

CAP. XXIII.

An ACT for giving the like REMEDY upon PROMISSORY NOTES as on INLAND BILLS of EXCHANGE.

Be it enacted, by the Governor, Council and Assembly,

THAT all notes in writing for any sum of money, payable to order or bearer, shall be assignable and indorsable over, in the same manner as inland bills of exchange are by the custom of merchants; and that any person or persons to whom, or to whose order, such note shall be made payable shall and may maintain, his, her or their action for such sum of money in like manner as in cases of inland bills of exchange, with damages and costs of suit.

Notes in writing for money payable to order, assignable as inland bills of exchange.

CAP. XXIV.

An ACT to enable CREDITORS more easily to recover their DEBTS from JOINT PARTNERS.

WHEREAS creditors are often put to great trouble and difficulty in recovering debts due from joint partners, the proceeding to outlawry against persons who cannot be taken by process, not being in use in this province, and doubts have arisen, whether any one joint partner is now compellable to answer for the partnership debts, unless all are brought into court, which many times cannot be done, for remedy whereof,

Preamble.

II. *Be it enacted by the Governor, Council and Assembly,* That all persons that now are or hereafter shall be jointly indebted to any other person or persons whatever, for any joint contract, obligation, matter or thing whatsoever, for which remedy could or might be had at law against such debtors, in case all were or could be taken by process issued out of the courts of this province, shall be answerable to their creditors separately for such debts; that is to say, such creditor or creditors shall and may issue process against such joint debtors, in the manner now in use, and in case any or either of such joint debtors shall be taken, and brought into court by virtue of such process, he, she or they, so taken and brought into court, shall answer to the plaintiff or plaintiffs, and in case the judgment pass for the plaintiff or plaintiffs, he or they shall have his or their judgment and execution against those that are brought into court, and against the other joint debtors named in the process, in the same manner as if they had been all

joint debtors answerable separately.

Creditor may issue process against joint debtors, as usual, and if any are taken, judgment and execution shall be had against them and others, named in the process, tho' not taken.

Execution not executed against the body or lands or goods of persons not taken before *scire facias*.

taken and brought into court by virtue of such process. *Provided always,* That it shall not be lawful, by virtue of this act, to execute such execution against the body, or the lands, or goods, the sole property of any person not brought into court, before *scire facias* brought against him or them on such judgment.

CAP. XXV.

An ACT to prevent FRIVOLOUS and VEXATIOUS ARRESTS.

Defendant not held to special bail on process from supreme court for less than £10. or from inferior court for less than 40s.

In suits for a less sum defendant to be served with a copy of process, and in case of non-appearance plaintiff may after affidavit made of such service enter common appearance &c.

FOR the more effectual preventing frivolous and vexatious arrests, *Be it enacted by the Governor, Council and Assembly,* That no person shall be held to special bail upon any process issuing out of the supreme court where the cause of action shall not amount to the sum of ten pounds or upwards, nor out of any inferior court within this province, where the cause of action shall not amount to forty shillings or upwards. And that in all suits brought for a less sum, the defendant shall be served with a copy of the process within the jurisdiction of the court issuing such process, in manner as hath heretofore been accustomed, and if such defendant or defendants shall not appear at the return of such process, or within twenty days after such return, it shall and may be lawful to and for the plaintiff or plaintiffs, upon affidavit being made before any judge of the court out of which such process shall issue, or before any commissioners authorized to take affidavits to be read in the supreme court, and filed in the proper court, of the personal service of such process as aforesaid, to enter a common appearance, or file common bail for the defendant or defendants, and to proceed thereon as if such defendant or defendants had entered his, her, or their appearance, or filed common bail.

When the cause of action amounts to £10. or 40s. affidavit to be made thereof before a judge &c.

II. *And be it further enacted,* That in all cases where the plaintiff or plaintiffs cause of action shall amount to the sum of ten pounds or forty shillings, or upwards as aforesaid, affidavit shall be made and filed of such cause of action, which affidavit may be made before any judge of the court from which such process shall issue, and before any commissioner appointed to take affidavits to be read in the supreme court, or else before the officer who shall issue such process or his deputy, if such suit shall be brought therein: And in all cases, when the plaintiff or plaintiffs shall reside without this province, in any of his Majesty's plantations, before any judge of the supreme or superior court in such plantation, and the sum or sums specified in such affidavit shall be indorsed on the back of such writ or process, for which sum or sums so indorsed, the sheriff or other officer to whom such writ or process shall be directed, shall take bail, and for no more. But if any writ or process

If plaintiff resides in his Majesty's plantations without the province, before a judge of supreme court there. Sum indorsed on writ, for which bail to be taken and no more. Or writ or pro-