

No. 419.

AN ACT

Relating to judgments, and the acknowledgment of deeds, and sequestration of life estates, and relative to the high constable of the borough of Wilkesbarre.

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 eleventh section of the act, entitled "An Act concerning certain sheriffs' and coroners' sales, and for other purposes," approved the sixteenth day of April, one thousand eight hundred and forty-five, so far as the same may affect any judgment, mortgage, or other lien duly entered, recorded or filed, or any right or interest of either of the parties to the judgment transferred, or of any other person or persons duly vested or accrued prior to the passage of the said act, be and the same is hereby repealed.

Eleventh section of certain act repealed, so far as it affects any judgment, &c.; duly entered, &c., before the passage of said act.

SECTION 2. That the provisions contained in the fifteenth and sixteenth sections of the act of sixteenth April, one thousand eight hundred and forty, entitled "An Act incorporating the Ebenezer Methodist Episcopal congregation of the borough of Reading, and for other purposes," be and the same are hereby re-enacted as fully and effectually as if the same were herein set forth in extenso.

Fifteenth and sixteenth sections of a certain act re-enacted.

SECTION 3. That it is hereby declared to be the true intent and meaning of the sixth section of the act relating to orphans' courts, and for other purposes, passed the thirteenth day of October, A. D. one thousand eight hundred and forty, that sales under executions of life estates yielding rents, issues or profits, may be made in the manner provided by law in the case of estates of inheritance, in all cases where some lien creditor shall not, on or before the return day of the first writ of venditioni exponas whereon a sale shall be advertised, have procured a sequestrator to be appointed; and all such sales heretofore made, are hereby declared good and valid, except in such cases where the contrary has been finally determined by the supreme court, or by any court of common pleas, and no writ of error to such decision has been taken.

Meaning of the sixth section of certain act relating to orphans' courts, construed.

SECTION 4. *Be it further enacted by the authority aforesaid,* That from and after the first day of July next, it shall be the duty of every sheriff or coroner holding inquisitions on lands yielding rents, issues, or profits taken in execution, wherein the defendant has only a life estate, where the same shall be condemned upon request made, and notice given to the plaintiff in the writ, his agent or attorney, at least three days before the holding of such inquisition by the defendant, his agent or attorney, or the occupant of the land, to cause the inquest to make an appraisement of the yearly value of such lands, and to return the same with or as part of the inquisition and condemnation, and thereupon, before any writ of venditioni exponas shall issue, the plaintiff shall wait thirty days from the date of such inquisition, for the defendant, his agent, attorney, or occupant of the land, to elect by notice in writing to the sheriff or coroner, to pay the plaintiff the annual valuation in half yearly payments; and on failure of the defendant so to elect to pay, or on neglect or failure to pay for thirty days after any half yearly payment shall be due and payable, the like proceedings may be

Duties of sheriffs and coroners in holding inquisitions on lands taken in execution.

had as are now directed by law in cases wherein estates of inheritance taken in execution are extended on a sheriff's inquest: *Provided, That* Proviso. nothing herein contained shall prevent the appointment of a sequestrator on application of any lien creditor under the provisions of the third section of this act, and of the act therein referred to: *Provided* Proviso. *further, That* the writ of venditioni exponas, as authorized by the third section, shall not be issued in any case wherein the annual rent, found by the jury aforesaid, shall be sufficient to pay the interest on the debts entered of record: *And provided also, That* no such writ shall be issued unless by the direction of the proper court; and on the application of any lien creditor for a writ of venditioni exponas, the tenant for life shall have at least ten days' notice of the application for such writ.

SECTION 5. That it shall be the duty of every sheriff, or coroner acting as sheriff, in all cases where a sequestrator of rents, issues, and profits of a life estate in lands, has been or hereafter shall be appointed upon requisition upon him in writing for that purpose made by such sequestrator, with the sanction of any one of the judges of the courts of the county, and as often as so required to put and keep such sequestrator, his vendees or lessees, in full and undisturbed possession of the lands and tenements, with the appurtenances levied on; and in such cases the sheriff or coroner shall have the same powers and privileges, Duty of sheriff, or coroner acting as sheriff, in cases of sequestration. and be entitled to the same fees, as in executing writs of habere facias Powers of. Fees of. possessionem, and of estrepement; and if any tenant for life, defendant in any such execution, or any other person or persons, shall unlawfully disturb the possession of such sequestrator, his vendee or lessee, or shall obstruct or molest the sheriff or coroner in the execution of the duties enjoined by this section of this act, he or they shall for every such offence, be subject to prosecution by indictment, and upon conviction thereof, shall be sentenced to pay a fine not exceeding one hundred dollars, the costs of prosecution, and imprisonment in the county jail for a term not exceeding six calendar months; and shall also be liable to such damages as such sequestrator, his vendee or lessee, or the plaintiff in such execution shall have sustained, to be recovered by actions of trespass, as damages in actions of trespass are now by law recoverable; and the courts, or any judge or justice of the peace or alderman may, upon cause shown, require of all such offenders surety of the peace, for the prevention, or against the repetition of such offences. Penalty for disturbing the possession of such sequestrator, his vendee or lessee.

SECTION 6. That any applicant for the benefit of the insolvent laws, who is or may hereafter be in confinement under sentence of any criminal court, and who shall be entitled to be released from such confinement on a compliance with the provisions of existing acts of assembly, shall be released upon giving bond as in civil cases. Applicants for the benefit of insolvent laws, to be released as in civil cases.

SECTION 7. That the act of the eleventh day of April, one thousand eight hundred and forty-four, conferring authority upon the high constable of the borough of Wilkesbarre, in Luzerne county, to serve civil and criminal process in the same, shall not be so construed, as to authorize said constable to serve any civil process beyond the limits of said borough. Jurisdiction of the high constable of the borough of Wilkesbarre, in serving process.

“ WILLIAM F. PACKER,
Speaker of the House of Representatives.

WM. WILLIAMSON,
Speaker of the Senate.

LAWS OF PENNSYLVANIA,

We do hereby certify that the bill, entitled "An Act relating to judgments and the acknowledgment of deeds and sequestration of life estates, and relative to the high constable of the borough of Wilkes-barre," was presented to the late governor, Francis R. Shunk, on the third day of April, one thousand eight hundred and forty-eight, and was not returned within three days after the meeting of the present legislature, wherefore it has, agreeably to the constitution of this commonwealth, become a law in like manner as if it had been signed.

Clerk of the House of Representatives.

SAM'L. W. PEARSON,

Clerk of the Senate.

HARRISBURG, January 24, 1849.

No. 420.

AN ACT

Authorizing the commissioners of the incorporated districts of the Northern Liberties and Kensington, to open a street to be called Delaware avenue; relative to the duties of assessors; venders of mineral waters; the Fire association of Philadelphia; vacancies in the school boards in the county of Philadelphia; to lost mortgages; auditors of Philadelphia county; rebuilding of the court house in Philadelphia; to enable the commissioners of Philadelphia county to borrow money; to settle certain accounts between Spring Garden and the commonwealth; and respecting the appointment of auditors.

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

Commissioners of the incorporated district of the Northern Liberties, of Philadelphia county, authorized to survey and lay out a street to be called Delaware avenue.

the commissioners of the incorporated district of the Northern Liberties, in the county of Philadelphia, be and they are hereby authorized and empowered to survey, lay out and regulate a passage or street fifty feet wide, at such distances, east of the eastern line of Water street and Washington avenue, to be called Delaware avenue; and having surveyed, laid out and regulated said Delaware avenue as aforesaid, shall deposit a plan or draft thereof, in the office of the clerk of the court of quarter sessions, for the city and county of Philadelphia, which plan or draft shall forever remain unalterable: *Provided*, That the location of said avenue shall not be east of Delaware avenue, along the city front; and that the wharf line along the said districts shall be a uniform continuation of the city line, and shall not exceed the distance of one hundred and eighty feet east of said avenue: *And provided further*, That the plan or draft of said avenue shall be first approved of by a majority of the members composing the county board.

Proviso.

SECTION 2. That the commissioners and inhabitants of the Kensington district of the Northern Liberties, in the county of Philadelphia, be and they are hereby authorized and empowered to survey, lay out and regulate a passage or street fifty feet wide, to be called Delaware avenue,