

and absolutely dissolved, taken away and abolished. And that all the laws or acts of assembly of this province heretofore made for determining debts of forty shillings or under (saving a law entitled "An act about attachments under forty shillings,"¹ passed in the twelfth year of the late King William the Third), and every matter, clause and thing therein contained, shall be, and are hereby declared to be repealed, annulled, and forever made void, anything in the said acts to the contrary in anywise notwithstanding.

Provided always, That nothing herein contained shall extend, to enable any of the said justices of the peace within the respective counties of this province, nor any of the magistrates of the city of Philadelphia, within the same city, to hear any debt for rents or contracts for real estates.

Passed May 28, 1715. Allowed to become a law by lapse of time in accordance with the proprietary charter, having been considered by the Lords Justices in Council July 21, 1719. See Appendix IV, Section II, and the Acts of Assembly passed February 14, 1729-30, Chapter 315; August 22, 1752, Chapter 399; March 11, 1789, Chapter 1394; March 27, 1789, Chapter 1411. Repealed by Act of March 20, 1810, P. L. 208.

CHAPTER CCXII.

AN ACT FOR ERECTING A SUPREME OR PROVINCIAL COURT OF LAW AND EQUITY IN THIS PROVINCE.

[Section I.] Be it enacted by Charles Gookin, Esquire, by the royal approbation Lieutenant-Governor, under William Penn, Esquire, Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That there shall be holden and kept a court of record twice in every year in the city of Philadelphia within the said province, viz., on the tenth

¹ Passed November 27, 1700, Chapter 108.

day of April and twenty-fourth day of September, and if any of the said days happen to be on the First day of the week, then on the next day following, which said court shall be styled and called The Supreme Court of Pennsylvania. And there shall be four persons of known integrity and ability commissioned by the governor or his lieutenant for the time being, by several distinct patents or commissions, under the great seal of this province, to be judges of the said court, one of whom shall be distinguished in his commission by the name of Chief Justice; and every of the said justices shall [have] full power and authority by virtue of this act, when and as often as there may be occasion, to issue forth writs of *habeas corpus*, *certiorari*, writs of error, prohibitions, injunctions for staying, proceedings at law, or stopping of waste, *audita querela*, mandamus, and all remedial and other writs and process returnable to the said court, and grantable by the said judges, by virtue of their office, in pursuance of the powers and authorities hereby given them. And that the said judges, or any two of them, shall have power to hold the said court, and therein to hear and determine all causes, matters and things cognizable in the said court, both in law and equity; and also to hear and determine all and all manner of pleas, complaints and causes which shall be removed or brought there from the respective general quarter-sessions of the peace and courts of common pleas, to be held for the respective counties of Philadelphia, [Chester and] Bucks, as also for the city of Philadelphia, or from any other court in this province, by virtue of any of the said writs. And to examine and correct all and all manner of errors of the justices and magistrates of this province in their judgments, process and proceedings in the said courts, as well as in all pleas of the Crown, as in all pleas real, personal and mixed, and thereupon to reverse or affirm the said judgments, as the law doth or shall direct. And also to examine, correct and punish the contempts, omissions and neglects, favors, corruptions and defaults of all or any of the justices of the pleas, sheriffs, coroners, clerks and other officers within the said respective counties.

And also shall award process for levying as well of such fines, forfeitures and amercements as shall be estreated into the

said supreme court, as of the fines, forfeitures and amercements which shall be lost, taxed and set there, and not paid to the uses they are or shall be appropriated. And generally shall minister justice to all persons and exercise the jurisdictions and powers hereby granted concerning all and singular the premises, according to law, as fully and amply to all intents and purposes whatsoever, as the justices of the courts of King's Bench, common pleas and exchequer at Westminster, or any of them, may or can do.

And that there shall be a fit person nominated by the judges of the said supreme court, and commissioned by the governor, to be prothonotary or clerk of the said supreme court, who shall keep and duly attend his office at some convenient place in the city of Philadelphia, and may be suspended, punished or amoved by the said court for misdemeanors in his said office.

[Section II.] And be it further enacted, That all the said writs shall be granted of course, and made in the name and style of the King, his heirs and successors, and shall bear *teste* in the name of the chief justice, for the time being; but if he be plaintiff or defendant, in the name of one of the other justices, and shall be sealed with the judicial seal of the said court, and made returnable to the next court after the date of such writs.

Provided always, That none of the judges of the said supreme or provincial court shall sit judicially in any of the said courts of common pleas, quarter-sessions or any other inferior court in this province.

[Section III.] And be it further enacted by the authority aforesaid, That the said judges of the supreme court are hereby also authorized and enabled to hold plea in equity, by bill, appeal, petition or suit, to be brought or exhibited in the said court by, for or against any person or persons whatsoever, for any discovery, or other matters relievable in equity; and thereupon to issue out process of subpoena or *distringas*, and all other usual process for compelling the parties defendants in such suits to appear, put in their answers and make their defenses to such bills, appeals, petitions [or] suits; and for the parties to proceed therein and thereupon according to such

rules or orders, and in such manner and form as the courts of chancery and exchequer in Great Britain have used to proceed by.

And upon issues joined in any of the said causes or suits in equity, the said court is to cause witnesses to be examined if desired, on either side, by commissions to be awarded for that purpose, or by sworn or attested examiners; and after the publication of the depositions of the witnesses, to proceed to the hearing of the said causes, and upon proofs and evidences therein or thereupon, or upon bill and answer, where no witnesses shall be examined, or proofs made, to make such orders and decrees either for the r[elief of] the plaintiffs or for the directing any issue or issues at law to be [tried] for the information of the court, or for the dismissing of the said plaintiff's bills or otherwise, as the said court shall see just and reasonable, and as is or hath been used in the said courts of chancery or exchequer in Great Britain.

And the said court shall award such process for the enforcing the parties, in the said suits, to yield obedience to such orders or decrees as shall be made in the said causes, and in case of non-performance thereof, or disobedience thereto, the said court shall award all such process of contempt against the persons and estates of him or them that shall be in contempt or refuse obedience to any of the said orders or decrees, and make and execute like process, orders and proceedings thereupon, as are and hath been used in like cases in or by the said courts of chancery or exchequer in Great Britain; and that the prothonotary of the supreme court shall be register of the said court of equity.

[Section IV.] And be it further enacted by the authority aforesaid, That all and singular the indictments and presentments which now are, or hereafter shall be made or taken, for or concerning any treasons, murders and such other crimes as are, or shall (by the laws of this province) be made capital or felonies of death, which have been or shall be done or committed, perpetrated or happen within this province, shall be heard, tried and determined by and before the said provincial judges or any two of them, in the respective counties of this

province where any of the said offenses shall happen to be committed.

Which said provincial judges shall have power and are hereby authorized and empowered from time to time to deliver the gaols of all persons which now are or hereafter shall be committed for treasons, murders and such other crimes as (by the laws of this province) now are or hereafter shall be made capital or felonies of death as aforesaid; and for that end from time to time to issue forth such necessary precepts and process and force obedience thereto, as justices of assize, justices of oyer and terminer, and of gaol delivery may or can do in the realm of Great Britain.

Provided always, That the fees due to the judges and officers of the said court for hearing and determining any of the said capital offenses for anything done there shall be double the fees usually taken in the general quarter-sessions held in any the counties in this province, anything herein or in any other law to the contrary notwithstanding.

Passed May 28, 1715. Repealed by the Lords Justices in Council July 21, 1719. See Appendix IV, Section II.

CHAPTER CCXIII.

AN ACT FOR ESTABLISHING THE SEVERAL COURTS OF COMMON PLEAS IN THIS PROVINCE.

[Section I.] Be it enacted by Charles Gookin, Esquire, by the royal approbation Lieutenant-Governor, under William Penn, Esquire, Proprietary and Governor-in-Chief of the Province of Pennsylvania, by and with the advice and consent of the freemen of the said Province in General Assembly met, and by the authority of the same, That a competent number of persons shall be commissioned by the governor or his lieutenant, under the broad seal of this province, who shall hold and keep a court of record in every county, which shall be called and styled The County Court of Common Pleas, and shall be holden