

first found against the said person or persons by the grand jury, unless by a special order of his excellency the governor in council, or of the provincial or county courts in this province; and if the attorney-general, or any other attorney of the provincial court, shall issue forth process against any person or persons, and no presentment, or order of his excellency the governor in council, or order of courts, appear upon record to justify the same, the said attorney so offending shall forfeit and pay for such his offence the sum of five thousand pounds of tobacco, the one half to his majesty, his heirs and successors, towards the support of government within this province, the other half to the party grieved, or to him or them that shall inform or sue for the same, to be recovered in the provincial court of this province by bill, plaint or information.

The parts of this section printed in italics have ceased to operate under the present constitution.

II. AND, If any clerk of the indictments in any county court of this province, or any other attorney practising in the said courts, shall issue forth process against any person or persons for any criminal matter or misdemeanor, without a presentment be first found by the grand jury against the said person or persons, or especial order of the governor in council, or county court, appearing upon record to justify the same, the said clerk of indictments or other attorney, so offending, shall forfeit and pay for such his offence the sum of two thousand five hundred pounds of tobacco, the one half to his majesty, his heirs and successors, towards the support of government in this province, the other half to the party grieved, or to him or them that shall inform or sue for the same, to be recovered in the respective county courts of this province where such offence was committed by action of debt, bill, plaint or information, wherein no essoin, protection or wager of law to be allowed, neither shall the party so offending have any appeal or writ of error, but the judgment of the county court shall be definitive therein.

Penalty for issuing, &c.

III. AND, If the clerk of the provincial court of this province, or any of the clerks of the county courts of this province, shall issue out process in criminal causes, without an order for the same, under the hand of an attorney practising in the said court or courts, to justify the same, the said clerk or clerks so offending shall be liable to the same forfeitures and penalty of attorneys so offending, and the said forfeitures to be recovered as aforesaid, and go to the uses aforesaid.

Clerk issuing to forfeit, &c.

IV. AND BE IT FURTHER ENACTED, by the authority aforesaid, That the attorney-general of this province shall not recover nor receive any fee for any navigation bond put in suit; either where the certificate was (before the suit of the said bonds,) lodged in the secretary's office of this province, or where it can be proved that he knew that there was such certificate returned, neither shall the said attorney-general receive or have any fee for any bond for country dues, where the said bond appears not to be forfeited; and if the said attorney-general, after the end of this session of assembly, shall sue any bond taken contrary to act of parliament; or any bond taken for country dues, and no bills of exchange appearing protested, nor no other failure to forfeit the said bond, or where the said certificate is returned into the secretary's office appointed for keeping the same, any of which cases appearing to the provincial court, the said attorney-general shall not only lose his fees, but pay the secretary's fees, and what other charges the party hath been at in defending the same; to be adjudged by the provincial court.

Attorney-general to have no fees, &c.

V. AND, whereas several persons have been sued, in his majesty's name, for a certain sum, without ever mentioning for what the said bond was taken, so that the persons do not know what courses to take, or who to apply themselves to; BE IT ENACTED, by the authority aforesaid, by and with the advice and consent aforesaid, That when any writ is issued forth upon a navigation bond, taken in his majesty's name, it shall be endorsed on the backside as followeth, For whom the person was bound, and in what year; if a sheriff's bond, At whose request and prayer it was sued; or bond taken in any of his majesty's offices in this province, it shall be endorsed at whose request it was sued; and for want of such endorsement the writ shall abate, and the party grieved shall recover his costs against the attorney that sued forth the said writ.

Bonds sued to be endorsed, &c.

Some of the provisions in the fourth and fifth sections have ceased to have any operation, and others have been changed by 1794, ch. 54, section 10.

VI. AND BE IT ENACTED, by the authority aforesaid, by and with the advice and consent aforesaid, That whensoever the grand jury, in their respective county courts of this province, shall make a presentment of the breach of any the laws of this province, save only the act for speedy trial of criminals, and ascertaining their punishment in the county courts when prosecuted there, if the party or parties presented confess his or their crime, and submit to the court, then the clerk of indictments shall have one hundred pounds of tobacco for his fee, and no more; but if the clerk of indictments draws a bill

Clerk's fees on presentment, &c.