

CHAP. 74.

rule, at or before the trial court, on such plaintiff or plaintiffs, or his, her or their attorney, to give security for all costs and charges that the said defendant or defendants may be put to in case such plaintiff or plaintiffs shall be nonsuited, or judgment be given against them, and in case of non-compliance with such rule judgment of nonsuit shall be entered; *Provided nevertheless*, that if any defendant or defendants shall lay a rule on any plaintiff or plaintiffs for security for costs at the trial court, that then and in such case the court granting said rule may, at the instance or motion of the plaintiff or plaintiffs, by his, her or their counsel, in their discretion, continue said cause until the next term.

Proviso.

When action is brought for any other person, and plaintiff shall be nonsuit, &c. party for whose use action was instituted to be answerable for costs.

10. AND BE IT ENACTED, That when any action shall be brought, and it shall be entered upon the record that such suit is brought for the use of any other person or persons, and the plaintiff or plaintiffs in such action shall discontinue or strike off his, her or their said action, or be nonsuit thereon, or in case there shall be a judgment or verdict in favour of the defendant or defendants, the party or parties for whose use the action was instituted shall be answerable for the legal costs of suit, and may be proceeded against by attachment against the person or property of such party or parties for the recovery of the same, in the same manner as if he, she or they, had been entered by rule of court the security for such costs of suit.

Person not to be arrested out of the county where he resides.

11. AND BE IT ENACTED, That it shall not be lawful for any person whatsoever to cause any inhabitant of this state to be arrested out of the county where he or she doth reside, by virtue of any *capias ad respondendum*, or *capias ad satisfaciendum*, for any debt, damage or cost, until the sheriff or coroner of the county where such defendant shall reside shall have returned a *non est inventus* on a *capias ad respondendum*, or *capias ad satisfaciendum*, issued at the request of the said person against the defendant.

Plaintiff shall suffer a nonsuit in certain cases.

12. AND BE IT ENACTED, That if any person be arrested upon a *capias ad respondendum*, contrary to the intent of this act, the plaintiff in the said action shall suffer a nonsuit, and pay the defendant his or her reasonable costs and charges, to be adjudged him or her by the court from whence such process issued; and if any person be taken in execution contrary to the directions hereof, the court from whence such execution issued shall discharge him or her from his or her imprisonment; *Provided always*, that nothing in this act contained shall extend to the benefit or advantage of any person who shall abscond from justice in the county where they live, but that such persons may be arrested in any county wherever they may be found.

Proviso.

No commission to issue to any person, except a chief or associate justice, to be a justice of county court.

13. AND BE IT ENACTED, That after the commencement of this act no commission shall issue to any person, except to the said several chief justices and associate justices, to be a justice of any county court, but only to be a justice of the peace of such county; and upon the issuing of any commission, the justices appointed therein shall assemble, as soon as convenient, at the court house of their county, and qualify as heretofore, but if any of the persons appointed are absent at the time of meeting, they may qualify at any time before any one of them who have before qualified.