

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.

**F**OR 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-

process shall issue for the sum of ten pounds or forty shillings, or upwards as aforesaid, and no affidavit or indorsement shall be made as aforesaid, the plaintiff or plaintiffs shall not proceed to arrest the body of the defendant or defendants, but shall proceed in like manner as is by this act directed in cases where the cause of action does not amount to the sum of ten pounds or forty shillings, or upwards as aforesaid.

cess for £10. or 40s. and no affidavit, the body of defendant shall not be arrested.

**C. A. P. XXVI**

**An ACT to PREVENT GAMING.**

*I. Be it enacted by the Governor, Council and Assembly,*

**T**HAT for the more effectually preventing and suppressing gaming of every kind, all notes, bills, bonds, judgments, mortgages or other securities or conveyances whatsoever, given, granted, drawn or entered into, or executed by any persons whatsoever, where the whole or any part of the consideration of such conveyances or securities shall be for any money, or other valuable thing whatsoever, won by gaming or playing at cards, dice, tables, tennis, bowls, or other game or games whatsoever, or by betting on the sides or hands of such as do game at any of the games aforesaid, or for the reimbursing or repaying any money knowingly lent or advanced for such gaming or betting as aforesaid or lent and advanced at the time and place of such play, to any person or persons so gaming or betting as aforesaid, or to any other person or persons in trust for, or to the use of them so gaming or betting, or that shall during such play so game or bet, shall be utterly void, frustrate and of none effect, to all intents and purposes whatsoever: and that where such mortgages, securities and other conveyances, shall be of lands, tenements or hereditaments, or shall be such as incumber or affect the same, such mortgages, securities or other conveyances, shall enure and be to and for the sole use and benefit of, and shall devolve upon such person or persons, as should or might have, or be entitled to such lands, tenements or hereditaments, in case the said grantor or grantors thereof, or the person or persons so incumbering the same, had been naturally dead, and as if such mortgages, securities or other conveyances, had been made to such person or persons so to be entitled after the decease of the person or persons so incumbering the same; and that all grants or conveyances to be made for the preventing such lands or tenements or hereditaments from coming to, or devolving upon, such person or persons hereby intended to enjoy the same as aforesaid, shall be deemed fraudulent and void, and of none effect to all intents and purposes whatsoever.

Notes, bonds &c. for money or other things won by gaming or playing at cards, &c. void and of no effect.

Mortgages &c. of lands &c. made and executed for money or other things won as aforesaid, shall enure to the use of persons otherwise entitled, &c. if made to them.