

our abrewot Truly stated to CAP, XEV.

An Act to regulate Proceedings before Justices of the Peace in Civil Saits. Passed 22d March 1834.

The literacted by the Lieutenant Governor, Council and Assembly, That the following Acts of Assembly, giving jurisdiction to Justices of the Peace in Civil Suits, be and are hereby repealed, viz: An Act made and passed in the fiftieth year of the Reign of King George the Third, intituled "An act for the more easy and speedy recovery of small debts;" also an Act made nd passed in the eleventh year of the Reign of King George the Fourth, intituled "An Act to alter and amend an Act for the more speedy recovery of small debts;" and an Act made and passed in the second year of the Reign of King William the Fourth, intituled "An Act to amend an Act passed in the fif tieth year of the Reign of His Majesty King George the Third, intituled 'An Act for the more easy and speedy recovery of small dehts."

II. And be it enacted, That every Justice of the Peace shall have jurisdiction over, and cognizance of the following Civil Actions: First. Actions for the recovery of any debt, wherein the amount of the debt

or sum in demand, shall not exceed five pounds. Second. Actions of Trespass, and Trespass on the case, including Trover, fo injuries to personal property wherein the damages claimed shall not exceed forty

Third. Actions of Trespass to real property wherein the damages shall not Provided that no Justice of the Peace shall have cognizance of any Civ

First. Where the King is a party.

Second. Where the title to land shall in any wise come in question. Third. Nor of any Action for the recovery of any debt or debts where th s um total of the Plaintiff's demand or cause of Action shall exceed five pounds and shall not have been reduced by actual payments as low as five pounds. Fourth. Nor of any Action for a debt by specialty, which shall not be for,

Fifth. Nor et actions against Executors, Administrators, Trustees of abscond ing debtors, or Corporations. III. And be it enacted, That the following Regulations shall be kept and ob served in regard to the process and proceedings before Justices of the Peace in

payment of a sum certain.

Civil suits ; (that is to say,) That actions cognizable before any Justice of the Peace, may be brought by and against all persons who sue or are sued in their own right, and by Execu-

tors, Administrators, Trustees of absconding debtors, Corporations and all other persons to whom any right of action is given by Law That no person shall be exempted from the Jurisdiction of Justices' Courts by reason of any privilege of the General Assembly, or of any privilege as an Attorney, Solicitor, Clerk or other Officer of any Court of Law or Equity.

Provided that no process shall be issued for a Plaintiff under the age of twenty one years (except for a menial or other servant for wages), until a next friend for such Plaintiff be appointed; and that upon application made, the Justice shall appoint some suitable person, who will consent thereto in writing, to be named by such Plaintiff, to act as his next triend in such suit, who shall be responsible for the costs therein.

That no action shall be brought or maintained against any person under the age of twenty one years, for or upon any debt, contract or egreement, except to

That upon the request of a defendant under the age of twenty one years, the ustice may appoint some person to be named by the defendant, or if the defendant neglect to nominate, the Justice may in his descretion; appoint some fi person, as Guardian for the defendant, who shall be allowed to defend for the Infant, but who shall not be liable for costs in the suit.

That no Justice shall hold a Court for the hearing or trial of any action be brought under provisions of this Act, in any other Parish than that in which such Justice resides, excepting he should be requested to attend at the residence and in behalf of some other Justice as hereinalter provided.

That every action coming within the jurisdiction of a Justice's Court shall be brought before some Justice. That all suits shall be commenced by process, and process shall be either a

Summons or a Capias. That the ordinary process in all cases shall be a Summons directed to any Constable of the Parish wherein the detendant resides or may be found, commanding him to summon the defendant to appear before the Justice who issued the same, at a time and place to be named in such Summons, not less than six nor more than thirty days from the date of the same, to answer the Plaintiff for the cause of action in the same summons to be mentioned; which Summons av be served by any Constable of the Parish, or by any other person who may at the instance of the Plaintiff, be specially appointed by the Justice, and whose ame shall be endorsed by the Justice on the Summons, at or before the delivery thereof to such person; Provided that no person other than a Constable shall be entitled to any fees upon the service of such Summons.

That a Summons shall in all cases be served at least six days before the time of appearance mentioned therein, in the manner following; (that is to say,) First. If the defendant shall be found, it shall be served by delivery to him o a copy thereof; and by reading the same to him, or acquainting him with the

Second. If the defendant shall not be found, it shall be served by leaving a copy thereof at his last place of abode, in the presence of some person residing in the house, of suitable age and discretion, who shall be informed of its con-

That every Constable serving a Summons shall return thereupon in writing the time and mannner in which he executed the same, and sign his name thereto; and if required by the Justice, or either of the parties, shall verify such return by oath before such Justice; or such return may be verified by written affidavit to be taken and subscribed before the said Justice or any other Justice I the Peace, or any person authorized to take affidavits in the Supreme Court

and that every person, other than a Constable, serving a Summons shall make a like return, and shall verify the same by oath or affidavit as above provided. That a Justice shall, upon application, issue a Capias, when it is made to appear on affidavit, to be taken in writing, of the plaintiff or agent, that the cause of action does not exceed five pounds, that the defendant is justly and truly inlebted to the plaintiff in a sum to be specified in the affidavit, which shall not be less than twenty shillings, after giving full credit to the best of the deponent" knowledge or belief for all payments and offsets, that he doth verily be lieve that the defendant is of the full age of twenty one years, and that there is

danger of losing the debt, if the defendant be not arrested or held to bail : Prowhied; that no Capias shall be issued against any person having privilege of the General Assembly, or against any female. That a Capias shall be directed to any Constable of the Parish wherein the defendant resides or may be found, and shall command such Constable to take the defendant, and bring him forthwith before such Justice, unless he shall give good bail to the Suit, and such Capias shall also state the time and place at

which the Suit is to be heard and determined That a Gapias shall be served by arresting the defendant, and at the same time delivering him a copy of such Capias, and also, if he shall require it, reading the same to him, or acquainting him with its contents.

That the Constable shall upon such arrest take Bail for the defendant, if good and sufficient bail be tendered; which bail shall thereupon subscribe a memorandum to be endorsed on the Capias, or written at the loot thereof, to the effect that he or they become bail; but if such bail be not tendered he shall carry the the defendant before the Justice by whom such Capias was issued, or in case of hearing of the cause. his sickness or absence, before some other Justice of the County.

First. Admit him to bail, if any one or more responsible person or persons resident in the County be willing to become bail, and shall subscribe a memorandom to that effect to be endorsed on the Capias or subjoined thereto, and shall, unless allowed by the Plaintiff, justify by affidavit, which affidavit shall state the place of residence and occupation of the person so offering himself as Bail, that he is really and bong fide worth double the sum for which the detendant may have been held to bail, over and above what would pay all his just debts, and in addition to the necessary wearing apparel and bedding of himself ed at the time by the witness.

Secondly. Or take a deposit to the amount of the debt sworn to, together with five shillings, for Costs over and above the Constable's mileage, the amount of which mileage shall also be deposited, as security for the Defendant's satisfying the Plaintiff for the amount which he may recover in the suit.

and lamily, fuel and tools of trade,

Deposit, by warrant under his hand, commit the Defendant to the Gaol of the wise. County till discharged by due course of Law, or until the debt and costs be paid; That every cause shall be heard and determined at the return of the process if dusuch warrant to state the amount for which the Defendant is arrested, and the time of detention; and that it shall be the duty of the Constable thereupon to the aforegoing provisions, before the Justice who issued such process, or in ease their to remain until such Execution shall be satisfied, or the Defendant to the said common Gaol and deliver him to of his sickness or inability to attend, or in case of his being a necessary witness for the keeper of such Gaol, together with the said Warrent but such Defendant. the keeper of such Gaol, together with the said Warrant, but such Defendant either party, before some other Justice of the Peace for the same County, and resishall not be liable to be detained in custody for any longer period than one day dent either in the Parish where the Court sits or where the Defendant may have for every two shillings of the sum stated in the Warrant; and if charged in been found who at the request of the Justice who issued the process, may attend for execution while so in custody on the Capias, the time during which the Des that purpose, and the Justice (unless a Jury shall have been duly demanded) shall fendant shall have been confined under the Capins, shall go in discharge of proceed to hear the proofs and allegations of the parties and to determine the same as an equal portion of the imprisonment to which he would be liable under the ex- the very right of the case may appear. ecution : Provided always, that no Gauler shall be liable to an action for detaining any Defendant so committed beyond the legal period, unless he shall have judgment given by any Justice attending in the place of another Justice and demanded his discharge, or unless such detention shall appear to have been lice as provided for in the aforegoing section, the cause shall be enter-

That a delendant so committed to Gaol, shall any time before final judement

dant directed to the Gaoler, who shall, upon the delivery of such order to him,

into custody upon execution, if such execution be taken out and delivered to a constable for the purpose of being executed, within forty days after judgment, or within forty eight hours after service of a written Notice by the Bail to the Plaintiff or his agent requiring such execution to issue; and if such execution be the assessment upon the account of another service service of another s not taken out and delivered to a Constable within the said period of forty days the assessment upon the proof of the service of such copy, without further after judgment, or within forty eight hours after such Notice as aforesaid, in evidence. either of such cases the Bail shall be discharged from any further liability; Proafter judgment, and may take and detain the defendant until such execution is prepared and delivered to a Constable, and thereupon commit him to the custody of such Constable, upon such execution, and if the Plaintiff shall upon such whereon a levy may be made for the amount of the execution and charges.

That every Constable serving a Capias, shall return thereupon in writing the manner in which he executed the same ; and no Capias shall be served at any

time within two days before the return thereof. That if the same shall not have been served six days before the return, the

Justice shall, on the application of either party, appoint a further day for hearing the cause, notice whereof shall be given to the other party at least six days sufficient number of competent Jurors shall be given to the other party at least six days sufficient number of competent Jurors shall not attend, the Justice, in before the day so appointed for the hearing; Provided that if the defendant shall order to supply the deficiency, may direct the Constable to summo be in actual custody and unable to find Bail, the Justice shall not postpone the some of the bye standers or other persons who may be competent, and cause, without the consent of the defendant, unless the Plaintiff will agree to against whom no cause of challenge shall appear, to act as Jurors in his release from such actual confinement.

That if any Summons or Capias be returned not served, it may from time to time be renewed by the Justice, who shall upon the application of the Plaintiff issue an Alias or Pluries, Summons or Capias; Provided that no more than one

Pluries Writ shall be issued or allowed for in the taxation of costs. That any Plaintiff or Delendant in a suit before a Justice may appear and conduct his suit either in person or by Attorney or Agent.

That the authority of any Agent or Attorney may be either written or but no such Agent or Attorney shall be allowed to advocate or take any part whatever in the conduct of the proceedings, if objected to by the opposite party suit of the Plaintiff and unable to appear himself), unless he make oath that he has not directly or indirectly received any fee, hire or reward for his services as such Attorney or Agent, that he has not any expectation of receiving, and that he will not accept or receive any pay, remuneration, or gratuity for his attendance or services already rendered or to be rendered to the party in the conduct of the

That the Defendant upon appearance may without any written or formal plea, defend the suit, and resist the Plaintiff's right of action.

That in any action brought for the recovery of a debt the Defendant may set off any debt or sum which may be owing to him by the Plaintiff ; Provided that the same is due to the Defendant in his own right, either as being the original creditor or payee, or as being the assignee of a demand legally assignable, and founded on a bond or other instrument having a penalty, the sum really and justly due by virtue of its condition only be set off : Provided also, that if there several Defendants the demand set off must be due to them all jointly.

That if the amount of the set off duly established be equal to the Plaintiff's set off do not exceed five pounds, judgment shall be rendered for the Defeudant

for the excess or balance with costs. That if the amount of the Defendant's set off proved exceed five pounds, the Justice shall, if required by the Defendant, set off the same against the Plaintiff's demand, and shall render judgment for the Defendant for his costs; which case no other action shall be brought by the Defendant for the subject shall enter judgment of non suit for the Defendant with costs; and the Defendaut may thereafter sue for and recover his demand, in any Court having cognizauce thereof, in which action the Plaintiff may set off the demand so sued for in the Justice's Court.

That if upon the trial of a cause, it shall appear that the amount of the Plaintiff's claim exceeds five pounds, judgment sha!l be rendered against the hours and proceed as above mentioned. Plaintiff with costs.

That in suits brought by Executors or Administrators, the Defendant may set off demands existing against their Testators or Intestates, and belonging to the Desendant at the time of their death, in the same manner as if the action had been brought by and in the name of the deceased.

That, in like manner, in Suits brought by Trustees of absconding Debtors, the Defendant may set off demands existing against such Debtor and legally belonging to such Defendant at the time of the Debtors absconding.

That whenever a setoff is established in a suit brought by such Executors, to such Overseer: Administrators or Trustees, the judgment shall be against them in their representative character and shall be evidence of a debt established, but execution shall not issue thereon.

That if it appear on the trial that the title to lands is in question, the Justice ing cases, if applied for by the Defendant : shall dismiss the cause, and render judgment for the Defendant, for his costs. That every person applying to a Justice for a Summons or Capias shall, at or before the issuing of the same, file with the Justice a statement or particular of his demand or cause of action; and the Justice shall, if required by the Defendant with the process.

That every Defendant having a set off shall file with the Justice, or deliver to the Plaintiff a particular of such set off, at least two days before the day appointed for hearing the cause.

That the Justice shall at all reasonable times exhibit such particulars to the opposite party, and if required deliver a copy of the same; the applicant paying to the Justice his tee therefor. That the parties shall at the trial of the cause be confined to their respective

particulars, and shall not be allowed to go into evidence of any matter or demand not contained therein. That upon the written application of both Plaintiff and Desendant, the Justice may proceed to the hearing and determination of a cause at any time, which may be mutually agreed on, either previous or subsequent to the day on the costs.

which the process is returnable. That the Justice may at his discretion, upon the application of either party, adjourn the hearing of the cause, on account of the absence of a material Witness, to some future day, and may also at his discretion for a like cause further adjourn the same ; but no cause shall be so adjourned except it be made to appear on affidavit, that justice cannot be done for want of such witness, specifying him by name, and hearing, in case such adjournment be made : Provided that when the defendant is in actual custody and shall make it appear by affidavit that he is unable to procure Bail or make deposit, the Justice shall not adjourn the cause, at the instance of the Plaintiff, unless such Plaintiff shall consent to the release of the Defendant from con-

That where the summons has been served by leaving the same at the dwelling House of the Defendant, and it shall be made to appear to the Justice upon affidavit, that such Defendant was absent from his Dwelling House and has not since returned thereto or had notice of such summons, the Justice may in his discretion adjourn the

That no adjournment shall in any case be allowed without the agreement of both That when a Defendant shall be brought before a Justice upon a Capias, the parties, to any time beyond three Calendar months from the return of the pro- time of rendering Judgment.

That any Justice of the Peace, may issue subpænas to compel the attendance of witnesses to give evidence on any trial depending before himself or any other Justice; and such subports shall be valid to compel the attendance of a witness being may issue and be served in any Parish within the County. in the same County where the cause is to be tried, or in an adjoining County.

That a subposed may be served either by a Constable or any other person, and it shall be served by shewing the same, and delivering a Copy or memorandum thereof, to the witness, and by paying or tendering the fees allowed by Law, if demand-

all damages which such party shall sustain by reason of such nonappearance or re-

a book in which he shall fairly enter all causes tried before him, whether with or ecution be issued against a male person, not having the privilege Thirdly. Or, in case of the Defendant failing to give such Bail or make such without a Jury, or in which Judgment shall be given by him by default or other-

That in cases where the cause shall be heard and determined, and tice, as provided for in the aforegoing section, the cause shall be enter- the time appointed for the sale. ed in the book of the Justice by whom the judgment shall be given, and shall be considered as transferred to the Court before him, and execube entitled to his release on Bail being put in for him, and justified or allowed as shall be considered as transferred to the Court before him, and executed by shall be considered as transferred to the Court before him, and executed by shall be considered as transferred to the Court before shall be considered as transferred to the Court before shall be considered as transferred to the Court before shall be considered as transferred to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the goods to sell at auction to the Court before shall expose the good before shall expose the good before shall expose the good before the Court before the Court before the Court before shall expose the good before the Court before the C

That if the Defendant do not appear to make a defence, the Justice shall proceed to assess the debt or damages as to him shall appear just. discharge the defendant from custody.

That it shall be the duty of a Justice taking Bail or receive a deposit, in a case not pending before him, forthwith to transmit the Capias with the endorsement of Bail thereon, or the sum deposited, (as the case may be,) to the Justice by of Bail thereon, or the sum deposited, (as the case may be,) to the Justice by whom the Capias may have been issued, who shall proceed the assess the debt or damages as to him shall appear just, and may make such assessment upon any Bond, Bill, Note or other written security for the payment of any sum certain, without further evidence; and such security shall be marked by the Justice, and remain dence; and such security shall be marked by the Justice, and remain on file in his possession; he may also assess the debt or damages on the on file in his possession; he may also assess the debt or damages on the That the Bail for any defendant, whether entered before a Constable or a Jus- viva voce examination or the affidavit of the Plaintiff or any other pe tice, shall be answerable for the defendant's paying the amount of debt and son; which sflidavit may be made before the said Justice or any other costs which the Plaintiff may recover against him, or that his body be rendered Justice of the Peace, or any person authorized to take affidavits to be

That on the application either of the Plaintiff or Defendant two days vided also, that the Bail may require the Plaintiff to take out execution forthwith at least before the day of trial, the Justice shall issue a venire to any Constable of the Parish disinterested between the parties, commanding him to summon three persons duly qualified to sit as Jurors in Court of Record, and who shall be in no wise of kin to either party, to make a also, that the defendant so delivered by his Bail into custody, shall be entitled Jury for the trial of the action, who being duly sworn shall try the cause to his release, on pointing out to the Constable sufficient available property and give their verdict, and the verdict so given shall be conclusive and judgment rendered accordingly; and if there be application for Juries in several causes to be heard on the same day, the Justice may issue one venire for all or any of the causes, stating therein the names of the parties in such causes.

That the Justice shall allow all legal challenges of Jurors; and if a

That the Constable to whom any venire, shall be delivered shall execute the same fairly and impartially, and shall not summon any person whom he has reason to believe biassed or prejudiced for or sgainst either of the parties, he shall summon the Jurors personally and shall find the names on the back of the venire or in a schedule thereunto annexed. which shall be returned to the Justice.

That if the Constable to whom the venire shall have been delivered. (except when he appears on behalf of a Defendant then in actual custody at the do not return the same as thereby required, or if a full Jury of three persons shall not be obtained in the manner above declared, the Justice may issue a new venire returnable immediately or at some future day to be by him appointed, to which the trial shall be adjourned.

That after the Jury shall have been duly sworn, they shall sit together and hear the proofs and allegations of the parties which shall be delivered publicly in the Court.

That no ex parte affidavit of any person shall be allowed or given in evidence, nor shall either of the parties testify, unless both parties agree That every person offered as a witness, before any testimeny be given

was so due at the time of the commencement of the suit : And if the set off be by him, shall be duly sworn or affirmed, and may, if required by either party, be first sworn or affirmed and examined as to his interest in the That after hearing the proofs and allegations, the Jury shall be kept

debt, judgment shall be entered for the Defendant with costs; if it be less than together in some convenient place, under the charge of a Constable the Plaintiff's debt the Plaintiff shall have judgment for the residue only with duly sworn, or some other fit person to be specially appointed by the costs; if it be more than the Plaintiff's debt, and the whole smount of such Justice and duly sworn, until they all agree upon the verdict, and when they shall have agreed thereupon they shall deliver the same publicly to the Justice who shall enter it in his book. That whenever a Justice shall be satisfied that a Jury sworn in any

cause before him, cannot agree on their verdict, after having been out a reasonable time, not less than six hours, he may discharge them, and matter of such set off; but if the Defendant shall not require this, the Justice shall issue a new venire returnable at some future day to be by him appointed, unless both parties shall unite in an application to the Justice to render Judgment on the evidence already before him, which in such case he may do : Provided that the Justice may, with the consent of both parties, discharge the Jury at any time before the expiration of six

That every person who shall be duly summoned as a Juros and shall not appear nor render a reasonable excuse for his default, or appearing shall refuse to serve, shall be liable to forfeit and pay five shillings to the use of the poor of the Parish wherein he shall be resident, to be sued for, recovered and levied with costs, before the said Justice in the name of any one or more of the Overseers of the poor for such Parish, in the same manner as if the said sum were a debt due and owing

That Judgment of Nonsuit with costs shall be rendered against a Plaintiff prosecuting a suit before a Justice of the Peace in the follow-

First. If he discontinue or witheraw his action without the consent of the Defendant;

Secondly. If he fail to appear by himself, his Agent or Attorney, at the Plaintiff, annex a copy of the same to the copy of the process to be served on the return of the process, or other time appointed for hearing the case, and the Defendant be in attendance and move for such Judgment; Thirdly. If he became nonsuited on the trial.

That Judgment for the Defendant with costs shall be rendered whenever a trial has been had, if it be found by verdict of the Jury, or by the decision of the Justice, as the case may be, that the Plaintiff has no cause of action against the Defendant.

That if upon trial of the cause, or upon an ex parte bearing in those cases where it may be had on the Defendant's failing to appear, a sum in debt or damages shall be found in favour of the Plaintiff, the judgment shall be rendered against the Defendant for such debt or damages and

That if process shall have issued against two or more persons jointly indebted, and shall have been personally served upon either of the Defendants, the defendant who may have been served with process shall answer to the Plaintiff, and the Judgment in such case if rendered in favour of the Plaintiff, shall be against all the Defendants in the same that there is reasonable ground to believe that his attendance can be procured at the manner as if all had been served with process and execution may issue against all the Defendants, but shall not be executed on the separate property or the body of any Defendant, who shall not have been served with process, unless such Defendant shall have appeared at the trial and defended the suit; and in such cases the Justice shall enderse on the execution a special memorandum to direct the Constable as to the service of the same.

That upon any Judgment being rendered before a Justice, he shall at the instance of the successful party issue execution, but no execution shall be issued by a Justice after the expiration of one year from the

That the execution shall be directed to any Constable within the Parish, where the Defendant resides or may be found, and such execution

That every execution issued by a Justice shall be dated on the day when it is actually issued, and shall be returnable in thirty days from the date thereof, unless a longer time shall be requested by the party in whose behalf the same is issued, when the return may be extended That every person subprensed as a witness and neglecting or refusing to appear or to any time not exceeding three months from the date; and such executestify shall be liable to the party in whose behalf he shall have been subpostated, for tion shall command the Constable to levy on the goods and chattels, excepting such as are by Law exempt from execution, and bring the money at a certain time and place therein to be mentioned before such That every Justice of the peace holding a Court for the trial of causes shall keep Justice to the party who recovered the same; and if the exthe General Assembly, it shall further command the Constable, if sufficient goods or chattels cannot be found to satisfy such execution, to

> That if an execution be returned unsatisfied in whole or in part, a further execution for the amount remaining due thereon may be usued. That the Constable to whom any execution shall be delivered, shall proce forthwith to levy the same, and unless the debt or damages and costs be pai shall take sufficient goods and chattels of the party against whom the san directed to satisfy the same, and shall advertize the same in two or more published places in the Parish for sale by public Auction, and such advertisement shall scribe the goods and chattels taken, and shall be put up at least five days before

> That at the time and place so appointed, if the amount remain unpaid, it Constable shall expose the goods to sell at auction to the highest bidder; shall forthwith return the execution and pay the debt or damages and costs le-

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