

No. 63.

An Act

To establish the District Court for the city and county of Philadelphia.

SECTION 1. *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 same,* That from and after the thirtieth day of March, one thousand eight hundred and thirty-five, there shall be a court of record established in and for the city and county of Philadelphia, by the name and style of "The District Court for the city and county of Philadelphia," which shall consist of three judges, learned in the law, one of whom shall be president, who shall have and exercise the same authority, power and jurisdiction, and be subject to the same duties, and governed by the same provisions, as are enacted by the act entitled An act to provide for the erection of an additional court within the city and county of Philadelphia, passed the thirtieth day of March, one thousand eight hundred and eleven, and the supplement to the said act, passed the third day of March, one thousand eight hundred and twelve; and so much of the said last two mentioned acts as are not inconsistent with this act, are hereby revived and continued in force from and after the said thirtieth day of March, one thousand eight hundred and thirty-five: *Provided,* That the first Monday in each and every month shall be a day for the return of writs of summons, (except summons in partition,) of writs of *capias ad respondendum*, *scire facias*, of *replevin*, of attachment of vessels, under the act of seventeenth of March, one thousand seven hundred and eighty-four, writs of inquiry of damages, and executions issued from said court; and such writs shall be directed to be returned to either of the said monthly return days which may happen before the next term, or to the first return day of the next term, at the option of the party taking out the same; and in all suits instituted in said court, where returns are directed to be made to a monthly return day, the party may, after such returns of writs of summons and *capias*, *scire facias*, *replevin*, attachment and inquiry, file declarations and other pleadings, put causes to issue and have them tried, and do all other matters and things in the prosecution of suits that might be done if the said writs were returned on the first return day of any term of said court: *And provided also,* That it shall be the duty of the said court to make such rules and regulations respecting proceedings against bail, as will prevent bail from being fixed in any case sooner than if the above proviso relative to return days had not been enacted: *And provided, also,* That the stay of execution allowed by the seventh section of the act entitled An act to regulate arbitrations and proceed-

Court
constituted.

Proviso.
Fir't Monday
of every
month a re-
turn day, &c.

2d Proviso.
Of bail.

3d Proviso.
Stay of
execution.

ings in courts of justice," passed the twenty-first day of March, one thousand eight hundred and six, shall count from the return day to which the original process issued was returnable.

SECTION 2. In all actions instituted in the said court on bills, Judgments notes, bonds or other instruments of writing, for the payment of by default. money, and for the recovery of book debts, in all actions of scire facias, on judgments and on liens of mechanics and material, men under the act of seventeenth March, one thousand eight hundred and six, and the various supplements thereto; it shall be lawful for the plaintiff, on or at any time after the third Saturday succeeding the several return days hereinbefore designated, on motion, to enter a judgment by default, notwithstanding an appearance by attorney, unless the defendant shall previously have filed an affidavit of defence, stating therein the nature and character of the same: *Provided*, That in all such cases no judgment shall be entered by virtue of this section, unless the said plaintiff shall, within two weeks after the return of the original process, file in the office of the prothonotary of the court hereby erected, a copy of the instrument of writing, book entries, record or claim, on which action has been brought.

Proviso.

SECTION 3. So much of the act of twentieth March, one thousand eight hundred and ten, entitled An act regulating arbitrations, as provides for the compulsory reference of civil suits or actions, and regulates the proceedings thereon, be repealed, so far as relates to the court hereby created and actions to be brought therein: *Provided*, That nothing herein contained shall be construed to affect the application of the said act to the other courts of this Commonwealth.

Arbitration act of 1810 repealed as regards this court.

SECTION 4. From and after the thirtieth day of March, one thousand eight hundred and thirty-five, all actions, matters and things depending in the present District Court for the city and county of Philadelphia, and all process issued from and returnable thereto, shall be transferred to and proceeded in by the court established by this act, and shall have the same effect in law as if there had been no limitation to the present court; and the Governor shall, on or before the thirtieth day of March, one thousand eight hundred and thirty-five, appoint and commission three persons, learned in the law, to be judges of the court established by this act; and it shall be the duty of the said judges to meet on the thirtieth day of March, one thousand eight hundred and thirty-five, or as soon thereafter as possible, and proceed in the business of the court; and the judges of the present District Court for the city and county of Philadelphia, are hereby enjoined and required to order the arrangement of business for the March term, and direct venires to issue for summoning the requisite number of panels of jurors to attend at said term of the court established by this act, agreeably to the provisions of the second section of the act entitled A supplement to An act to provide for the erection of an additional court within

Process, &c. by the pres'nt court continued.

Governor to appoint three Judges, &c.

the city and county of Philadelphia, passed the third day of March, one thousand eight hundred and twelve.

Jurisdiction,
power and
duties, by the
judges, &c.

SECTION 5. Any one of the judges of the court hereby established, shall have power to try all civil pleas and actions, real, personal and mixed, and to grant motions; and for these purposes shall have and exercise the same powers, authority and jurisdiction, as are hereby vested in the said court; and it shall be the duty of at least two of the said judges to sit separately, at the same time, for the trial of causes, and the prothonotary of the said court shall appoint competent clerks to attend at said trials, when not present in person; and whenever it shall so happen that all of the said judges are not sitting at the same time, either separately or together, questions of bail, and other matters requiring early attention, (to the decision of which a single judge is by the foregoing provisions or ordinary practice competent,) shall not be permitted to interfere with jury trials, but shall be heard and disposed of by such one or more of the said judges as may not be then sitting for the trial of causes as aforesaid; that it shall be lawful for any one of the said judges, when he thinks it expedient, to reserve questions of law, which may arise on the trial of a cause, for the consideration and judgment of all the judges of said court sitting together: *Provided*, That either party shall have the right to a bill of exceptions to the opinion of the court, as if the point had been ruled and decided on the trial of the cause.

Proviso.

Juries.

SECTION 6. It shall be the duty of the said court, to cause writs of venire facias to issue for summoning the requisite number of jurors, to be drawn in the manner now prescribed by law, to attend before each of the said judges, for trial of said causes, and each of the said judges shall have power to fine the said jurors for non-attendance, and while sitting for the trial of causes, shall have the same power and authority that is now possessed by the District Court for the city and county of Philadelphia, and the seal heretofore used by the District Court for the city and county of Philadelphia, shall be the seal of the court established by this act.

Prothonotary

SECTION 7. There shall be a prothonotary appointed by the Governor, for the said court, who shall perform all the duties of a prothonotary, and shall be entitled to receive like fees as other prothonotaries are entitled by law to receive, for similar services, and be subject to the like account to the Commonwealth, and give the like security as the prothonotary of the court of Common Pleas of the county of Philadelphia is required by law to give, for the due performance of the duties of his office; and it shall and may be lawful for the prothonotary, under the sanction of the court, to appoint one or more discreet persons as commissioners of bail, who are hereby empowered to take and receive recognizances of bail in any suit or action in the said court, and to administer oaths and affirmations in case of the

absence or sickness of the prothonotary, in the same manner as if the prothonotary was present.

SECTION 8. The motions for new trials, and in arrest of judgment, and questions on reserved points, which may be made and sustained before any one of the judges of the said District Court, shall be reserved by the said judges, and heard and decided by the three judges of the said court, or any two of them, sitting together for that purpose. Questions to be reserved for the three judges.

SECTION 9. Each of the judges of the court hereby established, shall have power to take and receive the acknowledgement or proof of all deeds, conveyances, mortgages or other instruments of writing, touching or concerning any lands, tenements, or hereditaments, situate, lying, and being in any part of this State, and also, power to take and receive the separate examination of any feme covert, touching or concerning her right of dower, or the conveyance of her estate, as fully, to all intents and purposes whatsoever, as any president of any court of Common Pleas within this Commonwealth may or can do. Each judge may take acknowledgement of deeds, &c.

SECTION 10. The commissioners of the county of Philadelphia, shall provide proper and suitable apartments, in which the trials and business in the said District Court shall be had and conducted, as provided by this act. County commissioners to provide apartments.

SECTION 11. The tenth and eleventh sections of the act entitled "An act to establish the District Court for the city and county of Philadelphia, and for other purposes," passed on the twenty-sixth day of March, one thousand eight hundred and thirty-two, be, and the same are hereby continued in full force. 10th and 11th sections of act of 1832 continued.

SECTION 12. The judges of the court established by this act, shall severally receive a yearly compensation of two thousand dollars, to commence from the thirtieth day of March, one thousand eight hundred and thirty-five, payable quarterly, out of any moneys in the treasury not otherwise appropriated. Compensation of judges.

SECTION 13. This act shall continue in force for the term of ten years, from the thirtieth day of March, one thousand eight hundred and thirty-five, and no longer. Court to continue for 10 years.

SECTION 14. All process issued on or before the thirtieth day of March, one thousand eight hundred and thirty-five, from the present District Court for the city and county of Philadelphia, and made returnable after the thirtieth day of March, one thousand eight hundred and thirty-five, shall have the same effect in law, as if there had been no limitation to the present court. Of process returnable after 30th March, 1835

JAMES THOMPSON,
Speaker of the House of Representatives.

JACOB KERN,
Speaker of the Senate.

APPROVED—The twenty-eighth day of March, one thousand eight hundred and thirty-five.

GEO: WOLF.