, sec. 6, the party aggrieved may appeal from the judgment of a county court in any civil suit or any prosecution for the recovery of any penalty, fine or damages, to the general court. An appeal lies from a judgment of the general court to the court of appeals, without any limitation as to the sum.

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.

Method of prosecuting appeals, &c.

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 court's 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 appellants 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.

Appeals made to be admitted.

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. (b)

And may be heard.

(b) This section, and the succeeding one, have ceased to operate since the establishment of the present constitution.

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

Council may determine.