

Passed March 21, 1772. Referred for consideration by the King in Council, January 15, 1773, and allowed to become a law by lapse of time in accordance with the proprietary charter. See Appendix XXX, and the note to the Act of Assembly passed November 27, 1700, Chapter 51; and the Act of Assembly passed February 26, 1773, Chapter 675. Repealed by the Act of Assembly passed March 18, 1775, Chapter 709.

CHAPTER DCXLII.

AN ACT FOR RENDERING JUSTICES OF THE PEACE MORE SAFE IN THE EXECUTION OF THEIR OFFICE, AND FOR INDEMNIFYING CONSTABLES AND OTHERS ACTING IN OBEDIENCE TO THEIR WARRANTS.

Whereas justices of the peace may be discouraged in the execution of their office by vexatious actions brought against them for or by reason of small and involuntary errors in their proceedings:

And whereas it is necessary that they should be, as far as is consistent with justice and the safety and liberty of the subjects over whom their authority extends, rendered safe in the execution of the said office and trust:

And whereas it is also necessary that the subject should be protected from all willful and oppressive abuse of the several laws committed to the care and execution of the said justices of the peace:

[Section I.] Be it therefore enacted by the Honorable Richard Penn, Esquire, Lieutenant-Governor under the Honorable Thomas Penn and John Penn, Esquires, true and absolute Proprietaries of the Province of Pennsylvania, by and with the advice and consent of the representatives of the freemen of the said Province in General Assembly met, and by the authority of the same, That from and after the publication of this act no writ shall be sued out against nor any copy of any process at the suit of a subject shall be served on any justice of the peace for anything by him done in the execution of his office, until notice

in writing of such intended writ or process shall have been delivered to him or left at the usual place of his abode by the party, his attorney or agent who intends to sue or cause the same to be sued out or served at least thirty days before the suing out or serving the same, in which notice shall be clearly and explicitly contained the cause of action which the said party hath or claimeth to have against such justice of the peace, on the back of which notice shall be indorsed the name of such attorney or agent, together with the place of his abode, who shall be entitled to the fee of twenty shillings for the preparing and serving such notice and no more.

[Section II.] And be it further enacted by the authority aforesaid, That it shall and may be lawful to and for such justice of the peace at any time within thirty days after such notice given as aforesaid to tender amends to the party complaining or his or her agent or attorney; and in case the same is not accepted, to plead such tender in bar to any action to be brought against him, grounded on such writ or process, together with the plea of not guilty and any other plea with leave of the court, and if upon issue joined thereon the jury shall find the amends so tendered to have been sufficient, then they shall give a verdict for the defendant; and in such case or in case the plaintiff shall become nonsuit or shall discontinue his or her action, or in case judgment shall be given for such defendant or defendants upon demurrer, such justice shall be entitled to the like costs as he would have been entitled unto in case he had pleaded the general issue only, and if upon issue so joined the jury shall find that no amends were tendered or that the same were insufficient, and also against the defendant or defendants, on such other plea or pleas, then they shall give a verdict for the plaintiff and such damages as they shall think proper, which he or she shall recover, together with his or her costs of suit.

[Section III.] And be it further enacted by the authority aforesaid, That no such plaintiff shall recover any verdict against such justice in any case where the action shall be grounded on any act of the defendant as justice of the peace, unless it is proved upon the trial of such action that such notice

was given as aforesaid, but in default thereof such justice shall recover a verdict and costs as aforesaid.

[Section IV.] And be it further enacted by the authority aforesaid, That in case such justice shall neglect to tender any amends or shall have tendered insufficient amends before the action brought, it shall and may be lawful for him by leave of the court where such action shall depend at any time before issue joined to pay into court such sum of money as he shall see fit; whereupon such proceedings, orders and judgments shall be had, made and given in and by such court as in other actions where the defendant is allowed to pay money into court.

[Section V.] And be it further enacted by the authority aforesaid, That no evidence shall be permitted to be given by the plaintiff on the trial of any such action as aforesaid of any cause of action except such as is contained in the notice hereby directed to be given.

[Section VI.] And be it further enacted by the authority aforesaid, That from and after the publication hereof no action shall be brought against any constable or officer or any person or persons acting by his or their order and in his aid for anything done in obedience to any warrant under the hand and seal of any justice of the peace until demand hath been made or left at the usual place of his abode by the party or parties intending to bring such action, or by his, her or their attorney or agent, in writing, signed by the party demanding the same, of the perusal and copy of such warrant duly certified under his hand, and the same hath been neglected or refused for the space of six days after such demand, and in case after such demand and compliance therewith, by showing the said warrant and giving a copy thereof certified as aforesaid, to the party demanding the same, any action shall be brought against such constable or other person or persons acting in his aid for any such cause as aforesaid, without making such justice or justices who signed or sealed the said warrant defendant or defendants, that on producing and proving such warrant at the trial of such action the jury shall give their verdict for the defendant or defendants, notwithstanding any defect or defects of jurisdiction in such justice or justices; and if such action be brought jointly

against such justice or justices and also against such constable or other officer or person or persons acting in his or their aid as aforesaid, then on proof of such warrant the jury shall find for such constable or other officer and person or persons so acting as aforesaid, notwithstanding such defect of jurisdiction as aforesaid; and if the verdict shall be given against the justice or justices, that in such case the plaintiff or plaintiffs shall recover his, her or their costs against him or them, to be taxed in such manner by the proper officer as to include such costs as such plaintiff or plaintiffs are liable to pay to such defendant or defendants for whom such verdict shall be found as aforesaid: Provided always, That where the plaintiff in any such action against any justice of the peace shall obtain a verdict, in case the justices before whom the cause shall be tried shall in open court certify on the back of the record that the injury for which such action was brought was willfully and maliciously committed, the plaintiff shall be entitled to have and receive double costs of suit.

[Section VII.] Provided always, and be it further enacted by the authority aforesaid, That no action shall be brought against any justice of the peace for anything done in the execution of his office or against any constable or other officer or person or persons acting as aforesaid, unless commenced within six months after the act committed.

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CHAPTER DCXLIII.

AN ACT FOR THE RELIEF OF RICHARD STEVENS WITH RESPECT TO THE IMPRISONMENT OF HIS PERSON.

Whereas Richard Stevens, late of the city of Philadelphia, merchant, but now of Perth Amboy, in the province of New Jer-