

WILMINGTON GAZETTE.

THREE DOLLS. PER ANN.]

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LAW OF N. CAROLINA.

AN ACT

To extend the Jurisdiction of a single Justice, and to amend the several Laws now in force in this State, relative to the recovery of debts before a Justice of the Peace.

WHEREAS, it hath been found by experience that the extension of the jurisdiction of a single justice of the peace has contributed greatly to the advantages of the good citizens of this State, it being reasonable therefore to presume that a further extension to the amount of thirty pounds, (equal to what is usually called the Book Debt Law) would add to the advantages already felt:

BE it therefore enacted by the General Assembly of the State of North-Carolina, and it is hereby enacted by the authority of the same, That from and after the first day of March next, all debts and demands of thirty pounds and under, for a balance due on any specialty, contract, note or agreement, or for goods, wares and merchandize sold and delivered, or for work and labour done, or for specific articles, whether due by obligation, note, or assumpsit, or for any judgment which may have been granted over twelve-months by a single justice of the peace and no execution have issued thereon, or for any forfeiture or penalty incurred by virtue of any act of the General Assembly, are hereby declared to be cognizable and determinable by any one justice of the peace out of court; subject nevertheless to the right of appeal, as in similar cases, who may give judgment thereupon, and award process of execution for the amount of judgment, interests and costs, in the same manner as in similar cases is already, or may hereafter be provided for: Provided always, That the stay of execution on all sums over twenty, and not exceeding thirty pounds, except as herein excepted, shall be had in the same manner and for the same time as is provided already by law for all sums over ten and not exceeding twenty pounds.

II. And be it further enacted, That in all cases where the evidence of the debt on which a judgment may be found, shall be that of a former judgment of twelve months standing, no stay of execution whatever shall be allowed.

And whereas doubts have arisen whether any investigation or decision can be legally had on a warrant in any case after thirty days from the date thereof, although the same may have been executed and returned in due time, and for sufficient cause shewn postponed by the justice before whom it was returned; for remedy whereof,

III. Be it enacted by the authority aforesaid, That in future it shall be in the power of any justice of the peace within this State, on sufficient cause shewn on oath, by either plaintiff or defendant, their agent or attorney, to postpone from time to time, or continue for trial any civil matter or case that may come before him. Provided such postponement or continuance shall in no case exceed thirty days; and it shall be lawful for any justice of the peace to act on said postponement or continuance, the original date of the warrant exceeding thirty days notwithstanding.

IV. And be it further enacted, That all judgments given by a justice of the peace shall bear six per cent. interest on the original sum until the same shall be actually paid or otherwise settled, any law to the contrary notwithstanding.

V. And be it further enacted, That whenever a judgment shall be given in the absence of either plaintiff or defendant, by any justice of the peace, whether execution has been issued or not, that on application of such absent party, his or her agent or attorney, within ten days after the date of said judgment, to the justice who awarded the same, on sufficient cause shewn on oath or affirmation, why he, she or they could not attend the day of trial, it shall be the duty of said justice, to issue his order to the plaintiff, defendant or officer, as the case may require, in possession of the papers, relative to the suit, to forbear any further proceedings thereon, and immediately to bring the same before him or some other justice for reconsideration; provided that the applicant shall give sufficient security for his appearance. It shall also be the duty of the justice aforesaid to issue his summons directed to some proper officer to cause the parties with their witnesses to appear before him or some other justice, at such time and place not exceeding thirty days, as he may think proper, where the case shall undergo a fair investigation, and be subject to the same proceedings as if it had never been acted on; and the officer to whom the summons may be directed, shall receive for his trouble in executing the same, the same fees he is entitled to for summoning witnesses, to be taxed on the party at whose instance it issued.

VI. And be it further enacted by the authority aforesaid, That from and after the aforesaid first day of March next, all executions issued by a justice of the peace shall be made returnable in three months from the date of said execution; and when any execution shall be returned, not fully satisfied and

discharged it shall and may be lawful for any justice of the peace for said county, to issue another execution for the sum so remaining due on the former execution.

VII. And be it further enacted, That the deposition of any person who is an inhabitant of another county or state, other than that in which any suit may be depending on a warrant before a justice of the peace, shall be admitted on trial of such warrant to be read as evidence: Provided always, that either plaintiff or defendant shall in all cases respecting depositions be governed by the same rules, regulations and restrictions, as are used in taking depositions in other cases, in the courts of law within this State, so far as respects time and notice: And provided also, that such depositions may be taken by one justice of the peace, when the adverse party may cross examine.

VIII. And be it further enacted, That all acts and clauses of acts which come within the meaning and purview of this act, are hereby repealed and made void.

Raleigh, Dec. 23, 1803.

PENNSYLVANIA LEGISLATURE.

To the Senate and House of Representatives of the General Assembly of the Commonwealth of Pennsylvania.

GENTLEMEN,

The bill entitled "An act to revive the act, entitled a supplement to the act entitled an act to extend the powers of the Justices of the Peace of this State" was presented to me on Saturday the 2d day of April last; but as the Legislature adjourned on the following Monday (when ten other bills were returned with the executive approbation) I had not an opportunity during that session, to bestow sufficient consideration upon its principles and provisions; particularly, as it was, in substance, the renewal of a legislative proposition to which I had formerly expressed my dissent; and I am always anxious in a conflict of opinion, to pay a just deference to the wisdom of the General Assembly. I must now, however, confess, that the ample time for deliberation, which I have enjoyed in the recess, has operated to confirm the convictions of my judgment in relation to the unconstitutionality, the impolicy, the oppressive and pernicious tendency of this bill, and therefore disapproving it, I have directed the Secretary to return it to the House of Representatives, in which it originated, with my objections; being, indeed, little more than a recapitulation of the reasons that have been assigned on similar occasions, and are already exhibited on the records of the Legislature. I object, then to the bill's passing into a law,

1st. Because it appears to me to be unconstitutional. The constitution expressly guarantees to the citizens of Pennsylvania, "the trial by jury as heretofore." The trial by jury heretofore existed in civil, as well as in criminal cases; and on the exercise of an original, as well as on an appellate jurisdiction; except in mere matters of debt and contract, not exceeding the sum of ten pounds. But the bill under consideration, contemplates the perpetuation of legislative provisions, by which the trial of issues, in a great variety of transactions, as well of the nature of torts, as of contracts, is in the first instance withdrawn from a jury.

An attack upon the trial by jury, in civil cases, will afford to bad men in worse times, a ready pretext for undermining the trial by jury in criminal cases; and nothing can more forcibly demonstrate the sense of the Union, in favour of establishing the trial by jury, as well in controversies between individuals, as in public prosecution, than the opinion of the several states (even including the state of Pennsylvania) that, upon principle, independent of authority, it was a wife and necessary amendment to the federal constitution, to provide "that in suits at common law, where the value in controversy should exceed twenty dollars, the right of trial by jury shall be preserved." Amendment, article 3.—But with respect to the objection of the constitutionality of the bill, it is incumbent on me to speak, with diffidence, (a diffidence which I am persuaded you gentlemen will partake) when I recollect that the same question has been in part debated in the Supreme Court, and will probably soon require a judicial and authoritative determination.

2dly. Because the bill is impolitic. In the judicial department of government every avenue to corruption should be closed, every disposition to tyranny should be controlled, every infirmity of

ignorance or folly should be corrected, and in short, every Rep in the administration of justice should be taken in the public view, and be liable to the public animadversion, and uniformity in decisions should be preserved. But the bill under consideration would perpetuate and countenance the enlargement of the jurisdiction of individual magistrates, scattered over the territory of the state, without any useful publicity, or real responsibility attached to their situation or their conduct. The inevitable effect must be a scene of partiality on the one hand, and of oppression on the other; until by the influence of favour, or the impulse of fear, every neighbourhood shall be reduced to the condition of vassalage, and the subordinate magistrates will be enabled through the medium of influence, and elections, to dictate to the legislative, and to overawe the executive department of the state; and similar cases will be determined very differently, when many hundred individual magistrates, are to give the rule. To repeat the language of a very celebrated commentator, we shall fatally experience "that new tribunals erected for the decision of facts without the intervention of a jury, are steps towards the establishing an aristocracy, the most oppressive of absolute governments," unless taking advantage of the admonition of the same enlightened author, we feel that "it is above all a duty which every man owes to his country, his friends, his posterity and himself, to guard with the most zealous circumspection against the introduction of new and arbitrary methods of trial, which under a variety of pretences, may in time imperceptibly undermine the trial by jury, the best preservative of liberty."

3dly. Because the bill has an oppressive and pernicious tendency. The emoluments of a Justice must depend upon the patronage of the wealthy, or the litigious part of the community. Calculating, therefore, upon the natural imperfections of the human character, the temptations to oppress the poor, the helpless and the tranquil, will be almost irresistible, nor can any means be suggested to avert the evil, while the transaction passes in the private room of justices' houses; and particularly if the aid of council (as once was contemplated) should be denied. Whatever may be the perversion of facts, whatever may be the distortion of law, little consolation can be derived from the mere right of appeal, since the accumulation of costs could hardly be sustained by a poor man.

THO. M'KEAN.

Lancaster, Dec. 8.

LETTER

Of the President of the United States, to the Senate.

To the Senate of the United States,

IN compliance with the desire of the Senate, expressed in their resolution of the 22d of November, on the impressment of seamen in the service of the United States, by the agents of foreign nations, I now lay before the Senate a letter from the Secretary of State, with a specification of the cases of which information has been received.

THR JEFFERSON.

December 5, 1803.

LETTER

From the Secretary of State to the President.

Department of State, Dec. 2, 1803.

SIR,

Agreeably to a resolution of the Senate passed on the 22d of last month, requesting the President of the United States, to cause to be laid before them such information as may have been received, relative to the violation of the flag of the United States, or to the impressment of any seamen in the service of the United States, by the agents of any foreign nation—I do myself the honour to transmit to you the enclosed abstract of impressment of persons belonging to American vessels, which, with the annexed extracts from the letters of some of our agents abroad, comprises all the information on the subject that has been received by this department since the report to congress, at its last session, relative to seamen. To the first mentioned document I have added a summary, shewing the number of Citizens of the United States, impressed, and distinguishing those who had protections as citizens; those who are stated to be natives of the British dominions, and not stated to be naturalized as citizens; and those of all other countries, who are equally not stated to have been naturalized in the United States.

Another source of injury to our neutral navigation has taken place in the blockade of Guadaloupe and Martinique, as notified in the annexed letter, from Mr. Bar-

lay, consul general to his Britannic majesty for the Eastern States.

Beside the above, I have received no official information of any material violation of our flag during the present European war, except in the recent aggressions of the Emperor of Morocco.

With very high respect,

I have the honour to be,

Sir,

Your most obedient servant,

JAMES MADISON.

The President of the United States.

SUMMARY

Of impressments by the British from American vessels.

Forty-three impressments of citizens of the United States, appear to have been made, of whom twelve had protections:

Ten, of natives of the British dominions, and not stated to be naturalized as American citizens—and

Seventeen, of all other countries, who are not stated to have been naturalized in the United States.

SUMMARY

Of impressments by the Agents of other Powers, from American vessels.

Two, by the agents of France.

One, by the agents of the Batavian Republic.

Department of State, December 2, 1803.

CONGRESS.

HOUSE OF REPRESENTATIVES.

Friday, December 16.

A message was received from the Senate stating that they had passed the salary bill with sundry amendments—also that they had resolved to postpone till the first Monday of September, the amendment of the Constitution sent to them by the House of Representatives.

[This is the amendment in lieu of which the amendment agreed to by the two houses was passed.]

The House went into committee of the whole—Mr. Dawson in the chair—on the bill giving effect to the laws of the United States, in the territory ceded by France to the United States.

The amendment of Mr. Latimore, having for object the preservation of a port of entry in the Mississippi territory, was again taken into consideration.

Mr. Latimore moved that the committee should rise, to allow further time for obtaining information.

This motion was supported by Messrs. Latimore and Sandford; and opposed by Messrs. J. Clay and J. Randolph; and lost—Ayes 48—Noes 20.

Messrs. Latimore, Gregg, Sandford and Griswold then spoke in favour of the amendment; and Messrs. J. Randolph, S. L. Mitchell, J. Clay, Eustis, Macon, and Varnum against it. When the question was taken on it, and carried in the negative—Ayes 25.

Mr. Lyon offered a motion to exempt from duty goods exported from Louisiana, to the ports of the United States, since the 22d day of October last.

This motion was opposed by Messrs. J. Randolph and J. Clay, and rejected without a division.

The committee then rose and reported the bill with several amendments, which the House immediately considered, and agreed to with other amendments, when the bill was ordered to a third reading on Monday,

Monday, December 19.

Mr. Latimore presented a memorial from the House of Representatives of the Mississippi territory, representing the inconveniences experienced by the settlements on the Tombigby and the Alabama rivers from their remote situation from the seat of government. Referred.

An engrossed bill giving effect to the laws of the United States in the territory ceded by France to the United States was read the third time.

Mr. Lyon after making a few remarks, moved to recommit the bill.

Motion lost without a division.

The Yeas and Nays were then taken at the instance of Mr. Lyon, on the passage of the bill—Yeas 38—Nays 15.

The House read the amendment of the Senate to the salary bill, and referred them to a committee of the whole to-morrow.

The House went into a committee of the whole—Mr. Dawson in the chair—on the following report of the Post-Office committee.

REPORT.

The Committee on the subject of Post-Office and Post-Roads, to whom was referred a resolution of the 2d ult. directing them to enquire by what means the mail may be conveyed with greater security and dispatch than at present, between the City of Washington, & Natchez and New-Orleans, Report—

THAT the late cession of Louisiana by France to the United States, renders it an im-