

No. 367

AN ACT

To further amend the second paragraph of section one of article one of the act, approved the seventh day of March, one thousand nine hundred and one (Pamphlet Laws, twenty), entitled "An act for the government of cities of the second class," by providing that the mayor shall receive no compensation, other than his salary, for acting as justice of the peace.

Section 1. Be it enacted, &c., That the second paragraph of section one of article one of the act, approved the seventh day of March, one thousand nine hundred and one (Pamphlet Laws, twenty), entitled "An act for the government of cities of the second class," as amended by section one of the act, approved the first day of May, one thousand nine hundred and twenty-three (Pamphlet Laws, one hundred twelve), is hereby further amended to read as follows:

Section 1. Be it enacted, &c., That the mayor shall be the chief executive officer of the city, and shall be at least twenty-five years of age, and have been a citizen and inhabitant of the State five years, and an inhabitant of the city for which he may be elected mayor five years next before his election, unless absent on the public business of the United States or of this State, and shall reside in said city during his term of service. The mayor, whether appointed or elected, shall have all the powers and jurisdiction of justices of the peace under existing laws of this Commonwealth, *but, in acting as such, shall not receive any fee or compensation over and above his salary as mayor.* He shall give bond in such sum as shall be determined by council.

Section 2. All acts and parts of acts, general, local and special, inconsistent herewith are hereby repealed.

APPROVED—The 5th day of June, A. D. 1937.

GEORGE H. EARLE

No. 368

AN ACT

Relating to magistrates and magistrates' courts in the city of Philadelphia; imposing certain duties upon, and prohibiting certain practices by, magistrates; imposing certain duties on the city controller in regard thereto; authorizing the employment by him of additional clerks and fixing their compensation; regulating the practice in magistrates' courts, the entering of bail, and the issuance of discharges in criminal cases in the county of Philadelphia; conferring certain powers over magistrates and magistrates' courts, and imposing certain duties in connection therewith upon the judges of the courts of common pleas of the county of Philadelphia; providing for

The second paragraph of section 1, of article 1, act of March 7, 1901 (P. L. 20), as amended by section 1, act of May 1, 1923 (P. L. 112), further amended.

Qualifications of the mayor.

Powers of mayor.

He shall give bond.

Inconsistent acts repealed

the appointment and employment of stenographers to report proceedings in certain cases heard by magistrates; fixing salaries of persons employed by authority of this act; providing penalties for violations of the provisions thereof; and repealing certain prior acts.

Magistrates in
the city of
Philadelphia.

Section 1. Be it enacted, &c., That this act shall be known, and may be cited, as "1937 Magistrates' Court Act."

Section 2. The twenty-eight courts not of record of police and civil causes, with jurisdiction not exceeding one hundred dollars, established by the second section of the act, approved the tenth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws, eight hundred sixty-six), shall continue as therein provided.

Qualifications of
magistrates.

Section 3. No magistrate shall personally engage in any other business or profession, or hold any other public office, or serve as a representative of any political party, in any assembly district, senatorial district or congressional district, or on the executive committee, or any other governing body of any political party organization. Each of the magistrates shall devote his entire time and attention to the duties of his office, and no magistrate, clerk, stenographer or other officer or employe provided for herein shall demand or receive any money or other thing of value for the performance or nonperformance of any of the duties pertaining to his office other than fees and compensation allowed by law.

Vacancies.

Section 4. Should any vacancy happen in the office of magistrate, either by death, resignation, disqualification, removal, or otherwise, such vacancy shall be filled for the full term of six years, in the manner hereinbefore set forth, at the next succeeding municipal election held in the city of Philadelphia after said vacancy shall happen, and it shall be the duty of the Governor in the meantime to appoint and commission a suitable person to fill such vacancy until the first Monday of January next succeeding the first municipal election after said vacancy shall happen: Provided, however, That if said vacancy shall happen within two calendar months before any municipal election the vacancy shall not be filled until the second succeeding municipal election thereafter, and the Governor shall appoint and commission a suitable person to fill said vacancy until the first Monday of January after said second municipal election.

If any magis-
trate unable
to perform
duties.

Section 5. If any magistrate for any cause shall be unable to attend to his official duties, he shall notify the chief magistrate, who shall designate and assign another magistrate to discharge the duties of said magistrate during such inability.

Section 6. The board of magistrates hereinafter provided for shall, by rule or regulation adopted as hereinafter provided, prescribe forms for civil and criminal dockets, which shall be kept in each of said courts by the magistrates holding the same, and in which shall be entered daily all proceedings of said courts and all official actions of the magistrates therein, and it shall be the duty of the magistrate receiving any costs, fees, fines, penalties or other moneys to note the same in the margin of the proper docket opposite to the entry of the case in respect to which the same is received, with the date at which, and the name of the person from whom, the same was received, together with the date and the person to whom the same was paid. Said dockets shall be open to the inspection of any person during the hours when the court is required to be kept open.

Duties of board of magistrates.

Section 7. Each magistrate shall keep a daybook in which he shall enter all costs, fees, fines, penalties, and other moneys collected by him, with the date when, the person from whom, and the purpose for which, the same were received. He shall also note therein the time when, and the manner in which, the same are disposed of, and the books and papers of said court, including said daybooks, shall be the property of the Commonwealth of Pennsylvania. He shall pay over to the city treasurer, within five days after the first Monday of every month, all costs of suits, fees, fines, penalties, and other sums of money received during the preceding month, excepting constables' fees which shall be paid directly to the constable entitled thereto by said magistrate during the preceding month, except such costs and judgments as the parties to any proceeding before him may by law be entitled to receive, and shall at the same time furnish to the controller of the city of Philadelphia, under oath or affirmation, an accurate account of all moneys so paid, either into the city treasury or to constables. The controller of the city shall not countersign any warrant for the monthly payment of the salary of any magistrate until he is satisfied from inspection by himself or his deputy of the dockets, daybooks or other books of such magistrate that his accounts are correct, and that all payments required by law to be made to the city treasurer have been so made.

Records of magistrates.

Section 8. Whenever a vacancy shall for any reason occur in the office of a magistrate, it shall be the duty of such magistrate to deliver to his successor in office all dockets, books, bonds, and other papers connected with his office, and in case of the death of any magistrate, all persons having possession of the dockets, books, bonds, and other papers aforesaid of such deceased magistrate, shall, under like penalties, deliver the same to his successor in office, or, if no successor has been

When vacancy occurs, books, papers, etc., shall be turned over to successor.

appointed or elected, to the chief magistrate herein provided for. If any magistrate, whose office has become vacant as aforesaid, or any person having possession of the dockets, books, bonds, and papers of any deceased magistrate, shall neglect or refuse to deliver the same over, as hereinbefore provided, to his successor in office or to the chief magistrate, as the case may be, the chief magistrate, or any person aggrieved by such neglect or refusal, may petition the court of common pleas of the county of Philadelphia to order such delivery as aforesaid, and the court of common pleas may enforce its order by attachment for contempt or by other suitable process, and the successor in office of such magistrate or the chief magistrate to whom such dockets, books, bonds, and papers as aforesaid, are delivered, or any magistrate to whom the chief magistrate may deliver the same, shall have power to issue process and proceed thereon in the same manner and with the same effect as the magistrate, to whom the said documents, books, bonds, and papers may have belonged, would have had had he remained in office: Provided, That in case the magistrate to whom such dockets, books, bonds, and papers are delivered shall be a party in interest in any cause pending before the magistrate to whom said dockets, books, bonds, and papers shall have officially belonged, such cause shall be proceeded in by such other magistrate as the chief magistrate may designate, to whom a transcript of such proceeding shall be furnished as well as the original docket, if required at the time of the trial thereof.

Proviso.

Place for hearing criminal cases.

Section 9. Except in cases of hearings on warrants issued by a magistrate, the hearings of all criminal cases shall be held only in the central police court, the divisional police courts hereinafter provided for, or in the district station houses herein designated for that purpose.

Central police court.

Section 10. There shall be established a central police court in the city hall of the city of Philadelphia which shall be open, with a magistrate continually present thereat, during the entire twenty-four hours of each day, and to which the mayor of the city of Philadelphia shall regularly assign from the body of magistrates a sufficient number of magistrates to hold the same for the period of one month: Provided, however, That the same magistrate shall not be assigned for consecutive months, and that no magistrate shall be assigned to said court more than once in every six months.

Proviso.

Assignment of magistrates.

Section 11. It shall be the duty of the chief magistrate to appoint and assign in rotation, in the manner prescribed by the board of magistrates, magistrates to serve as committing magistrates in the several police stations in the city of Philadelphia, but no magistrate

shall be assigned longer than one month to the same station house in any one year: Provided, however, That the chief magistrate, after consultation with the district attorney and the director of public safety of the city of Philadelphia, shall select not less than ten nor more than fifteen station houses, which shall be known as divisional police courts, and in which, in addition to the hearings regularly held therein, shall be held exclusively the hearings of all persons arrested on sight or on a police warrant for the following indictable offenses, that is to say: For treason, sedition, murder, voluntary and involuntary manslaughter, abortion, arson, blackmail, perjury and subornation of perjury, sodomy, kidnapping, mayhem, receiving stolen goods, obtaining money or other property by false pretense, carrying concealed deadly weapons, operating an automobile while under the influence of intoxicating liquor, the illegal possession and sale of machine guns and firearms, and the illegal possession, sale and use of narcotic drugs, and also all forms of bribery, rape, assault and battery to ravish, robbery, burglary, and entering with intent to commit a felony or felonies, larceny, forgery, fraudulently making, uttering and publishing written instruments, felonious assaults and batteries, extortion, keeping, setting up and maintaining lotteries, gambling houses, gambling machines, pool selling and book making, keeping, maintaining and frequenting bawdy houses and houses of assignation, pandering and prostitution, embezzlement, fraudulent conversion, offenses by public officers, and also all conspiracies, solicitations, and attempts to commit any of the foregoing offenses, and aiders, abettors and accessories before and after the fact to said offense and compounding of the same.

Proviso.

Divisional police courts.

Jurisdiction.

The said divisional police courts shall be selected from among the district police stations in such manner that they shall be most suitably and conveniently located for the dispatch of the public business therein, and, as far as practicable, for the equal distribution among said divisional police courts of the hearings hereby required to be held therein exclusively. The magistrates assigned to preside at the divisional police courts shall also be assigned by the chief magistrate in rotation, in the manner prescribed by this act, and no magistrate shall be assigned longer than one month to the same divisional police court, and every magistrate shall be assigned to each divisional police court in turn. It is the intention of this section that there shall be established a system of rotation whereby the same magistrates shall not be repeatedly assigned to the same police station or divisional police court, and the judges of the courts of common pleas of Philadelphia County are hereby given authority to enforce this provision. Nothing herein con-

tained shall operate to deprive any magistrate, before whom a criminal case has been lawfully begun, of jurisdiction and authority fully and completely to hear and dispose of the same and of all charges growing out of or connected with the transaction involved therein, notwithstanding the charge or charges upon which the accused is held or convicted may not be within the jurisdiction of the divisional or district police court, as the case may be, in which the magistrate is sitting at the time.

It is hereby declared that the foregoing enumeration of offenses is intended to be inclusive and not exclusive, and shall be liberally interpreted to carry out the legislative purpose as generally expressed therein.

No magistrate shall receive any additional compensation for acting as committing magistrate at any police station or at any divisional police court.

Place for holding
hearings in
criminal cases
fixed.

Section 12. The hearings of all criminal cases, other than those provided for in section eleven of this act, shall be held as now provided by law in the station house of the district in which the arrest without warrant is made, and in the case of arrest on warrants in the station house of the district to which the magistrate issuing the warrant is assigned, or in the court of such magistrate, as the said magistrate may direct. In cases of offenses herein required to be heard exclusively in the divisional police courts, the jurisdiction of each of said courts shall extend over arrests made in the police district in which each court is located, and in such police districts contiguous thereto as may be selected by the chief magistrate, after consultation with the district attorney and the director of public safety as aforesaid, to effect convenient and equal distribution among said courts of their business as aforesaid. Hearings on warrants issued by any magistrate, other than police warrants, may be held in the court of such magistrate, the police station house to which he is assigned, or the divisional police court in which he may be sitting at the time, as said magistrate shall direct.

No release
except on bail.

Section 13. No magistrate shall release on copy of the charge without entry of bail as hereinafter provided any person arrested charged with any of the crimes specified in section eleven of this act, except operating an automobile while intoxicated, fraudulent conversion, frequenters of bawdy house or house of assignation, and assault and battery. In these exceptions to section eleven and in all other cases not specifically mentioned, the magistrate may release on a copy of the charge without entry of bail, if the circumstances and facts of such case or cases warrant him to do so. For the accommodation of the public, the director of public safety shall make suitable arrangements

Exceptions.

for the prompt issuance by the officer in charge of the cell room of the central station, or by any other district station house official, or such other person as he may designate, of certificates or copies of the charge, without cost, against any person arrested in any police station of the city, and all persons arrested shall be given the opportunity to promptly communicate with, be interviewed or examined by, such persons as they desire.

Section 14. No continuance of a hearing of a criminal case shall be granted by a magistrate, unless the person requesting the continuance shall state, under oath, his or her reason therefor, and the reason stated, together with the name of the party requesting the same, shall be noted by the magistrate in his docket, and shall be returned as a part of the transcript of the case: Provided, That if any case shall be continued by a magistrate of his own motion, such continuance, and his reason for his action, shall be set forth at length by the magistrate in his docket and returned as part of the transcript of the case.

Continuance of a hearing.

Proviso.

Section 15. In cases where a person arrested on a criminal charge shall be entitled to release upon posting of bail, it shall be the duty of the magistrate holding the preliminary hearing of such person to promptly fix the amount of the bail, and neither he nor any other magistrate shall accept bail unless the provisions of sections sixteen, seventeen, eighteen, and nineteen of this act are complied with: Provided, however, That this section shall not prevent the magistrate holding any hearing from authorizing bail to be entered without real estate security where, in his opinion, the evidence produced so warrants, except when the person arrested is charged with any of the offenses listed in section eleven of this act.

Amount of bond to be fixed promptly.

Proviso.

Section 16. Whenever, pursuant to law, any person or persons charged with the commission of any criminal offense or offenses has had bail lawfully fixed by a magistrate, it shall be the duty of the magistrate taking bail to make a thorough inquiry into the sufficiency of such bail, and he shall make a due and thorough investigation, under oath, into the financial responsibility of the recognizer or surety, and it shall be his duty to take of such recognizer or surety a written justification under oath setting forth—

Sufficiency of bail.

Contents of surety.

(1) The name, age, and residence of the bondsman.

(2) A description of the property offered as surety, with its exact location, and the street number in the city of Philadelphia.

(3) The present value, assessed value, the amount paid therefor, and the rent derived therefrom.

(4) All encumbrances, whether mortgages, judgments, et cetera, stating, in detail, character and amount,

when and where recorded or entered, and a statement that there are no other encumbrances except as noted.

(5) That the title to the property is in the bondsman himself and is not subject to any trusts.

(6) How the property was acquired, whether by will or deed, making an exact notation of the date and record of registry of the will or recording of the deed, giving book and page number.

(7) A list of all judgments against the bondsman.

(8) Statement in what other cases or for what person or persons, if any, the bondsman is surety.

(9) Statement as to whether or not the municipal, school, and other taxes have become delinquent; and

(10) What amount, if any, is paid or to be paid to the recognizer of bail for giving said bail and what counter-security is given, if any. Cash bail in lieu of real estate security may be accepted by the magistrate taking the bail, and shall be delivered forthwith to the clerk of quarter sessions, and a receipt taken therefor.

Bail must have a justification.

Section 17. No bail or recognizance shall be taken without a justification, as aforesaid, endorsed on the bond or recognizance, duly signed and sworn to by such surety, recognizer or bondsman, and no bail shall be accepted unless said surety, recognizer or bondsman offers as security a property situate within the city of Philadelphia, nor shall such bail be taken until the magistrate shall have verified the truth of certain statements in the justification as required in section eighteen hereof. The provisions of this section shall not apply to cases in which a judge of record shall accept as security a property situate without the city of Philadelphia, or to cases in which cash bail is presented and accepted.

Bail certificate.

Section 18. Every magistrate, before accepting bail secured by real property, shall be furnished with a bail certificate issued by the city controller, and said certificate shall contain the following information:

Contents.

(a) The name of the owner of the particular property offered to the magistrate as security;

(b) The amount of unpaid taxes due thereon;

(c) The amount of liens thereon;

(d) The assessed value thereof;

(e) Whether the same property has heretofore been accepted as security for bail heretofore entered, and still in force.

Duty of controller.

It shall further be the duty of the controller to retain a duplicate copy of each bail certificate issued, together with the information as to whom the said certificate was issued. The magistrate who has finally discharged such person, or the district attorney after the grand jury has ignored the bill or bills of indictment, or when the court has disposed of the case, shall prompt-

ly notify the controller, in writing, of such final disposition, and return the bail certificate to the controller.

Section 19. If the magistrate is satisfied from the information received from the controller and the justification sworn to by the proposed bondsman that there is sufficient equity in the property tendered as security, he may accept the surety or bondsman as bail, and thereupon stamp or note upon the deed of the surety or bondsman, which said magistrate shall require to be produced before him, the fact that bail has been accepted by him, the name of the particular case in which it was accepted, the date of acceptance, and the amount thereof, which stamp or notation may only be cancelled by the city controller upon discharge of the bail according to law.

If the magistrate is satisfied that there is sufficient equity, he shall accept the surety or bondsman.

Section 20. The city controller of Philadelphia shall provide twenty-four hours service of the information provided in the preceding sections of this act, and, to enable him to do so, said city controller is hereby authorized to appoint four additional clerks at an annual salary not exceeding two thousand dollars (\$2,000.00), each.

Service to be furnished by city controller.

From and after the effective date of this act, the fees now chargeable by law for the entry of bail before magistrates shall be one dollar (\$1.00).

Fees.

Section 21. There is hereby created a civil division of the magistrates' courts of Philadelphia which shall be a court not of record, but which shall provide a simple, informal, and inexpensive method and procedure for the determination of claims for liquidated sums not in excess of one hundred dollars. The said court shall open with scrupulous punctuality for hearings from nine thirty o'clock antemeridian until twelve o'clock noon, and from one thirty o'clock postmeridian until four thirty o'clock postmeridian daily, except Saturdays, when the court shall close at twelve o'clock noon. The court shall not be open on Sundays or legal holidays. All civil cases instituted in any of the magistrates' courts of the city of Philadelphia shall be tried before three magistrates, sitting in such civil division in a court room assigned to them for that purpose in City Hall in Philadelphia. The chief magistrate shall regularly assign three of the magistrates to sit as a court en banc in all civil matters in such civil division, for the period of one month, to hear all cases. The vote of not less than two of the three magistrates shall be necessary to enter judgment for plaintiff or defendant, as the case may be: Provided, however, That the same magistrate shall not be assigned to the civil division for consecutive months, and that no magistrate shall be assigned to said civil division more than once every six months.

Civil division of said court.

The chief magistrate is hereby empowered to provide for and set up more than one court of three magistrates each, for the hearing of civil cases when the volume of such cases is such that cases are delayed, or it appears to him that they are being disposed of in too rapid a fashion with the possible consequence that injustice might be done to any party litigant.

Procedure in
said court.

Section 22. Actions in every magistrates' case shall be commenced without a summons or a praecipe therefor. The filing of a statement of claim by the plaintiff and the service of the statement of claim upon the defendant, as herein provided, shall have the same effect as though a summons had been regularly served, according to the manner prescribed for the service of summons. The plaintiff shall state to the clerk of the magistrates' court his name, place of residence, telephone number, and the name and place of residence so far as known of the defendant, and the nature and amount of his claim, and the clerk, after such further inquiry as he may deem necessary, shall reduce the claim to writing, in triplicate, in concise and untechnical form, giving time, place, and other relevant circumstances. The statement of claim shall be signed and sworn to before the clerk by the plaintiff. A brief record of the claim shall be entered in the civil docket of the court by the clerk. The court at the hearing may allow any statement of claim to be amended.

Fee.

Section 23. At the time the plaintiff presents the facts in substantiation of his claim to the clerk of the magistrates' court, the plaintiff shall pay the clerk, for the use of the county, a fee of one dollar and fifty cents (\$1.50), for which a receipt shall be issued. Said fee shall cover the costs of preparing and serving the statement of claim, entering the judgment in the civil division of the magistrates' court, issuing execution thereon through the sheriff's office, and recording the said judgment in a court of record. No refund of the fee paid herein, or any part thereof, shall be made.

Service of
statements of
claim.

Section 24. All statements of claim in civil actions shall be served in the following manner:

(a) The clerk shall send a copy of the statement of claim by registered mail, return receipt requested, to the last known residence or place of business of the defendant.

(b) Should such statement of claim be returned to the magistrates' office with the notation that the defendant refuses to accept the same, the clerk shall then send the same to the sheriff's office for service upon the defendant in the same manner as prescribed by law for the service of writs of summons by the sheriff. No fee shall be charged by the sheriff for this service.

(c) Should such statement be returned by the United

States Post Office Department for want of a proper address, then all proceedings are to stop until the plaintiff shall have supplied the clerk with the correct address.

(d) Where service of the statement of claim is made by registered mail, the clerk of the court, upon the return of the receipt to him by the United States Post Office Department, shall file the same with the chief clerk of the magistrates' civil court in City Hall, together with an affidavit reciting the fact of service by registered mail, and such receipt and affidavit shall constitute service. A record of such service shall be made by the clerk in the civil docket of the magistrate's court from which such letter originated.

(e) One copy of the statement of claim shall be kept on file in the court in which such action shall be commenced, the original shall be forwarded to the chief clerk to be filed with the records of the magistrates' civil court in City Hall, and the third copy shall be served upon the defendant in the manner hereinabove provided.

(f) The statement of claim in all actions commenced in the magistrates' courts shall be indorsed with a notice, signed by the clerk of the court, stating the time, date, and place of the trial or hearing at which the defendant is ordered to be present.

Section 24. A case shall be deemed at issue upon the service of the statement of claim upon the defendant. No answer shall be filed by the defendant except where he desires to claim a set-off or make a counter-claim, in which case an answer in writing shall be filed with the clerk of the court at any time before the commencement of the trial. Such answers containing set-offs and counter-claims shall be filed in the same manner as hereinbefore provided for the filing of the statement of claim. The court at the hearing may allow any answer filed to be amended.

When case is
deemed at issue.

The filing of answers containing set-offs and counter-claims shall be noted in the court docket by the clerk.

The fee for filing an answer containing a set-off or counter-claim shall be one dollar (\$1.00), payable by the defendant to the clerk, for the use of the county.

Fee.

Section 25. Trials in the civil division shall be before the court of three magistrates. The trial procedure shall be informal, and only substantive rules of law shall be applied. The board of magistrates shall have power to prescribe rules of procedure and practice, not inconsistent with the provisions of the acts of Assembly, or of the Constitution of the Commonwealth, or of the United States. No pleadings, other than those required or permitted by this act, shall be entertained in such court. The civil division shall conduct all hearings in such form and with such methods of proof as it deems

Trial.
Procedure.

best to discover the facts and to administer justice in the case. The magistrates, sitting as the court en banc in such civil division, may question either party and the witnesses. If the plaintiff does not appear at the time set for the hearing, the court may dismiss the claim for want of prosecution, or enter a finding on the merits for the defendant or the plaintiff, or make such other disposition as to it may appear proper. If the defendant shall fail or neglect to appear at the hearing, the court may enter judgment for the full amount of the claim with costs.

Decision.

The court shall render its decision immediately at the conclusion thereof, giving judgment for the plaintiff or defendant, or enter such decree as to it shall appear proper, together with interest and costs, and shall notify the plaintiff and defendant orally thereof before they leave the court.

Continuance by the court.

Section 26. The court shall have power to continue any hearing pending before it, but such continuance shall be allowed only—(a) where one of the parties or a material witness is unable to be present by reason of illness, or other reason appearing sufficient to the court; or (b) where a defense is produced which was not foreseen by the plaintiff, and the court is of the opinion that the plaintiff should have additional opportunity to rebut the defense.

Appeals.

Section 27. A judgment entered in the civil division may be appealed by either party as heretofore. All such judgments may be removed to the court of common pleas by certiorari, in the same manner, within the same time, and subject to the same procedure, as heretofore.

Entry of judgment.

Section 28. When a judgment is rendered by the civil division, the clerk of the court shall receive the amount of the judgment, with costs to date, if offered by the defendant before execution, and promptly pay the same over to the plaintiff. If any judgment is not so paid within twenty days of the entry of the judgment, the court shall direct its writ of execution to the sheriff of the county, commanding him to levy the debt, interest, and costs on the defendant's goods and chattels, and within the space of the next ten days following the levy expose the goods and chattels to public sale, having first given notice of the same by at least three handbills, posted in conspicuous places in the vicinity. Thereupon said execution sale of goods and chattels and return thereof shall proceed in the manner provided by law for executions issuing out of the courts not of record, except that the moneys realized from the sale shall be applied first to the payment of the plaintiff debt, second to the payment of costs, and third any excess to the defendant.

Writs of execution.

All writs of execution issuing out of the civil divi-

sion shall be in such form as is prescribed for like writs issuing out of the courts of common pleas of the several counties of this Commonwealth. Such writs shall be directed to the sheriff of the county, and the sheriff shall not make any charge in advance for such service but if a fund should come into the hands of the sheriff he may deduct a sum not to exceed four dollars (\$4.00) for sheriff's costs.

Section 29. Where any judgment entered in the civil division of the magistrates' court after execution has been returned unsatisfied, in whole or in part, the clerk of the court shall send a transcript of such judgment to the prothonotary of the county, who shall enter the same, and such judgment shall have the same force and effect as any other judgment of a court of record. This service shall be rendered by the prothonotary without any charge whatsoever.

Transcript to be filed in prothonotary's office.

Section 30. The chief magistrate shall appoint a chief clerk of the civil division of the magistrates' court, whose salary shall not exceed twenty-five hundred dollars (\$2500) per annum, and shall appoint such clerical assistants, not in excess of six, at salaries not to exceed eighteen hundred dollars (\$1800) per annum, all of which salaries shall be paid by the county.

Chief clerk.

The chief clerk shall keep a complete record in suitable dockets of all cases filed with the court, the proceedings therein, and the disposition thereof, and in keeping said dockets, he should endeavor to obtain the standard now maintained by the prothonotary of Philadelphia County.

Duties of chief clerk.

Section 31. There shall be a board of magistrates composed of all the magistrates of the city of Philadelphia. The said board shall be presided over by a chief magistrate who shall be the administrative representative and executive head of the said board, and shall be selected in the manner, and shall hold the position of chief magistrate for the term, hereinafter provided. The chief magistrate shall have general supervision of the conduct of the business of all the courts held by the magistrates, and, between meetings of the board of magistrates, shall have full power and authority to execute the rules and regulations of said board, and to issue such necessary interim administrative orders and directions as the said board could issue and as are not inconsistent with existing law or said rules and regulations. The said board of magistrates shall have the power, and it shall be its duty to consider, supervise, and prescribe rules and regulations for the conduct of the various civil and police courts by the magistrates, and the practice and procedure in the administration of justice therein. The said board shall have the power to investigate, of its own motion or on complaint of others,

Board of magistrates.

Powers and duties.

any and all matters pertaining to the courts presided over by the magistrates, the administration thereof, and the official conduct of any person or persons connected therewith, and take such lawful action in respect thereto as it may deem necessary and proper in the premises. The board of magistrates shall meet for the discharge of its duties at least four times in each year during the first week of the months of January, April, July, and October, and at such other times as it may be convened by the chief magistrate, or at the written request of five or more magistrates. The meetings of the said board shall be held in the office of the chief magistrate.

Appointment of
chief magis-
trate by Gov-
ernor.

Section 32. A. As soon as practical after the approval of this act, the Governor of the Commonwealth shall select from among the magistrates a chief magistrate to act as such from the date of appointment for the remainder of the term for which he shall have been elected or appointed as magistrate, and, before the expiration of such term, the Governor shall select from among the magistrates a chief magistrate to act as such in succession to him whose term of magistrate is about to expire, and to hold office from and after the expiration of such term until his own term as magistrate shall expire, and so on, from time to time thereafter, as the term of office of any magistrate who has been selected chief magistrate shall be about to expire, the Governor shall select from among the magistrates a chief magistrate to serve until his own term as magistrate shall expire, unless removed before such time by the action of the Governor: Provided, however, That any magistrate upon being re-elected to office as such magistrate shall continue eligible for reappointment, from time to time, as chief magistrate.

Term of present
chief magistrate
terminated.

B. The term of the present chief magistrate shall end as of the effective date of this act, and the chief magistrate shall deliver to his successor in office all dockets, books, bonds, and other papers connected with his office as chief magistrate.

Rules of
practice.

Section 33. Within sixty days after this act takes effect, it shall be the duty of the board of magistrates to prepare and submit to the judges of the courts of common pleas rules and regulations for the practice and procedure in and the conduct of the business of their courts by the magistrates, which said rules and regulations shall become valid and binding as such when the same are approved by a majority of the judges of the said courts of common pleas, and if the said board of magistrates shall fail or neglect to prepare such rules and regulations and submit the same to the judges of the courts of common pleas for their approval, it shall be the duty of the said judges of their own motion to promulgate such rules and regulations, which shall be

the official rules and regulations of the board of magistrates. Said rules and regulations may be added to, altered, amended or repealed, from time to time, in the same manner as is herein provided for the adoption of the same. The judges of the courts of common pleas may also, from time to time, of their own motion alter, amend or repeal such rules and regulations as may be then in force, and promulgate such new rules and regulations as the said judges may deem necessary and proper.

Section 34. The judges of the courts of common pleas shall have the power, from time to time, as they deem necessary, to inquire into and consider any and all matters and things touching the administration of the business of the magistrates and the performance by them of their duties, and, for this purpose, to issue out of any of the courts of common pleas writs of subpoena for the summoning of witnesses and the production of books, papers, and documents of the magistrates, or others, as may be relevant and proper to such inquiry, and to take such lawful and proper action in the premises as the said judges may deem necessary.

Power of
common pleas
courts.

Section 35. It shall be the duty of the city of Philadelphia to supply and pay for whatever may be necessary for the transaction of the business of said magistrates' courts, and to supply all proper courtrooms and accommodations, including waiting rooms, withdrawing rooms, dockets, blanks, books, legal blanks, stationery, furniture, and equipment, and such law books as may be certified by the chief magistrate to be necessary for the use of the magistrates' courts, and to pay all salaries, compensations, expenses, and disbursements that are herein or are otherwise authorized by law, and it shall be the duty of the council of said city to appropriate, annually, a sum sufficient to pay such salaries, compensations, expenses, and disbursements. Such dockets, blank books, legal blanks, and stationery shall be uniform in character. The courtrooms, waiting rooms, and withdrawing rooms, accommodations, furniture and equipment to be supplied, shall be of such character and be kept in such condition of repair, cleanliness, and useful service, at the expense of said city, as the chief magistrate, with the approval of the council, shall determine to be necessary or desirable.

Courtrooms and
supplies to be
furnished by
city of Phila-
delphia.

Section 36. The chief magistrate shall provide for the appointment of a sufficient number of stenographers or stenographic clerks, as may be necessary regularly to be present at and report the proceedings in said divisional police courts, in all cases required by this act to be heard exclusively therein, as well as in cases where there are hearings on private warrants upon request of either party of interest or the magistrate issuing such

Stenographers.

warrant, providing such request is made in writing twenty-four hours prior thereto. Said stenographers or stenographic clerks shall receive an annual salary to be fixed by the chief magistrate, not exceeding two thousand five hundred dollars (\$2,500.00) per annum.

Chief clerk and deputy stenographic clerk.

Section 37. A. On or after the first day of July, one thousand nine hundred thirty-seven, and thereafter whenever a vacancy occurs, the chief magistrate shall appoint a chief clerk and a deputy stenographic clerk, who shall respectively perform such duties as may be required of them by this act and by the chief magistrate and by rules adopted by the board of magistrates. The chief clerk and deputy stenographic clerk shall be entitled to serve so long as they, respectively, behave themselves well. Each clerk of a magistrate's court shall file with the chief clerk each month a report of the criminal business of said magistrate's court during the preceding month, and such other reports, from time to time, as the chief magistrate shall require. The chief clerk shall cause suitable blanks to be prepared and furnished for such purpose.

Salary.

B. The deputy stenographic clerk and each clerk of a magistrate's court shall receive a salary of two thousand dollars per annum, the chief clerk a salary of two thousand five hundred dollars per annum. Said salaries shall be paid by the city in semimonthly payments.

Council of Philadelphia to provide for payment of salaries.

Section 38. It shall be the duty of the council of the city of Philadelphia to provide for the payment of the salaries of the aforesaid stenographers or stenographic clerks when appointed by the chief magistrate as aforesaid, and to provide for them suitable offices and accommodations for the performance of their duties as herein prescribed, including all office furniture, typewriter machines, dictaphones, paper, and all other necessary supplies for the performance of their duties.

Duties of stenographers.

Section 39. It shall be the duty of the stenographers or stenographic clerks, as aforesaid, to report, in full, the entire proceedings of the said divisional police courts in all cases required by this act to be tried exclusively therein, and to file in the office of the clerk of the court of quarter sessions full, true and complete, verbatim transcripts or reports of said proceedings, within five days after the taking of the same, or sooner if so specially directed by the presiding magistrate. Each such transcript or report shall be certified by the stenographer taking the same in the following form:

I hereby certify that the proceedings and evidence are contained fully and accurately in the notes taken by me on the hearing of the above cause, and that this copy is a correct transcript of the same.

.....
Stenographer.

Such transcripts or reports, when so certified by the stenographer and filed as aforesaid, shall, upon any other trial or in any other proceeding in which it may become material to prove the matters therein reported, be taken and held to be prima facie correct, and, if otherwise admissible in evidence, shall be admitted without the necessity of calling the stenographer, who made the said transcript or report, as a witness to prove the same. The district attorney of the county of Philadelphia, the city solicitor of the city of Philadelphia, the chief magistrate, and any judge of the courts of common pleas of said county, shall, on request, be furnished with a copy of any such proceeding free of charge. All other persons desiring copies of any proceeding reported by any stenographer or stenographic clerk shall be entitled to receive the same upon payment of twenty cents (\$0.20) for each page thereof. No stenographer nor stenographic clerk shall retain for himself any money received from the sale of a copy or copies of transcripts, but shall pay over all moneys so received by him to the clerk of the magistrate before whom such hearing took place, and shall be entered by the clerk in the day book, and returned to the city treasurer of the city of Philadelphia, and account for the same to the city controller.

Section 40. The transcript or report of the proceedings, hereinbefore referred to and required to be filed with the clerk of the court of quarter sessions of the county of Philadelphia, shall be kept by said clerk for such period of time, not less than three years after the receipt of the same, as may be fixed by the judges of the courts of common pleas, and shall, at all reasonable times and subject to reasonable regulations by the judges of the courts of common pleas of said county, be opened to public inspection.

Transcript to be filed with clerk of quarter sessions court.

Section 41. The district attorney of the county of Philadelphia may assign such number of his assistants as may be necessary to be present at and conduct on behalf of the Commonwealth all criminal hearings held in the divisional police courts herein provided for.

Assistant district attorneys.

Section 42. On or before the twentieth day of January of each year, the chief magistrate shall make written report to the board of magistrates of the business of all the magistrates' courts on the criminal side during the preceding calendar year and of the attendance thereat. Copies of said report shall be furnished to the judges of the courts of common pleas of Philadelphia County, to the mayor, and to the controller of the city of Philadelphia. The reasonable cost of the preparation of the said report shall be paid by the county of Philadelphia as part of the expenses of the magistrates' courts.

Reports of chief magistrate to board of magistrates.

Criminal provisions.

Section 43. It shall be unlawful for any magistrate to—

(a) Review, alter, modify or remit any sentence of fine or imprisonment lawfully imposed by him, or to alter any of his official decisions in any case heard by him, except in the presence of and with the written approval of the prosecutor.

(b) Allow a further hearing in any criminal case without complying with the provisions of section fourteen of this act.

(c) Knowingly and wrongfully, for the purpose of deceiving others, use, or permit the use of, his signature, seal of office or Coat of Arms of the Commonwealth of Pennsylvania on any unofficial paper, document, letter or communication.

Penalties.

Section 44. Any magistrate or other person charged with the performance of any duty or prohibited from performing any act by any of the provisions of this act, who shall violate any of the provisions of this act, shall be guilty of a misdemeanor, and, upon conviction, shall be sentenced to pay a fine not exceeding one thousand five hundred dollars (\$1,500.00), or undergo imprisonment not exceeding three years, either or both, in the discretion of the court, and, in addition thereto, any magistrate so convicted shall forfeit his office and be removed therefrom by the court in which such conviction shall have been had.

Constitutional provision.

Section 45. The provisions of this act shall be severable. If any of said provisions shall be held to be invalid or unconstitutional, such decision shall not affect the validity of any of the remaining provisions of this act.

It is hereby declared as the legislative intent that this act would have been adopted had such invalid or unconstitutional provisions not been included therein.

Repeals.

Section 46. Sections nine, thirteen, fourteen, fifteen, sixteen, seventeen, twenty-one, twenty-four, twenty-five, twenty-six, thirty, thirty-three, and thirty-six of the act, approved the tenth day of May, one thousand nine hundred twenty-seven (Pamphlet Laws, eight hundred sixty-six), entitled "An act relative to the establishment and jurisdiction of magistrates' courts in Philadelphia, and creating a board of magistrates; providing for a chief magistrate; prescribing their powers and duties; providing for clerks; establishing a central administrative office; imposing upon the City of Philadelphia the cost of establishment and maintenance of magistrates' courts, including payment of all salaries; fixing salaries and restricting magistrates to duties of office; and repealing certain prior acts," be, and the same are hereby, specifically repealed.

All other acts or parts of acts, inconsistent herewith, are also hereby repealed.

The provisions of existing law respecting magistrates' courts of the city of Philadelphia and the practice and procedure therein, in so far as the same do not conflict with or are not modified by the provisions of this act, shall remain in full force and effect.

Section 47. This act shall become effective on the fifteenth day of June, one thousand nine hundred thirty-seven.

When effective.

APPROVED—The 15th day of June, A. D. 1937.

GEORGE H. EARLE

No. 369

AN ACT

To re-enact and amend a part of section one of article three of the act, approved the seventh day of March, one thousand nine hundred and one (Pamphlet Laws, twenty), entitled "An act for the government of cities of the second class," providing for the removal and dismissal of policemen in cities of the second class.

Section 1. Be it enacted, &c., That so much of section one of article three of the act, approved the seventh day of March, one thousand nine hundred and one (Pamphlet Laws, twenty), entitled "An act for the government of cities of the second class," as relates to the removal and dismissal of policemen in cities of the second class is hereby re-enacted and amended to read as follows:

Part of section 1 of article 3, act of March 7, 1901 (P. L. 20), amended.

No policeman [or fireman] appointed under this act shall be dismissed without his written consent, except by the decision of a court either of trial or inquiry, duly determined and certified in writing to the [city recorder] *mayor*, which court shall be composed of *not less than three and not more than five* persons belonging to the police [or fire] force, equal or superior in official position therein to the accused. Such decision shall only be determined by trial of charges, with plain specifications made by or lodged with the director of the department of public safety, of which trial the accused shall have due notice, and at which he shall have the right to be present in person. The persons composing such court shall be appointed and sworn by the director of the department of public safety to perform their duties impartially and without fear or favor; and the person of highest rank in such court shall have the same authority to issue and enforce process to secure the attendance of witnesses, and to administer oaths to witnesses, as is

Dismissal of policemen regulated.

Accused to have notice.