

31. If either party apply to the Justice one clear day previous to the trial for a jury, he shall grant the same and issue a venire (H) to a constable, and deliver the same to a constable to summon three persons, duly qualified, to sit as jurors in the said cause, and the constable shall execute the same impartially, and return (H) it to the Justice with the names of the jurors annexed thereto; and the Justice shall, in addition to the challenge for cause, allow a peremptory challenge of one juror; and if the constable do not execute the venire, or if the number of jurors attending on the trial shall not amount to three, or the number be reduced below that number by challenge or otherwise, the Justice may order a constable to summon at once one or more other persons to supply the deficiency.

32. The jury after being sworn (I) shall in open Court hear the parties and their witnesses, who shall be sworn (I); the jury, after hearing the parties and their witnesses, shall be kept together in charge by a constable or other person appointed by the Justice and duly sworn (I), until they agree upon a verdict, which they shall publicly deliver to the Justice, who shall enter it in a book and give judgment accordingly; but if the jury cannot agree after being out a reasonable time, not less than three hours, the Justice may discharge them, and at the request of the parties, he may submit the cause to another jury, or may by their consent decide the cause himself.

33. Any juror duly summoned and not appearing, not rendering a reasonable excuse, or refusing to serve, shall be subject to a fine of four dollars, to be recovered before the said Justice, in the name of the County Treasurer, for the use of the poor.

34. The plaintiff may elect to become nonsuit, or if he fail to appear a nonsuit shall be entered; and in all cases tried before a Justice, the successful party shall recover costs.

35. If the defendant do not appear and defend, the Justice shall assess the damages against him, upon written instruments for the payment of money, without further evidence; for other demands, upon the oath or affidavit of the plaintiff or other person.

36. In the case of co-partners in trade doing business under a firm name, the names of all the members of which may not be set forth, and in the case of joint debtors, it shall be sufficient, in process against the co-partners, to insert the name and style of such firm, as used by it, and serve such process upon any member of the firm doing business in the County where the process is issued; and in process against joint debtors, it shall be sufficient if the process be served upon one only; and judgment against the firm in the one case, and against the joint debtors in the other, may be rendered; in the former the execution shall be levied on partnership property only, in the latter the execution shall be levied on their joint property; but neither the separate property of the one not served, nor his person, shall be taken on execution unless he make defence.

37. Upon a judgment rendered before a Justice, he shall, at the request of the successful party, issue execution, which must be done within three years after judgment obtained; and such judgment shall bear interest from the time it shall be entered; and such execution shall be issued for the amount of said judgment and interest thereon, and costs of the execution and executing the same.

38. Every execution issued by a Justice shall be as nearly as may be according to the form (K) in the Schedule; but Members of the Assembly, and females, shall not be liable to be taken in execution; and alias and pluries executions may be issued while the judgment or any part thereof remains unsatisfied.

39. Goods and chattels taken under execution may be sold after being publicly advertised five days prior to the sale, and after satisfying the execution the surplus shall be paid to the defendant; and for want of goods and chattels, the constable shall take the defendant and lodge him in gaol, where he shall be detained one day for every forty cents of the debt, including any former imprisonment, in case of having been previously confined in the suit, such imprisonment not to exceed fifty days in the whole; but this provision shall not extend to persons on the limits; and notwithstanding the imprisonment provided for in this Section, the judgment upon which such execution shall remain good against the

property of the defendant, and a new execution may be issued against his property in like manner as if he had not been imprisoned.

40. For every breach of duty herein by the constable, he shall be liable to an action (L) at the suit of the party injured, who shall recover before any Justice damages with costs to the extent of the injury sustained although the damages exceed twenty dollars.

41. Upon the return (K) of an execution that neither sufficient goods or chattels, or the body of the defendant could be found, the plaintiff may sue (M) the bail, and recover the amount due on the judgment with costs, although above twenty dollars, but the bail shall not be liable beyond the sum sworn to and costs.

42. If an action be brought in any other than the Justices' Court, and the plaintiff do not recover more than twenty dollars, he shall not have costs, unless the Judge who tried the cause, or the Court, order that he shall, upon the ground of the demand having been reduced by set-off or other reasonable cause. In case such action be brought in the Supreme Court, or a County Court, and the plaintiff recover less than twenty dollars, and the Judge certify there was no reasonable cause for bringing such action there, the defendant shall have costs; if they be less than the plaintiff's verdict, they shall be deducted therefrom; if they exceed it, the overplus to be recoverable by process of attachment.

43. In all civil causes tried before a Justice, if either party be dissatisfied with the judgment, he may, within six days thereafter, apply to him for a copy of the evidence, a minute of the cause of action, the grounds of defence, and the result, paying the Justice one dollar therefor at the time of application; and the Justice shall give him the same within three days; and if he neglect to do so, obedience may be enforced by a Judge's order and attachment. Upon these being laid before a Judge of the Supreme Court, or a Judge of a County Court, with an affidavit of the party that he thinks substantial justice has not been done him, the Judge may at any time within thirty days after such judgment, or after obtaining the copy and minutes aforesaid, appoint (N) a time and place for hearing the matter, and notice thereof shall be given to the opposite party; and the Judge shall, after such hearing, decide the cause according to the very right of the matter, without regard to forms, unless the Justice acted wholly without jurisdiction, and may affirm or reverse the judgment, or alter the same in any respect, and remit the cause to the Justice that he may issue execution for the amount awarded to either party and affirmed on review, or enforce the payment of such amount with costs by attachment. If the judgment be wholly affirmed or reversed, costs shall be awarded to the successful party; but if in part only, or altered, costs shall be awarded at the discretion of the Judge; the costs in all cases to be taxed by him and recovered by attachment (O). A copy of the Judge's minute of the judgment upon such review, certified under his hand, shall be evidence of such judgment, and a copy of any order made by him in the proceedings, certified by him, shall be evidence of such order in all Courts. A party when entitled may sue out of the Supreme Court, or any County Court, a writ of attachment upon the fiat of a Judge, but no such fiat shall be made unless it appear to his satisfaction that the money or costs ordered by him to be paid, have been duly demanded by the party thereto, or his Attorney, and have not been paid; the costs of the attachment to be two dollars, and to be levied from the party against whom it is issued. The Sheriff executing the attachment shall be entitled to fees as in the case of an execution. Upon payment to him of the amount of the attachment, and his fees thereon, he shall discharge the defendant, return the attachment, and pay over the money to the party entitled thereto.

44. In case any party to a suit in a Justices' Court shall make it appear to the satisfaction of a Judge of the Supreme Court, or County 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 next preceding Section of this Chapter, such Judge may, at any time within thirty days from the day of giving judgment, issue his order to the Justice, who,