

V. And be it enacted, That in all cases of appeals prosecuted; or writs of error brought, before the court of appeals by the plaintiff upon a bill or bills of exception taken by the plaintiff, and the judgment excepted to shall be reverted, and it shall appear to the court proper and necessary that the fact should be tried under such judgment and direction as to them appears legal, that it shall and may be lawful for such court to issue a venire to the sheriffs of Anne-Arundel, Prince-George's, and Baltimore counties, respectively, returnable at the next court, to summon and cause to come before them, six good and lawful men of their respective counties, to try the facts in such cause, and the twelve of such jurors to try the facts shall be elected by ballot under the direction of the said court, and there shall be such remedy against the sheriffs aforesaid to compel obedience to the process, and such process to compel the jurors so summoned to attend, and such fine for non-attendance, as in case of process issued from, and jurors summoned to attend, the general court, and the said court of appeals shall have the same power to issue tales in case a sufficient number of the jurors so summoned do not appear to try the facts in the cause as the general court hath; and the facts shall be tried before the court of appeals, and such judgment given by the court as shall appear legal; and execution shall and may issue from the court of appeals upon such judgment, and shall be served and returned, in all cases, in the same manner, and to the same purposes and effects, as executions upon judgments of the general court in similar cases.

C H A P.
LXXXI
In cases of ap-
peals or writs
of error, court
may issue a
venire, &c.

VI. And be it enacted, That in all cases of appeals, or writs of error, hereafter brought or prosecuted by any defendant or person grieved by any judgment, and the judgment of the inferior court, upon the merits of the question between the parties and not upon the form of proceeding, be reversed, the court reversing such judgment shall award costs incurred by the defendant, or person grieved by such judgment, both in the superior or inferior courts, to be paid by the plaintiff or person against whom such writ of error and appeal shall be prosecuted, and judgment shall be entered in the court determining such appeal or writ of error, for the costs aforesaid, and execution may issue for the same from such court.

On appeals,
&c. by defend-
ant, court
may award
costs, &c.

VII. And be it enacted, That in the payment of the debts of deceased persons, hereafter to be contracted, no creditor shall be entitled to any priority, except such as have judgment against the deceased, nor shall any preference be given to creditors in equal degree by the executor or administrator; and all executors and administrators, in paying the debts of the deceased hereafter to be contracted, shall observe the following rules where it is apprehended the deceased has not left personal estate sufficient to satisfy the debts due by him, to wit: To pay no debt until the end of twelve months after the death of the deceased, to advertise publicly in all places within this and the other United States where any creditor or creditors of the deceased is or are supposed to reside, for all creditors to appear on a certain day, within six weeks after the expiration of the twelve months aforesaid, and at a certain place to be mentioned in such advertisements, with their claims against the deceased properly authenticated, at which time, or as soon thereafter as can be, the executor or administrator shall first discharge all judgments against the deceased, if there be assets sufficient in his hands for this purpose, and if not, and there be more judgments than one, a proportionable division of the assets shall be made between the judgment creditors; and if there be no debts on judgment, or a surplus of assets after paying the judgment, then the executor or administrator shall divide the assets in his hands equally between all other creditors without priority or preference; and if the executor or administrator judges it reasonable to dispute or litigate any claim brought against such estate as aforesaid, he may retain in his hands assets sufficient to discharge

In payment of
debts of de-
ceased persons
no preference
to be given,
&c.