

them, cannot safely go to trial, which fact, as also a reasonable endeavour to obtain such evidence, shall be made appear to the satisfaction of the court, by affidavit of the party, or the testimony of some indifferent witness; and where the writ and short note, or writ and declaration, are not served in time, it shall and may be lawful for the justices of the general court or county courts to allow one imparlance, and no more, unless evidence be wanted as above specified.

C H A P.
IX.

III. **And be it enacted,** That the governor and the council, or a committee of the general assembly, or any person authorized by the governor and council or such committee, may cause like process to issue in the general or county courts of this state, against any person or persons whatsoever, inhabiting or residing, or being found therein, who may or shall be indebted to this state by bond or otherwise, or have received or shall receive money from the treasury thereof, for which no account hath been or shall be rendered, and a declaration or short note, expressing the cause of action, being filed with the clerk of the court before issuing the writ, and a copy of such declaration or short note being served on the defendant or defendants, or left at his or their last place of abode twenty days before the return of such writ in the general court, and eight days before the return thereof in the county court, it shall and may be lawful for the justices of said courts respectively, and they are hereby authorized and required, to cause such defendant or defendants to plead to issue, and shall proceed to trial or judgment the first court, and shall not allow any imparlance, unless where evidence is wanted, without which the parties, or either of them, cannot safely go to trial, which fact, as also a reasonable endeavour to obtain such evidence, shall be made appear to the satisfaction of the court, by affidavit of the party, or the testimony of some indifferent witness; and where the writ and short note, or writ and declaration, are not served in time, it shall and may be lawful for the justices of the general or county court to allow one imparlance and no more, unless evidence be wanted as above specified.

Governor and council, &c. may cause like process to issue, &c.

IV. **And be it enacted,** That the general or county courts shall not allow of any plea to a declaration in such actions, except the general issue, unless the same be verified by the affidavit of the party, or otherwise made appear to be founded in fact by credible witness, or other legal evidence, and no demurrer to any declaration shall be allowed, for want of pursuing the usual forms of declarations in other cases, but it shall be deemed sufficient in all actions on the case, or actions of account, to allege that the defendant or defendants were indebted to the United States, or to the state of Maryland, in the sum demanded, for money had and received to the use of the United States, or of this state, as the case may require, and that payment hath not been made, nor any account rendered for the same.

Courts not to allow plea to a declaration in such actions, &c.

V. **And be it further enacted,** That the general or any county court where such action is brought may, if need be, appoint auditors to take and state the accounts offered by any defendant or defendants, and may give judgment for such balance as appears due on the return of such auditors, with costs of suit; and if the balance should be found in favour of any defendant or defendants, who have been negligent in rendering his or their account, no costs whatever shall be adjudged to him or them, but the balance so found, if due from the state of Maryland, shall be paid by the treasurer of the eastern or western shore, without costs, and a transcript of the judgment, under seal of the court, shall be a sufficient voucher for such payment; and the clerk of the court wherein such suit is determined shall, within one month after the determination of such suit, transmit to the auditor-general a copy of the accounts so audited and settled, under the penalty of twenty pounds.

Court may appoint auditors to state accounts, &c.

VI. **And be it enacted,** That after judgment obtained, it shall and may be lawful to issue execution by *capias ad satisfaciendum*, *fieri facias*, or attachment on the judgment, which two last executions may be taken against lands and tenements as well as goods and chattels; and all lands and tenements belonging to any public debtor, after the commencement of suit against him, shall

After judgment obtained, execution may issue, &c.

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