

warrant, upon application of the plaintiff, or of his agent or attorney, and proof made of the delivery of the said warrant, by the confession of the said constable, or by the oath, or affirmation, as the case may require, of the said plaintiff, his agent or attorney, or any other credible witness, to call such constable before him, and unless a good excuse is offered, fine him for his said neglect any sum not exceeding seven shillings and six-pence; and if any constable shall make due return of any warrant, by which it shall appear that he has taken the body of the defendant, and shall fail to produce him to the justice before whom the warrant shall be returned, it shall be lawful for the said justice to fine the said constable for such offence any sum not exceeding seven shillings and six-pence, and such justice may appoint another day, not exceeding fourteen days from the return day of the said warrant, for producing the body of the defendant; and in case the said constable shall not produce the body of the defendant on the appointed day, it shall be lawful for the said justice, at the request of the plaintiff, his agent or attorney, to enter judgment for the plaintiff for the amount of his debt, and costs, against such constable, on which judgment an execution may be issued by the said justice, directed to the sheriff of the county as aforesaid; provided, that it shall always be in the discretion of such justice, on due proof made that the constable could not produce the body of the defendant, because the said defendant was too ill to be removed, or for any other good cause, to appoint any other reasonable time for producing him, in which case he shall have power to enter judgment, and to issue execution against the said constable on default of producing the body of the defendant in the manner before directed; and provided also, that before any execution shall be issued against the said constable, the plaintiff, or his agent or attorney, shall make it appear to the satisfaction of the said justice that he has made or tendered to the said constable an assignment of his cause of action against the defendant.

“And be it enacted, That in case any sheriff shall neglect to make due return of any execution directed to him by virtue of this act, it shall be lawful for the justice who issued the said execution, on proof as aforesaid of the delivery of the writ of execution to the said sheriff, or either of his deputies, to fine such sheriff for every such neglect any sum not exceeding ten shillings current money; and in case any sheriff shall make due return of any execution directed to him as aforesaid, by which it shall appear that he has taken the body of the defendant, and shall fail to produce him, it shall be lawful for the justice, before whom the said writ of execution is returned, at the request of the plaintiff, his agent or attorney, at any time within sixty days from the return day of the said execution, to enter judgment for the plaintiff against the said sheriff for the amount of the debt and costs, on which judgment execution may be issued, directed to the coroners of the county, or either of them, who are hereby required to execute the same; provided, that such judgment shall not be entered until proof shall be made, on oath or affirmation as aforesaid, that the debt and costs have been demanded by the plaintiff, his agent or attorney, of the said sheriff, and that he hath refused or neglected to pay the same.

“And be it enacted, That if any sheriff, against whom judgment shall be entered as aforesaid, shall satisfy the plaintiff the amount of his debt and costs, he shall have the same remedy against the defendant on the plaintiff's judgment against him, as the plaintiff himself might originally have had.

“And be it enacted, That any justice, imposing any fine by virtue of this act, may issue execution for the same in the nature of *capias ad satisfaciendum*, or *fieri facias*, directed to the sheriff, or coroner, as the case may require, and the same shall be applied towards defraying the county charges.

“And be it enacted, That all constables hereafter to be appointed, instead of the oath of office now directed by law to be taken shall take the following: “I, A. B. do swear, that I will faithfully and honestly serve in the office of constable for _____ hundred in _____ county, and will well and truly, according to my power, skill and knowledge, perform and execute the duties belonging to the office of constable so long as I shall continue in such office. So help me God.”

“And be it enacted, That upon any arrest made by any constable on any warrant issued in virtue of this act, it shall be lawful for the constable making the arrest to take bond from the person arrested, in a sum not exceeding fifteen pounds, conditioned for his appearance before a justice of the peace of the same county, to be named in the said condition, on the return day of the warrant, to answer the suit of the plaintiff, and in case of refusal to give such bond, with sufficient security, such constable may lodge such person in the common gaol of the county, to be safely kept by the sheriff until the return day of the said warrant.”

At the end of the bill insert as follows: “This act to continue for six years, and until the end of the next session of assembly thereafter.”

The senate adjourns till Monday morning 10 o'clock.

M O N D A Y, December 26, 1791.

THE senate met. Present the same members as on Saturday. The proceedings of Saturday were read.

The clerk of the house of delegates delivers a bill, entitled, An act to prohibit members of congress, or persons in office under the United States, from being eligible as members of the legislature or council, or holding offices in this state, thus endorsed; “By the house of delegates, December 26, 1791: Read the first time and ordered to lie on the table.

“By order,

W. HARWOOD, clk.

“By the house of delegates, December 26, 1791: Read the second time by especial order and will pass.

“By order,

W. HARWOOD, clk.”

Which was read the first time and ordered to lie on the table.

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