

MARYLAND GAZETTE.

T H U R S D A Y, F E B R U A R Y 4, 1796.

By the SENATE, December 21, 1795.

On motion, ORDERED, That the bill, entitled, An act declaring jurisdiction in civil cases, with the respective endorsements thereon, be published four weeks successively in the Annapolis, Baltimore Federal Intelligencer, and Eastern newspapers, before the first day of June next.

By order, H. WARFIELD, clk.

An Act declaring jurisdiction in civil cases.

It is enacted, by the general assembly of Maryland, That the general court shall have original jurisdiction and cognizance of all real actions, actions of ejectment, and of all actions of waste, and of all actions of replevin, where the property replevied shall be appraised to above the sum of thirty pounds current money, and of all personal and mixed actions, except of trespass on real property as herein after provided, where the real debt, or thing in demand, or damages assessed, shall amount to the sum or value of one hundred pounds current money; but if any such action shall be brought in the general court, except as aforesaid, and the real debt, or thing in demand, or damages assessed, shall not amount to the sum or value aforesaid, the court shall, ex officio, order the plaintiff to be nonsuited.

II. And be it enacted, That the general court shall have original jurisdiction and cognizance of all actions of trespass on real property where the title to the land is in question, and also where the damages assessed shall amount to the sum of twenty pounds current money, but if any such action shall be brought in the general court, and the title to the land shall not be in question, and the damages assessed shall not amount to the sum aforesaid, the court shall, ex officio, give judgment for the damages only, and may, in their discretion, adjudge that the plaintiff shall pay the defendant his costs.

III. And be it enacted, That the several county courts shall have original jurisdiction in all cases whatever, now within the jurisdiction of a single magistrate.

IV. And be it enacted, That if any person shall commit any trespass on real property, or shall assault and beat the person of another, and shall remove from the county where such property lies, or where such assault and battery was committed, the person injured may, at his option, sue such trespasser in any county of the shore where he or she may be found, or issue a writ from the county court of the county, or from the general court of the shore, where such trespass was committed, directed to the sheriff of the county where the defendant resides, and returnable to the general or county court from whence it issued, any thing herein before to the contrary thereof notwithstanding.

V. And be it enacted, That no action commenced in any county court shall be removed by the plaintiff by certiorari, unless with the consent of the defendant, entered on the record, on producing the certiorari, and where the real debt, or thing in demand, or actual damages claimed, shall amount to the sum or value of one hundred pounds current money; and if any action shall be removed to the general court by the plaintiff in which the real debt, or thing in demand, or damages assessed, shall not amount to the sum or value aforesaid, the said court shall, ex officio, adjudge that such plaintiff be nonsuited.

VI. And be it enacted, That no action commenced in any county court, except of dower, ejectment, replevin, or for trespass on real property, shall be removed by the defendant, by certiorari, or habeas corpus, unless before issue joined, and where the real debt, or thing in demand, or actual damages claimed, shall amount to the sum or value of one hundred pounds current money; but any defendant in an action of dower, ejectment or replevin, where the property replevied shall be appraised to above the sum of thirty pounds current money, or for trespass on real property, may remove any such action to the general court, at any time before issue joined, on paying the costs accrued in the county court before such removal; and any plaintiff in any action of dower, ejectment or replevin, where the property replevied shall be appraised to above the sum of thirty pounds current money, or for trespass on real property, may, without the consent of the defendant, remove any such action to the general court, at any time before issue joined, on paying the defendant all the costs accrued in the county court before such removal, any thing herein before to the contrary thereof notwithstanding.

VII. And be it enacted, That no appeal or writ of error shall lie from any judgment of any county court, in any personal action, to the general court, unless on the oath, or affirmation, of the party, if defendant, or his attorney, that the appeal, or writ of error, is not brought for delay; and if on any such appeal, or writ of error, judgment shall be affirmed, the appellee shall recover double costs.

VIII. And be it enacted, That the sheriffs of the several counties of the western shore for the time being,

shall summon as grand jurors, to attend the general court for the said shore at the spring session, at least fifteen days before the day appointed by law for the holding of the said courts, as follows, to wit: One from Allegany, Washington, Frederick, Harford and Saint-Mary's counties; three from Montgomery, Charles and Calvert counties; and four from Baltimore, Anne-Arundel and Prince-George's counties; and the said several sheriffs are hereby required to summon and return to the said court, for such grand jurors, free white male citizens of this state, and inhabitants of their respective counties, and such only as are from their education, knowledge, information and experience, most capable and best qualified to discharge the important trust and duty of grand jurors; and the said sheriffs shall summon no person unless above twenty-five and under fifty-five years of age, and who has not a freehold of above one hundred acres of land in his county, or property in the county assessed to above the value of five hundred pounds current money.

IX. And be it enacted, That the sheriffs of the several counties of the eastern shore for the time being, shall summon, as grand jurors, to attend the general court at the spring session for the said shore, at least ten days before the day appointed by law for the holding of the said court, as follows, to wit: Two from Cecil, Kent, Worcester and Somerset counties; three from Dorchester and Caroline counties; and five from Queen-Anne's and Talbot counties; and the said several sheriffs are also required to summon, for such grand jurors, persons above described, and having the same qualifications as above mentioned and prescribed.

X. And be it enacted, That the sheriffs of the several counties of the western shore for the time being, shall summon, as petit jurors, to attend the general court for the said shore, at least fifteen days before the day appointed by law for the holding of the said court, as follows, to wit: Two from Allegany, Washington, Frederick, Harford and Saint-Mary's counties; four from Montgomery, Charles and Calvert counties; and six from Baltimore, Anne-Arundel and Prince-George's counties; and the said several sheriffs are hereby required to summon for such petit jurors persons above described, and having the same qualifications as above mentioned and prescribed for grand jurors, and most capable and best qualified to discharge the important trust and duty of petit jurors.

XI. And be it enacted, That the sheriffs of the several counties of the eastern shore for the time being, shall summon, as petit jurors, to attend the general court for the said shore, at least ten days before the day appointed by law for the holding of the said court, as follows, to wit: Two from Cecil, Kent, Worcester and Somerset counties; five from Dorchester and Caroline counties; and seven from Queen-Anne's and Talbot counties; and the said several sheriffs are hereby required to summon for such petit jurors persons above described, and having the same qualifications as above mentioned and prescribed for grand jurors and petit jurors for the western shore, and no challenge shall be allowed to any juror, summoned in virtue of this act, for want of freehold.

XII. And be it enacted, If any sheriff shall neglect to summon and make return of the best and most capable men in his county to be grand and petit jurors, according to the directions of this act, he shall, for every such neglect of duty, be fined by the general court, not exceeding one hundred pounds current money; and if any person so summoned as grand or petit juror shall not appear, or appearing shall depart the court without the leave thereof, such person so offending may be fined by the court, in their discretion, not exceeding the sum of thirty pounds current money.

XIII. And be it enacted, That no person qualified to be a grand or petit juror, according to this act, shall be exempted from such necessary and important duty, except only the governor and the members of the general assembly and the council, and any principal, vice-principal, professors, tutors and assistants, in any college or seminary of learning, and any school-master or practising attorney, physician or surgeon, and any judicial or civil officer of this state, or of the United States, during their continuance in their respective stations or business, and except also as is hereafter provided.

XIV. And be it enacted, That the general court, with the consent of parties, or without their consent, (if the case is not of great importance and difficulty,) may in their discretion, order any action, personal or mixed, that is ready for trial, and in which issues in fact only are joined, to be tried in the county where the plaintiff or defendant resides, (or if justice requires, in any other county,) and such order shall be entered on record, and thereupon, and in virtue thereof, the clerk of the said court shall make out a transcript of the proceeding, under his hand and the seal of the said court, together with a copy of all depositions, (if any) taken in such cause, and shall deliver the same to the plaintiff, or his attorney, when required, and the plaintiff, or his attorney, shall produce the said transcript, and copies of depositions, (if

any,) to the clerk of the county court of the county to which such cause shall be ordered for trial, at the county court to be held next after such order, and on or before the first day of the sitting of the said court, and when produced, the clerk of the said county court shall file them, and enter such action on his docket, and the said court shall proceed to the hearing, trial and determination thereof, and give such judgment, and award execution thereon, returnable to the said court, or to any other county court, in the same manner as if the said action had been originally commenced and carried on to issue in such county court, and the defendant had resided therein or removed thereout after such judgment; and if any plaintiff, or his attorney, shall not produce such transcript as above directed, upon motion in the general court, and due notice thereof given, the said court shall give judgment for the defendant, as in cases of nonsuit, unless the said court shall, upon just and reasonable terms, allow any further time or times for the trial of such action, and if the plaintiff shall again neglect to try his action, the court shall proceed to give such judgment as aforesaid, and all such judgments shall be of the like force and effect as judgments upon nonsuit, and of no other force or effect; and the plaintiff or defendant in such action may issue subpoenas for witnesses, either from the general court or from such county court, and on non-attendance the said county court may issue attachment, either to their county or to any other county, to compel the attendance of such witnesses; and if such action cannot be tried with justice to the parties from want of testimony, or from some defect in plots or the pleadings, the said court may continue such action in the same manner as they can continue any other action in their court, and may grant amendments for the trial of the merits in all proceedings whatsoever before verdict, and if any amendment is made after a jury is sworn, a juror shall be withdrawn, and the said court may take such further order, in their discretion, as justice requires; and on the trial of such action either party shall be entitled to a bill of exceptions, and on appeal, or writ of error, the clerk of the said court shall return the transcript, together with all depositions, (if any,) annexed thereto, to the clerk of the general court, with a transcript of all the proceedings in the said county court in the said cause, under his hand and the seal of the said county court; and upon such transcript the said general court shall proceed to give judgment as is by law directed in appeals or writs of error from the county courts; and the clerk of the county courts, receiving any transcript from the general court, shall enter the same on his records, together with all further proceedings in such actions; and any action ordered to any county court for trial, shall be continued in the general court until the transcript shall be received and filed in the county court; and all costs incurred in the general court shall be taxed, included and recovered, with the costs incurred in the county court.

XV. And be it enacted, That it shall be lawful for the general court, on application of either plaintiff or defendant, at any time, and upon satisfaction being given to the court, by affidavit, affirmation, or otherwise, that a witness, (who shall be named,) is a material and competent witness in such cause, residing within the state, and not able to attend the court from age, sickness, bodily infirmity or accident, or without great danger of health, to order the deposition of such witness to be taken, on interrogatories, in writing, before some justice of the peace where such witness resides, on such notice to the adverse party as the court may think reasonable; and every deposition taken according to the order of the court, shall be good and legal evidence on the trial, in the same manner as if the witness was produced and examined in open court.

XVI. And be it enacted, That either plaintiff or defendant may require that a special jury be selected of struck in the following manner, to wit: The clerk of the general court shall make out and deliver to the parties, or their attorneys, a list of all the petit jurors attending the court, and they may agree on any twelve in the said list for the trial of the cause, and if they appear they shall be empannelled and sworn as the jury, but if any of them do not appear, then the said parties, or their attorneys, may agree on any other in the said list in the place of such as do not appear, and the juror or jurors so chosen shall be added to the panel, and sworn in the cause, and if a jury cannot thus be selected by choice, then one shall be struck in the following manner, to wit: The clerk shall furnish a list of all the jurors attending the court to the parties, or their attorneys, and they may, in the presence of the clerk, alternately (the plaintiff, or his attorney, beginning first,) strike out from the list the names of all the jurors except twelve, who shall, if they appear, be empannelled and sworn on the jury, but if any of them do not appear, or if any of them are set aside on challenge, the said parties, or their attorneys, may again strike out of the list, in the same manner,

[For the remainder see the last page.]