

limited by law, and to render and settle his accounts with the said treasurer, when thereto required by the agent of the state, it shall and may be lawful for the respective county courts, or the respective general courts, and they are hereby authorized and empowered, upon motion in behalf of the state, and on producing a stated account, signed by the treasurer, of the sum of money or claim of the state due and in arrear from any such clerk, to order a judgment to be entered for the penalty of such clerk's bond, to be released on the payment of such sum or sums of money as shall appear to be due, and costs, and an immediate execution to be awarded against the person or property of such clerk to compel payment of said moneys and costs; *Provided*, that a copy of such account, signed by the respective treasurers as aforesaid, and notice of such intended motion, be delivered, in writing, to such clerk, or left at his last place of abode at least twenty days previous to the sitting of the term at which such application shall be intended, and that proof thereof be made to the satisfaction of the court; *And provided also*, that if such clerk shall, in person or by attorney, controvert the demand, and desires a jury to be empanelled to ascertain the sum of money really due and payable, the said court are empowered and authorized to direct a jury to be immediately empanelled, and charged to try and ascertain an issue, whether such clerk be chargeable with and liable to pay any and what sum or sums of money to the said state, and the said court, upon such verdict of the jury, shall and are hereby empowered to direct judgment to be entered for the penalty of such clerk's bond, to be released upon the payment of the sum or sums of money so found due by said verdict, and costs, upon which there shall be no writ of error, supersedeas or appeal, and to award execution thereon as upon all other cases of judgments had and obtained in said court.

Clerk neglecting to pay money, judgment to be entered for penalty of bond.

Provision.

See 1809, ch. 127, sec. 3, as to suits thereon to be brought by the state.

SEC. 5. *And be it enacted*, That if any clerk of any county, upon whose bond judgment shall be entered as aforesaid, and execution thereupon issued, shall not satisfy and pay, or cause to be satisfied and paid, such judgment and execution to the respective treasurer, or the agent of the state, for two successive terms to which the said execution shall be made returnable, the said default shall be and the same is hereby declared to be misbehaviour in office within the meaning of the constitution, and may be prosecuted as such.

Default declared misbehaviour in office.

See preceding note.

SEC. 6. *And be it enacted*, That if any clerk, who hath received public money before the passage of this act, shall neglect to pay over the same to the treasurers of the western

Neglect to pay over money, deemed