

lawful Men, *de Circumstantibus*, and not less than twenty-four in Number, to serve as Jurors, and retain a Pannel of them for the Tryal of any Issue so to be had and tried before the said Justices of the Provincial Court; and that they shall be ballotted in the same Manner that Petit Jurors are before by this Act directed to be at the Assizes, and that the first twelve Jurors that shall be drawn shall be the Jury to try the Cause; unless some legal Exception by either Plaintiff or Defendant be made against any of the said twelve Jurors, in which Case others in their Room shall be in like Manner drawn, in the Stead of those to whom legal Exception shall be made. *Provided* That where any Presentment shall be found by the Grand Jury, at any Court of Oyer and Terminer, for a Matter tryable by the County Court, and that shall by the Justices of Oyer and Terminer be referred to the County Courts for Tryal, the Party presented shall not be obliged to pay any Fees or Charges, except what shall arise in the Prosecution in the County Court; any Law, Usage or Custom, to the contrary notwithstanding. Saving to all Persons accused before the Justices of the County Courts, the Benefit of Writs of Removal and Tryals in the Provincial Courts, or before the Justices of Oyer and Terminer and Goal-Delivery.

And whereas, by an Act for the Advancement of Justice, it is Provided and Enacted, That in all Actions to be commenced in the Provincial Court, for the Recovery of any certain Sum of Money or Tobacco, within the Jurisdiction of that Court, wherein the Plaintiff should be desirous of a speedy Tryal, that if the Plaintiff should find a Copy of the Declaration in the Case with the Writ, and cause the same to be served on, or delivered to the Defendant, or left at his or her last Place of Abode, twenty Days at the least before the Appearance Court, it should be lawful for the Justices of the said Court, and they are by that Act required to proceed to Tryal the same Court; and if the Defendant should refuse or neglect to answer or plead, to render Judgment for the Plaintiff, with Cost of Suit, unless sufficient Cause should be shewn by the Defendant why there should be an Imparlance: And that as Jurors are not summoned to the Provincial Courts, but the Facts tried in the several Counties where they have arisen or shall arise, so that when the Defendant pleads any Matter of Fact tryable by a Jury, the Issue cannot be tried at the Appearance Court,

Of Declarations served, &c.

*Be it therefore Enacted and Declared*, That where Copies of Declarations are served, or left, according to the Directions of the said Act, and no sufficient Cause shewn for an Imparlance; and that the Defendant should plead a Matter of Fact, which is required to be done at the Appearance Court, that then and in such case the Fact shall be tried at the first Assizes that shall happen after the Appearance Court, in the County where the Fact hath arisen or shall arise; any Law, Usage, or Custom, to the contrary notwithstanding.

Of Witnesses sick, or unable to attend.

And whereas, Justice may be delayed, or People lose their Rights for Want of the Testimony of Witnesses, who may happen to be so sick or impotent as to be unable personally to attend at the Tryal of Causes, to give their Evidence *viva voce*, without apparent Hazard of their Lives or Healths: *Be it therefore Enacted by the Authority, Advice, and Consent aforesaid*, That where any Witness shall be summoned by any Plaintiff or Defendant, and shall be really so impotent, sick, or infirm, that he or she shall not be able to attend according to such Summons, without the apparent Hazard of the Life or Health of such Witness (to be made appear to the Satisfaction of the Court), that then and in every such case the Party summoning such Witness may have the Affidavit on Oath, or Affirmation if the Witness be a Quaker, of such sick or impotent Witness, taken before any Magistrate not being of Kin to the Parties; and that any Affidavit so taken (the adverse Party always having timely Notice, and Opportunity to cross-examine such Witness) shall be received as Evidence on the Tryal of the Cause wherein such Witness shall be summoned, as if the Witness was present, and should deliver his or their Testimony *viva voce*; any Law, Custom, or Usage, to the contrary notwithstanding. *Provided always*, That if any such Witness shall wilfully and corruptly swear or affirm falsely, that then and in every such case he or she shall be liable to the same Prosecution, Penalty and Forfeiture, as Persons guilty of, or committing corrupt and wilful Perjury, are liable to.

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