

After 31st December, 1801, titles to slaves to be tried in ejectment only, (replevins depending excepted.)

Enacts, Clause 1.—“ That from and after the thirty-first day of December, in the present year, all titles to slaves shall be tried in actions of ejectment only, and not otherwise (the cases of replevins which may be depending on the said thirty-first day of December only excepted); and which actions in ejectment shall be subject to the regulations and provisions hereinafter, in that respect, contained.”

No affidavit of possession necessary. Declaration to be filed and copy

Clause 2.—“ That it shall not be necessary, previous to the bringing of any such action of ejectment, for the lessor or lessors of the plaintiff therein, to make any such affidavit as hath heretofore been required, concerning the possession of the slave or slaves
of

of which recovery is sought, in action of replevin; and the declaration, in every such action in ejection, shall be filed in the office of the clerk of the supreme court of judicature of this island, in like manner as actions of ejection for lands have heretofore been; and a copy for the tenant in possession, or if more than one tenant in possession, a copy for each such tenant in possession, attested by the clerk of the said court, in like manner as copies of declarations in ejection for land have heretofore been attested, shall be lodged in the office of the provost-marshal-general of this island; whose duty it shall thereupon be, by himself or his lawful deputy, to serve every such copy, in like manner as copies of declarations in other kinds of actions are now, by law, to be served: And that, upon proof of service, made in such manner as proof of the service of other kinds of actions is required to be made, judgment shall be given by default against the tenant or tenants served, unless such tenant or tenants shall appear, confess lease, entry, and ouster, and plead not guilty."

served on each tenant. On proof of service judgment to be given by default against tenant, unless he appears and pleads.

Clause 3.—" That, in case it shall be alledged for any person or persons proceeded against, as such tenant or tenants, that he or they hath not, or have not, in his or their possession or power, the slaves whereof possession is sought by any such action, or some of such slaves in particular, such tenant or tenants may and shall plead, in abatement to such action, as to the whole of the slaves therein comprised, or as to part thereof in particular, as the case may be alledged to be, that such slaves which shall be named in such plea, or any of them, are not, nor were at the time of service of the action, in the possession or power of such person or persons so pleading; and that possession of the slaves named in such plea, or of any of them, has not at any time been changed, or altered in anywise, by or with the privity of the person or persons so pleading: And, to every such plea shall be annexed an affidavit (or, in the case of a quaker or quakers, a solemn affirmation), of the person or persons pleading the same, that, to the best of his or their knowledge and belief, the matters therein alledged are true; without which affidavit (or affirmation) no such plea shall be received: And in case, upon any such plea pleaded, the action shall be proceeded in to issue of fact joined, and upon trial thereof, a verdict shall be given against the person or persons so pleading, as to all or any of the slaves named in such plea, judgment shall be thereupon peremptorily given for the plaintiff, as to the slave or slaves comprised in such verdict: And in case, upon such issue joined, verdict shall be given against the plaintiff therein, and it shall appear to the court, before which such trial is had, that the action

Proviso, if tenant shall not have the slaves in possession, tenant shall plead in abatement as to such slaves as shall not be in possession of such tenant.

Affidavit of the truth of such plea to be made and annexed thereto.

If verdict against plaintiff, and it appear that the action is un-

icious, he is
liable to pay
double costs.

was instituted maliciously or vexatiously, the lessor or lessors of the plaintiff shall be liable to pay double costs out of purse of the defendant or defendants therein, to be taxed by the clerk of the supreme court; whereof payment shall be enforced by order of court."

If plea is as to
part of slaves
in declaration,
action may be
proceeded in
as to the resi-
due.

Clause 4.—“ That in every case of such plea pleaded, as to part only of the slaves comprised in the declaration, such action may be proceeded in, as to the residue of the slaves comprised in such declaration, in the same manner, in all respects to judgment and execution thereof had, as if such plea were not pleaded.”

Lessor, &c. of
plaintiff, to
have access to
slaves com-
prised in de-
claration, giv-
ing notice.

Clause 5.—“ That, in every such action of ejectment, the lessor or lessors of the plaintiff, his or their agent or agents, and witnesses, shall, from time to time, at all reasonable times, be allowed and have access to the slaves comprised in the declaration, or such of them as shall not be comprised in such plea in abatement thereof as aforesaid, to view and inspect the same, upon reasonable notice in writing given to the defendant or defendants, or his or their attorney in the cause, of an intention to have such view and inspection: And, in case it shall be sufficiently shewn to the court, in which any such action shall be triable, that, after such reasonable notice as aforesaid given, such access as aforesaid hath been refused, or not allowed, as to all or any of such slaves, then, and in every such case, such court shall and may thereupon give peremptory judgment against the defendant or defendants, as to all the slaves comprised in the declaration in the cause, or such of them as may not be comprised in such plea in abatement thereof as aforesaid.”

If access re-
fused, after
notice, judg-
ment to be
given against
defendant.

If witness for
plaintiff refuse
to view and
inspect slaves,
he may be
proceeded
against as if
under *subpœna*.

Clause 6.—“ That in case any person, being considered by the lessor or lessors of the plaintiff in any such action, to be a material witness for him or them therein, shall refuse or neglect to take or make any such view or inspection as aforesaid, reasonable notice in writing having been given to such person so considered to be a material witness, of the intended view and inspection, and tender having been made to such person, of his reasonable expences to be thereby occasioned, it shall and may be lawful for the supreme court of judicature, in every such case, to proceed against such person, in like manner in all respects, as if such person had not obeyed a writ of *subpœna* to testify in court in any cause.”

Judgment to
be entered
the same as in

Clause 7.—“ That, for executing and enforcing every such judgment as shall be given against any defendant or defendants, in any manner as aforesaid, a writ of possession, and also a writ of execution

execution for the costs of suit, shall be lodged and issued, as in cases of judgment in ejectment for land; for the purpose of executing which writ of possession, it shall and may be lawful to and for the provost-marshal-general, or his lawful deputy, and the provost-marshal-general, or his lawful deputy, is hereby required, whenever it shall be necessary to that end, to enter by force into any close messuage or tenement, and to call forth the power of the county to be aiding and assisting to him, in the execution of such writ: And in case any slave or slaves, comprised in any such writ of possession, shall be removed, secreted, kept out of the way, withheld, or not produced, to the provost-marshal, or his lawful deputy, so that such writ cannot be executed, either in whole or in part, the supreme court of judicature of this island shall and may proceed, by attachment and by fine and imprisonment thereunder, against the defendant or defendants in such writ; and all and every, or any other person or persons, by whom or by whose procurement or means the execution of such writ shall be prevented, either in part or in whole, as in any other case of contempt of court; and further to set and impose a penalty upon such defendant or defendants, not exceeding the sum of fifty pounds for every slave, in respect to which such writ shall so be unexecuted; which penalty shall be levied by the provost-marshal-general, or his lawful deputy, under and by authority of an order of court, in that behalf made; and, for the purposes of executing every such attachment, and levying every such penalty, the provost-marshal, or his lawful deputy, is hereby authorized, empowered, and required, to act and do, as is herein before provided, in respect to the execution of writs of possession; and such proceedings as aforesaid, for executing and enforcing every such judgment, shall and may be had, from time to time, as often as there may be occasion, for the having full execution of every such judgment."

cases of judgment in ejectment.

In cases of concealment, court empowered to proceed by attachment, &c.

Penalty of 50l. for each slave concealed.

Clause 8.—" That upon complaint made on oath to the supreme court of judicature, that such writ has been wrongfully or erroneously executed, by the delivery thereunder of any slave or slaves, particularly named in such complaint, such court shall thereupon proceed and do what to right and justice shall appertain, in like manner as such court may proceed and act upon complaint made of a wrong execution of any writ of possession, and under such rules and regulations as the said supreme court shall, from time to time, in that behalf, make and establish."

If the writ be wrong executed, the court empowered to rectify the same.

Clause 9.—" That a writ of error, brought upon any such judgment in ejectment for slaves (such security being first given as heretofore

Writs to stay execution not effective unless security

be lodged pursuant to 17 Geo. III. c. 16.

Writ subject to provisions of said act, and damages those generally committed after judgment.

Actions in ejectment may be substituted under this act, and judgment given against defendant unless he appear, confess lease, &c. and plead not guilty.

Provision, similar to that contained in cl. 3, if ejectionment not returned, and defendant be not in contempt.

heretofore hath been and now is used and accustomed, previous to the issuing of writs of error in other cases), shall be a *supersedeas* or stay of execution: **Provided always**, That such security shall be given to the lessor or lessors of the plaintiff, as in and by an act of the governor, council, and assembly of this island, entitled, *An act to avoid unnecessary delays of execution*, is required to be given in cases of a writ of error brought upon a judgment in any action of *ejectione firmæ* therein mentioned: And that, unless such security shall be given, no such writ of error shall be a *supersedeas* or stay of execution: **And provided also**, That every case of a writ of error brought upon a judgment in ejectment for slaves, shall be subject to such further provision as in the said act contained, in respect of mesne profits and damages, committed after any judgment in *ejectione firmæ* therein mentioned; and with this addition, that every inquiry and judgment of mesne profits, and of damages, to be had under this proviso, shall be not of damages by waste committed after judgment, but of damages generally committed after judgment."

Clause 10 — " That in every action of replevin for obtaining possession of slaves, by force of title now depending, or which may be depending on the said thirty-first day of December, where it shall appear that the defendant or defendants therein have, or hath in anywise had, notice of the commencement of such action, it shall and may be lawful for the plaintiff or plaintiffs to substitute an action of ejectment for such action in replevin, which action of ejectment shall be filed in the supreme court of judicature sitting next after the said thirty-first day of December: And, upon every such action of ejectment, judgment shall be given by default against the person or persons who was or were the defendant or defendants, in the action of replevin for which such action of ejectment is substituted, unless such person or persons shall appear, confess lease, entry, and ouster, and plead not guilty: **Provided always, and it is hereby further enacted by the authority aforesaid**, That in any such action of ejectment, to be substituted for an action of replevin as aforesaid, where neither the defendant or defendants shall have pleaded to such replevin, nor an ejectionment shall have been returned, nor such defendant or defendants shall be otherwise in contempt; and when it shall be alleged for such defendant or defendants, that he or they hath not, or have not, in his or their possession or power, the slaves whereof possession is sought by such substituted action of ejectment, or some of such slaves in particular, such defendant or defendants may and shall plead such plea in abatement, and with such affidavit, or affirmation, annexed,

as

as is herein before provided, in cases of action of ejectment to be brought for slaves, after the said thirty-first day of December: **Provided also, and it is hereby declared, in express exclusion of any construction to the contrary,** That where, in any such action of replevin as aforesaid, any defendant or defendants shall be in contempt, such defendant or defendants shall be liable to be proceeded against, for and in respect of his, her, or their, contempt, in the same manner in every respect, as if an action of ejectment were not substituted for such action of replevin."

If defendant be in contempt, he may be proceeded against as if the one action had not been substituted for the other.

Clause 11.—" That every such action of ejectment, so to be substituted as aforesaid, shall be subject, in all other respects whatsoever, to all and every the regulations and provisions herein before made, for, touching, and concerning, actions of ejectment for slaves, to be brought after the said thirty-first day of December."

Actions under this act, subject to regulations, &c. as in ejectment for slaves.

Clause 12.—" That it shall and may be lawful for the supreme court of judicature of this island, from time to time, to make such rules, touching and concerning the proceeding in actions of ejectment for slaves under this act, as may seem meet for the purposes of justice, so as such rules be not repugnant to, or inconsistent with, the regulations and provisions hereby made, or any of them."

Supreme court to make rules, &c. touching proceedings under this act.

Clause 13.—" That, from and after the passing of this act, in all actions of replevin now depending, or hereafter to be brought, against any provost-marshal, or deputy, or collecting constable, or other officer or person, for slaves levied or distrained, it shall not be necessary for the plaintiff or plaintiffs, being in possession of such slaves at the time of the levy or distress being made, to give evidence of his or their title, otherwise than by possession: But that it shall be incumbent on the person or persons defending, or causing to be defended, any such action, to make out and sustain the validity of the levy or distress made."

In actions of replevin, it shall not be necessary to give other evidence of title than possession.

Clause 14.—" That no replevin shall issue against any provost-marshal, or deputy-marshal, for any slave or slaves levied upon under any writ or writs of *venditioni exponas*, without an affidavit first made, that the plaintiff or plaintiffs in the action of replevin, is not or are not liable to the payment of the debt or debts for which the slave or slaves named in the replevin hath or have been levied on; and that such replevin is not brought for the purpose of eluding, evading, or delaying, the effect of any writ of *venditioni exponas*, but for protecting and preserving the right and interest of the plaintiff or plaintiffs in such replevin, or the right and interest

No replevin to issue for slaves levied on under writs of *venditioni*, without affidavit that plaintiff is not liable for debt for which levy made, and only for protecting the rights of another.

of

SLAVE LAWS OF JAMAICA.

of some person or persons other than the person or persons liable to the payment of such debt or debts as aforesaid, in and to the slave or slaves named in such replevin: and every such affidavit is to be annexed to the declaration in the cause, and to be therewith filed in the office of the clerk of the supreme court of judicature."