

MARYLAND GAZETTE.

T H U R S D A Y, J A N U A R Y 21, 1802.

Laws of Maryland.

PASSED NOVEMBER SESSION, 1801.

An ACT relative to the administration of justice in this state, and to repeal the acts of assembly therein mentioned.

[Concluded from our last.]

AND BE IT ENACTED, That the clerks of the respective county courts shall, under the penalty of fifty dollars for every omission or neglect, in the month of November yearly, during the continuance of this act, make out and transcribe two fair copies of the levy list allowed by the justices of the respective levy courts against the said counties, containing the several charges and sums levied and assessed on their respective counties, one copy whereof shall be transmitted to the clerk of the senate, and the other copy thereof to the clerk of the house of delegates, for the information of the general assembly.

And be it enacted, That each associate justice, appointed and commissioned in virtue of this act, shall receive, as a compensation for his services, the sum of four dollars for every day he shall attend the duty of his office, and the said allowance shall be assessed in the assessment of his county.

And, whereas by divers acts of assembly the justices of the county courts are authorized and enjoined to do sundry matters and things at the county courts to be held in certain months in the said acts mentioned, and in many instances there is an alteration of the time of holding the said county courts by this act, Be it enacted, That in all cases where the courts are by this act directed to be held in different months from those mentioned in the said acts of assembly, or any of them, it shall be lawful for the justices of the county courts, to be commissioned in virtue of this act, to do and perform all such matters and things at such time in each year as they shall think convenient, either at their court in course, or at an adjourned court.

And, whereas the office and duties of justices of the peace are considerably increased in the several counties of this state, and it is reasonable that every person who dedicates his time or labour to the public should receive a reasonable and adequate compensation for his services, Be it enacted, That it shall and may be lawful for the several justices of the peace, and associate justices, in the several counties of this state, to ask and receive the fees allowed and limited by this act for services expressed in the following table, and such fees shall be taxed and paid by the party against whom judgment shall be rendered, to wit: For issuing a warrant for debt, twelve and an half cents; for each summons, including all the witnesses applied for at the same time, twelve and an half cents; venire to summon freeholders, twenty cents; *capias ad satisfaciendum*, twelve and an half cents; *feri facias*, twelve and an half cents; *scire facias*, twelve and an half cents; recognizance for defendant's appearance, twelve and an half cents; every superedeas, each justice twelve and an half cents; every oath or affidavit, six cents; probat of account, six cents; every judgment rendered, twelve and an half cents; commitment, twelve and an half cents; release, twelve and an half cents; warrant of attachment, twenty-five cents; attendance on valuation of orphans estates, per day two dollars; return thereon, seventy-five cents; venire to summon a jury in a forcible entry and detainer, seventy-five cents; taking inquisition and return thereon, four dollars; warrant of restitution, seventy-five cents; taking acknowledgment of any deed, each justice twenty-five cents, including all the persons acknowledging at the same time; taking any other acknowledgment, twelve and an half cents; taking appeal bond, twenty-five cents; taking a bail-piece to the general or county courts, twenty-five cents; a pass, twenty-five cents; certificates of strays, thirty-seven and an half cents; taking inspectors bonds, each justice twenty-five cents; probat of county clerk's bond, each justice twenty-five cents.

And be it enacted, That it shall be the duty of all and every justice of the peace to write and prepare all probats, affidavits, superedeas, and other instruments to be executed by them in virtue of this law, when required, except in cases of acknowledgment of deeds.

And be it enacted, That every justice of the peace, or associate justice, before he acts as such, shall take an oath, that he will not, directly or indirectly, receive any greater fee or reward for any thing in his office as justice of the peace than what is allowed by this act; and if any associate justice, or justice of the peace, by colour of his office, shall receive any fee or reward for any service not specified in this act, or if

any associate justice, or justice of the peace, shall receive any greater fee or reward for any service mentioned in this act than is hereby allowed, he shall forfeit one hundred dollars for every such offence, but such justice shall not be liable to prosecution after twelve months from the time of the offence committed.

And be it enacted, That all causes, pleas, process and proceedings, relative to any cause, civil or criminal, which shall be returnable to, or depending before, the several county courts of this state, when this act shall commence, shall be returned to the several county courts constituted by this act, at the times herein before appointed for the holding of each court, and shall be heard, tried and determined therein, in the same manner as if no change had been made in the said courts; and all writs issuing out of any of the said county courts shall be tested in the name of the chief justice, and in case of his death, resignation or disqualification, before a new appointment, in the name of the associate justice first named in the commission, and all writs shall be returnable on the days appointed by this act.

And be it enacted, That all commitments and recognizances for all felonies, crimes, offences or misdemeanors, committed in the several counties, and triable by law in the county courts, shall be returned to the justices appointed in virtue of this act, by the justice making such commitment or taking such recognizance, on the first day of holding the county court of their county; and all sheriffs, clerks, and all other civil officers, shall execute and perform the same offices and duties, under the same penalties as they are now obliged by law to perform and execute them in the county courts as now established.

And, whereas the great convenience of trials of facts in the several counties of this state would be considerably increased by farther abridging the original jurisdiction of the general court; therefore, Be it enacted, That from and after the first day of March next, no action of trespass for injury done to the person or personal property of the plaintiff, replevin, debt, covenant, account or on the case, shall be brought in the general court, unless the real debt or thing in demand, or damages assessed, exceeds the sum or value of four hundred dollars current money, and if any such action shall be thereafter brought in the general court, and it shall appear to the court that the real debt or thing in demand, or damages assessed, doth not amount to the sum or value of four hundred dollars current money, the plaintiff shall be nonsuit, and pay costs to the defendant.

And be it enacted, That the second section of an act, entitled, An act concerning jurisdiction, be and the same is hereby repealed.

And be it enacted, That from and after the said first day of March next, no suit or action, which may thereafter be commenced or brought in any county court, shall, before judgment, be removed by or on behalf of the plaintiff or plaintiffs in such suit or action, to the general court, unless the plaintiff or plaintiffs could, after the said first day of March next, have originally commenced such suit in the general court, on penalty of such plaintiff or plaintiffs suffering a nonsuit, and paying costs to the defendant; and any defendant or defendants shall have it in his, her or their power, at any time before issue joined, to remove, in the manner heretofore provided by law, such cause or suit from the county court to the general court, in which the real debt or thing in demand, or damages claimed, exceeds the sum of two hundred dollars current money, any law to the contrary notwithstanding.

And be it enacted, That no action of ejectment, waste, partition, dower, trespass *quare clausum fregit*, trover, or replevin, brought or to be brought in any court of law in this state, shall abate by the death of either of the parties to such action, but upon the death of either of the parties, the action shall be continued, and the heir, devisee, executor or administrator, of the deceased party, as the case may require, or other person interested on the part of the deceased party, may appear to such action, and in case the heir, devisee, executor, administrator, or other proper persons to prosecute or defend such action, as the case may be, do not appear to such action at the term at which the death is suggested, the surviving party, whether plaintiff or defendant, may proceed to make proper parties to such action, according to the provisions of the act, entitled, An act to alter and amend the law in certain cases.

And be it enacted, That from and after the passage of this act, the judges of the general court for the western and eastern shores respectively, shall not be capable to take cognizance of, or hold any jurisdiction over, any treasons, misprisons of treason, murders, felonies or insurrections, but all treasons, misprisons of treason, murder, felonies and insurrections, shall hereafter be heard and determined by the justices of

the county courts of the county, and the justices of the court of oyer and terminer and gaol delivery for Baltimore county, wherein the said treasons, misprisons of treason, murder, felonies and insurrections, shall be committed, and not elsewhere; provided nevertheless, that on the application of any party indicted for any treason, misprison of treason, murder, felony or insurrections, in the county court, to the general court, or in vacation to one of the judges thereof, on a suggestion, in writing, that a fair and impartial trial cannot be had in the court where any such prosecution may be depending, it shall be lawful for the said general court, or judge, to direct the clerk of their court, on their respective shore, to issue a writ of *habeas corpus* to the justices of the county court, or court of oyer and terminer and gaol delivery for Baltimore county, wherein such person may be indicted, for bringing up of such person, and for the removal of the prosecution depending against such person, and on the transmission thereof, and on the appearance of such person, the said judges of the general court shall thereupon take cognizance thereof, and proceed to hear and determine the same, and pass sentence and judgment therein according to law; and in like manner, on any application made to the judges of the general court, on the part of the state, on a suggestion, in writing, that a fair and impartial trial cannot be had in the county court, or court of oyer and terminer and gaol delivery for Baltimore county, where the prosecution mentioned in such suggestion shall be depending, it shall be lawful for the said judges to direct as aforesaid a writ of *habeas corpus* to the justices of the said county court for bringing up such person, and for the removal of such prosecution, and on the transmission thereof, and the appearance of the person prosecuted, the judges of the general court shall take cognizance thereof, and proceed to hear and determine the same, and pass sentence and judgment therein according to law.

And be it enacted, That from and after the passage of this act, it shall not be lawful for any sheriff of any county on the western or eastern shore respectively to summon any person as a grand juror to the general court; and said sheriffs respectively shall hereafter summons four persons qualified according to law as petit jurors only to the general court, any law to the contrary notwithstanding.

And, whereas the constitution and form of government hath not prescribed the number of judges of which the court of appeals shall be constituted, and the same ought hereafter to be fixed by law; therefore, Be it enacted, That in case of the death, resignation, disqualification or removal, of any of the judges of the court of appeals, the vacancy occasioned thereby shall not be filled up, and the said court of appeals shall thereafter consist of three persons, qualified according to the constitution and form of government, and they, or any two of them, shall have power to hear and determine all cases of errors and appeals, as fully, and in the same manner, as errors and appeals have heretofore been heard and determined.

And be it enacted, That when and after the said court of appeals shall consist of three judges, as herein before provided, in case of the death, resignation, disqualification, or removal out of the state, of any of said judges, the governor and council shall proceed forthwith to appoint a fit and proper person, qualified according to the constitution, to fill up such vacancy, so that the said court may always thereafter be composed of three judges.

And be it enacted, That the judges of the court of appeals, or any three of them, until the number thereof shall decrease to three, as herein before provided, shall have power to hear and determine all cases of errors and appeals, in the same manner, and as fully, as errors and appeals have been heretofore heard and determined.

And be it enacted, That from and after the twentieth day of January next, all process to be issued from the several county courts of this state shall be tested in the name of the chief justice of the district in which the same shall issue, until the chief justices to be appointed in virtue of this act shall have qualified under their respective commissions.

And be it enacted, That an act of assembly, passed at November session, seventeen hundred and ninety-six, entitled; An act for the better administration of justice in the several counties of this state, and the several supplements thereto, and also the fourth section of an act passed at November session, in the year seventeen hundred and ninety, entitled, An act for the better administration of justice in the several counties of this state, be and the same are hereby repealed.

And be it enacted, That this act shall commence upon the twentieth day of January next, and continue and be in force until the fifth day of January eighteen hundred and five.