

No. 16.

AN ACT to amend an act concerning justices of the peace.

Bond by plaintiff
when, for what
purpose.
Condition of

Be it enacted by the Council and House of Representatives of the Territory of Wisconsin: In any case when judgment is rendered against the defendant upon publication of notice, without service of summons or his appearance to the action, no execution shall be awarded or issued either against the defendant or garnishee, until the plaintiff or some person in his behalf shall execute a bond to the defendant to be approved by the justice, in double the amount of such judgment, conditioned that if the defendant shall within one year from the rendition of such judgment appear and disprove the debt or damages adjudged against him, or any part thereof, the plaintiff will refund the whole or such part thereof as may be found not justly due him on a review of the case.

Reversal of judgment.

SEC. 2. The manner of disproving such judgment shall be by petition subscribed and sworn to by the defendant in the original suit, his agent or attorney, and addressed to the justice before whom the same was rendered, or the justice or court into which the record of papers have been received, setting forth the grounds on which such judgment ought to be reversed, and the time and place before whom a review of such judgment will take place, and judgment shall be rendered either for or against the petitioner or plaintiff in the original suit, as in ordinary cases.

Proceedings in.

SEC. 3. A copy of such petition shall be served on the plaintiff at least ten days previous to the time therein fixed for the trial, and the proviso in the second section of the article of which this is amendatory, is hereby repealed.

Garnishees.

SEC. 4. Whenever any person shall be summoned as garnishee to appear before any justice of the peace in any matter or proceeding, and it shall be made to appear to the satisfaction of the justice, that from sickness, or any other good cause, the said garnishee is unable to appear in person before the justice at the time specified for his appearance in such summons, the justice may postpone the proceedings against said garnishee from time to time, not exceeding ninety days in the whole, and may postpone for a longer period with the consent of both parties.

SEC. 5. Whenever any person shall be arrested on a warrant issued agreeably to the provisions of the tenth section of the

third article of the act of which this is amendatory, and judgment shall be rendered in favor of the plaintiff in such suit, execution may be issued against both the property and body of such defendant, unless such defendant shall enter an appeal or stay execution as now provided by law, or shall satisfy the justice before whom the judgment may be rendered by his own oath, or other competent testimony, that he is unable to pay the debt, or damages and costs, adjudged against him.

Execution may run against both property and body when

SEC. 6. When any person shall be committed to prison, or the prison limits, on an execution issued as is provided in the preceding section, such person shall be entitled to all the benefit and privileges of "An act for the relief of persons confined in jail on civil process."

Defendant how released from imprisonment.

SEC. 7. The justice before whom any process issued under the tenth article aforesaid, may be returnable before proceeding to examine the merits of the case, is hereby authorized and required, when application is made for that purpose, to hear any competent testimony tending to disprove the facts set forth in the affidavit, and if, in the opinion of such justice, the same are disproved, the defendant shall be discharged from custody and the suit proceed as in case of summons.

When from arrest before trial.

SEC. 8. In all cases before a justice of the peace, if the defendant will make oath, that from prejudice or other cause, he believes such justice will not decide impartially in the matter, such justice shall immediately transmit all the papers in the case to the nearest justice qualified by law to try a cause between the parties in such suit, who shall proceed to hear and determine said cause in the same manner as if it originated before him.

Removal of trial to another justice.

SEC. 9. So much of any law as contravenes any of the provisions of this act is hereby repealed.

Approved, January 8th, 1840.

No. 17.

AN ACT to prevent the sale of intoxicating liquors to Indians.

Be it enacted by the Council and House of Representatives of the Territory of Wisconsin, as follows.

SECTION 1. That, if any person shall sell, barter, give or in any manner dispose of any intoxicating drink to any Indian