

## No. 64.

## AN ACT

To establish a District Court in the counties of Erie, Crawford, and Venango.

- Preamble** WHEREAS, The courts of common pleas of the sixth judicial district, owing to the various objects of their jurisdiction, and the rapid accumulation of business, are inadequate to administer speedy justice to the citizens of that district.
- Therefore,
- District court established** 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 there shall be established for the counties of Erie, Crawford, and Venango, a court of record which shall have concurrent jurisdiction in all civil suits, matters, or cases with the courts of common pleas of said counties, wherein the amount, or matter in controversy, shall exceed the sum of one hundred dollars, and in all actions of ejectment or of trespass, where the title to land may come in question, and for the trial of all actions, suits, pleas, or other business, shall have, and exercise the same powers, authorities, and jurisdictions, now vested by law in the court of common pleas, or of the district court of the city and county of Philadelphia.
- President judge to be appointed** SECTION 2. That as soon as conveniently may be after the passage of this act, the governor shall appoint a president judge of said court, who shall receive a yearly salary of not less than sixteen hundred dollars, payable quarterly out of the state treasury, whose duty it shall be to hold the said court, in each of the said counties, in manner following, that is to say: In the county of Erie, four terms in each year, by the name and style of "The District Court of Erie county," to begin on the first Mondays in January, April, September, and December. In the county of Crawford, four terms in each year, by the name and style of "The District Court of Crawford county," to begin on the third Mondays of January and April, and the first Monday in October and second Monday in December. In the county of Venango, four terms in each year, by the name and style of "The District Court of Venango county," to begin the first Monday in February, the first Monday in May, the fourth Monday in October, and
- Courts to be held**
- When to commence**

third Monday in December of each year, each of which courts shall have a seal, with the arms of the commonwealth engraven thereon, and the words "District Court" of (the respective) county.

SECTION 3. That any suit, cause, or matter now pending, or hereafter to be brought or entered in the courts of common pleas of said counties of Erie, Crawford, and Venango, where the amount, or matter in controversy, exceeds one hundred dollars, and all actions of ejection or trespass, where the title to real property may come in question, may, at the election of either plaintiff or defendant, be removed into the district court of the respective county, by writ of certiorari or habeas corpus: *Provided*, That no cause which shall be set down for trial at any court, shall be so removed, within thirty days before the sitting of said court, unless the said cause shall first have been continued. And in all cases of removal, not merely a transcript shall be removed by the certiorari or habeas corpus, but the record itself. And all final judgments, decrees, and determinations, shall be subject to writ of error and appeal, according to the usual practice, in such cases, in the courts of common pleas.

SECTION 4. That the said courts shall have jurisdiction in all cases of proof of contracts of decedents, in the same manner as the orphans' court now has in cases of partition, except in the orphans' court. In all cases of distribution of money arising from the sales on process, issued out of the said court, in cases of trusts and assignments, in applications for the benefit of the insolvent laws, by persons arrested on its process, and for receiving the acknowledgment of sheriff's deeds, where the sale is made on its process; and when the sheriff's sale shall have been made, on or before the return day of the writ, the acknowledgment of the deed may be taken on the last day of the term.

SECTION 5. Every writ for the commencement of an action shall bear date on the day of issuing thereof, and shall be made returnable on the first day of the term, next succeeding the term at which it shall be issued: *Provided*, That in the case of a writ of summons, if there shall not be ten days before the issuing thereof and the first day of the term as aforesaid, the writ may be made returnable on the Friday of the term, or upon the first day of the second term, next succeeding the issuing of the writ, at the election of the party suing out of the same.

SECTION 6. If the defendant, in any writ of summons as aforesaid, shall not appear at the return day thereof, and the officer to whom such writ was directed, shall make return that it was served on the defendant ten days before return day thereof, it shall be lawful for the plaintiff, having filed his

Suits to be removed

Proviso

Manner of removal of suits

Jurisdiction of court

Distribution of money on sales

Sheriff deeds how made

Writs how issued and returnable

Proviso

Defendant making default, judgment, &amp;c.

declaration to take judgment thereon, for default of appearance, according to the rules established by the court to regulate its practice in this respect.

- Actions**      **SECTION 7.** In all actions instituted in said court on bills, notes, bonds, or other instruments of writing for the payment of money, or on actions brought on contracts for the loan or advance of money, whether the same be reduced to writing or not, and for the recovery of book debts, and in all actions of scire facias on judgments, and on liens of mechanics and material men, it shall be lawful for the plaintiff on, or at any time after the third Saturday succeeding the several return days hereinbefore designated, to enter a judgment by default of course, notwithstanding an appearance by attorney, unless the defendant shall have previously 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 the action has been brought: *And provided*, That on contracts for the loan of money, not in writing, the plaintiff shall, within two weeks after the return of the original process, file an affidavit, as aforesaid, setting forth the terms of said loan or advance, with the date and amount thereof; but if the copy or affidavit aforesaid be not filed, on or before the day aforesaid, the plaintiff shall still be entitled to judgment, at any term next succeeding his filing the same, on his giving notice to the defendant or his attorney, if the affidavit of defence be not filed during such subsequent term.
- On contracts**      **SECTION 8.** That the prothonotaries, for the time being, of the courts of common pleas, of the counties aforesaid, shall perform all the duties of prothonotary of the district court, for their respective counties; and the sheriff's and coroners, for the time being, of said counties, shall obey all lawful orders of the said district court, in their respective counties, and all costs and fees now established by law, shall be charged and paid, in similar instances, in said district court; and the jurors to serve at said court, shall be drawn in the manner provided by law for the court of common pleas. And the sheriff and commissioners of said respective counties, shall forthwith, after the passage of this act, put into the proper wheel, the names of a competent number of jurors, to serve at the said district court the remainder of the year, and shall annually thereafter, at the time now appointed by law, add the names of a competent number of jurors, to serve at said court, agreeably to law.
- Defendant to file affidavit or judgment by default in certain cases**
- Proviso**
- Plaintiff to file claim in prothonotary's office**
- 2nd proviso**
- Contracts for loan of money not in writing plaintiff to file affidavit**
- Prothonotaries**
- Sheriffs and coroners**
- Jurors**
- Commissioners—their duties**

**SECTION 9.** That as soon as the said president judge shall have been appointed, mesne process may be issued in the said court, returnable to the first or next term, and venirens to summon and empannel the jurors.

**SECTION 10.** The president of said court shall have power to take the acknowledgment or proof of all deeds, and other instruments of writing, touching or concerning any lands, tenements, or hereditaments situate, lying, or being in any part of the state, and also power to take and receive the separate examination of any feme covert, touching her estate, as fully, to all intents and purposes, whatsoever, as any president of any court of common pleas or supreme court, may or can do.

**SECTION 11.** The said judge shall also have power to hold adjourned courts, from time to time, as the business may require, to issue writs of habeas corpus, either in term, time, or vacation, and to grant relief thereon in the same manner, and as fully as any president judge of the common pleas may or can do, and shall have power to adopt rules to regulate the practice of the said court, and all matters of practice, not herein provided for, shall be conformable to the rules of the common pleas, in similar cases, until superseded by new rules or regulations.

**SECTION 12.** In all cases where, by the existing laws, special courts are required to be held by the president judge residing nearest the county in which the case is removed, the president judge of the sixth judicial district shall cause said cases to be certified to the president judge of the district court, created by this act, and in like manner the district judge, when standing in the situation contemplated by the laws of this commonwealth, as disqualifying said judge from trying any cause pending in said district court, shall cause the same to be certified to the president of the court of common pleas of the sixth judicial district, and the president judges, respectively, are hereby required to hold special courts, for the trial of the causes so certified, and all the proceedings shall be in the same manner, as is directed in like cases, certified under the provisions of the act of the fourteenth of April, one thousand eight hundred and thirty-four, entitled "An act relative to the organization of the courts of justice."

**SECTION 13.** In all cases where the president judge of the sixth judicial district, from any cause, is unable to hold a court of oyer and terminer, in any county, in said district, he shall certify the fact, with the reasons thereof, to the president judge of the district court, created by this act, whose duty it shall be to hold said court, with the associate judges of said county, at the time specified in the precept for said

court, in the same manner, and with like effect, to all intents and purposes, as the president judge of said district might or could hold the same, and said judge, for said purposes, is hereby vested with all the powers of the president judge of the sixth judicial district.

**Duration of court** SECTION 14. This act shall continue to be in force for five years, and no longer.

WM. HOPKINS,  
*Speaker of the House of Representatives.*  
CHARLES B. PENROSE,  
*Speaker of the Senate.*

**APPROVED**—This twenty-third day of March, Anno Domini, eighteen hundred and thirty-nine.

DAVID R. PORTER.

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No. 65.

A FURTHER SUPPLEMENT

To an act entitled "An act authorizing the Governor to incorporate the Philadelphia and Trenton Rail Road company."

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 the Philadelphia and Trenton Railroad company be, and they are hereby authorized to continue the rail road of said company in its present location along Frankford road and Maiden street, in the district of Kensington, until the said company conveniently can locate and construct another rail road upon another route from their depot in Kensington to their depot at the corner of Third and Willow streets, in the district of Northern Liberties, the said privilege of continuing their road as aforesaid, not to extend longer than one year. And that James Ronaldson, Thomas D. Grover and Daniel Smith (carpenter) be and they are hereby appointed commissioners to view and examine the said road, and to consider and determine if any damages, and to what amount any owner of property along the line of the said road in the district of Kensington may sustain, or if any damages, and to what amount the district of Kensington at large may sustain, and ought of right and equity to be paid by reason of said road remaining upon and continuing along the

Company to continue rail-road along Frankford and Maiden street for a term not exceeding one year

James Ronaldson and Daniel Smith commissioners to view and determine damages, &c.