

amount of the verdict, and the balance only shall be paid by the plaintiff to him, but if the amount of the verdict exceeds the amount of the defendant's costs, the plaintiff shall deduct such defendant's costs therefrom, and the balance only, shall be the sum due from the defendant to the plaintiff, and such plaintiff may afterwards warrant or sue such defendant according to the amount so remaining due, as for any other debt or damages, before a single justice of the peace, or the district court, as the case may be, and a short copy of such verdict, together with a bill of costs, as taxed by the clerk of the county court, shall be sufficient evidence of such balance due.

Case of account in bar

SEC. 5. *And be it enacted*, That no plaintiff bringing an action in the county court, shall be non-suited or have judgment against him, or pay costs, although the debt or sum of money recovered doth not exceed one hundred dollars, current money, where such debt or sum of money recovered has been reduced below the jurisdiction of the said county court, by reason of an account in bar, or set off of a debt or damages due from the plaintiff to the defendant, and not by payments in money.

Chief judge; priority.

SEC. 6. *And be it enacted*, That the district justice first named in the commission for each election district, shall be chief justice of the district court in and for his respective district, and the others in gradation according to the priority of nomination, and that any two of the said justices, in the absence of the other, shall be capable of holding a court, and exercising all the power and jurisdiction thereof, in as full and ample a manner as if all three were present, and any one of the said district justices, upon application made to him out of court, shall have power and authority to issue process by *capias ad respondendum*, summons, or attachment, for compelling the appearance and attendance of parties, or witnesses, respectively, in the said district court, to answer any suit, or to testify, which shall be made returnable before the said district court, at such days and times as the nature of the case and the ends of justice shall require, in the same manner and form as now legally used and practised by a single justice of the peace, in cases of which such single justice of the peace hath cognizance, or varied in such other manner and form as may substantially suit the action, plea, or purposes, and so as to bring all cases herein declared to be within the jurisdiction of the said district court, to trial and judgment; and if during any actual sitting of the said district court, it shall become necessary, or be required by either party, to summon any witness in a case then pending and on trial before the said district court, it shall be the duty of the chief justice, or in his absence, of the presiding justice, forthwith, to issue a summons for such witness, and if on the return of any

Two justices constitute a court.

Powers out of court to issue process.

Form.

Summoning witnesses during court.