

III. PROVIDED NEVERTHELESS, That it shall and may be lawful, to and for the plaintiff or defendant in any cause to be tried in any of the said courts, to challenge any juror by reason that such juror hath a matter of fact depending for trial as aforesaid, and that the having a matter of fact depending for trial as aforesaid, shall be held and allowed to be a good cause of challenge to any such juror.

C H A P.
XXI.
Proviso.

IV. AND BE IT FURTHER ENACTED, That instead of the form of recognizance of bail prescribed by the act, entitled, (a) An act for taking special bail in the several counties in this state, upon actions or suits depending in the general court, and in the several county courts of this state, the following form shall be observed and used in all actions to be commenced from and after the end of this present session of assembly; that is to say, John Doe, plaintiff, against Richard Roe, defendant. You, A. B. and C. D. do jointly and severally acknowledge yourselves special bail for the said Richard Roe, at the suit of the said John Doe, in an action of debt brought by the said John Doe against the said Richard Roe, in the general court. They acknowledge themselves to be content therewith, this _____ day of _____, before _____. To the honourable the judges of the general court. Varying nevertheless the said form, according as the nature of the action may require; and that the said recognizance shall have the same force and effect as any recognizance of bail acknowledged and taken in open court.

Form of recognizance of bail.

(a) 1715, ch. 28, in which the old form is inserted with the rest of the act, a part of which is in force.

V. AND BE IT FURTHER ENACTED, That the judge or justices by and before whom any such recognizance of bail shall be taken and acknowledged, shall, and they are hereby required, carefully to examine into the circumstances and sufficiency of the bail so to be taken as aforesaid, and to be careful that they do not take any recognizance of bail of persons that shall not appear to them to have sufficient estate within this state to answer the same at the time of taking and acknowledging thereof; provided that nothing herein shall be construed to abridge or take away the power of the justices of the general or county courts within this state to make rules and orders for the justifying bails and making the same absolute, or to examine the sureties upon oath, touching the value of their estates, as by the said recited act they are required to do.

Justices to examine, &c.

VI. AND BE IT ALSO ENACTED, That upon any judgment hereafter to be rendered upon any recognizance of bail, it shall and may be lawful for the plaintiff or plaintiffs therein to issue execution against the body, goods or chattels, lands or tenements, of the defendant, as if the said judgment were for his own proper debt; any law, usage or custom, to the contrary thereof in anywise notwithstanding.

Plaintiff may issue execution, &c.

VII. AND BE IT ENACTED AND DECLARED, That execution may be issued on any judgment rendered in the provincial court, or rendered or to be rendered in the general court, or in any county court of this state, with stay of execution, at any time within one year next after the expiration of such stay; provided that the stay of execution be entered upon the clerk of the court his docket, at the same court when the judgment shall be rendered; and also after the dissolution of any injunction of or from the court of chancery, or the discharge or expiration of any *superfedeas*, on appeal, or any writ of error, at any time within one year after dissolution of such injunction or discharge, or expiration of such *superfedeas*.

Execution may issue on any judgment, &c.

VIII. AND BE IT FURTHER ENACTED, That if any cause, instituted, or hereafter to be instituted, in any of the courts of this state, shall, by rule of court, and by the consent and agreement of the parties thereto, be submitted and referred to the award and arbitrament of any person or persons, it shall and may be lawful to and for such court to give judgment upon the award of the person or persons to whom such submission and reference shall be made, as of the court to which such award shall be returned, and to award execution thereon, in the same manner as they might do upon verdict, confession or nonsuit, and that such judgment shall have the same effect, to every intent and purpose, as any judgment upon verdict or confession would have.

Court may give judgment upon award, &c.

IX. PROVIDED ALWAYS, That such award shall remain seven days in the general court during their sitting, if returned to the general court, or four days in the respective county courts during their sitting, if returned to any county court, after the return thereof, before any such judgment shall be entered up; and if it shall appear to the justices of the court to which any such award shall be returned, within the respective times aforesaid, that the same was obtained by fraud or malepractice, in or by surprise, imposition, or deception of the arbitrators, or without due notice to the parties, or their attorney or attorneys, it shall and may be lawful for the said court to set aside such award, and refuse to give judgment thereon.

Proviso.