

C H A P.  
IX.

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.

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

Court may appoint auditors to state accounts, &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.

After judgment obtained, execution may issue, &c.

VI. And be it enacted, That after judgment obtained, it shall and may be lawful to issue execution by *capias ad satisfaciendum*, *fiert. 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 be liable to said execution, in whosoever hands or possession they may be found.

Sheriff may cause goods, &c. to be sold at vendue, &c.

VII. And be it further enacted, That the sheriffs of the several counties, where the money is not paid, may cause such goods, chattels, lands, or tenements, to be sold at public vendue (after giving ten days notice thereof excluding the day of notice and of sale) to the highest bidder, and shall and may retain sufficient in their hands to pay the debt and all costs, their own fees included, returning the overplus, if any, to the debtor, and shall forthwith pay such debt to the public treasury, and the costs to the attorney prosecuting the suit, or be liable