

*General Assembly met, and it is hereby enacted by the authority of the*  
 Powers given to the county auditors. *same*, That the auditors of each and every county shall have the power to settle and adjust the public accounts of all such former or present commissioners and treasurers, respectively, as have not heretofore settled their public accounts.

SECT. II. *And be it further enacted by the authority aforesaid,*  
 Shall adjust the accounts of monies received by the sheriffs. That it shall be the duty of the auditors aforesaid to settle and adjust the account of all monies received by the sheriffs or coroners, agreeably to an act directing the mode of selecting and returning jurors; and such auditors shall have like powers and authority in settling such accounts, as they have in other cases; and on filing a copy of such settlement in the prothonotary's office, it shall be under the same laws, rules and regulations, and have the same operation and effect as the report of auditors against county treasurers,

SECT. III. *And be it further enacted by the authority aforesaid,*  
 Persons having monies arising from the sales of unseated lands authorized to pay them over to the county treasurer. That all persons who now are, or have been sheriffs, or county commissioners, and all persons who have heretofore been county treasurers, or the executors or administrators of any such persons aforesaid, having in their hands any monies, made out of the sales of unseated lands, and remaining in their hands, after the deduction of the taxes as aforesaid, are hereby authorized and required forthwith to pay them over to the county treasurer for the time being, who shall hold the same for the same uses and trusts as the said persons respectively did.

JOHN WEBER, *Speaker*  
*of the House of Representatives.*

P. C. LANE, *Speaker of the Senate.*

APPROVED—the twentieth day of March, one thousand eight hundred and ten.

SIMON SNYDER.

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## CHAPTER CXXXII.

*An ACT to amend and consolidate with its Supplements, the Act entitled "An act for the recovery of debts and demands, not exceeding one hundred dollars, before a Justice of the Peace, and for the election of Constables, and for other purposes.*

SECT. I. *BE it enacted by the Senate and House of Representatives of the Commonwealth of Pennsylvania, in General Assembly met, and it is hereby enacted by the authority of the*  
 Jurisdiction of justices of the peace to extend to demands not exceeding § 100. Real contracts and promises of marriage excepted. *same*, That the justices of the peace of the several counties of this commonwealth, shall have jurisdiction of all causes of action arising from contract, either express or implied, in all cases where the sum demanded is not above one hundred dollars; except in cases of real contract, where the title to lands or tenements may come in question, or action upon promise of marriage.

SECT. II. *And be it further enacted by the authority aforesaid,*

That the said justices are hereby respectively empowered and required, upon complaint being made to any of them touching any such demand as aforesaid, to issue a summons, if the party complained of be a freeholder; if not, either a summons or a warrant of arrest, directed to the constable of the township, ward or district, where the defendant usually resides, or can be found, or to the next constable most convenient to the defendant, if on a summons, commanding him to cause the said defendant to appear before the said justice on a certain day therein to be expressed, not more than eight, nor less than five days after the date of the summons; and the service on the defendant shall be by producing the original summons to, and informing him of the contents thereof, or leaving a copy of it at his dwelling-house, in the presence of one or more of his family or neighbours, at least four days before the time of hearing; but if on a warrant of arrest, forthwith on the service of the same: *Provided nevertheless,* That in all cases where a warrant or *capias* is issued against the person of a debtor, it shall and may be lawful for the proper constable of the township, ward, or district, to take bail for the appearance of the defendant before the justice from whom said warrant or *capias* may have been issued, in the following words: We A. B. and C. D. are held and firmly bound unto E. F. constable of \_\_\_\_\_ or order, in the sum of \_\_\_\_\_ on condition that the said A. B. shall be and appear before G. H. esquire, justice of the peace in the township of \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ to answer \_\_\_\_\_ in a plea \_\_\_\_\_ Witness our hands, the \_\_\_\_\_ day of \_\_\_\_\_

Summons to be issued.  
If the party be not a freeholder, either a summons or warrant.  
To be directed to the constable, &c.  
Appearance to be within eight days, &c.  
What shall be proof of the service of the summons.  
Constables may take bail for defendants appearance.  
Form of bail bond.

And if on the return of the said warrant or *capias*, the defendant shall not appear and enter bail, before the justice, in the nature of special bail, the constable may assign the obligation to the plaintiff, if he will accept the same, which obligation may be sued in the name of the plaintiff, as assignee of the said constable; but if the bail for the appearance, so taken by the constable, shall be insufficient, the constable shall be liable therefor, as sheriffs now are, to the plaintiff or plaintiffs, named in the warrant or *capias*, notwithstanding such assignment; but if the defendant shall appear and enter special bail, the justice may proceed to the final determination of the suit, according to law; and after judgment such bail shall be proceeded against by *scire facias*, and shall be liable in the same manner as special bail now is liable in cases in the courts of common pleas, and may surrender the principal to the jail of the proper county, within ten days after the service of the *scire facias*, in discharge of the bail; nevertheless the bail to the constable may enter sufficient special bail to the suit, or cause it to be entered, at the return of the warrant or *capias*, in discharge of the obligation, where the defendant

Which may be assigned to plaintiff on defendant's non-appearance.  
If the bail be insufficient the constable to be liable.  
Special bail to be entered on appearance.  
*Scire facias* may issue against bail.  
Who may surrender the principal to jail, &c.  
Bail may enter speci-

al bail to the  
suit. may neglect or refuse to appear; in which case the justice may proceed in the same manner as if the defendant had appeared.

If the de-  
mand be not  
above 5 dol-  
lars and 33  
cents, the  
judgment of  
the justice to  
be final.  
If above that  
sum &c. par-  
ties to  
choose re-  
ferrees.  
Number of.  
How quali-  
fied.

Compensa-  
tion to.  
Judgment  
on award of,  
to be final in  
a sum under  
20 dollars.  
Referrees to  
be notified.  
Penalty on  
refusing to  
serve.  
How reco-  
vered and  
appropriated

The action  
to be  
brought  
within 30  
days.

If the par-  
ties refuse  
to refer, the  
justice shall  
give judg-  
ment.

Appeal to be  
within 20  
days.

Appellant to  
notify the ad-  
verse party  
of the appeal

SECT. III. *And be it further enacted by the authority aforesaid,*

That if the parties appear before the justice, either in person or by agents, the justice shall proceed to hear their proofs and allegations; and if the demand shall not exceed five dollars and thirty-three cents, shall give judgment as to right and justice may belong, which judgment shall be final; but if the demand or sum in controversy shall be more than that sum, and shall not exceed one hundred dollars, and either party shall refuse to submit the determination of the cause to the justice, he shall, in that case, request them to choose referrees, one, two, or three, each, and mutually to agree on a third, fifth, or seventh man, all of whom shall be sworn or affirmed, well and truly to try all matters in variance between the parties, submitted to them; and on having heard their proofs and allegations, they, or a majority of them, shall make out an award under their hands, and transmit the same to such justice, who shall thereupon enter judgment for the sum awarded, and costs, and shall allow each of the said referrees fifty cents per day, for his service; which judgment so obtained, when not exceeding twenty dollars, shall be final and conclusive to both plaintiff and defendant, without further appeal; and it shall be the duty of the justice to notify, through a constable or some fit person, each of the referrees, so chosen, of their appointment, and of the time and place fixed for a hearing; and if any person so chosen and notified, as aforesaid, shall neglect or refuse to serve, he shall, for every such neglect or refusal, unless prevented by sickness or some other unavoidable cause, forfeit and pay the sum of two dollars, for the use of the poor, and where there are no poor, to be paid to the supervisors of the roads, to be applied by them in repairing the streets or public highways of the city or township in which such person or persons, so refusing or neglecting, shall reside, which fine shall be recovered before such justice of the peace, on complaint of the party injured, as other fines are by law recoverable: *Provided*, That an action be brought within thirty days after such neglect or refusal.

SECT. IV. *And be it further enacted by the authority aforesaid,*

That if either party or their agents, shall refuse to refer, the justice may proceed to hear and examine their proofs and allegations, and thereupon give judgment publicly, as to him of right may appear to belong, either party having the right to appeal within twenty days after judgment being given, either by the justice alone, or on award of referrees, when such award shall exceed the sum of twenty dollars. And if the parties are dismissed before an appeal is made, the justice shall, at the instance of the appellant, notify, through a constable or other fit person, the adverse party to appear before him on some day certain, and if the parties shall appear on the day appointed, it shall be in the

power of the justice, with consent of the parties or their agents, to open his judgement and give them another hearing; but if they will not agree to such rehearing, the party appellant shall be bound with surety in the nature of special bail, unless such party appellant be an executor or administrator body corporate or politic, in all or either of which cases the party appellant shall be entitled to the appeal without being bound with surety in the nature of special bail, whether the appellee shall appear or not, if the plaintiff in a sum sufficient to cover all the costs which have or may accrue, with four dollars as a council fee, and fifty cents per day for every day the appellee shall attend on such appeal, which the appellant shall be bound to pay, if the judgment of the justice shall be affirmed by the court, or if he shall recover less than the amount of the judgment of the justice, if the defendant be the appellant, he shall be bound with surety as aforesaid, in a sum sufficient to cover the sum in controversy, all the costs, council fee and daily pay, aforesaid, which he shall be bound to pay, if the judgment of the justice shall be affirmed by the court, or if the plaintiff shall recover more than the amount of the judgment of the justice; but on the reversal or abatement of the amount of a judgment on an appeal, the defendant, if the appellant shall be allowed his daily pay, council fee and costs, only in case he produces no evidence before the court other than that which he exhibited before the justice or referees; or in case of his having offered security as aforesaid, if he is not a freeholder, for his appearance on an after day, or being a freeholder was refused time to prepare or produce his proof, or in case of judgment against him by default, the plaintiff refused his consent to a rehearing, which costs shall be taxed by the court, and all which proceeding so had before the justice, shall be entered at large by him in a docket or book, to be kept by him for that purpose, in which he shall state the kind of evidence upon which the plaintiff's demand may be founded, whether upon bond, note, penal or single bill, writing obligatory, book debt, damages on assumption, or whatever it may be; and the whole proceeding in case of appeal shall be certified to the prothonotary of the proper county, who shall enter the same on his docket, and the suit shall from thence take grade with, and be subject to the same rules as other actions, where the parties are considered to be in court, and the costs accrued before the justice, shall await the event of the suit: *Provided always*, That if the party appellant shall enter bail to appeal within twenty days after judgment being given as aforesaid, such appeal shall be effectual, in case such party appellant shall file the transcript of the record of the justice, in the prothonotary's office, on or before the first day of the next term of the court of common pleas of the proper county; after entering such bail as aforesaid: *Provided*, That upon any such appeal from the decision, de-

A second hearing may be had.

Appellant to give security unless, &c. Of the costs of the appeal

Justice shall enter his proceedings in a docket. And in what manner.

Which proceedings shall be certified to the prothonotary Who shall enter the same.

When the transcript shall be filed

Cause to be tried on its merits only.

termination or order, of two justices of the peace, to the court of common pleas or court of quarter sessions, in any county, the cause shall be decided in such court on its facts and merits only; and no deficiency of form or substance in the record or proceedings returned, nor any mistake in the form or name of the action, shall prejudice either party in the court to which the appeal shall be made: *Provided further, nevertheless*, if any executor or administrator shall declare, before the justice, after judgment against him, that he has not sufficient assets to satisfy such judgment, it shall be the duty of the justice forthwith to transmit the record of his judgment to the prothonotary of the court of common pleas, to be entered on his docket; and the said court shall adjudge and decree thereon, and appoint auditors to a scertain and apportion the assets, according to law, as in other cases.

Proviso, where executors &c. plead a deficiency of assets.

Nature of the special bail to be taken by the justice.

SECT. V. *And be it further enacted by the authority aforesaid*, That the special bail directed to be taken by the justice in case of an appeal, shall be conditioned for the appearance of the party appealing at the next court of common pleas, to prosecute his suit with effect, and on failure thereof, that the bail will pay the debt and costs, if the appeal is made by the defendant, or the costs, if the appeal is made by the plaintiff, or that the bail will on or before the first day of the next term after judgment shall be rendered against the principal, surrender him to the jail of the proper county; on which surrender being so made, the bail shall be exonerated, but not otherwise, and a certified copy of such recognizance by the justice of the peace, shall be a sufficient authority for the special bail, or any person authorized by him, to take the principal, within this commonwealth, and to deliver him to the jail of the county wherein the proceedings were had, and the jailor and the sheriff are hereby directed, to receive him and keep such principal so surrendered, together with the bail-piece upon which the surrender was made, until he shall be discharged by law: and where no appeal shall be made from the justice, and the special bail do not surrender the body of the defendant to the jail of the county, for which he shall have authority as above directed, on or before the return day of the scire facias issued by the justice against such bail, and cannot shew sufficient cause why he should be exonerated, the justice shall enter judgment and issue execution without stay, against him for the same.

Of the bail piece. Proceedings upon.

If the principal be not surrendered judgment to issue against the bail.

If defendant does not appear, judgment to go by default. 20 days to be allowed for an appeal if defendant

SECT. VI. *And be it further enacted by the authority aforesaid*, That in case the defendant does not appear upon summons, on the day appointed, the justice may, on due proof, by oath or affirmation, of the service of the summons as aforementioned, proceed to give judgment by default publicly against such defendant, allowing twenty days as aforesaid for an appeal, where the defendant be a freeholder, before any further proceedings are had; but in case he is not a freeholder, the justice may then is-

sue an execution directed to a constable as aforesaid, who shall proceed as in other cases: but if the defendant, within twenty days after such judgment, shall enter special bail, and pay the costs accrued on the execution he shall then be entitled to an appeal or stay of execution, in the same manner as though the bail had been entered at the time of rendering such judgment; and in case the plaintiff does not appear, either in person or by agent, to substantiate his charge, the justice may then, or at such other day as he may judge reasonable, proceed to give judgment against him by non-suit for the costs, and fifty cents per day for the reasonable costs of the defendant, for his trouble in attending such suit.

be not a freeholder execution may issue immediately. Unless bail be entered. Stay of execution. If plaintiff does not appear, judgment to go by non-suit.

SECT. VII. *And be it further enacted by the authority aforesaid,* That a defendant who shall neglect or refuse in any case to set off his demand, whether founded upon bond, note penal, or single bill, writing obligatory, book account, or damages, on assumption, against a plaintiff, which shall not exceed the sum of one hundred dollars, before a justice of the peace, shall be and is hereby forever barred from recovering against the party plaintiff by any after suit: but in case of judgment by default, the defendant, if he has any account to set off against the plaintiff's demand, shall be entitled to a rehearing before the justice within thirty days, on proof being made, either on oath or affirmation of the defendant, or other satisfactory evidence, that the defendant was absent when the process was served and did not return home before the return day of such process, or that he was prevented by sickness of himself, or other unavoidable cause; and the justice shall have power to render judgment for the balance in favor of the plaintiff or defendant, as justice may require.

If defendant refuses to set off, he shall not afterwards recover. In case of judgment by default, defendant to have a rehearing within 30 days. Proceedings in

SECT. VIII. *And be it further enacted by the authority aforesaid,* That upon the affidavit of either party, or their agent, that the testimony of any material witness is wanted who resides out of the county, or from his infirmity of body or other causes cannot be obtained personally, the cause shall be postponed to a day certain, within such reasonable time as the distance of the witness, the season of the year, and the circumstance of the roads may render it proper to obtain the deposition of the witness wanted, and whenever a cause is postponed at the instance of the defendant, he shall enter into a recognizance for a sum sufficient to cover the demand in question, together with the costs, with one sufficient surety for his appearance on the day fixed as aforesaid, and whenever a rule for taking the deposition of a witness or witnesses shall be applied for, as aforesaid, the party so applying shall file a copy of the interrogatories or questions intended to be asked the witnesses, and a copy of such interrogatories or questions shall be delivered to the opposite party or his agent, who may also file such additional questions as he may think proper: *Provided,*

Proceedings to be had when a material witness resides out of the county, &c.

Interrogatories to be filed.

Within four days. The same be done within four days after the receipt of such copy, which rule and interrogatories being certified by the justice, before whom the cause is depending, shall be sufficient authority for the justice who may be named in said rule, to take the answers of such witnesses as may be therein named; but where the witnesses reside in the county, or in cases where the parties or their agents agree to enter a rule to take depositions, it may be done without filing interrogatories upon notice given agreeably to the rule, of the time and place appointed for the examination of the witness, and testimony so taken, shall be read in evidence on the trial before the justice or referrees.

SECT. IX. *And be it further enacted by the authority aforesaid,* That in all cases where the defendant is a freeholder, or enters special bail to the action, and the judgment rendered, shall be above five dollars and thirty-three cents, and not exceeding twenty dollars, there shall be a stay of execution for three months; and where the judgment shall be above twenty dollars, and not exceeding sixty dollars, there shall be a stay of six months; and where the judgment shall be above sixty dollars and not exceeding one hundred, there shall be a stay of execution for nine months.

SECT. X. *And be it further enacted by the authority aforesaid,* That the prothonotaries of the respective counties shall enter on their dockets, transcripts of judgments obtained before justices of the peace of their proper counties, without the agency of an attorney, for the fee of fifty cents, which transcripts the justices shall deliver to any person who may apply for the same, and which judgments from the time of such entries on the prothonotary's docket, shall bind the real estate of the defendants, but no fieri facias shall be issued by any prothonotary, until a certificate shall be first produced to him from the justice, before whom the original judgment was entered, stating therein, that an execution had issued to the proper constable as directed by this act, and a return thereon that no goods could be found sufficient to satisfy said demand, and any justice issuing an execution on a judgment removed as aforesaid, shall, on the plaintiff producing a receipt for the delivery of such transcript to the prothonotary of the county, to be entered of record, tax fifty cents upon such execution for the prothonotary's fees as aforesaid, and no judgment, whether obtained before a justice, or in any court of record within this commonwealth, shall deprive any person of his or her right as a freeholder longer or for any greater time, than such judgment shall remain unsatisfied, any law, usage or custom, to the contrary notwithstanding.

SECT. XI. *And be it further enacted by the authority aforesaid,* That every justice of the peace rendering judgment as

Within four days.

Of the examination of such witnesses.

Of the stay of execution.

Prothonotaries to enter transcripts without the agency of an attorney.

Fee allowed for such entries to be a lien.

When a fieri facias may thereon issue.

No judgment to defeat a freeholder's privilege longer than until it shall be satisfied.

The justice

aforesaid shall receive the amount of the judgment if offered by the defendant or his agent before execution, and pay the same over to the plaintiff or his agent when required; for which service he shall, if exceeding five dollars and thirty-three cents, be allowed twenty-five cents by the defendant, in addition to his usual fees, and if the said justice shall neglect or refuse to pay over on demand, the money so received, to the plaintiff or his agent, such neglect or refusal shall be a misdemeanor in office, and if the amount of the judgment is not paid to the justice as aforesaid, he shall grant execution, if required by the plaintiff or his agent, thereupon, if for a sum not exceeding five dollars and thirty-three cents, forthwith; and for any further sum, after the time limited for the stay of the same; which execution shall be directed to the constable of the ward, district or township where the defendant resides, or the next constable most convenient to the defendant, commanding him to levy the debt or demand, and costs, on the defendant's goods and chattels, and by virtue thereof, shall within the space of twenty days next following, expose the same to sale by public vendue, having given due notice of the same by at least three advertisements, put up at the most public places in his township, ward or district, returning the overplus, if any, to the defendant, and for want of sufficient distress, to take the body of such defendant into custody, and him or her convey to the common jail of the county, and the sheriff or keeper of such jail, is hereby directed to receive the person or persons so taken in execution, and him, her or them safely keep, until the sum recovered and interest thereon, accrued from the date of the judgment, together with costs, be fully paid, and in default of such keeping, to be liable to answer the damage to the party injured, as is by law provided, in case of escapes, or in case no goods and chattels can be found, and the defendant be possessed of lands or tenements, the plaintiff may waive imprisoning the defendant and proceed by a transcript to the prothonotary aforesaid: *Provided nevertheless,* That executions against executors or administrators shall only be for the assets of the deceased.

SECT. XII. *And be it further enacted by the authority aforesaid,* That on the delivery of an execution to any constable, an account shall be stated in the docket of the justice. And also on the back of the execution, of the debt, interest and costs, from which the said constable shall not be discharged but by producing to the justice, on or before the return day of the execution, the receipt of the plaintiff or such other return as may be sufficient in law, and in case of a false return, or in case he does not produce the plaintiff's receipt on the return day, or make such other return as may be deemed sufficient by the justice, he shall issue a summons, directed for service to a constable, or to some other fit person, who shall consent to

to receive the amount of the judgment before execution if offered. Fee to be allowed for.

Penalty on the justice's refusal to pay over the money. When execution shall be issued.

Proceedings under.

Overplus to be returned to defendant.

For want of goods defendant may be imprisoned.

Plaintiff may waive the imprisonment and proceed by a transcript, &c.

Account to be stated in the docket, and on the execution.

What shall be a discharge to the constable.

Of process against the constable.



Penalty on persons neglecting to serve the same.

serve the same, and having so consented, by accepting of such process, shall be bound to execute the same, under a penalty of twenty dollars, to be recovered as other fines are recoverable by this act, but should not a constable or other fit person conveniently be found to serve the process as aforesaid, the justice shall direct it to a supervisor of the highways of the township, ward or district where such constable resides, whose duty it shall be to serve the same under the penalty aforesaid, commanding the said constable to appear before him on such day as shall be mentioned in the said summons, not exceeding eight days from the date thereof, and then and there shew cause why an execution should not issue against him for the amount of the first abovementioned execution, and if the said constable either neglects to appear on the day mentioned in such summons, or does not shew sufficient cause why the execution should not issue against him, then the justice shall enter judgment against such constable for the amount of the first abovementioned execution, together with costs, on which judgment there shall be no stay of execution, and upon application of the plaintiff or his agent, the said justice shall issue an execution against the constable for the amount of such judgment, which execution may be directed to any constable of the county, or other fit person accepting thereof, or to a supervisor as aforesaid, whose duty it shall be to execute the same: *Provided always*, That nothing in this act contained shall in any manner impair or alter the proceeding as heretofore established, with regard to insolvent debtors, and their discharge on a full surrender of their property.

Appearance to be within eight days. In case said constable does not appear &c. execution to issue without stay.

Who may serve the same.

This act not to affect insolvent debtors.

Upon bonds &c. where stay of execution is waved, the justice may issue execution on rendering judgment.

Where judgment goes by default, defendant to have a rehearing within 20 days.

Justices may by consent of parties take cognizance of demands exceeding \$ 100.

SECT. XIII. *And be it further enacted by the authority aforesaid*, That in all bonds, bills or notes, wherein, by a special provision in writing for that purpose, is waved the stay of execution given by this act, any justice may, on application to him made, after such bond, bill or note becomes due, issue a summons or capias, as the case may be, and proceed to hear and determine the same as in other cases, and on judgment being rendered in favour of the plaintiff, he shall or may issue execution thereon without stay, nevertheless, that in case of judgments by default, the defendant shall at any time within twenty days thereafter, be entitled to a rehearing or appeal, agreeably to the provisions of the sixth and seventh sections of this act, although execution may have issued.

SECT. XIV. *And be it further enacted by the authority aforesaid*, That any justice of the peace shall take cognizance of any matter or thing made so by this act, for any sum exceeding one hundred dollars, if the parties voluntarily appear before him for that purpose, and shall proceed for the recovery thereof by entering judgment, if confessed, or if submitted to him, by reference; but no execution shall issue before the expiration of

one year from the date of such judgment, if the party defendant be a freeholder, or shall have entered special bail, and such judgments shall be prosecuted to recovery, as other judgments by this act are made recoverable. But if it shall afterwards appear, by due proof on oath or affirmation, that there is just cause to believe that any such judgment was confessed for the purpose, and with a view to defraud just creditors, it shall be the duty of the justice to transmit a certified transcript of his proceeding to the prothonotary of the proper county, who shall file the same for adjudication of the court of common pleas, whose judgment thereon shall be final; and if on trial of the merits of the cause, it shall be found that the sum for which judgment was confessed, was not actually due at the time, both parties, if both shall have been privy to the fraud, shall each pay a fine equal to the amount of such fraudulent judgment. And also pay the reasonable costs and expences of the party prosecuting, or in any case of inability to pay such fine and costs, shall be imprisoned for any time not exceeding six months; but if it shall appear on such trial that the judgment was just, the party prosecuting shall pay all the costs of suit, and the reasonable costs of the parties to such judgment.

But no execution to sue in such case, under one year. When such judgment is confessed through fraud, &c. a transcript thereof must be certified to the prothonotary. Which shall be adjudicated in the court of common pleas. And if fraud appears, the parties to be fined, &c. But if not, the prosecutor to pay the costs.

SECT. XV. *And be it further enacted by the authority aforesaid,* That any person or persons who shall not within thirty days after written notice to him, her, or them, given of the payment of any judgment, together with costs, in his, her or their favour, before any justice of the peace, either by themselves or their agents, enter satisfaction on the docket or execution of the justice, they shall be subject to a penalty of one-fourth of the amount of the debt paid, for the use of the party aggrieved, except where one of the defendants, if there be more than one, shall, by a writing to be filed by him in the office of such justice, within fifteen days after the payment, forbid the plaintiff so to do.

Creditors to enter satisfaction.

Penalty for neglect, &c.

SECT. XVI. *And be it further enacted by the authority aforesaid,* That it shall be the duty of each and every justice of the peace, in case of his resignation, or removal from office, and of his legal representatives, in case of the death of such justice of the peace, to deliver his docket, together with all the notes, bonds, accounts and papers in his possession, touching any judgment or suit entered thereon, to the nearest justice of the county: *Provided always,* That if any justice having resigned, or been removed, or the legal representatives of a deceased justice, shall choose to retain the said docket, he or they shall, on demand, deliver a certified transcript of any judgment, or proceedings in any suit therein, to the party or parties interested; under the penalty of one hundred dollars; to be recovered by the party aggrieved, in the same manner as debts of that amount are by law recoverable; and the justice of the peace to whom the said docket or transcript shall be delivered, shall issue process, and pro-

The docket of a deceased, &c. justice of the peace, to be delivered to the nearest magistrate. *Provido,* where the legal representatives choose to retain it.

ceed thereon in the same manner, and with the like effect, as the said justice so having died, resigned, or having been removed, might have done if he had remained in office.

Transcript from such docket to be granted for the recovery of debts in other counties.

Fee allowed for.

Stay of execution to run from the original entry.

Constable to endorse the goods levied, on the execution.

Said levy to be a lien for twenty days.

Form of bail bond for the delivery of goods levied on.

Proceedings where the goods are not returned, nor the money paid.

An alias execution may issue when the lien has expired.

Constables to be liable for the sufficiency of the bail.

SECT. XVII. *And be it further enacted by the authority aforesaid,* That if the party defendant shall not reside in the county where a judgment is had against him before a justice of the peace, the person in possession of the docket in which such judgment may be entered, on application to him made by the plaintiff or his agent, shall make out, certify, and deliver to such applicant, a transcript thereof; and also deliver all evidence in his possession connected therewith, for the fee of twenty-five cents, for the recovery of the amount thereof, with costs, before any justice of the peace in any county where the defendant may reside or can be found, as in cases originally brought before him; and the stay of the execution shall be counted from the original entry.

SECT. XVIII. *And be it further enacted by the authority aforesaid,* That in all cases where a constable levies on execution issued from a justice of the peace, he shall endorse the goods or chattels so levied on the execution, or a schedule thereto annexed, which levy shall be a lien on such chattels for twenty days after levying the same, and no longer: and the constable making such levy is hereby authorized and empowered to take a bail bond in the following or like words: viz. We A. B. and C. D. or either of us, are held and firmly bound unto E. F. constable, in the sum of \_\_\_\_\_ upon condition that the said A. B. shall deliver unto E. F. aforesaid, the following goods and chattels \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_ at the house of \_\_\_\_\_ which is taken in execution at the suit of G. H. against A. B. or pay the amount of the said execution, with costs. Witness our hands and seals this \_\_\_\_\_ day of \_\_\_\_\_

But if the said defendant shall not deliver the chattels so specified in such bond, or pay the amount of such execution, the constable may then proceed to the sale of such goods or chattels so levied: *Provided,* The lien created by such levy be not expired; but should the lien be expired, the justice may issue an alias execution, which may be proceeded on as aforesaid, or the constable taking such bond may assign it to the plaintiff, who may recover the same before any justice of the peace, without stay of execution; *Provided always,* That any constable taking such bail shall be accountable to the plaintiff for the sufficiency thereof, notwithstanding such assignment.

SECT. XIX. *And be it further enacted by the authority aforesaid,* That any constable who has or may hereafter give security agreeably to law, for the faithful performance of the duties of his office, and afterwards on neglecting or refusing to perform such duties, shall have judgment entered against him for such neglect or refusal, and on being prosecuted for the recovery of

such judgment, becomes insolvent, abandons his country, or from any other reason it becomes impracticable for such judgment or judgments to be recovered from such constable as aforesaid; or where a constable makes such default and abandons his country before judgments are had against him, then, and in such cases only, the justice before whom the judgment or judgments stands unpaid, shall be and is hereby authorized and empowered to issue a scire facias, and proceed against such bail for the recovery of judgments had as aforesaid, in the manner that constables are now sueable; saving only the right of appeal to such sureties.

When a constable absconds or becomes insolvent, a scire facias may issue against his sureties.

Appeal allowed.

SECT. XX. *And be it further enacted by the authority aforesaid,* That the powers of justices of the peace shall extend to all cases of rent not exceeding one hundred dollars, so far as to compel the landlord to defalcate or set off the just account of the tenant out of the same; but the landlord may waive further proceedings before the justice, and pursue the method of distress in the usual manner, for the balance so settled; but if any landlord shall be convicted, after such waiver in any court of record, of distraining for, and selling more than to the amount of such balance, and of detaining the surplus in his hands, he shall forfeit to the tenant four times the amount of the sum detained: *Provided,* That no appeal shall lie in the case of rent, but the remedy by replevin shall remain as heretofore.

Powers of justices to extend to cases of rent, &c. Landlords may distrain. Penalty on the landlord for taking excessive distress, &c. Proviso.

SECT. XXI. *And be it further enacted by the authority aforesaid,* That no judge of any court within this commonwealth, shall allow any writ of certiorari to remove the proceeding had in any trial before a justice of the peace, until the party applying for such writ, shall declare on oath or affirmation before such judge, that it is not for the purpose of delay, but that in the opinion of the party applying for the same, the cause of action was not cognizable before a justice, or that the proceedings proposed to be removed are, to the best of his knowledge, unjust and illegal, and if not removed, will oblige the said applicant to pay more money, or to receive less from his opponent, than is justly due; a copy of which affidavit shall be filed in the prothonotary's office: *Provided,* That no judgment shall be set aside in pursuance of a writ of certiorari, unless the same is issued within twenty days after judgment was rendered, and served within five days thereafter: and no execution shall be set aside in pursuance of the writ aforesaid, unless the said writ is issued and served within twenty days after the execution issued.

No certiorari to issue until the applicant make oath, &c.

Certiorari to be issued within twenty days. When to be served. Said writ not to affect any execution unless issued within twenty days.

SECT. XXII. *And be it further enacted by the authority aforesaid,* That in all cases, either party shall have the privilege of removing the cause by writ of certiorari from before any justice, whose duty it shall be to certify the whole proceeding had before him, by sending the original precepts, a copy of the judgment and execution or executions, if any be issued: *Provided always:* That the proceedings of a justice of the peace shall not be set

Proceedings on certiorari.

No proceedings of a jus

tice to be set aside for want of form. **And execution.** **Cause to be cognizable before a justice.** **Justice to give a copy of his proceedings when called on.** **No certiorari out of the supreme court, to be available; &c.**

aside or reversed on certiorari for want of formality in the same, if it shall appear on the face thereof that the defendant confessed a judgment for any sum within the jurisdiction of a justice of the peace, or that a precept issued in the name of the commonwealth of Pennsylvania, requiring the defendant to appear before the justice on some day certain, or directing the constable to bring the defendant or defendants forthwith before him, agreeably to the provisions and directions contained in this act, and that the said constable having served the said precept, judgment was rendered on the day fixed in the precept, or on some other day to which the cause was postponed by the justice, with the knowledge of the parties: and that no execution issued by a justice shall be set aside for informality, if it shall appear on the face of the same, that it issued in the name of the commonwealth of Pennsylvania, after the expiration of the proper period of time, and for the sum for which judgment had been rendered, together with interest thereon and costs, and a day mentioned on which return is to be made by the constable, and that the cause of action shall have been cognizable before a justice of the peace; and that the judgment of the court of common pleas shall be final on all proceedings removed as aforesaid, by the said court, and no writ of error shall issue thereon.

**SECT. XXIII.** *And be it further enacted by the authority aforesaid,* That it shall be the duty of the justice, on demand, made either by the plaintiff or defendant, to make out a copy of his proceedings at large, and deliver the said copy duly certified by him, to the party requiring the same; and if on such demand, he shall refuse so to do, it shall be deemed a misdemeanor in office.

**SECT. XXIV.** *And be it further enacted by the authority aforesaid,* That no writ of certiorari issued by or out of the supreme court, to any justice of the peace, in any civil suit or action, shall be available to remove the proceedings had before such justice of the peace.

**SECT. XXV.** *And be it further enacted by the authority aforesaid,* That in all cases where the proceeding of a justice of the peace shall be removed by certiorari at the instance of the plaintiff, and the same be set aside by the court, and on a second trial being had before the same or any other justice of the peace, if judgment shall not be obtained for a sum equal to or greater than the original judgment which was set aside by the court, he shall pay all costs accrued on the second trial before the justice of the peace, as well as those which accrued at the court before whom the proceedings have been set aside, including any fees which the defendant may have given any attorney, not exceeding four dollars, in such trial, together with fifty cents per day to the said defendant, while attending on the said court in defence of the proceedings of the said justice of the peace; and in cases where the proceeding of any justice of the peace shall be remo-

**Of costs where the proceedings of a justice have been removed, and a second judgment awarded, similar to the first.**

ved at the instance of the defendant, and be set aside by the court, and it shall appear that he attended the trial before the justice, or had legal notice to attend the same, and on a final trial being had as aforesaid, the plaintiff shall obtain judgment for a sum equal to or greater than the original judgment which was set aside by the court, he shall pay all costs accrued on the second trial before the justice of the peace, as well as those which accrued at the court before whom the proceedings have been set aside, including any fees which the plaintiff may have given to any attorney, not exceeding four dollars, to defend the proceedings of the justice, together with fifty cents per day, while attending at court on the same, which costs shall be recovered before any justice of the peace, in the same manner as sums of a similar amount are recoverable: and in such cases the legal stay of execution shall be counted from the date of the original judgment rendered by the justice of the peace, and the court shall, at the term to which the proceedings of justices of the peace are returnable in pursuance of writs of certiorari, determine and decide thereon.

Stay of execution to be counted from the original judgment.

SECT. XXVI. *And be it further enacted by the authority aforesaid,* That if any person or persons shall commence, sue, or prosecute any suit or suits, for any debt or debts, demand or demands, made cognizable as aforesaid, in any other manner than is directed by this act, and shall obtain a verdict or judgment therein, which, without costs of suit, shall not amount to more than one hundred dollars, not having caused an oath or affirmation to be made before the obtaining of the writ of summons, or *capias*, and having filed the same in the prothonotary's office of such county, that he, she, or they so making oath or affirmation, did truly believe the debt due, or damages sustained, exceeding the sum of one hundred dollars, he, she, or they, so prosecuting, shall not recover costs in such suit, any law, usage or custom, to the contrary notwithstanding.

Persons bringing suits other than as herein directed not to recover costs.

Unless an oath be first made, &c.

SECT. XXVII. Whereas doubts have been entertained with respect to the mode of recovering the forfeitures and penalties prescribed by the following acts, passed in the year one thousand seven hundred, *to wit*: "An act against forcible entry," "An act against removing land marks," and "An act against defacing of charters," Therefore, *Be it enacted by the authority aforesaid,* That in all cases arising under the said acts, where the penalty is fixed, and the court not mentioned in which such penalties shall be recoverable, the same shall be prosecuted in the court of quarter sessions of the county where the offence is committed, and warrants shall and may be issued by the justices of the peace respectively, to oblige the offender or offenders to find surety for his, her, or their appearance at the said court, and to be of good behaviour in the mean time, if necessary, and in de-

Certain penalties to be recovered in the courts of quarter sessions.

Surety &c. to be required.

fault of such surety, to commit him, her, or them to the jail of such county, to be dealt with according to law.

**SECT. XXVIII.** *And be it further enacted by the authority aforesaid,* That the like jurisdictions and authorities vested by this act in the justices of the peace within this commonwealth, shall be, and they are hereby vested in each and every of the aldermen appointed within the city of Philadelphia, who shall in all cases, exercise all such powers, within the said city; which any justice of the peace may exercise within any county in this state, and shall be entitled to like fees, and in all cases shall be under and subject to such limitations, restrictions and provisions, as justices of the peace are in like circumstances, subjected to by this act.

**SECT. XXIX.** *And be it further enacted by the authority aforesaid,* That the electors of each county, town, township, ward or district, which now is, or hereafter shall be in any of the counties within this commonwealth, shall annually, on the same day, and at the same place where they meet to choose supervisors of the highways, elect two reputable citizens in said township, ward or district, and return the names of the persons so elected, to the next court of quarter sessions of the proper county, and the said court shall appoint one of them to be constable for the township, ward or district for which he was chosen, for one year from and after the time of his appointment, if it should appear to the satisfaction of the court that he possesses a freehold estate in his own right, clear of all incumbrances, of the value of one thousand dollars; or if he does not possess a freehold estate as aforesaid, he may be appointed, if he shall become bound in an obligation to that amount, with at least one sufficient security, to be approved of by the court of quarter sessions, to be taken in the name of the commonwealth, by the clerk of the said court, for the just and faithful discharge of his said office, for which service said clerk shall receive no fee; and said obligation shall be held in trust for the use and benefit of all persons who may sustain injury from him in his official capacity, by reason of neglect of duty, and for the like purposes and uses as sheriffs' bonds are usually given; but if he does not possess a freehold estate as aforesaid, or enter the security as above required or possessing a freehold as aforesaid and refuses to take upon himself the office of constable, or if the electors in any township, ward or district, shall neglect or refuse to return two citizens for the said office, as aforesaid, then and in either case, the court shall appoint another proper person, possessing a freehold estate of the value aforesaid, or who will give the security required, to serve as constable; and every person elected or appointed, or who shall be appointed by the court, and who may possess a freehold estate of the value abovementioned, and shall refuse or neglect to take upon himself the office of constable, or shall not procure a deputy to undertake the duties of said office, for whose conduct in the same he shall be responsible, shall be fined by the court in the sum of forty dol-

The jurisdiction of aldermen made similar to that of justices of the peace.

Two persons in each township &c. to be elected annually, as constables.

One of whom shall be appointed by the court of quarter sessions.

Must have a freehold of one thousand dollars, or give security to that amount.

Surety to be approved by the court.

No fee to be allowed for.

Such obligation to be in trust for such as may be injured, &c.

Penalty for refusing to serve.

lars: *Provided nevertheless*, That the said court shall, in all cases, give a preference to the person highest on the return, provided he can give the requisite security: and no person shall be permitted to serve as constable more than three years in any term of six years: and also, that no person shall be compelled to serve as constable more than once in every fifteen years in the same township, ward or district, excepting in the township of Tinnicum, in the county of Delaware; and that in procuring a deputy to discharge the duties of said office, or paying the penalty aforesaid, shall be considered equal to personal services: *Provided*, That nothing contained in this act shall be so construed as to interfere with any laws now in force respecting the city of Philadelphia, the township of the Northern Liberties and district of Southwark, or the township of Germantown, relating to the election of constables: *And provided also*, That the security to be given under the acts now in force for the appointment and regulation of constables, in the township of the Northern Liberties and the district of Southwark, and the township of Germantown, be, and the same is hereby increased to one thousand dollars, any law or laws to the contrary notwithstanding.

SECT. XXX. *And be it further enacted by the authority aforesaid*, That an act entitled "An act for better determining debts and demands under forty shillings, and laying aside the two weeks courts in the city of Philadelphia," passed May twenty-eighth, one thousand seven hundred and fifteen, and an act entitled "An act for the more easy and speedy recovery of small debts," passed March first, one thousand seven hundred and forty-five, and an act entitled "An act to enlarge the summary jurisdiction of the justices of the peace in actions of debt or demand, to sums not exceeding ten pounds," and to repeal an act entitled "A supplement to an act for the more easy and speedy recovery of small debts," passed April eighth, one thousand seven hundred and eighty-five, and an act entitled "An act to extend the powers of the justices of the peace in this state," passed April nineteenth, one thousand seven hundred and ninety-four, and "An act to continue in force for a limited time, the act entitled "An act to extend the powers of the justices of the peace in this state, and for other purposes therein mentioned," passed April fourth, one thousand seven hundred and ninety eight, and so much of the act entitled "An act to incorporate the city of Philadelphia," passed the eleventh day of March, one thousand seven hundred and eighty nine, as establishes the aldermen's court in the said city, or of any other act or acts as recognizes, regulates or extends the powers or jurisdiction of said court," and an act entitled "An act for recovery of debts and demands not exceeding

Preference to be given to the highest in votes.

Term of service.

No person to be compelled to serve more than once in fifteen years, &c.

This law not to effect the city and part of the county of Philadelphia. Security &c. to be given in the districts of Southwark and Germantown, increased.

Certain former laws repealed.



one hundred dollars, before a justice of the peace, and for the election of constables, and for other purposes," passed the twenty-seventh day of March, one thousand eight hundred and four, and an act entitled "An act to regulate the proceedings on certiorari, and for other purposes," passed the twenty-first of March, one thousand eight hundred and six, and an act entitled "A supplement to, and making perpetual, an act entitled "An act for the recovery of debts and demands not exceeding one hundred dollars before a justice of the peace, and for the election of constables, and for other purposes," be, and the same are hereby repealed.

Certain judgments recovered against executors, administrators, or bodies politic, declared valid.

SECT. XXXI. *And be it further enacted by the authority aforesaid,* That all judgments which may heretofore have been rendered against any executors or administrators of any deceased person, or bodies politic and corporate, before any justice of the peace, within any of the counties of this commonwealth, or alderman of the city of Philadelphia, agreeably to the provisions of the act entitled "An act for the recovery of debts and demands not exceeding one hundred dollars, before a justice of the peace, and for the election of constables, and for other purposes," and its supplements, shall be as good and valid in law, and be prosecuted to the recovery thereof as effectually, and to all intents and purposes, as though the said law had given justices jurisdiction in express terms.

The certiorari act extended to the first day of May next.

SECT. XXXII. *And be it further enacted by the authority aforesaid,* That the act entitled "An act to regulate the proceedings on certiorari, and for other purposes," passed the twenty-first day of March, one thousand eight hundred and six, is hereby continued in force until the first day of May next and no longer; and from and after the said first day of May, this act shall be in force.

This and the act to regulate arbitrations, &c. to be printed in certain newspapers.

SECT. XXXIII. *And be it further enacted by the authority aforesaid,* That this act, together with the act entitled "An act to regulate arbitrations," passed in the present session, be published in such newspapers in this commonwealth as the governor shall direct, on or before the fifteenth day of April next, and the expence thereof shall be paid out of any unappropriated money in the treasury, in the usual manner.

*above act does not repeal  
the following 1772 and 1799  
act. p. 198 and 200.  
et of Jan'y 1804 see volk.*

JOHN WEBER, *Speaker*  
of the House of Representatives.

P. C. LANE, *Speaker of the Senate.*

APPROVED—the twentieth day of March, one thousand eight hundred and ten.

SIMON SNYDER.