

3. Upon return to such order, the Judge may proceed to examine into and decide upon the legality of the imprisonment, and make such order, require such verification, and direct such notices or further returns in respect thereof, as he may deem necessary or proper for the purposes of justice, and may, and he is hereby empowered by order in writing, signed as aforesaid, to require the immediate discharge from prison, or may direct the bailment of such prisoner in such manner and for such purpose, and with the like effect and proceeding, as is now allowed upon Habeas Corpus; such bail when ordered, to be entered into before any Justice of the Peace specially named in such order, or any Justice of the County or place where there is no such nomination.

4. It shall be the duty of such keeper immediately upon the receipt of any order of a Judge in relation to a prisoner in his custody, to communicate the same to such prisoner, and to give him a true copy thereof, if demanded, and to obey the requirements of the same.

5. Every wilful neglect or disobedience of the order of a Judge in relation to a prisoner shall be deemed a misdemeanor, and punishable as such by fine and imprisonment, or either, at the discretion of the Court.

6. The matter of the return made to the order of a Judge may be heard and decided on by any other Judge of the Supreme Court, who shall have the same power and jurisdiction in respect thereof, as the Judge by whom the first order was made.

7. No orders made under this Act shall require or enable the keeper of any gaol or prison to discharge the prisoner from any commitment or charge, other than that specified in such order; but it shall be the duty of such keeper, in every return made to a Judge's order, to specify the several causes of commitment and detention, if more than one; and if between the time of making the return and receiving an order for the discharge or bailment, any other warrant, process, or order shall have been delivered to him, requiring the detention of the prisoner upon any charge of a criminal nature or summary complaint or conviction, such keeper shall, without any further order, make and transmit to the Judge an additional return, with a copy of such warrant, process, or order, and the time of receiving the same; which may be dealt with by such Judge as if made pursuant to an order for that purpose granted.

8. Nothing in this Act contained shall extend or be construed to deprive any person who may have been falsely imprisoned, from his remedy by civil suit against any person who may have illegally caused such imprisonment; but the Judge by whom relief may be afforded under this Act, may by his order exempt any such keeper of a gaol from civil suit who may appear to him to have acted upon the warrant or order of any Judge or Justice, according to the requirement of the same, without malice or evil intent, although such warrant or order may be bad in form or substance; and any such order of exemption may be pleaded in bar to any action brought against such keeper, or notice given thereof as an additional ground of defence, under the Act of Assembly in such case made and provided.

CAP. XLIII.

An Act to explain and amend Chapter 137, Title XXXVII, of the Revised Statutes, "Of the jurisdiction of Justices in Civil Suits."

Section.

1. Jurisdiction of Justices of the Peace limited to County for which appointed.
2. Order for hearing on review, to stay execution.
3. On cause shewn a Judge may order removal of proceedings within thirty days after judgment.

Section.

4. Proceedings in case either party be out of the Province or concealed.
5. Judge on review, may for insufficient service, or want of opportunity, &c., set aside judgment, order non-suit, &c.
6. Venire to be delivered to a constable.

Passed 1st May 1856.

WHEREAS doubts have arisen as to the power and jurisdiction of Justices, under Chapter 137, Title XXXVII, of the Revised Statutes, to issue Summons, Capias, and Process, to Counties in the Province other than those for which they are or may be respectively appointed: And whereas the said Chapter requires amendment in other respects;—

Be it enacted by the Lieutenant Governor, Legislative Council, and Assembly, as follows:—

1. That nothing in the said Chapter shall authorize or be construed to authorize or empower any Justice to issue any summons, capias, or other process, (except subpœnas) to any part of the Province, beyond the County for which such Justice is or may be appointed a Justice of the Peace, and in which such Justice shall at the time reside; and the jurisdiction of Justices in civil suits, is and shall be in all cases confined to the County in which such Justice resides and for which he has been appointed a Justice of the Peace.

2. That in cases of review before a Judge of the Supreme Court, the order for hearing, if served on the Justice before execution shall have issued, shall stay the issuing of execution, and if the execution shall have been issued and not collected, the Justice shall grant the party requiring it a certificate of the issuing of such order, which on being served on the constable in whose hands the execution may be, shall suspend such execution.

3. In case any party to a suit in a Justice's Court may desire to have the same reviewed, and shall make it appear to the satisfaction of a Judge of the Supreme Court that he has been unable to apply to the Justice before whom the judgment was given for a copy of the evidence, a minute of the cause of action, the grounds of defence, and the result, within six days after such judgment, according to the provisions of the forty fourth Section of said Chapter, such Judge may, at any time within thirty days from the day of giving judgment, issue his order to the Justice, who upon service thereof and demand of such copy of the evidence and proceedings, shall within three days thereafter give the same to the party, he paying therefor as provided in the said forty fourth Section, and the proceedings in review shall be thereupon taken in the same manner as if the copy had been demanded within six days of the judgment, and according to the provisions of the said forty fourth Section; and such order for copy of evidence and proceedings when served on the Justice, shall operate as a stay of proceedings in the same manner as the order for hearing.

4. In case of either of the parties being out of the Province or concealed therein, so that the order for hearing or copy of proceedings cannot be served, then the service of the same on the Justice shall be a stay of proceedings until some person appear on behalf of the absent or concealed party, to resist or shew cause against such application, when the review may proceed by service on the person so acting for the absent or concealed party, it being made to appear by affidavit, and to the satisfaction of the Judge granting such order, that the party is absent or concealed.

5. Upon the hearing on review, if the Judge of the Supreme Court be satisfied by affidavit, that the defendant has not